



# CITY COUNCIL AGENDA REPORT

MEETING DATE: SEPTEMBER 20, 2016

ITEM NUMBER: PH-2

**SUBJECT:** APPEAL OF CONDITIONAL USE PERMIT PA-16-48 FOR ARTS AND LEARNING CONSERVATORY AND SHARED PARKING REQUIREMENTS AT 3184 AIRWAY AVENUE, SUITE A

**FROM:** PLANNING DIVISION/DEVELOPMENT SERVICES DEPARTMENT

**PRESENTATION BY:** MEL LEE, SENIOR PLANNER

**DATE:** SEPTEMBER 8, 2016

**FOR FURTHER INFORMATION CONTACT:** MEL LEE, AICP (714) 754-5611  
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## **RECOMMENDATION**

Uphold or reverse the Planning Commission's decision to approve the proposed project, described below:

Conditional use permit for the following:

- To establish a music/theater arts and learning program for elementary and middle-school age children called Arts and Learning Conservatory. The proposed Conservatory will be located in an existing 6,000 square foot industrial building formerly utilized by the Berean Community Church. The building will be used for the following uses: administrative offices; after school music and theatre programs from 4:00 pm to 9:00 pm, Monday through Friday; summer day camp from 8:00 am to 3:00 pm, Monday through Friday, from June 15<sup>th</sup> through August 15<sup>th</sup>; and theatrical productions on 6 weekends Friday through Sunday throughout the year.
- To approve a site-specific shared parking arrangement due to unique operating characteristics. A parking study prepared by LSA Associates identified a parking demand of 101 parking spaces during the 6 weekends throughout the year with theatrical productions.

**NOTE:** The approval of Planning Application PA-16-48 will supersede the current Minor CUP for the Berean Church; and therefore, Zoning Application ZA-10-22 shall be revoked at this location.

The project was approved by the Planning Commission on June 13, 2016, on a 5-0 vote. An appeal of the Planning Commission's approval was filed on June 17, 2016. This item was continued from the August 2, 2016 City Council meeting.

## **AUTHORIZED AGENT/APPELLANT**

The authorized agent is Matt Christensen, representing Arts and Learning Conservatory, and Berean Community Church, the property owner. The appellant is Michael H. Leifer, attorney for Koll-Irvine Community Association.

## **BACKGROUND**

### ***Project Site/Environs***

The property is located on the east side of Airway Avenue, north of McCormick Avenue. The site is zoned MP (Industrial Park) and has a General Plan land use designation of Industrial Park. Physical on-site improvements include 32 industrial buildings with 493 parking spaces and three points of ingress/egress on Airway Avenue.

### ***Previous Entitlement (Suite A)***

In 2010, Minor Conditional Use Permit ZA-10-22 was approved for a church with offset hours of operation at the subject site (Berean Community Church). The church was allocated 109 parking spaces and was conditioned to operate as follows

Sunday: 9:00 a.m. to 1:00 p.m. (every week) and 7:00 p.m. to 10:00 p.m. (4 times per year).  
Friday: 7:00 p.m. to 9:00 p.m.  
Saturday: 9:00 a.m. to 11:00 a.m. (one time per month).

The church is relocating to a new facility in the City of Irvine, making this location available for the proposed Conservatory.

### ***ZA-15-38 for 3184 Airway Avenue, Suite J***

A separate application for a minor conditional use permit (MCUP) was proposed to allow the establishment of a religious education and cultural assembly center in a nearby building (Suite J) within the same complex. A total of 55 parking spaces were required by code for the 1,914 square foot assembly area. The proposal involved off-set operational hours in order to utilize the parking area when the other businesses are closed. The following schedule was proposed:

Monday through Sunday: 4:00 a.m. to 6:00 a.m. and 7:00 p.m. to 9:30 p.m.  
Saturday: 10:00 a.m. to 2:00 p.m.  
Sunday: 10:00 a.m. to 2:00 p.m. (10 times per year).

The project was conditioned to operate at the above times only in order to not interfere with normal business hours of 8:00 a.m. to 5:00 p.m. when parking demand will be at its peak. However, there was concern that parking demands of the proposed religious/cultural center would conflict with the shared parking approved under ZA-10-22 for Berean Community Church.

The request was originally approved by the Zoning Administrator on December 10, 2015, and called up for review by the Planning Commission on December 11, 2015, which subsequently overturned the Zoning Administrator's approval and denied the request on February 8, 2016. An appeal of the Planning Commission's denial was filed on February 16, 2016, by the applicant and considered by the City Council, which overturned the Planning Commission's denial and approved the request on March 16, 2016.

The basis for the City Council's approval was the evidence submitted by the applicant indicating that the 493 on-site parking spaces throughout the complex were an adequate supply of parking spaces for the uses. City Council also added a condition of approval requiring that the applicant provide a detailed parking management plan to the Planning Division for review and approval prior to the establishment of the use.

The approval of this project is currently involved in litigation with the appellant, which is unrelated to the proposed project other than the uses share the same parking areas.

## **ANALYSIS**

### ***Project Description***

Arts & Learning Conservatory is an educational nonprofit offering musical theater and performing arts classes to children. The Conservatory works directly with school districts, utilizing school facilities for instruction, and currently has an off-campus location in Santa Ana where after-school and summer camp instruction is held. After-school and summer camp instruction would be relocated to the subject site. On a daily basis, approximately 15 students would arrive for instruction 4:00 pm to 9:00 pm, Monday through Friday. Summer camp instruction could accommodate as many as 40 students from 8:00 am to 3:00 pm, Monday through Friday, from June 15<sup>th</sup> through August 15<sup>th</sup>. The Conservatory staff consists of eight instructors and administrators. Students will be dropped off at the site and their parent's vehicle or other after-school transportation does not remain on-site during the instructional period. Vehicles may temporarily occupy a parking space while dropping off or picking up, but these spaces quickly turn over.

Performances for the parents of students are held on 6 weekends throughout the year. Members of the public are able to purchase tickets for these performances as well (up to 250 persons total). These performances are held Fridays at 7:00 pm, Saturdays at 1:00 pm and 7:00 pm, and Sundays at 2:00 pm.

According to the tenant improvement plan for Arts & Learning Conservatory, the theater space will be 3,523 square feet, which, according to the parking analysis prepared by LSA Associates, equates to a parking requirement of 101 spaces. Per CCMC Section 13-89 (Parking Standards for Non-Residential Uses) 17 parking spaces would be required for an MP (Industrial Park) use within the 6,000 square foot building. As a result, a shared parking analysis was prepared by LSA Associates for the Conservatory based on the operating characteristics described in their description letter (Attachment 3).

### ***Planning Commission Action***

On June 13, 2016, the project was considered by the Planning Commission. Based on the evidence presented by the applicant and testimony during the hearing, the Planning Commission approved the project on a 5-0 vote. The Planning Commission concluded that, because the proposed musical performances would be limited to 6 weekends a year, the parking impacts associated with the proposed use would be less than with the existing church use, which has services every weekend.

A link to the Planning Commission staff report can be found on the City's website here (hardcopy also attached to this report):

<http://www.costamesaca.gov/ftp/planningcommission/agenda/2016/2016-06-13/PH-3.pdf>

The excerpt of the Planning Commission meeting minutes for the item are attached to this report (Attachment 7).

### ***Appeal of Planning Commission Action***

On June 17, 2016, an appeal of the Planning Commission's approval of the project was filed by Michael H. Leifer, attorney for Koll-Irvine Community Association. In the appeal, the appellant states that the proposed use is not compatible with the other uses within the complex.

### ***Continuance from the August 2, 2016 City Council Meeting***

The City Council continued the item from the August 2, 2016 City Council meeting without opening the public hearing. The purpose of the continuance was to allow the City Attorney's office additional time to review the legal documents submitted by the appellant prior to the hearing.

### ***De Novo Hearing***

The City Council hearing is a **de novo hearing** in which the City Council may consider the project in its entirety. Council may consider all aspects of the proposed use and is not required to limit the discussion to the appellant's issues in the appeal.

### **LEGAL REVIEW**

The City Attorney has reviewed the draft resolutions and they have been approved as to form by the City Attorney's Office.

### **ALTERNATIVES**

The City Council may take the following actions:

1. Uphold the Planning Commission's decision approve the project; or
2. Reverse the Planning Commission's decision and deny the project.

### **CONCLUSION**

De novo literally translates to "anew," "afresh" or "a second time." A de novo hearing is essentially a new proceeding where the proposal is presented to the City Council for final consideration. In its decision making, City Council is not restricted to the evidence that was previously presented to the Planning Commission.

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Senior Planner

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GARY ARMSTRONG, AICP  
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Services Director / Deputy CEO

- Attachments:
1. [Location Map, Zoning Map, and 500' Radius Map](#)
  2. [Site Photos](#)
  3. [Appeal](#)
  4. [Draft Resolutions and Exhibits](#)
  5. [Correspondence From Public](#)
  6. [Plans](#)
  7. [Planning Commission Meeting Minutes](#)
  8. [June 13, 2016 Planning Commission Staff Report and Attachments](#)
  9. [Planning Commission Resolution](#)
- cc:
10. [Supplemental Memo](#)

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