



PLANNING COMMISSION

AGENDA REPORT

MEETING DATE: AUGUST 8, 2005

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ITEM NUMBER:

SUBJECT: PLANNING APPLICATION PA-05-16
1676 TUSTIN AVENUE (BEACH PIT BBQ) AND
411 EAST 17TH STREET (FRAZZEE PAINT)

DATE: JULY 28, 2005

FOR FURTHER INFORMATION CONTACT: WENDY SHIH, ASSOCIATE PLANNER (714) 754-5136

PROJECT DESCRIPTION

The applicant is requesting approval of a conditional use permit to allow off-site parking at 411 East 17th Street, for the Beach Pit BBQ Restaurant located at 1676 Tustin Avenue, with minor conditional use permits to deviate from shared parking requirements at the off-site parking lot and to allow outdoor activities (a television behind the restaurant building), in the outdoor dining area.

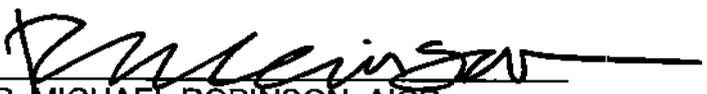
APPLICANT

The applicant is Tim DeCinces, representing the property owners Mike Simonian and Jane Caldwell.

RECOMMENDATION

Approve the conditional use permit for off-site parking and the minor conditional use permit to deviate from shared parking requirements at the off-site parking lot, and deny the minor conditional use permit for the outdoor television, by adoption of Planning Commission resolution.


WENDY SHIH
Associate Planner


R. MICHAEL ROBINSON, AICP
Asst. Development Services Director

BACKGROUND

The applicant's restaurant, Beach Pit BBQ, is located four lots south of East 17th Street, on the east side of Tustin Avenue (1676 Tustin Avenue). The property is located in the East 17th Street Specific Plan, it is zoned C1 (Local Business District) with a General Plan designation of General Commercial. In March 2003, Planning Commission denied a request to construct a two-story mini-storage facility with variances from building setback and parking requirements on this property. The lot is surrounded by commercially zoned and developed properties to the north, west (across Tustin Avenue) and east (Frazee Paint). The properties to the south are zoned R1 (Single-Family Residential) and contain two, two-story dwelling units.

The property was developed with a legal, nonconforming residence and a detached garage. The applicant tore down the walls and roof of the house, which was termite infested and unsalvageable, and left the foundation and detached garage in tact. The remaining structures met the provisions for rebuilding nonconforming developments (i.e. no more than 50 percent of the market value of the development was destroyed). Therefore, the structures were allowed to be remodeled/restored at its original location. The front structure is the restaurant and kitchen area and the garage is converted to a storage area. The two structures are connected by a hallway, which meets all current development standards.

The applicant has applied for an ABC license to sell beer and wine for on-site consumption. The hours of operation will be Monday through Friday, 11 a.m. to 9 p.m., and 10 a.m. to 9 p.m. on Saturday and Sunday. The restaurant complies with all applicable codes and is permitted by right at its location. Per Section 13-49 (g) of the Zoning Code, a restaurant located within 200 feet of residentially zoned properties may operate for customer service except between the hours of 11 p.m. and 6 a.m.

ANALYSIS

Off-Site Parking

The applicant is proposing a total of 887 square feet of outdoor seating area (278 square feet in front of the restaurant and 609 square feet behind the restaurant). Since additional parking spaces are required beyond that available on-site (23 spaces required; 6 provided), the applicant requests a conditional use permit to allow off-site parking at the Frazee Paint property to accommodate the outdoor seating areas. A minor conditional use permit is also required to deviate from shared parking requirements at the off-site parking lot (48 spaces required for Frazee Paint and outdoor dining areas for the Beach Pit BBQ restaurant; 20 spaces existing).

The applicant proposes to use only the front outdoor dining area during lunch time on week days and both the front and rear outdoor dining areas during dinner (after 5 p.m.) and all day on weekends. The total area used to calculate restaurant parking requirement is 1,648 square feet (1,370 square foot building plus 278 square foot outdoor seating) during lunch and 2,257 square feet (1,370 square foot building plus 887 outdoor seating) during dinner. Based on these square footages, 16 parking spaces are required

during lunch and 23 spaces are required during dinner. There are 6 on-site parking spaces, which means 10 spaces will be provided off-site at 411 East 17th Street during lunch and 17 spaces during dinner and weekends.

The Frazee Paint property is legal, nonconforming with respect to parking. Current Code requires 31 parking spaces for the 7,800 square foot retail building. The property contains 20 spaces. A minor conditional use permit is required to deviate from shared parking requirements because Beach Pit BBQ needs a maximum of 17 parking spaces at this property to accommodate their outdoor patio seating.

The chart below summarizes required and existing parking spaces at both lots:

	1676 Tustin Ave. Beach Pit BBQ	411 East 17th St. Frazee Paint
Building	1,370 sq.ft.	7,800 sq.ft.
Outdoor Seating (Lunch/Dinner and Weekends)	887 sq.ft (278 sq.ft./887 sq.ft.)	N/A
Parking Required	23 spaces	31 spaces
Parking Provided	6 spaces*	20 spaces**

* Off-site parking for 17 spaces at 411 East 17th Street requested.

** Legal, nonconforming.

Frazee Paint is a supplier of paint products primarily to contractors and the majority of their customer traffic or business is in the early morning prior to 10 a.m., before the Beach Pit BBQ opens. The applicant conducted a parking survey of the parking lot at various hours during weekdays and found that no more than two cars are parked at that site at any given time during the hours that Beach Pit BBQ will be open. Frazee Paint is closed at 5 p.m. Monday through Friday and closed on Saturday and Sunday. Since Frazee Paint's parking lot contains 20 spaces and no more than two spaces are used at any given time after 10 a.m., there is more than adequate parking available for use by Beach Pit BBQ. Since the lots back up to each other, a gate access will be provided between the lots. Restaurant patrons will have safe and easy access to and from the off-site parking lot since they will not be required to cross streets or other properties.

Outdoor Activities

It is staff's opinion that the proposed outdoor dining will not negatively impact the surrounding properties since the restaurant will be closed at a reasonable hour (9 p.m.) daily. The outdoor dining areas are also proposed along the north side of the property, away from the residences. The property is separated from the residential property to the south by an 8-foot high block wall and the majority of the outdoor dining area (behind the restaurant) is further buffered by a building (hallway and storage for the restaurant). The Zoning Code allows outdoor dining for restaurants as long as the outdoor seating areas do not encroach into required street setback, parking, and landscaping. The proposed seating areas do not encroach into required street setback or interior landscaping, and the required parking can be provided off-site at 411 East 17th Street without impacting parking at that site.

The applicant also requests a minor conditional use permit to allow a television behind the restaurant for family movie nights, team highlight videos, personal video presentations, and local team games and news. Staff is recommending denial of the minor conditional use permit for an outdoor television because it will negatively impact the sensitive, residential use to the south, more so than a typical outdoor dining area. Although it is oriented away from the residences and located behind the restaurant, it can create a lot of noise not only by itself but also from the restaurant patrons who watch the videos or games. Sporting events and videos are likely to encourage higher noise levels due to cheering or other forms of audience participation and interaction. Since the adjacent homes are two-story, they are susceptible to higher noise levels.

ALTERNATIVES

The Planning Commission has the following alternatives:

1. Approve the conditional use permit to allow off-site parking and deny the minor conditional use permit for a television outdoors, as recommended by staff;
2. Approve all requests as proposed by the applicant, subject to making the necessary findings; or
3. Deny all requests. If the entire application is denied, the applicant cannot have any outdoor dining area and cannot have a television outdoors. The restaurant with service of alcoholic beverages for on-site consumption prior to 11 p.m. can be established as permitted by right by the Zoning Code.

CONCLUSION

The Beach Pit BBQ hours of operation will overlap with Frazee Paint hours between 10 a.m. and 5 p.m. However, based on the parking survey and the nature of the Frazee Paint business, no more than 2 parking spaces are typically occupied between the hours of 10 a.m. and 5 p.m., Monday through Friday (business closed on weekends). Therefore, adequate parking exists to allow off-site parking for Beach Pit BBQ. A condition has been included requiring the outdoor seating area be eliminated or a parking management plan established should parking impacts become an issue.

Since the property abuts residential lots to the south, staff is recommending denial of the minor conditional use permit for an outdoor television due to potential noise impacts from the television as well as the restaurant patrons.

Attachments: Draft Planning Commission Resolution
 Exhibit "A" - Draft Findings
 Exhibit "B" - Draft Conditions of Approval
 Applicant's Project Description and Justification
 Zoning/Location Map
 Plans

cc: Deputy City Manager - Dev. Svs.
Senior Deputy City Attorney
City Engineer
Fire Protection Analyst
Staff (4)
File (2)

Tim Decinces
711 W. 17th St., B12
Costa Mesa, CA 92627

Jane Caldwell
493 Abbie Way
Costa Mesa, CA 92627

File: 080805PA0516	Date: 072705	Time: 11:00 a.m.
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RESOLUTION NO. PC-05-

**A RESOLUTION OF THE PLANNING COMMISSION OF THE
CITY OF COSTA MESA APPROVING A PART OF PLANNING
APPLICATION PA-05-16**

THE PLANNING COMMISSION OF THE CITY OF COSTA MESA HEREBY RESOLVES AS FOLLOWS:

WHEREAS, an application was filed by Tim Decinces, authorized agent for Mike Simonian and Jane Caldwell, with respect to the real property located at 1676 Tustin Avenue (Beach Pit BBQ) and 411 East 17th Street (Frazee Paint), requesting approval of a conditional use permit to allow off-site parking at 411 East 17th Street to accommodate outdoor dining areas for Beach Pit BBQ and minor conditional use permits to deviate from shared parking requirements at 411 East 17th Street and to allow outdoor activities (a television outdoors behind the restaurant) at 1676 Tustin Avenue; and

WHEREAS, a duly noticed public hearing was held by the Planning Commission on August 8, 2005;

BE IT RESOLVED that, based on the evidence in the record and the findings contained in Exhibit "A", and subject to the conditions contained in Exhibit "B", the Planning Commission hereby **APPROVES** Planning Application PA-05-16 with respect to the conditional use permit for off-site parking and a minor conditional use permit for deviation from shared parking requirement at 411 East 17th Street and **DENIES** the minor conditional use permit for the outdoor television, for the property described above.

BE IT FURTHER RESOLVED that the Costa Mesa Planning Commission does hereby find and determine that adoption of this resolution is expressly predicated upon the activity as described in the staff report for PA-05-16 and upon applicant's compliance with each and all of the conditions contained in Exhibit "B". Should any material change occur in the operation, or should the applicant fail to comply with the conditions of approval, then this resolution, and any recommendation for approval herein contained, shall be deemed null and void.

PASSED AND ADOPTED this 8th day of August, 2005.

Chair, Costa Mesa Planning Commission

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EXHIBIT "A"**FINDINGS**

- A. The proposed conditional/minor use permits for off-site parking and deviation from shared parking requirements comply with Costa Mesa Municipal Code Section 13-29(e) because:
1. The proposed use is compatible and harmonious with uses on surrounding properties.
 2. Safety and compatibility of the design of buildings, parking area, landscaping and other site features, which may include functional aspect of the site development such as automobile and pedestrian circulation, has been considered.
 3. The proposed use complies with performance standards for a restaurant business.
 4. The project is consistent with the General Plan.
 5. The planning application is for a project-specific case and does not establish a precedent for future development.
 6. The cumulative effect of all planning applications has been considered.
- B. The conditional/minor use permits for off-site parking and deviation from shared parking requirements substantially comply with Costa Mesa Municipal Code Section 13-29(g)(2) in that the proposed use is substantially compatible with developments in the same general area. Granting the conditional/minor use permits will not be detrimental to the health, safety and general welfare of the public or other properties or improvements within the immediate vicinity. Specifically, based on the parking survey and the nature of the Frazee Paint business at 411 East 17th Street, adequate parking is available to allow shared/off-site parking for the Beach Pit BBQ at 1676 Tustin Avenue. Granting the conditional/minor use permits will not allow a use, density or intensity, which is not in accordance with the general plan designation for the property.
- C. The minor conditional use permit for an outdoor television does not comply with Costa Mesa Municipal Code Section 13-29(g)(2) in that the proposed outdoor use is not compatible with developments in the same general area. Granting the minor conditional use permit will be detrimental to the health, safety and general welfare of the public or other properties or improvements within the immediate vicinity. Specifically, the property abuts sensitive, residential uses to the south and the outdoor television will negatively impact the residential properties. Sporting events and videos are likely to encourage higher noise levels due to cheering or other forms of audience participation and interaction. Since the adjacent homes are two-story, they are susceptible to higher noise levels.
- D. The project has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines, and the City environmental procedures, and has been found to be exempt from CEQA.
- E. The project is exempt from Chapter XII, Article 3, Transportation System Management, of Title 13 of the Costa Mesa Municipal Code.

EXHIBIT "B"**CONDITIONS OF APPROVAL**

- Plng.
1. If parking shortage or other parking-related problems arise, the applicant shall institute whatever operational measures are necessary to minimize or eliminate the problem, including, but not limited to, elimination or reduction of the outdoor dining areas.
 2. The business shall be conducted, at all times, in a manner that will allow the quiet enjoyment of the surrounding neighborhood. The applicant and/or business owner shall institute whatever security and operational measures are necessary to comply with this requirement.
 3. The conditional and minor conditional use permits herein approved shall be valid until revoked, but shall expire upon discontinuance of the activity authorized hereby for a period of 180 days or more. The conditional use permit may be referred to the Planning Commission for modification or revocation at any time if the conditions of approval have not been complied with, if the use is being operated in violation of applicable laws or ordinances, or if, in the opinion of the development services director or his designee, any of the findings upon which the approval was based are no longer applicable.
 4. A copy of the conditions of approval for the conditional use permits must be kept on premises and presented to any authorized City official upon request. New business/property owners shall be notified of conditions of approval upon transfer of business or ownership of land.
 5. A land use restriction executed by and between the property owner of 1676 Tustin Avenue, 411 East 17th Street, and the City of Costa Mesa, shall be recorded. The land use restriction shall state that the off-site parking area shall consist of 17 parking spaces at 411 East 17th Street. The applicant shall submit to the Planning Division a copy of the legal description for the property, and either a lot book report or current title report identifying the current legal property owner so the document may be prepared. The land use restriction shall be recorded prior to use of the off-site parking and on-site outdoor dining areas.

PLANNING DIVISION - CITY OF COSMESA
DESCRIPTION/JUSTIFICATION

Application #:
Address:

Environmental Determination:

1. Fully describe your request:

We are requesting to add additional off site parking spaces. We have reached an agreement with Frazee Paint, the neighboring property owner located at 411 E 17th street. The agreement allows for an ingress/egress easement and use of ~~six~~ 10-17 spaces.

2. Justification

A. For a Conditional Use Permit or Minor Conditional Use Permit: Describe how the proposed use is substantially compatible with uses permitted in the same general area and how the proposed use would not be materially detrimental to other properties in the same area.

B. For a Variance or Administrative Adjustment: Describe the property's special circumstances, including size, shape, topography, location or surroundings that deprive the property of privileges enjoyed by other properties in the vicinity under the identical zoning classification due to strict application of the Zoning Code.

3. This project is: (check where appropriate)

In a flood zone.

Subject to future street widening.

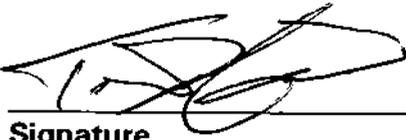
In the Redevelopment Area.

In a Specific Plan Area.

4. I have reviewed the HAZARDOUS WASTE AND SUBSTANCES SITES LIST published by the office of Planning and Research and reproduced on the rear of this page and have determined that the project:

Is not included in the publication indicated above.

Is included in the publication indicated above.



Signature

3/20/05

Date

April 29, 2005

City of Costa Mesa
Planning Department
77 Fair Drive
Costa Mesa, CA 92628-1200

Re: 1676 Tustin Ave
Conditional Use Permit Description and Justification

To Whom It May Concern:

The additional access and parking granted by the adjoining property occupied by Frazee Paint will benefit all neighboring properties. Having parking access for our business off the main commercial thoroughfare, 17th street, will alleviate traffic concerns for the neighboring residents on Tustin Avenue. The neighboring residential properties are already buffered by an 8 foot block wall, a 10 foot landscaping set back and this proposed access will be in a courtyard surrounded by our restaurant structure and the neighboring two story block wall. As residents of the community, we recognize the need for additional parking in this part of the city. Our proposal makes use of an otherwise vacant parking lot during our primary hours. The occupant at 411 E 17th Street, Frazee Paint, is closed by 5:00pm and their parking lot is primarily used between the hours of 6:00am and 10:00am. Further, our hours of operation as a family oriented restaurant will not be in conflict with the quiet enjoyment of our residential neighbor's use. It is our goal with this proposed additional parking to be a desired destination for local youth sports parties, religious gatherings and other community functions. This proposal will not in any way effect the quiet enjoyment of our residential neighbors and will in fact alleviate many of their concerns of traffic congestion and access to our business.

Sincerely,



Tim DeCinces
Owner
The Beach Bit BBQ



Bill Perkins
Owner
The Beach Pit BBQ



Brian Griffith
Owner
The Beach Pit BBQ



CITY OF COSTA MESA

P.O. BOX 1200 • 77 FAIR DRIVE • CALIFORNIA 92628-1200

DEVELOPMENT SERVICES DEPARTMENT

**FOR ATTACHMENTS NOT INCLUDED IN THIS REPORT,
PLEASE CONTACT THE PLANNING DIV. AT (714)754-5245.**