



PLANNING COMMISSION

AGENDA REPORT

MEETING DATE: JANUARY 12, 2015

ITEM NUMBER: PH-1

SUBJECT: APPEAL OF THE ZONING ADMINISTRATOR DECISION TO APPROVE A MINOR CONDITIONAL USE PERMIT FOR OUTDOOR PLACEMENT OF A PROPANE EXCHANGE AND WATER VENDING MACHINE AND DENIAL OF AN OUTDOOR DVD RENTAL KIOSK

DATE: DECEMBER 24, 2014

FROM: PLANNING DIVISION/DEVELOPMENT SERVICES DEPARTMENT

PRESENTATION BY: CHELSEA CRAGER, ASSISTANT PLANNER

FOR FURTHER INFORMATION CONTACT: CHELSEA CRAGER (714) 754-5609
chelsea.crager@costamesaca.gov

DESCRIPTION

The applicant is proposing Minor Conditional Use Permit ZA-14-34 to allow outdoor placement of a DVD vending machine (Redbox), a propane exchange, and a water vending machine at an existing Circle K convenience store.

The Zoning Administrator's partial approval of ZA-14-34 (DVD rental machine denied, propane exchange and water vending machine approved) was appealed by Planning Commissioner Rob Dickson.

APPLICANT

The applicant is Ojama Elfeky, authorized agent for the property owner First American Trust.

RECOMMENDATION

Staff recommends that the Planning Commission:

- Uphold the Zoning Administrator's partial approval of ZA-14-34 (outdoor DVD rental machine denied; outdoor propane exchange and water vending machine approved), by adoption of Planning Commission Resolution, subject to conditions.

BACKGROUND

Project Site/Environs

The subject property is located at the northeast corner of Santa Ana Avenue and Ogle Street. It is zoned C1 (Local Business) with a General Plan land use designation of General Commercial. The building is oriented to face west towards Santa Ana Avenue and the side parking lot of the Ross retail store (zoned C1-S, Shopping Center). Properties to the east and south across Ogle Street are zoned R2-MD and contain residential uses. The property to the north of the subject property is zoned C1 and contains a commercial building.

The subject property is a 10,890 square foot lot developed with a 4,030 square foot multi-tenant building, nine parking spaces, and two points of ingress/egress.

The applicant requests approval of a minor conditional use permit (MCUP) to allow outdoor placement of miscellaneous items (RedBox movie vending machine, water vending machine, and propane tank exchange) at an existing Circle K liquor store. Costa Mesa Municipal Code Section 13-44 states that all uses shall be conducted underroof except as allowed by a minor conditional use permit.

This property came to staff's attention via a request from Planning Commission to inspect all convenience stores for compliance with Title 20 — Property Maintenance Standards.

On November 20, 2014, the Zoning Administrator partially approved the request. Planning Commission Vice Chair Rob Dickson appealed the approval on November 26, 2014, citing his concerns with the appropriateness of increasing the intensity of this use at this location, the number of calls for service, and how the proposed minor conditional use permit could impact the subject and surrounding properties.

ANALYSIS

Redbox DVD Vending Machine

The Redbox vending machine is proposed to be located three feet from the entrance door of the liquor store, facing Santa Ana Boulevard and the side parking lot of the Ross retail store. This type of vending machine is commonly found indoors at grocery stores or other retail centers. There are no fire hazards, leaks, or other safety hazards commonly associated with a vending machine of this nature that would require an outdoor location. The machine typically displays available movie titles on the outside of the machine. The Zoning Administrator denied this part of the request because the machine contains many advertisements and movie titles on the exterior of the vending machine that are visible to the nearby residential properties and does not pose any sort of safety or other issues requiring an exterior location; consequently, it was found that the vending machine is incompatible with developments in the same general neighborhood.

Glacier Water Vending Machine

Water vending machines are commonly found outside of retail stores due to potential leaks and water spillage; the Zoning Administrator approved this part of the request because of this potential. The machine faces Santa Ana Boulevard and the parking lot across the street, and is visible to neighboring residential properties. The machine is currently placed to the side of the store, in front of the trash enclosure, and is not against a wall. In order for this use to be compatible with the developments in the same general neighborhood, conditions have been including limiting the advertising to that necessary to identify the use and that the machine be relocated to be placed entirely against the front wall of the tenant space. Additionally, it will be required to be placed so it does not to interfere with pedestrian — including wheelchairs — or vehicle access to the stores.

Propane Tank Exchange

The Zoning Administrator approved this part of the request because the storage of propane tanks must take place outdoors for safety reasons. Similar to the water vending machine, the propane exchange is proposed to face the parking lot across Santa Ana Boulevard from the subject property and will be visible to the neighboring residential properties. To lessen the visual impacts of the propane exchange on residential neighbors and maintain compatibility with developments in the general neighborhood, conditions have also been included to limit advertising to that necessary to identify the service. Like the water vending machine, the propane exchange will be placed entirely against the front wall of the tenant space and is conditioned not to interfere with pedestrian — including wheelchairs — or vehicle access to the stores.

Parking

The total on-site parking spaces provided for the property is nine spaces. Because the proposed outdoor placement of merchandise does not increase the floor area of the existing building and does not encroach into existing parking areas, a change in parking demand is not anticipated. If parking shortages or other parking-related problems develop, the business operator will be required to institute appropriate operational measures necessary to minimize or eliminate the problem including, but not limited to, removing the outdoor water vending machine and/or propane tanks.

Police Calls for Service/Past Complaints

As part of public comment, police calls for service at the subject property for the time period May 1, 2013 through September 1, 2013 were submitted to the Planning Division. In these 16 months, there were a total of 46 calls for service to the property. Of these, six were not included in Planning staff's analysis: These calls involved chest pains, sleeper in vehicle, medical aid, and could not be directly attributed to the convenience store. With 40 calls for service in 16 months, the average number of calls for service to this property is 2.5 calls per month.

On November 6, 2014, Planning staff contacted Lieutenant Keith Davis of the Costa Mesa Police Department. Lieutenant Davis stated that the subject property was not a problematic convenience store location and does not receive an unusually high number of calls for service.

For the past 15 years (since 1999), there have been nine Code Enforcement cases opened on this property: three for items dumped at the property; three for outdoor storage of items; one for an illegal banner; and one case was opened in error. The only open case on this site was opened in response to Planning Commission's request to review convenience stores city wide; this application is a result of that review.

In staff's opinion, this is not an unusually high number of cases (eight valid cases over 15 years) for a commercial property.

Additional Discussion

When visiting the site, staff noticed outdoor storage behind the existing water vending machine. This outdoor storage is unpermitted and is required to be removed. Additionally, staff noticed deteriorated landscaping along the Ogle Street frontage behind a trash enclosure. The project is conditioned to reinstall this landscaping consistent with Costa Mesa Municipal Code Title 13 Chapter 7, "Landscaping Standards".

The property contains an outdoor payphone not shown on the submitted site plan. The City is making efforts to remove these City-wide, as they have become an underutilized nuisance. Therefore, a condition was included by the Zoning Administrator to remove the existing payphone from the front of the property. Additionally, because loitering while using an exposed electrical outlet is occurring, a condition has been included to cover any outdoor unused electrical outlets to prevent use by those unaffiliated with the store.

GENERAL PLAN CONFORMANCE

The General Plan land use designation for the subject property is General Commercial, which is intended to permit a wide range of commercial uses. The maximum allowable FAR for moderate traffic generating uses (20 to 75 daily trips per 1,000 square feet in commercial designations) is 0.30. Based on the submitted site plan, the total building area is 4,030 square feet and the resulting FAR is 0.37. However, because the floor area will not increase with the addition of outdoor propane tanks and water dispenser, the overall FAR designation of the site will not be affected.

The proposed use, as conditioned, is consistent with the Zoning Code and the City's General Plan because, with the recommended conditions of approval, the outdoor placement of the water vending machine and propane tanks should not adversely impact surrounding uses.

ENVIRONMENTAL DETERMINATION

The project is categorically exempt from the provisions of the California Environmental Quality Act under Section 15301 (Class 1) for Existing Facilities. Class 1 consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination.

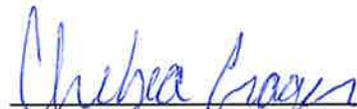
ALTERNATIVES

The Planning Commission has the following alternatives:

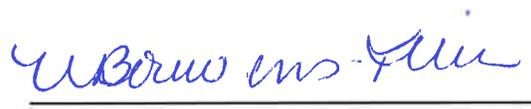
1. Approve the project with modifications. The Planning Commission may suggest specific changes that are necessary to alleviate concerns. If any of the additional requested changes are substantial, the item should be continued to a future meeting to allow a redesign or additional analysis. In the event of significant modifications to the proposal, should the Planning Commission choose to do so, staff will return with a revised resolution incorporating new findings and/or conditions.
2. Deny the project. If the Planning Commission believes that there are insufficient facts to support the findings for approval, Planning Commission must deny the application and provide facts in support of denial to be included in the draft resolution for denial. If the project were denied, all of the outdoor equipment would be required to be removed and the applicant could not submit substantially the same type of application for six months.

CONCLUSION

The Zoning Administrator determined that the proposed outdoor water vending machine and propane exchange, with the recommended conditions of approval, will be consistent with the City's Zoning Code and General Plan. The proposed uses, as conditioned, will minimize any adverse impacts on the surrounding residential properties. It is staff's opinion that the proposed outdoor location for the DVD rental machine is not compatible with the surrounding residential properties and is therefore not consistent with the City's Zoning Code and General Plan.



CHELSEA CRAGER
Assistant Planner



WILLA BOUWENS-KILLEEN, AICP
Zoning Administrator

- Attachments:
1. Draft Planning Commission Resolution and Exhibits
 2. Location and Zoning Map
 3. Applicant's Letter
 4. Project Plans
 5. Appeal Form
 6. Zoning Administrator Approval Letter
 7. Public Correspondence
 8. Site Photos

Distribution: Director of Economic & Development Services/Deputy CEO
Senior Deputy City Attorney
Public Services Director
City Engineer

Transportation Services Manager
Fire Protection Analyst
Staff (6)
File (2)

First American Trust
150 Paularino Avenue Suite 194
Costa Mesa, CA 92626

ATTACHMENT 1
DRAFT RESOLUTIONS AND EXHIBITS

RESOLUTION NO. PC-14-

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COSTA MESA UPHOLDING THE ZONING ADMINISTRATOR'S DECISION FOR ZONING APPLICATION ZA-14-34 FOR A MINOR CONDITIONAL USE PERMIT FOR OUTDOOR USES LOCATED AT 1654 SANTA ANA AVENUE (CIRCLE K STORE)

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

WHEREAS, an application was filed by Ojama Elfeky, as the authorized agent on behalf of the property owner, First American Trust, requesting approval of a minor conditional use permit to allow the outdoor use of a DVD rental vending machine, a water vending machine, and a propane exchange; and

WHEREAS, on November 20, 2014, the Zoning Administrator partially approved the request (the outdoor DVD rental machine was denied, and the outdoor propane exchange and water vending machine were approved); and

WHEREAS, on November 26, 2014, the Zoning Administrator's decision was appealed by Vice Chair Dickson; and

WHEREAS, a duly noticed public hearing held by the Planning Commission on January 12, 2015 with all persons having the opportunity to speak for and against the proposal; and

WHEREAS, the project is categorically exempt from the provisions of the California Environmental Quality Act under Section 15301 (Class 1) for Existing Facilities. This categorical exemption reflects the independent judgment of the City of Costa Mesa.

BE IT RESOLVED that, based on the evidence in the record and the findings contained in Exhibit A, and subject to the conditions of approval contained within Exhibit B, the Planning Commission hereby **APPROVES** Zoning Application ZA-14-34 with regard to the propane exchange and water vending machine, and **DENIES** Zoning Application ZA-14-34 with regard to the outdoor DVD rental machine, with respect to 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 Zoning Application ZA-14-34 and upon applicant's compliance with each and all of the conditions in Exhibit B, and compliance

of all applicable federal, state, and local laws. Any approval granted by this resolution shall be subject to review, modification or revocation if there is a material change that occurs in the operation, or if the applicant fails to comply with any of the conditions of approval.

BE IT FURTHER RESOLVED that if any section, division, sentence, clause, phrase or portion of this resolution, or the documents in the record in support of this resolution, are for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions.

PASSED AND ADOPTED this 12th day of January, 2015.

Jim Fitzpatrick, Chair
Costa Mesa Planning Commission

STATE OF CALIFORNIA)
)ss
COUNTY OF ORANGE)

I, Claire Flynn, Secretary to the Planning Commission of the City of Costa Mesa, do hereby certify that the foregoing Resolution was passed and adopted at a meeting of the City of Costa Mesa Planning Commission held on January 12, 2015 by the following votes:

AYES: COMMISSIONERS

NOES: COMMISSIONERS

ABSENT: COMMISSIONERS

ABSTAIN: COMMISSIONERS

Claire L. Flynn, Secretary
Costa Mesa Planning Commission

EXHIBIT A

FINDINGS

- A. The proposed project complies with Costa Mesa Municipal Code Section 13-29(e) because:

Finding: The proposed use is compatible and harmonious with uses on surrounding properties.

Facts in Support of Finding: The outdoor uses are conditioned to include only the minimum amount of advertising necessary to identify the services offered. This condition will maintain a compatible and harmonious relationship with the surrounding residential developments by minimizing the visual impacts of the outdoor use.

Finding: Safety and compatibility of the design of the parking areas, landscaping, luminaries, and other site features including functional aspects of the site development such as automobile and pedestrian circulation have been considered.

Facts in Support of Finding: The proposed outdoor uses will be placed against the front wall of the tenant space to not interfere with pedestrian — including wheelchairs — or vehicle access to the store and will not encroach into existing parking areas. The propane exchange and water machine will be located outside and will be required to comply with code requirements for safety.

Finding: The project, as conditioned, is consistent with the General Plan and any applicable specific plan.

Facts in Support of Finding: The floor area is not being increased and therefore FAR is unaffected. The use is consistent with the General Commercial land use designation.

Finding: The proposed use is compliant with performance standards as prescribed in the Zoning Code.

Facts in Support of Finding: The proposed outdoor uses will be conditioned to operate as described and is compliant with Zoning Code.

Finding: The planning application is for a project-specific case and does not establish a precedent for future development.

Facts in Support of Finding: Approval will apply to this project-specific location. Conditions have been included that are specific to the proposed project.

- B. The information presented substantially complies with Costa Mesa Municipal Code Section 13-29(g)(2) in that:

Finding: The proposed use is substantially compatible with developments in the same general area and would not be materially detrimental to other properties within the area.

Facts in Support of Finding: The approved outdoor uses are only those which are required to be outside for safety and/or operational considerations. They are conditioned to display only the advertising

necessary to identify the service provided to maintain compatibility with the surrounding residential properties

Finding: Granting the minor conditional use permit will not be materially detrimental to the health, safety and general welfare of the public or otherwise injurious to property or improvements within the immediate neighborhood.

Facts in Support of Finding: The propane exchange will be located outside for safety and will comply with all code requirements. The water machine will be located outside due to potential leaks or water spillage

Finding: Granting the minor conditional use permit will not allow a use, density, or intensity which is not in accordance with the General Plan designation and any applicable specific plan for the property.

Facts in Support of Finding: The proposed use does not increase the intensity of the use and therefore does not affect the General Plan FAR requirements. The proposed use is consistent with the intent of the General Commercial land use designation.

- C. 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 categorically exempt under Section 15301, Class 1, Existing Facilities, of the CEQA Guidelines.
- D. 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

- PIng.
1. The use shall be limited to the type of operation described in this staff report: the outdoor display of a water vending machine and propane exchange. Any change in the operational characteristics including, but not limited to, type of service provided outdoors or location of the displays will require approval of an amendment to the minor conditional use permit, subject to Zoning Administrator approval.
 2. Applicant shall defend, indemnify and hold harmless the City, its officials and employees, against all legal actions filed challenging City's approval of the applicant's project and/or challenging any related City actions supporting the approval. City shall have the right to select the attorney defending it, if it elects to do so.
 3. The use 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 appropriate security and operational measures are necessary to comply with this requirement.
 4. The applicant shall contact the Planning Division to arrange a Planning inspection of the site. This inspection is to confirm that the conditions of approval and code requirements have been satisfied.
 5. The water vending machine and propane exchange shall be placed entirely against the front of the tenant space and shall not interfere with pedestrian — including wheelchairs — or vehicle access to the building, including parking areas. The machines may not encroach into the street setback.
 6. The signage for the outdoor displays shall be minimal and shall only consist of signage identifying the services offered.
 7. The outdoor storage located behind the existing water machine shall be removed.
 8. The property owner shall make every effort possible to remove the existing payphone at the front of the store.
 9. All outdoor unused electrical outlets shall be blocked to prevent use by those unaffiliated with the store.

CODE REQUIREMENTS

The following list of federal, state and local laws applicable to the project has been compiled by staff for the applicant's reference. Any reference to "City" pertains to the City of Costa Mesa.

- Plng. 1. Approval of the zoning application is valid for one year from the effective date of this approval and will expire at the end of that period unless applicant establishes the use by one of the following actions: 1) obtains building permits for the authorized construction and initiates construction; and/or 2) obtains a business license and/or legally establishes the business. If the applicant is unable to establish the use/obtain building permits within the one-year time period, the applicant may request an extension of time. The Planning Division must receive a written request for the time extension prior to the expiration of the zoning application.
2. Permits shall be obtained for all signs according to the provisions of the Costa Mesa Sign Ordinance.
3. The existing Redbox movie vending machine shall be removed within two weeks of the approval of this minor conditional use permit.
4. The Ogle Street frontage shall be re-landscaped consistent with the Landscaping Standards described in the Costa Mesa Municipal Code Title 13, Chapter 7.
- Bldg. 5. Comply with the requirements of the following adopted codes 2013 California Building Code, 2013 California Electrical code, 2013 California Mechanical code, 2013 California Plumbing code, 2013 California Green Building Standards Code, and 2013 California Energy Code (or the applicable adopted, California Building code, California Electrical code, California Mechanical code, California Plumbing Code, California Green Building Standards, and California Energy Code at the time of plan submittal or permit issuance) and California Code of Regulations also known as the California Building Standards Code, as amended by the City of Costa Mesa.
- Bus. 6. All contractors and subcontractors must have valid business licenses to do business in the City of Costa Mesa. Final inspections, final occupancy and utility releases will not be granted until all such licenses have been obtained.
- Lic.
- Fire. 7. LPG exchange stations shall be located at least 10 feet from building doorways. CFC Table 6109.12
8. Combustible materials shall be kept at least 10 feet from containers. CFC Table 6109.12
9. When exposed to potential vehicular damage, LP-gas containers shall be protected. CFC 312 and 6107.4
10. Containers shall be located to minimize exposure to heat and physical damage and shall be stored in a covered and locked enclosure designed to prevent tampering. CFC 6109.2 and 6109.13
11. Used, empty containers shall be considered to be full when calculating the maximum quantity allowed. CFC 6109.5
12. Screw-on type caps or collars that are securely in place shall protect valves on all containers stored CFC 6109.8
13. Approved warning signs (e.g., "LIQUEFIED PETROLEUM GAS" and

- “NO SMOKING”) shall be posted.
14. The plan shall show compliance with all applicable CFC sections and include the size and type of rack, size and quantity of bottles stored, and their location relative to exits, unprotected openings, roadways, and storage of other sales materials.
 15. An operational permit is required for the storage and use of LP-gas. CFC 6101.2 and Section 105.6.

SPECIAL DISTRICT REQUIREMENTS

The requirements of the following special districts are hereby forwarded to the applicant:

- Sani. 1. It is recommended that the applicant contact the Costa Mesa Sanitary District at 949-645-8400 for current district requirements.

RESOLUTION NO. PC-14-

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COSTA MESA REVOKING THE ZONING ADMINISTRATOR'S DECISION FOR ZONING APPLICATION ZA-14-34 FOR A MINOR CONDITIONAL USE PERMIT FOR OUTDOOR USES LOCATED AT 1654 SANTA ANA AVENUE (CIRCLE K STORE)

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

WHEREAS, an application was filed by Ojama Elfeky, as the authorized agent on behalf of the property owner, First American Trust, requesting approval of a minor conditional use permit to allow the outdoor use of a DVD rental vending machine, a water vending machine, and a propane exchange; and

WHEREAS, on November 20, 2014, the Zoning Administrator partially approved the request (the outdoor DVD rental machine was denied, and the outdoor propane exchange and water vending machine were approved); and

WHEREAS, on November 26, 2014, the Zoning Administrator's decision was appealed by Vice Chair Dickson; and

WHEREAS, a duly noticed public hearing held by the Planning Commission on January 12, 2015 with all persons having the opportunity to speak for and against the proposal; and

WHEREAS, the project was reviewed in accordance with the requirements of the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and the City of Costa Mesa Environmental Guidelines; and the project was determined to be exempt from further CEQA analysis under Section 15301 for Existing Facilities; and

BE IT RESOLVED that, based on the evidence in the record and the findings contained in Exhibit "A," the Planning Commission hereby **DENIES** Planning Application ZA-14-34 with respect to the property described above.

PASSED AND ADOPTED this 12th day of January, 2015.

Jim Fitzpatrick, Chair
Chair, Costa Mesa Planning Commission

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STATE OF CALIFORNIA)
)ss
COUNTY OF ORANGE)

I, Claire Flynn, Secretary to the Planning Commission of the City of Costa Mesa, do hereby certify that the foregoing Resolution was passed and adopted at a meeting of the City of Costa Mesa Planning Commission held on January 12, 2015 by the following votes:

AYES: COMMISSIONERS

NOES: COMMISSIONERS

ABSENT: COMMISSIONERS

ABSTAIN: COMMISSIONERS

Claire L. Flynn, Secretary
Costa Mesa Planning Commission

EXHIBIT A

FINDINGS

- A. The proposed project does not comply with Costa Mesa Municipal Code Section 13-29(e) because:
 - 1. A compatible and harmonious relationship does not exist between the proposed use and existing buildings, site development, and uses on surrounding properties.
 - 2. The proposed project does not comply with the performance standards as prescribed in the Zoning Code.
 - 3. The proposed project is not consistent with the General Plan or Zoning Code.

- B. The information presented substantially complies with Costa Mesa Municipal Code Section 13-29(g)(2) in that:
 - 1. The proposed use is not substantially compatible with developments in the same general area and would be materially detrimental to other properties within the area.
 - 2. Granting the minor conditional use permit will be materially detrimental to the health, safety and general welfare of the public or otherwise injurious to property or improvements within the immediate neighborhood.
 - 3. Granting the minor conditional use permit will allow a use, density, or intensity which is not in accordance with the General Plan designation and any applicable specific plan for the property.

- C. The Costa Mesa Planning Commission has denied Planning Application ZA-14-34. Pursuant with the Public Resources Code Section 21080(b)(5) and the CEQA Guidelines Section 15270(a) CEQA does not apply to this project because it has been rejected and will not be carried out.

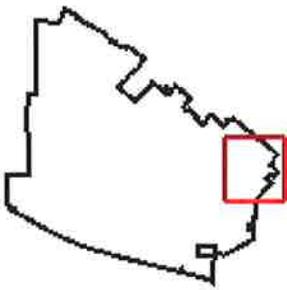
- D. The project is exempt from Chapter XII, Article 3, Transportation System Management, of Title 13 of the Costa Mesa Municipal Code.

**ATTACHMENT 2
LOCATION AND ZONING MAP**

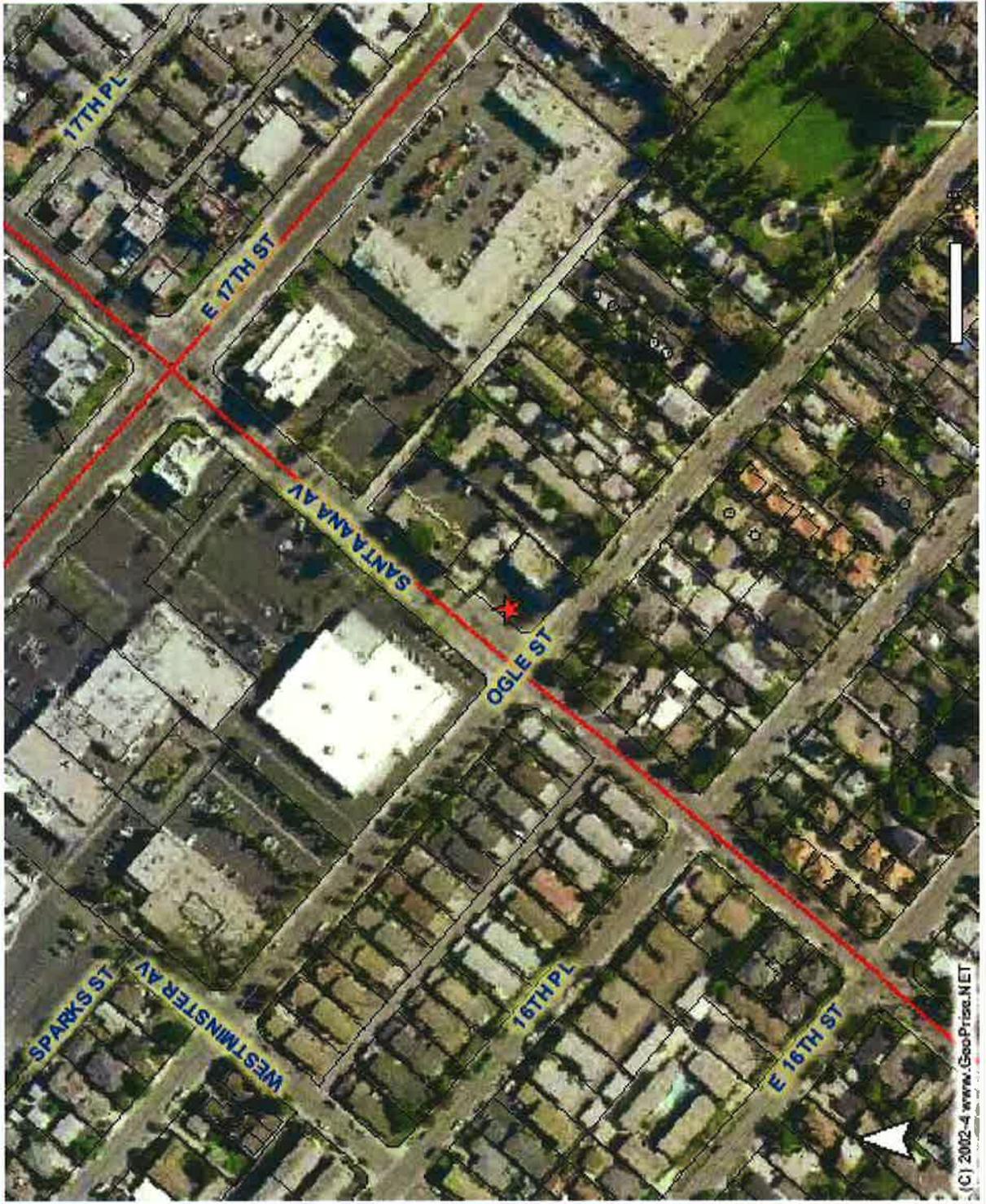
City of Costa Mesa

VICINITY MAP 1654 SANTA ANA - [Created: 12/22/2014 11:39:04 AM] [Scale: 280.39] [Page: 8.5 x 11 / Landscape]

Overview Map



Map Display



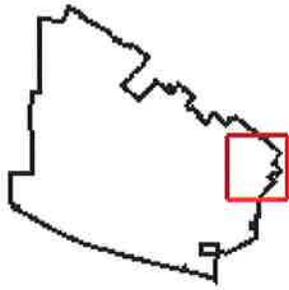
Legend

- Address Points
- Freeway Roads
- Collector Freeway
- Major
- Newport Blvd
- Primary
- SECONDARY
- Hydrology
- Channel
- Street Names
- Street Centerlines
- Parcel Lines
- City Boundary
- Water Ways

City of Costa Mesa

ZONING MAP 1654 SANTA ANA - [Created: 12/22/2014 11:40:08 AM] [Scale: 280.4] [Page: 8.5 x 11 / Landscape]

Overview Map



Map Display



Legend

- Address Points
- Freeway Roads
- Collector Freeway
- Major Freeway
- Newport BLVD
- Primary SECONDARY
- Hydrology Channel
- Street Names
- Street Centerlines
- Parcel Lines
- City Boundary
- Water Ways

(C) 2002-4 www.GeoPrise.NET

**ATTACHMENT 3
APPLICANT'S LETTER**

Application Letter

Our project description

- Red Box DVD rental which allows customers to rent and return DVD using the machine Without any assistance.
- Glacier Water Filtration Machine which allows customers to get the clean water in a very Reasonable price.
- Propane Tank Exchange allows our customers to buy or exchange there gas tank in a very safe way.

Thank you

We are applying for a minor conditional use permit for our Red Box DVD Rental / Glacier Water Filtration and our propane tank exchange to be compatible with uses permitted in the same area. As an example they have it in the close by Ralph store. Also the proposed use would not be materially detrimental to other properties in the same area.

Thank you.

Remark
we saw a circle K next door to the city
one minute driving from the city
111 Delmar Ave Costa mesa Have Red Box
and glacier water outside of the store
Feel free to contact me for any information
Sam ElFeky
323 2284288

**ATTACHMENT 4
PROJECT PLANS**

**ATTACHMENT 5
APPEAL FORM**



City of Costa Mesa

Appeal of Planning Commission Decision/Rehearing: \$1,220.00

Appeal of Zoning Administrator/ Building Official / Fire Marshal / Staff Decision: \$690.00

APPLICATION FOR APPEAL, REHEARING, OR REVIEW

Applicant Name* Robert Dickson (Planning Commissioner)

Address 77 Fair Drive, Costa Mesa, CA 92626

Phone 714-878-2610 Representing Costa Mesa Planning Commission

4:48 PM 11/26/14

REQUEST FOR: REHEARING APPEAL REVIEW**

Decision of which appeal, rehearing, or review is requested: (give application number, if applicable, and the date of the decision, if known.)

ZA-14-34 1654 Santa Ana Avenue MCUP (November 20, 2014)

Decision by: Zoning Administrator

Reasons for requesting appeal, rehearing, or review:

I have concerns about the appropriateness of increasing the intensity of use at this location, and have read the significant opposition from adjacent neighbors.

I am also concerned about the number of calls for service as indicated in the ZA approval Inter Office Memorandum, and how the proposed MCUP may impact the already excessive calls for service at a location within 200 feet of residential.

Date: 11/26/2014 Signature: [Handwritten Signature]

*If you are serving as the agent for another person, please identify the person you represent and provide proof of authorization.
**Review may be requested only by Planning Commission, Planning Commission Member, City Council, or City Council Member

For office use only – do not write below this line

SCHEDULED FOR THE CITY COUNCIL/PLANNING COMMISSION MEETING OF:
If appeal, rehearing, or review is for a person or body other than City Council/Planning Commission, date of hearing of appeal, rehearing, or review:

ATTACHMENT 6
ZONING ADMINISTRATOR APPROVAL LETTER



CITY OF COSTA MESA

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

DEVELOPMENT SERVICES DEPARTMENT

November 20, 2014

Ojama Elfeky
4902 Fountain Avenue
Los Angeles, CA 90029

**RE: ZONING APPLICATION ZA-14-34
MINOR CONDITIONAL USE PERMIT FOR OUTDOOR USES
1654 SANTA ANA AVENUE, COSTA MESA**

Dear Mr. Elfeky:

City staff's review of your zoning application for the above-referenced project has been completed. The application, as described in the attached project description, has been partially approved (the outdoor placement of the RedBox vending machine has been denied), based on the findings and subject to the conditions of approval and code requirements (attached). The decision will become final at 5:00 p.m. on December 1, 2014, unless appealed by an affected party, including filing of the necessary application and payment of the appropriate fee, or called up for review by a member of the Planning Commission or City Council.

If you have any questions regarding this letter, please feel free to contact the project planner, Chelsea Crager, at (714) 754-5609, or at chelsea.crager@costamesaca.gov.

Sincerely,

WILLA BOUWENS-KILLEEN, AICP
Zoning Administrator

Attachments: Project Description and Analysis
Findings
Conditions of Approval, Code Requirements, and Special District
Requirements
Project Description
Approved Conceptual Plans

cc: Engineering
Fire Protection Analyst
Building Safety Division

30

ZA-14-34
November 20, 2014
Page 2 of 8

First American Trust
150 Paularino Avenue Suite 194
Costa Mesa, CA 92626

PROJECT DESCRIPTION

The subject property is located at the northeast corner of Santa Ana Avenue and Ogle Street. It is zoned C1 (Local Business) with a General Plan land use designation of General Commercial. The building is oriented to face west towards Santa Ana Avenue and the side parking lot of the Ross retail store (zoned C1-S, Shopping Center). Properties to the east and south across Ogle Street are zoned R2-MD and contain residential uses. The property to the north of the subject property is zoned C1 and contains a commercial building.

The subject property is a 10,890 square foot lot developed with a 4,030 square foot multi-tenant building, nine parking spaces, and two points of ingress/egress.

The applicant requests approval of a minor conditional use permit (MCUP) to allow outdoor placement of miscellaneous items (RedBox movie vending machine, water vending machine, and propane tank exchange) at an existing Circle K liquor store. Costa Mesa Municipal Code Section 13-44 states that all uses shall be conducted underroof except as allowed by a minor conditional use permit.

ANALYSIS

Redbox Movie Vending Machine

The Redbox vending machine is proposed to be located three feet from the entrance door of the liquor store, facing Santa Ana Boulevard and the side parking lot of the Ross retail store. This type of vending machine is commonly found indoors at grocery stores or other retail centers. There are no fire hazards, leaks, or other safety hazards commonly associated with a vending machine of this nature that would require an outdoor location. The machine typically displays available movie titles on the outside of the machine. Because the machine contains many advertisements and movie titles on the exterior of the vending machine and will be visible to the nearby residential properties and does not pose any sort of safety or other issues requiring an exterior location, the vending machine is incompatible with developments in the same general neighborhood.

Glacier Water Vending Machine

Water vending machines are commonly found outside of retail stores due to potential leaks and water spillage. Because of this potential, the water machine is best suited outside of the store. The machine is proposed to face Santa Ana Boulevard and the parking lot across the street, but is visible to neighboring residential properties. The machine is currently placed to the side of the store, in front of the trash enclosure, and is not against a wall. In order for this use to be compatible with the developments in the same general neighborhood, conditions have been including limiting the advertising to that necessary to identify the use and that the machine be relocated to be placed

entirely against the front wall of the tenant space. Additionally, it will be required to be placed so it does not to interfere with pedestrian — including wheelchairs — or vehicle access to the stores.

Propane Tank Exchange

Storage of propane tanks must take place outdoors for safety reasons. Similar to the water vending machine, the propane exchange is proposed to face the parking lot across Santa Ana Boulevard from the subject property, but will be visible to the neighboring residential properties. To lessen the visual impacts of the propane exchange on residential neighbors and maintain compatibility with developments in the general neighborhood, conditions have also been included to limit advertising to that necessary to identify the service. Like the water vending machine, the propane exchange will be placed entirely against the front wall of the tenant space and is conditioned not to interfere with pedestrian — including wheelchairs — or vehicle access to the stores.

Parking

The total on-site parking spaces provided for the property is nine spaces. Because the proposed outdoor placement of merchandise does not increase the floor area of the existing building and does not encroach into existing parking areas, a change in parking demand is not anticipated. If parking shortages or other parking-related problems develop, the business operator will be required to institute appropriate operational measures necessary to minimize or eliminate the problem including, but not limited to, removing the outdoor water vending machine and/or propane tanks.

Police Calls for Service

On November 6, 2014, Planning staff contacted Lieutenant Keith Davis of the Costa Mesa Police Department. Lieutenant Davis stated that the subject property was not a problematic convenience store location and does not receive an unusually high number of calls for service.

General Plan Consistency

The General Plan land use designation for the subject property is General Commercial, which is intended to permit a wide range of commercial uses. The maximum allowable FAR for moderate traffic generating uses (20 to 75 daily trips per 1,000 square feet in commercial designations) is 0.30. Based on the submitted site plan, the total building area is 4,030 square feet and the resulting FAR is 0.37. However, because the floor area will not increase with the addition of outdoor propane tanks and water dispenser, the overall FAR designation of the site will not be affected.

The proposed use, as conditioned, is consistent with the Zoning Code and the City's General Plan because, with the recommended conditions of approval, the outdoor

placement of the water vending machine and propane tanks should not adversely impact surrounding uses.

Additional Discussion

When visiting the site, staff noticed outdoor storage behind the existing water vending machine. This outdoor storage is unpermitted and is required to be removed. Additionally, staff noticed deteriorated landscaping along the Ogle Street frontage behind a trash enclosure. The project is conditioned to reinstall this landscaping consistent with Costa Mesa Municipal Code Title 13 Chapter 7, "Landscaping Standards".

The property contains an outdoor payphone not shown on the submitted site plan. The City is making efforts to remove these City-wide, as they have become an underutilized nuisance. Therefore, a condition has been included to remove the existing payphone from the front of the property. Additionally, because loitering while using an exposed electrical outlet is occurring, a condition has been included to cover any outdoor unused electrical outlets to prevent use by those unaffiliated with the store.

FINDINGS

- A. The information presented complies with Costa Mesa Municipal Code Section 13-29(g)(2) in that:
1. The proposed use is compatible and harmonious with developments in the same general area and would not be materially detrimental to other properties within the area. The approved outdoor uses are only those which are required to be outside for safety and/or operational considerations. They are conditioned to display only the advertising necessary to identify the service provided to maintain compatibility with the surrounding residential properties.
 2. Granting the minor conditional use permit will not be detrimental to the health, safety and general welfare of the public or otherwise injurious to property or improvements within the immediate neighborhood. The propane exchange will be located outside for safety and will comply with all code requirements. The water machine will be located outside due to potential leaks or water spillage.
 3. Granting the minor conditional use permit will not allow a use, density or intensity that is not in accordance with the General Plan designation and any applicable specific plan for the property. The proposed use does not increase the intensity of the use and therefore does not affect the General Plan FAR requirements. The proposed use is consistent with the intent of the General Commercial land use designation.
- B. The information presented complies with Costa Mesa Municipal Code Section 13-29(e) in that:

1. There will be a compatible and harmonious relationship between the proposed building and the site development, and use, and the building and site developments, and uses that exist or have been approved for the general neighborhood. The outdoor uses are conditioned to include only the minimum amount of advertising necessary to identify the services offered. This condition will maintain a compatible and harmonious relationship with the surrounding residential developments by minimizing the visual impacts of the outdoor use.
 2. Safety and compatibility of the design of buildings, parking area, landscaping, luminaries, and other site features which may include functional aspects of the site development such as automobile and pedestrian circulation have been considered and will not be affected. The proposed outdoor uses will be placed against the front wall of the tenant space to not interfere with pedestrian — including wheelchairs — or vehicle access to the store and will not encroach into existing parking areas. The propane exchange and water machine will be located outside and will be required to comply with code requirements for safety.
 3. The project complies with performance standards described elsewhere in this Zoning Code, and is conditioned to operate as described in this staff report.
 4. The use is consistent with the General Plan in that the floor area is not being increased and therefore the FAR is unaffected. The use is consistent with the intent of the General Commercial land use designation.
 5. This zoning application is for a project-specific case and is not to be construed to be setting a precedent for future development.
- C. 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 under Section 15301, Existing Facilities, of the CEQA Guidelines.
- D. The project is exempt from Chapter XII, Article 3, Transportation System Management, of Title 13 of the Costa Mesa Municipal Code.

CONDITIONS OF APPROVAL

- Plng.
1. The use shall be limited to the type of operation described in this staff report: the outdoor display of a water vending machine and propane exchange. Any change in the operational characteristics including, but not limited to, type of service provided outdoors or location of the displays will require approval of an amendment to the minor conditional use permit, subject to Zoning Administrator approval.
 2. If parking shortages or other parking-related problems arise, the business

- operator shall institute appropriate operational measures necessary to minimize or eliminate the problem including, but not limited to, removing the water vending machine and/or the propane tanks.
3. The applicant shall contact the Planning Division to arrange a Planning inspection of the site. This inspection is to confirm that the conditions of approval and code requirements have been satisfied
 4. The use 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 appropriate security and operational measures are necessary to comply with this requirement.
 5. The water vending machine and propane exchange shall be placed entirely against the front of the tenant space and shall not interfere with pedestrian — including wheelchairs — or vehicle access to the building, including parking areas. The machines may not encroach into the street setback.
 6. The signage for the outdoor displays shall be minimal and shall only consist of signage identifying the services offered.
 7. The outdoor storage located behind the existing water machine shall be removed.
 8. The property owner shall make every effort possible to remove the existing payphone at the front of the store.
 9. All outdoor unused electrical outlets shall be blocked to prevent use by those unaffiliated with the store.

CODE REQUIREMENTS

The following list of federal, state, and local laws applicable to the project has been compiled by staff for the applicant's reference. Any reference to "City" pertains to the City of Costa Mesa.

- Plng. 1. Approval of the zoning application is valid for one year from the effective date of this approval and will expire at the end of that period unless applicant establishes the use by one of the following actions: 1) obtains building permits for the authorized construction and initiates construction; and/or 2) obtains a business license and/or legally establishes the business. If the applicant is unable to establish the use/obtain building permits within the one-year time period, the applicant may request an extension of time. The Planning Division must receive a written request for the time extension prior to the expiration of the zoning application.
2. Permits shall be obtained for all signs according to the provisions of the Costa Mesa Sign Ordinance.
3. The existing Redbox movie vending machine shall be removed within two weeks of the approval of this minor conditional use permit.
4. The Ogle Street frontage shall be re-landscaped consistent with the Landscaping Standards described in the Costa Mesa Municipal Code Title 13, Chapter 7.
- Bldg. 5. Comply with the requirements of the following adopted codes 2013

California Building Code, 2013 California Electrical code, 2013 California Mechanical code, 2013 California Plumbing code, 2013 California Green Building Standards Code, and 2013 California Energy Code (or the applicable adopted, California Building code, California Electrical code, California Mechanical code, California Plumbing Code, California Green Building Standards, and California Energy Code at the time of plan submittal or permit issuance) and California Code of Regulations also known as the California Building Standards Code, as amended by the City of Costa Mesa.

- Bus. Lic. 6. All contractors and subcontractors must have valid business licenses to do business in the City of Costa Mesa. Final inspections, final occupancy and utility releases will not be granted until all such licenses have been obtained.
- Fire. 7. LPG exchange stations shall be located at least 10 feet from building doorways. CFC Table 6109.12
8. Combustible materials shall be kept at least 10 feet from containers. CFC Table 6109.12
9. When exposed to potential vehicular damage, LP-gas containers shall be protected. CFC 312 and 6107.4
10. Containers shall be located to minimize exposure to heat and physical damage and shall be stored in a covered and locked enclosure designed to prevent tampering. CFC 6109.2 and 6109.13
11. Used, empty containers shall be considered to be full when calculating the maximum quantity allowed. CFC 6109.5
12. Screw-on type caps or collars that are securely in place shall protect valves on all containers stored CFC 6109.8
13. Approved warning signs (e.g., "LIQUEFIED PETROLEUM GAS" and "NO SMOKING") shall be posted.
14. The plan shall show compliance with all applicable CFC sections and include the size and type of rack, size and quantity of bottles stored, and their location relative to exits, unprotected openings, roadways, and storage of other sales materials
15. An operational permit is required for the storage and use of LP-gas. CFC 6101.2 and Section 105.6

SPECIAL DISTRICT REQUIREMENTS

The requirements of the following special districts are hereby forwarded to the applicant:

- Sani. 1. It is recommended that the applicant contact the Costa Mesa Sanitary District at 949.645.8400 for current district requirements.

ATTACHMENT 7
PUBLIC CORRESPONDENCE

CRAGER, CHELSEA

From: Hugh McCulloch <hwmccull@ca.rr.com>
Sent: Wednesday, November 05, 2014 10:37 AM
To: CRAGER, CHELSEA
Subject: Zoning Decision Application No. ZA-14-34

Dear Chelsea, I live 3 houses away from the Circle K on Santa Ana Ave. I am against an outside Red Box, Propane exchange and a water filtration system. These items make for a more noisy neighborhood that attracts vagrants and people who leave trash, graffiti, and generally create a atmosphere that is not appropriate to a residential neighborhood with familys who are raising small children and teenagers. Thank you for your consideration on this matter. Sincerely, Hugh McCulloch, 1634 Santa Ana Ave, Costa Mesa.

11-4-2014

Robert Malanga
1630 Santa Ana Ave
Costa Mesa, CA 92627

Chelsea Crager
Assistant Planner
City of Costa Mesa

Re: Zoning Decision Application No. ZA-14-34

Chelsea:

It was nice meeting you the other week. Thank you for taking the time to speak with me at the planning department counter. I am writing regarding the proposed conditional use permit for the Circle K in my neighborhood. The reasons are many for my not wanting the Red Box Kiosk or the propane exchange outdoors. In general, the proximity to the residential neighborhood and the issues that currently exist with Circle K would only be made worse. They are as follows.

Existing Issues

- Noise
- Trash on premises
- Trash off premises
- Parking
- Vagrancy
- Graffiti

Chelsea, having a convenience store so close to a residential neighborhood does not make for a good neighbor. There is constant trash on and off the premises as well as graffiti and vagrancy. The neighbors pick up beer bottles and cans from their property on a daily basis. I have included photos for your review. I have also included articles from the Daily Pilot that reference the cities knowledge and concern of having convenience stores close to homes. There are two parks nearby that are havens for the homeless that exacerbate the issues. The police are called to this location on a regular basis.

Red Box Kiosk

Current parking at the Circle K allows for only four (4) cars. An additional four stalls are for the vacant unit next door, of which has recently had a for lease sign posted. There are too few stalls for Circle K, let alone an additional tenant that will be moving in in the near future. Cars park on the sidewalk, handicapped space, handicapped walkway, and on the

neighboring streets. I have included photos for your review. Cars are left running with doors open while the Red Box customer is making their selection. This noise travels to the nearby homes. Red Box kiosks in other Costa Mesa locations are predominantly indoors. The other outdoor kiosks in the city (CVS at 2701 Harbor and Circle K 111 del Mar) provide greater distance between the cars and the kiosk as well as great parking. One location has 45 stalls while the other has more than 1000. See photos. They are also not next to residences. By moving the kiosk inside the store, it would reduce the number of people congregating outside and hopefully eliminate the cars left running with music blaring. It would also allow easier wheelchair access as the kiosk greatly reduces the walking space.

Propane Exchange

Like the Red Box kiosk, I feel the noise level generated from the patrons is too much for an establishment directly across from single family homes. The clanging of empty canisters, limited parking spaces, cars and music blaring ,and the kiosk reducing the handicapped access does not make for a good neighbor. In addition, it would be introducing a flammable item to an area where people smoke on a daily and regular basis.

Water Filtration System

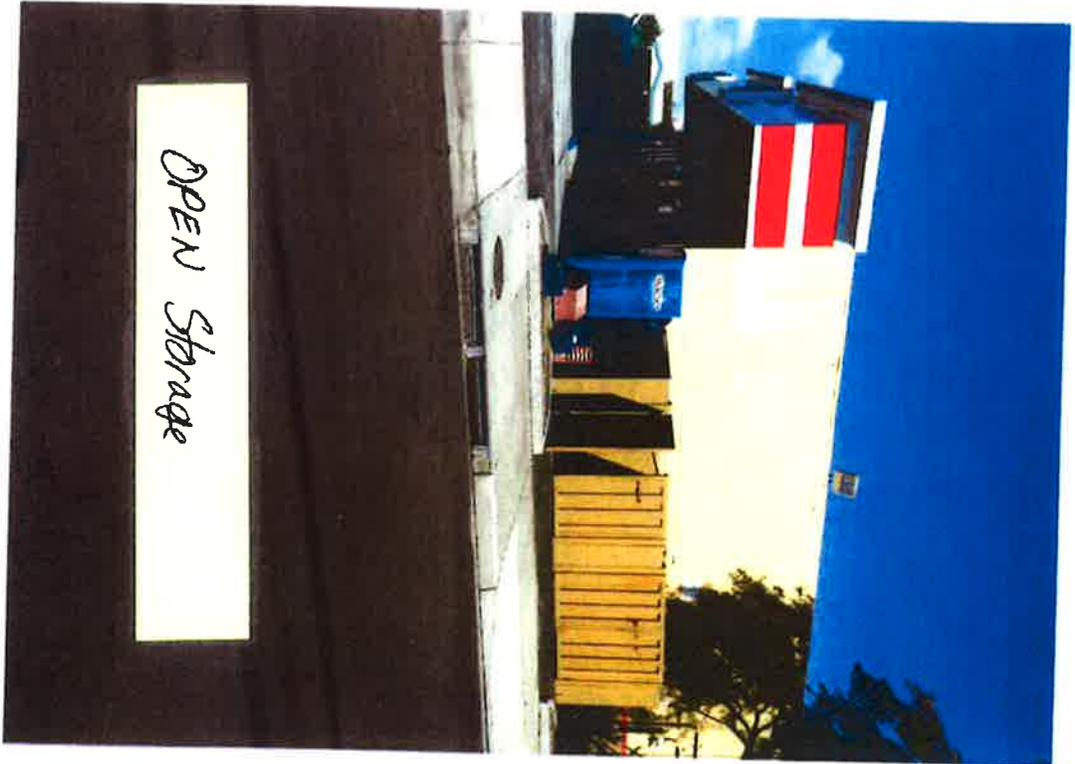
While the water filtration system is generally quiet, I would ask that the management secure the water source as well as the electrical outlet. On a regular basis, people are seen plugging in their phones to charge or to watch movies. Homeless have been seen detaching the water source the from the back refill bottles without paying. I have included a photo.

Chelsea, Circle K has not been a good neighbor. The neighbors deserve to live in a safe neighborhood. Free of graffiti, trash, excessive noise and safe from potentially hazardous materials and erratic drivers circling for too few parking spaces.

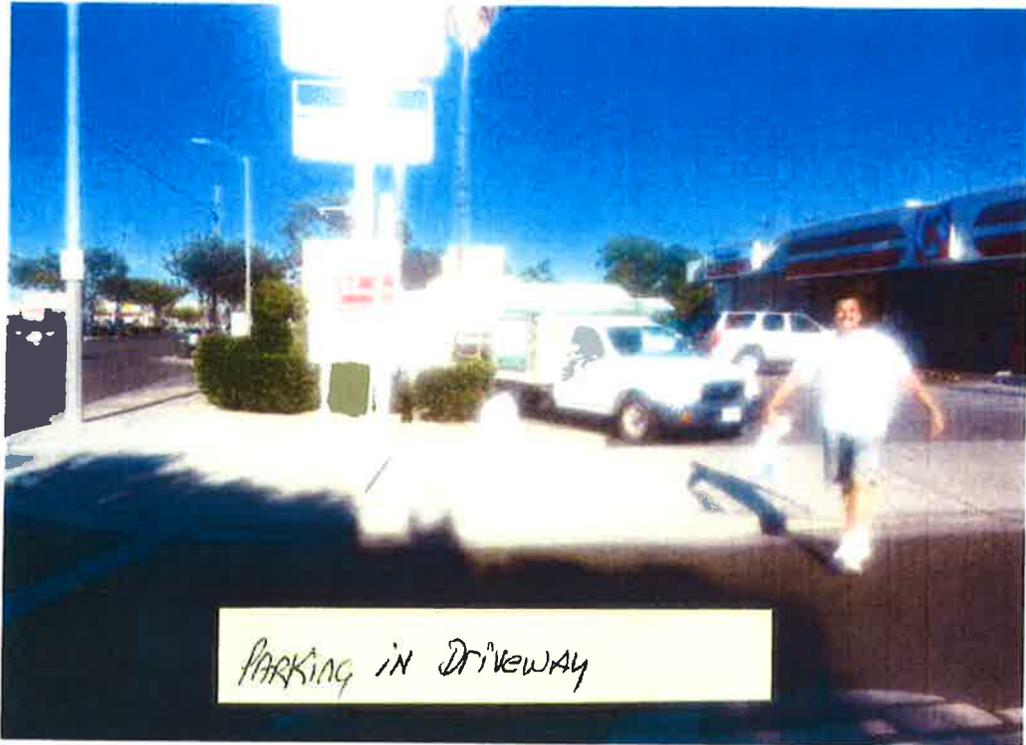
As with the Super Stop Mini Mart on the west side and the Planners denial of a 7-11 near triangle square, the City got it right. We need the City to get it right one more time.

Thank you,

Bob Malanga
949-466-0410



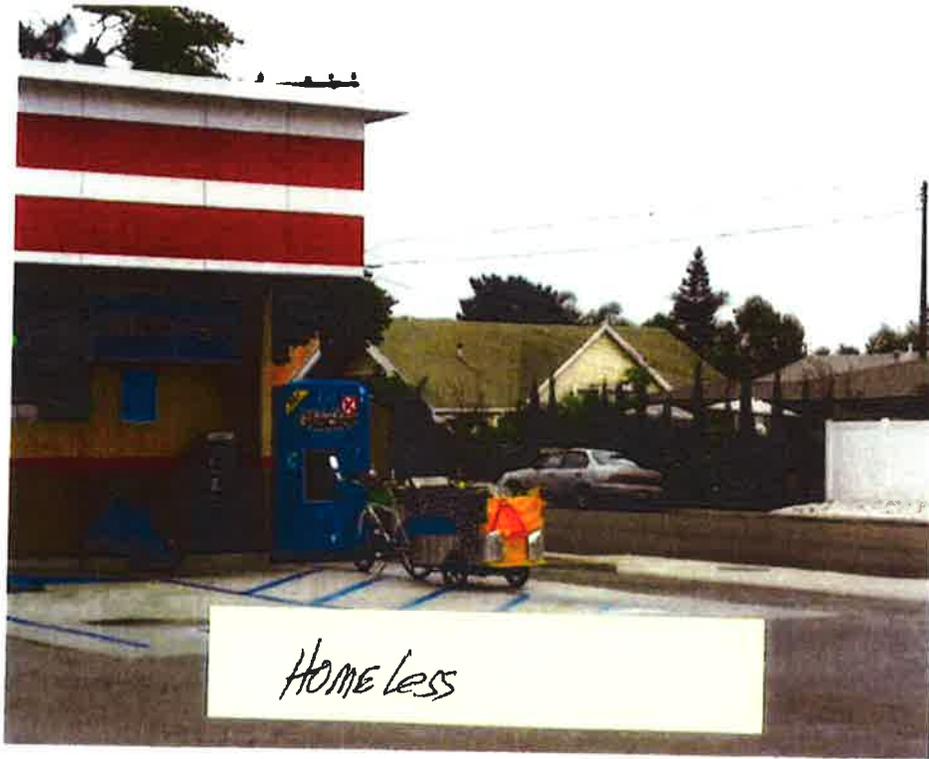


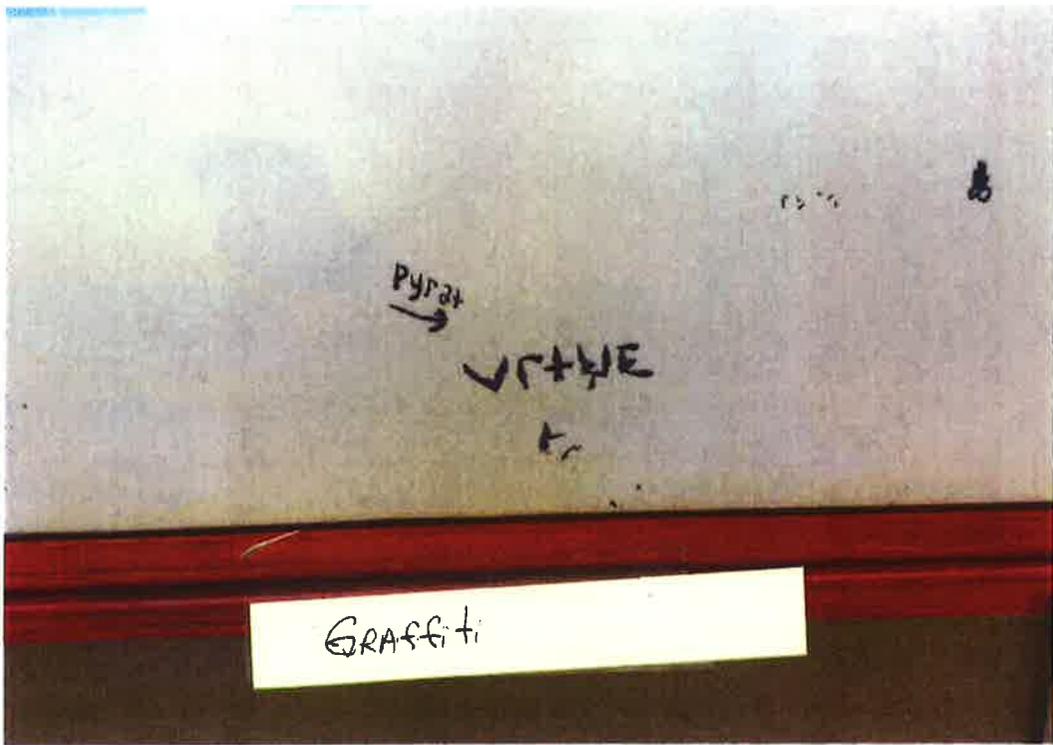


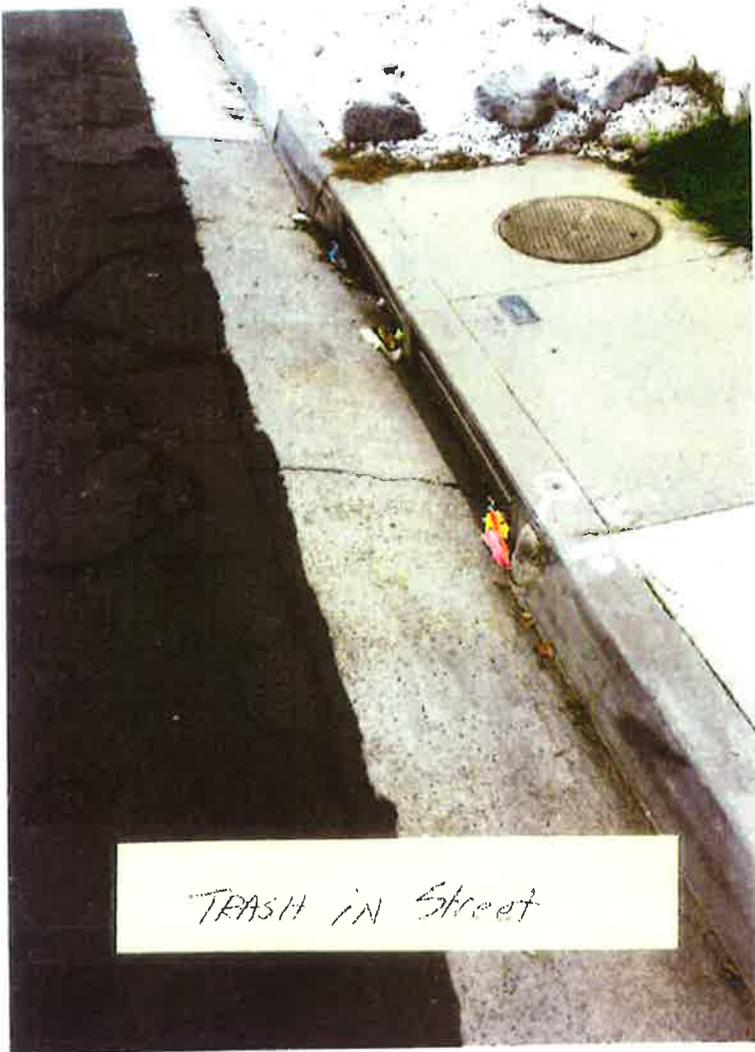
PARKING IN DRIVEWAY



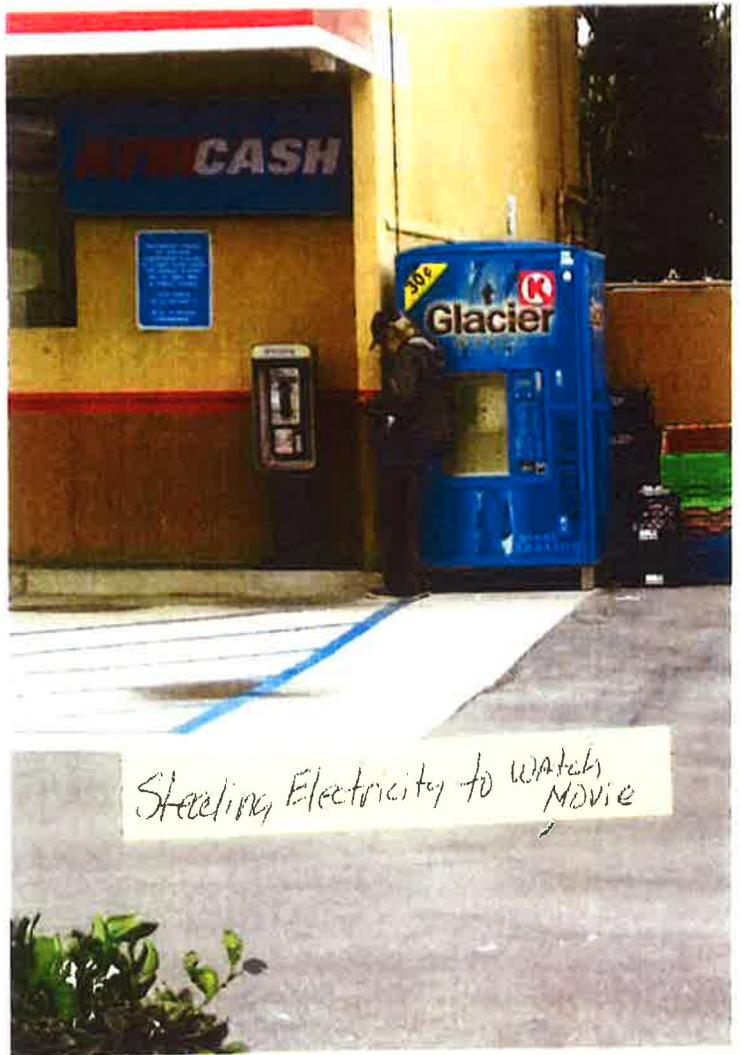
PARKING ON SIDEWALK







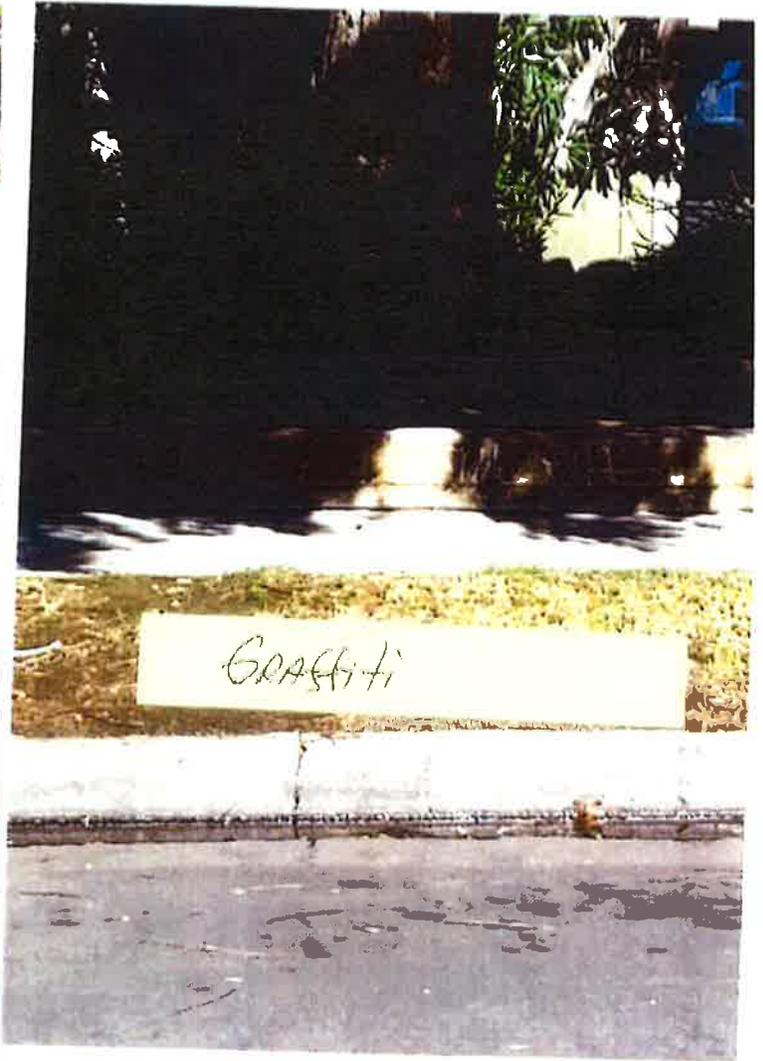
TRASH IN Street



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Graffiti



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Planners deny 7-Eleven near Triangle

Residents and police speak against proposed business during Planning Commission meeting.

December 11, 2012 | By Bradley Zint

The Costa Mesa Planning Commission unanimously denied an application for a proposed 7-Eleven near The Triangle on Monday night, citing the area's problems with homelessness and the convenience store's request to sell alcohol.

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Their decision was supported by the Police Department and city staff, who also alluded to potential parking and traffic problems, a concentration of 10 alcohol sale permits in the area, and the 7-Eleven's potential to "magnify existing problems with transiency."

Some nearby residents also spoke out against having the proposed 24-hour store, which would have occupied a vacant building at 1904 and 1906 Harbor Blvd., near West 19th Street.

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Ralph W. Deppisch, who was representing the property's owner, Newport Beach-based VMA Harbor Place LLC, said the store would have provided the only 24-hour service in the area other than the 24 Hour Fitness at The Triangle. Such an operation, he countered, could actually mitigate issues, such as loitering, with the addition of aspects like security cameras and lighting.

"This location would be even less of a [magnet] to loiter, perhaps sleep overnight, because of the activity located there," Deppisch said.

He added that 7-Eleven is not a traditional liquor store in that it has healthy offerings and the corporation donates millions that support local, regional and national programs.

Planning Commission Chairman Colin McCarthy said in his time as a planning commissioner, he's never seen a staff report so critical of a project.

Given the store's nearly half-mile proximity to Lions Park — long known as a haven for the city's homeless — it is "just not a good project for this location," McCarthy said.

The city shouldn't "keep the matches next to the dynamite" with this kind of thing, he said.

McCarthy said he's not against the corporate identity of the national convenience store chain, but that overall the other 7-Elevens in Costa Mesa haven't been "good neighbors."

Commissioner Robert Dickson supported 7-Eleven as a company — he even worked for one while in college — but said that the store's reliance on the city would create additional problems.

"That concerns me when I have a Police Department and staff telling me very emphatically that this would create work for them, create problems for them," he said.

Commissioner Sam Clark took particular concern with the store's 23 parking spaces, calling it "severely underparked."

Under current standards, it should have 42 spaces, according to city planner Mel Lee.

Deppisch, however, said parking would not likely be a problem because 7-Eleven customers usually shop quickly before leaving.

A few residents from a 32-unit condominium complex at nearby 401 Bernard St. also spoke against the 7-Eleven. Nancy Gwin contended that the area is bad enough with transients, some of whom have even taken residence on their roofs.

"I also don't feel it's a very good idea to have another facility that sells alcohol so close to the other ones, like over at BevMol and CVS," she said.

bradley.zint@latimes.com

Twitter: @bradleyzint

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Catching Up With ... Super Stop Mini-mart

December 22, 1999

-- Story by Amy R. Spurgeon; photo by Marianna Day Massey.

WEST SIDE -- Good things are happening here. Store owners, neighbors and city employees do care about the revitalization of their area. The Super Stop Mini-Mart at the corner of Pomona Avenue and 19th Street is proof.

In 1995, shortly after a Circle K convenience store departed the location, residents urged the City Council not to allow the site's Alcohol Beverage Control (ABC) license to be transferred the new owner.

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FEATURED ARTICLES

When baby is worth a million bucks
June 14, 2013

In the weeks following Circle K's departure, residents said, a calm had settled over their neighborhood. And they liked it.

Residents complained that the Circle K had been a source of problems, such as public drunkenness, loitering, littering, petty thefts and assaults.

"We had so many problems there when it was a Circle K market," resident Hildegard Gonzales told the City Council four years ago. "Since it closed, there has been such an improvement."

A number of residents urged city officials to do whatever they could to prevent future alcohol sales at the site.

In response, the council agreed to send a letter to the state's ABC district administrator to express the residents' concerns. The council also considered rezoning the site to a neighborhood commercial designation, a move that would bar alcohol sales.

Four years later, the site still houses a convenience store, but with more restrictions placed on it when the state granted the transfer: window advertisements related to alcohol were barred; the parking lot had to be monitored for loitering on an hourly basis; and improved outdoor lighting was to be installed and maintained.

The restrictions levied on the business are not applicable to all convenience stores, said Costa Mesa Deputy City Manager Don Lamm. "The goal was to make it look like the neighborhood grocery store, not a liquor store," said Lamm.

Costa Mesa Councilwoman Libby Cowan said there have been no issues regarding the Pomona site brought before the council since the changes were made.

The Costa Mesa Police Department said there have been 10 recent misdemeanors at the Pomona site, including public drunkenness, warrant arrests and some traffic-related problems.

Super Stop Mini-Mart owner Adnan Abushan has worked hard over the last few years to keep the place looking respectable. Wearing a plaid, long-sleeved shirt tucked into green corduroy pants, Abushan meticulously straightens the items lining his store's shelves.

"We spent money and cleaned up the parking lot," said Abushan. "We keep an eye on the parking lot, not to keep people around."

Abushan has also installed a chain-link fence on the property, which prohibits people from wandering into the back alley.

"It's more of a family place," Abushan said. "People aren't bugging you for money or drinking in the front."

Fernando Alcantar, 18, lives next door to the convenience store with his parents and brother. He said a lot of the problems surrounding the store have vanished.

"Sometimes people hang out there on the weekends, but the owner doesn't let them," said Alcantar. "They call the police."

Alcantar can focus on things other than empty beer bottles in his frontyard.

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ATTN:

RE: *Chelise Canger* *Wile* ←

COSTA MESA POLICE DEPARTMENT
CALLS FOR SERVICE AT 1654 SANTA ANA AVE.
FROM: MAY 1, 2013 THRU: SEPTEMBER 1, 2014

ZA-14-34
Bob Melanga

LOCATION	DATE/TIME	CAD INCIDENT TYPE	CAD CALL NUMBER	CASE NUMBER
1654 SANTA ANA AVE	7/14/2013 5:01 PM	COMMERCIAL BURGLARY	130714053264	13007963
1654 SANTA ANA AVE	8/4/2013 9:25 PM	DRUG INVOLVED INCIDE	130804059233	
1654 SANTA ANA AVE	12/28/2013 9:53 PM	TRANSIENT	131228096858	
1654 SANTA ANA AVE	3/11/2014 10:27 PM	SUSPICIOUS FEMALE	140311017452	
1654 SANTA ANA AVE	11/1/2013 6:34 PM	PERSON BEGGING	131101082693	
1654 SANTA ANA AVE	9/13/2013 7:19 PM	INTOXICATED MALE	130913069688	
1654 SANTA ANA AVE	3/3/2014 4:25 AM	TRANSIENT	140303015282	
1654 SANTA ANA AVE	8/27/2013 6:53 PM	TRANSIENT	130827065182	
1654 SANTA ANA AVE	9/18/2013 12:14 PM	CHECK WELFARE	130918071032	
1654 SANTA ANA AVE	1/1/2014 8:10 PM	NATURE WAS INVALID	140101000220	
1654 SANTA ANA AVE	2/4/2014 6:09 PM	NATURE WAS INVALID	140204008522	
1654 SANTA ANA AVE	10/28/2013 1:02 PM	TRANSIENT	131028081619	
1654 SANTA ANA AVE	12/8/2013 12:38 PM	INTOXICATED IN PUBLI	131208092068	13018725
1654 SANTA ANA AVE	2/22/2014 9:56 AM	TRANSIENT	140222013105	
1654 SANTA ANA AVE	2/22/2014 2:37 PM	PRIOR 415 OCCURRING A	140222013159	
1654 SANTA ANA AVE	2/9/2014 11:04 AM	PERSON DOWN	140209009822	
1654 SANTA ANA AVE	3/19/2014 12:30 AM	THEFT UNKNOWN TYPE R	140319019214	
1654 SANTA ANA AVE	3/19/2014 3:42 AM	CHEST PAIN	140319019234	
1654 SANTA ANA AVE	5/15/2013 3:09 AM	SUSPICIOUS PERSON IN	130515034625	
1654 SANTA ANA AVE	10/28/2013 2:31 AM	PETTY THEFT OF BEER	131028081504	
1654 SANTA ANA AVE	1/14/2014 2:51 AM	SUSPICIOUS MALE	140114003023	
1654 SANTA ANA AVE	1/27/2014 11:51 AM	TRANSIENT	140127006420	
1654 SANTA ANA AVE	1/10/2014 11:27 AM	SLEEPER IN VEHICLE	140110002162	
1654 SANTA ANA AVE	3/24/2014 4:12 PM	ASSAULT WITH DEADLY	140324020644	14003047
1654 SANTA ANA AVE	5/18/2013 12:11 PM	DRINKING IN PUBLIC	130518035769	
1654 SANTA ANA AVE	8/18/2013 9:38 PM	MEDICAL AID	130818062976	
1654 SANTA ANA AVE	9/11/2013 4:05 PM	SEIZURE	130911069133	
1654 SANTA ANA AVE	9/30/2013 7:45 PM	PERSON BEGGING	130930074371	

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TO Bob Melanga
(name of person and/or agency)

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Costa Mesa Police Department

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CALLS FOR SERVICE AT 1654 SANTA ANA AVE.
FROM: MAY 1, 2013 THRU: SEPTEMBER 1, 2014

ZA-1434

<u>LOCATION</u>	<u>DATE/TIME</u>	<u>CAD INCIDENT TYPE</u>	<u>CAD CALL NUMBER</u>	<u>CASE NUMBER</u>
1654 SANTA ANA AVE	2/27/2014 8:50 AM	TRANSIENT	140227014396 ✓	
1654 SANTA ANA AVE	8/18/2013 1:44 PM	SUSPICIOUS MALE	130818062877 ✓	
1654 SANTA ANA AVE	1/28/2014 2:58 PM	TRANSIENT	140128006732 ✓	
1654 SANTA ANA AVE	2/21/2014 11:02 PM	DRINKING IN PUBLIC	140221013020 ✓	
1654 SANTA ANA AVE	2/24/2014 6:57 PM	MENTAL PERSON	140224013730 ✓	14001960

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COSTA MESA POLICE DEPARTMENT
CALLS FOR SERVICE AT 1654 SANTA ANA AVE.
FROM: MAY 1, 2013 THRU: SEPTEMBER 1, 2014

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<u>LOCATION</u>	<u>DATE/TIME</u>	<u>CAD INCIDENT TYPE</u>	<u>CAD CALL NUMBER</u>	<u>CASE NUMBER</u>
1654 SANTA ANA AVE	08/03/2014 11:28:45	DISTURBANCE MUSIC	2014038604	
1654 SANTA ANA AVE	08/19/2014 15:46:08	TRANSIENT	2014043626	
1654 SANTA ANA AVE	08/24/2014 18:12:14	INTOXICATED DRIVER	2014045256	14008254
1654 SANTA ANA AVE	08/26/2014 23:22:53	INTOXICATED PERSON	2014045921	14008329
1654 SANTA ANA AVE	08/28/2014 01:05:53	PETTY THEFT	2014046241	
1654 SANTA ANA AVE	08/30/2014 10:01:50	DRINKING IN PUBLIC	2014046993	
1654 SANTA ANA AVE	09/10/2014 15:29:24	SUSPICIOUS JUVENILE	2014050361	
1654 SANTA ANA AVE	09/13/2014 10:37:52	TRANSIENT	2014051249	
1654 SANTA ANA AVE	09/15/2014 11:34:12	DISTURBANCE BOYFRIEND GIRLFRIEND	2014051853	
1654 SANTA ANA AVE	09/24/2014 04:12:23	PETTY THEFT	2014054592	
1654 SANTA ANA AVE	10/04/2014 18:40:31	SUSPICIOUS JUVENILE	2014058011	
1654 SANTA ANA AVE	10/07/2014 15:53:36	PETTY THEFT REPORT	2014058975	
1654 SANTA ANA AVE	10/10/2014 17:13:38	DISTURBANCE JUVENILE	2014059908	

CRAGER, CHELSEA

From: Holland Rhodes <dibarnu@gmail.com>
Sent: Thursday, November 20, 2014 2:38 AM
To: CRAGER, CHELSEA
Subject: Circe K - 1654 Santa Ana Ave

Dear Ms Crager:

My name is Holland Rhodes. I am a disabled person. I own 1636, 1638, and 1640 Santa Ana Avenue, across Ogle Street from Circle K.

I am writing to you to express objections to permitting Circle K to continue to operate its Redbox kiosk and Glacier Water vending machine, and to object to the possible permitting of a propane cage. I also have other objections to Circle K not related to the permit issue.

Circle K is a blight—a glaring red eye-sore. The Redbox kiosk, as it is now, invites trouble. For one, the walkway that leads from the disable parking spaces to the store entrance is often blocked by people using the Redbox kiosk. The Redbox kiosk brings additional vehicle traffic into our residential neighborhood and the intersection of Ogle and Santa Ana has an inordinate number of accidents because of it. Like Circle K itself, the kiosk is brightly lit and operates 24-hours a day. The light from the Circle K façade and Redbox kiosk shine brightly into my bedroom window.

If Circle K is allowed to continue to operate the Redbox kiosk I request that it be moved inside the store.

The Glacier water vending machine doesn't attract customers in the way the Redbox kiosk does. In fact, quite the opposite. The water vending machine attracts vagrants who plug in their phones behind the machine. The vagrants can often be seen standing there for hours watching movies on their phones. It also leads to disputes when more than one vagrant wants to steal electricity from Circle K. Besides that, the machine is loud. I am often woken in the night by the loud noises the machine makes.

I request that Circle K not be permitted to operate the water vending machine and that it be removed from the premises immediately.

Circle K now wants to add a propane cage, which would further limit the available walkway in front of the store making it difficult for people such as myself to safely enter the store. And propane is dangerous. With the number of accidents at this intersection, it will only be a matter of time before someone crashes into the tanks.

Circle K should not be permitted to place propane tanks in front of the store. In fact, Circle K should not be permitted any storage or vending outside the store.

Circle K has a very tall and brightly lit sign that never shuts off. My neighbors who are one house closer to Circle K describe it as "living on the red planet". I must concur.

Circle K should not be allowed to light that sign, at all. I request that it be removed and replaced with a sign of appropriate height.

With a regular supply of vagrants hanging around Circle K, it isn't hard for students from the two near-by schools to get someone to buy them alcohol and cigarettes. Newport Heights Elementary School is less than 1500 feet from Circle K's door.

Circle K customers use my front garden and mailboxes as a trashcan. Each morning I find candy wrappers, beer cans, and other debris in my yard that is clearly from Circle K. Circle K cannot even deal with this own garbage, which is often piled on, in, and around their dumpster area. Or rather, the local vagrant hotel and movie theatre.

Circle K has only 4 parking spaces which lead people to creative parking solutions—sometimes simply abandoning their cars in the middle of Santa Ana Avenue.

Simply put: Circle K is the neighbor from hell.

I respectfully request that Circle K's business license be reviewed, and revoked. I feel less safe for having Circle K as a neighbor.

In fact, just the other day walking past Circle K I overheard a conversation between a vagrant and someone else in which the someone else asked the vagrant to move along and he responded that without sirens and a gun he wasn't going anywhere. Do we really want a 50th police call over there?

Circle K does not take care of the crime that happens on their property. Vagrants are found sleeping in their dumpster area (which is often left unlocked since it is overflowing onto Ogle street). There is graphiti all over the premisis, including on the STOP sign most people ignore.

Sincerely,

Holland Rhodes
1640 Santa Ana Avenue
1638 Santa Ana Avenue
1636 Santa Ana Avenue

CRAGER, CHELSEA

From: Holland Rhodes <dibarnu@gmail.com>
Sent: Wednesday, November 26, 2014 9:35 AM
To: CRAGER, CHELSEA
Subject: Circle K 1654 Santa Ana Avenue
Attachments: Being-Followed-1.jpg; Being-Followed-2.jpg; Being-Followed-3.jpg; Encampment-1.jpg; Encampment-2.jpg; Encampment-3.jpg; Encampment-4.jpg; Homeless-sleeping.jpg; Homeless.jpg

Hi Ms Crager,

I am writing to you to find out the status of Circle K's permit application and to bring to your attention the unsafe condition that Circle K creates in our neighborhood. My neighbors and I are in the process of forming a neighborhood association with the purpose of closing Circle K entirely.

Simply put, Circle K creates a situation in which residents in the area, myself included, feel unsafe on our streets and in our park, Pinkley Park. You never find kids there, they go to the safer Heller park in neighboring Newport Beach.

Since Circle K Corporate abandoned this store, the new owners have done little to deal with the issue of homeless using their store as a meeting point. In fact, the trash and homeless situation has only become worse since the new owners took over.

The main issue is that Circle K is open 24-hours and sells alcohol until 2am... but if you ask nicely they will sell you alcohol at any time (I should know, I've bought alcohol there at 3, 4, 5, in the morning before). Near-by Baycrest Wine & Spirits closes at midnight at the latest, Hi-Time Wine Cellars closes at 9pm on weekends, and even Ralphs is only open until 1am. All of this makes Circle K a refuge for the homeless.

Baycrest WILL NOT sell to people they believe to be homeless. I've gone in there unshaven in shabby clothes before and been turned away. Circle K has no such restrictions, and apparently being completely drunk, and county liquor sales hours don't bother them either.

Near-by Pinkley park has, what seems to be, a permanent homeless encampment. I've attached photos I took this morning. The homeless here can be aggressive and territorial. As I took my photos from more than 40 yards, a homeless man approached me and started following me—even after I had left the park. I'd like to enjoy this park, but I can't because of the homeless there.

The homeless would not be there if Circle K were not at the end of the street. Near-by Heller park in Newport Beach has no such homeless encampment and no liquor stores close to it. If Newport Beach can do it, so can we!

Whatever economic benefit the City of Costa Mesa receives from having this 24-hour liquor store situated between two schools and two kids' / dog parks is certainly offset by the constant need for police at the location, the cost of cleaning up the homeless encampments that are rebuilt, and costs in removing Circle K trash from nearby streets.

There are of course more issues than the homeless created by Circle K. They bring drunk drivers into our residential neighborhood. They bring noise, trash, traffic, and that sign! Imagine having a very tall, brightly lit

sign mere yards from your bedroom window. This is what my neighbors and I face daily. If you're familiar with Seinfeld you will understand why my neighbors describe it as living next to the chicken roasters.

Ms Crager, I, no WE, really need your help in making our neighborhood clean, and feeling safe again. For me, for my neighbors and their children, and for the City of Costa Mesa, please tell me how I can help you help me rid our neighborhood of the unsafe blight that is Circle K.

I hope we can work together to come to a reasonable solution to the problem. Feel free to call me to discuss this further. My number is (949) 478-0166. In the meantime, here's wishing you a terrific Thanksgiving.

Sincerely,

Holland Rhodes
Owner 1636, 1638; Resident 1640 Santa Ana Avenue
Costa Mesa







**ATTACHMENT 8
SITE PHOTOS**

