



Legislation Text

File #: 17-1239, Version: 1

**AGENDA REPORT
REQUEST FOR CITY COUNCIL ACTION**

DATE: 11/15/2017

TO: Honorable Mayor and City Council Members

FROM: Community Development Department

SUBJECT:

Public Hearing for City Council consideration of Resolution No. 2017-110 to uphold the Planning and Housing Commission's denial of: (1) Change of Zone 16-007 to change the zone of 1.37 acres from C-2 (Restricted Commercial) to the C-3 (General Commercial) zone; (2) Conditional Use Permit 16-009 to establish 2,880 square feet self-service drive-through car wash on the 1.37 acres; and (3) Precise Plan 16-016 for the site plan and architecture of 730 square feet restaurant with drive-through services on 1.37 acres, located on the south side of Ontario Avenue, approximately 100 feet west of State Street. (Applicant: Tahir Salim of Salim Development)

RECOMMENDED ACTION:

That the City Council:

- a. Uphold the Planning and Housing Commission's denial of: (1) CZ16-007, an application to change the zone on 1.37 acres from C-2 (Restricted Commercial) to the C-3 (General Commercial) zone; (2) Conditional Use Permit 16-009 to establish 2,880 square feet self-service drive-through car wash on 1.37 acres; and (3) Precise Plan 16-016 for the site plan and architecture of 730 square feet restaurant with drive-through services on 1.37 acres, located on the south side of Ontario Avenue, approximately 100 feet west of State Street.
- b. Adopt Resolution No.2017-110, denying an application for a change of zone (CZ16-007) on 1.37 acres from C-2 (Restricted Commercial) to the C-3 (General Commercial) zone, conditional use permit (CUP16-009) to establish 2,880 square feet self-service drive-through car wash on 1.37 acres, and precise plan (PP16-016) for the site plan and architecture of 730 square feet restaurant with drive-through services on 1.37 acres, located on the south side of Ontario Avenue approximately 100 feet west of State Street.

ANALYSIS:

Change of Zone 16-007 is an application by Mr. Tahir Salim to change the zone on 1.37 acres from C-2 (Restricted Commercial) to the C-3 (General Commercial) zone located on the south side of

Ontario Avenue approximately 100 feet west of State Street. The applicant also submitted applications for a conditional use permit (CUP16-009) to establish 2,880 square feet self-service drive-through car wash and a precise plan (PP16-016) for the site plan and architecture of 730 square feet restaurant with drive-through services on the 1.37 acres subject to CZ16-007. A public hearing for all three applications was held by the Planning and Housing Commission on October 9, 2017, at which time a presentation was given by staff recommending CZ16-007, CUP16-009 and PP16-016 be denied. The Planning and Housing Commission staff reports prepared for all three applications documented staff's findings for the denial of the applications.

Pursuant to Sections 17.93.020 and 17.104.130 of the Corona Municipal Code, the applicant may file an appeal of the Planning and Housing Commission's decision to the City Council no later than 10 working days from the date of the decision. The applicant filed an appeal to the City Council on October 19, 2017.

Background

The applicant initially inquired about changing the zoning of the property in late 2015 with a conceptual development plan that consisted of a drive-through restaurant and drive-through car wash on the project site. The current C-2 zone does not allow a car wash nor a restaurant with a drive-through service. To permit both uses on the project site, the zoning of the property would need to be changed to the C-3 zone.

At that time, staff indicated to the applicant that a change of zone from the current C-2 zone to the requested C-3 zone might not receive a favorable recommendation from staff because of the site being adjacent to the R-1-8.4 (Single Family Residential) zone and existing single family residences. The current C-2 zone is more restrictive than the C-3 zone with respect to the types of land uses allowed because the C-2 zone does not allow drive-through services, car washes, automobile sales and rentals, automobile body, fender repair and painting, motorcycle sales and service, recreational vehicle sales and service and tire store. Because of the limited land uses allowed in the C-2 zone, this zone is considered more suitable adjacent to residential property. The C-3 zone opens the opportunity for more intense commercial land uses, such as those mentioned above, and the land uses with drive-through services would allow a quick turnover of vehicle trips in and out of the site and uses possibly having louder operational noise.

Prior to the applicant submitting an application to the city for the proposed development, the conceptual plan was discussed at the Infrastructure Committee at its meeting on December 2, 2015. Staff explained to the Committee that the current zoning of C-2 provides an appropriate transitional buffer between the existing single family residences to the east on State Street and the automobile related services located in the C-3 zone to the west. The Committee expressed their concerns regarding the potential noise that could emanate from the car wash operation and directed the applicant to reach out to the adjacent residents to gain their support in order to gain the Committee's support for the project.

In April 2016, the applicant submitted a Development Plan Review (DPR 16-010) application to the city for the pre-development review of a 2,970 square foot self-service drive-through car wash and 1,300 square foot drive-through restaurant. In December 2016, the applicant submitted a change of zone application (CZ16-007), conditional use permit application (CUP16-009) and precise plan (PP16-016) application to the city to officially proceed with the proposed development. In March 2017, the

project was once again discussed at the Infrastructure Committee to provide an update on the project's progress and the applicant's outreach effort with the adjacent residents. The applicant's representative indicated that they had support from three of the adjacent residents. The Committee did not express support or objection to the project. The Committee closed the discussion by saying the project would be reviewed and discussed through the public hearing process and that there are no guarantees of a positive outcome for the proposed project.

For historical purposes, the project site and the adjacent residential properties were zoned C-2 and R-1-8.4 respectively from the Agriculture zone in 1978 (CZ78-14).

Appeal to the City Council

Denial of CZ16-007

As required by Section 17.104.130(B), upon receipt of an appeal, the Commission shall make a report to the City Council disclosing in what respect it failed to find that the public necessity, convenience, general welfare or good zoning practice required the change or amendment involved.

The Planning and Housing Commission at its meeting on October 9, 2017, determined the criteria listed in CMC Section 17.104.120 does not exist in reference to CZ16-007 for the following reasons.

A. Although the C-3 zone is consistent with the General Commercial designation of the General Plan, CZ16-007 is not in conformity with the General Plan text for the following reasons:

1. General Plan Policy 1.2.6 encourages a land use pattern that accommodates a diversity of commercial districts that are differentiated by their function, customer base and physical character and avoid unnecessary competition. CZ16-007 as proposed would replace the current C-2 zone on the project site with the C-3 zone, which zoning exists on the adjacent property to the west. Unlike the current C-2 zone, the C-3 zone allows a wider variety of land uses that are similar to other commercial zones in the immediate area. The property to the north of the project site across Ontario Avenue is zoned Commercial in the El Cerrito Specific Plan and the properties to the west on Ontario Avenue beyond the Interstate 15 overpass are zoned Commercial in the Corona Vista Specific Plan. The commercial zones in each of the specific plans allow land uses very similar to the C-3 zone, including commercial businesses with drive-through services and car washes. CZ16-007 would remove the diversity of commercial districts in the area and open an opportunity for commercial businesses with drive-through services and car washes to be located on the property, which is prohibited in the current C-2 zone, adjacent to the single family residences located to the east.

2. General Plan Policy 1.4.3 encourages the development of vacant lands within the city on the periphery of existing development that complements the scale and pattern of existing uses, protects significant plant, animal and other natural environmental resources, protects development and population from natural hazards and where it is feasible to extend infrastructure improvements. CZ16-007 is not consistent with the intended purpose of the current C-2 zone on the project site, which is intended for a limited range of commercial uses that serve local community needs and provides a buffer between residential properties and higher intensity uses. The project site is adjacent to residential properties zoned R-1-8.4 on the east and commercial properties zoned C-3 to the west. The C-2 zone was specifically placed on the project site to be a transitional zone between the C-3 zone to the west and R-1-

8.4 zone to the east.

3. General Plan Policy 1.11.7 encourages the ability to regulate the extent and location of drive-through and big box commercial uses to ensure their compatibility with the functional role and character of adjoining uses. Because the project site is adjacent to residential properties on one side and was historically used for residential purposes prior to the zoning of the property being changed from Agriculture to the C-2 zone in 1978 (CZ 78-14), CZ16-007 would allow higher intensity commercial uses adjacent to existing residential land uses, such as drive-through commercial uses, which are not compatible with the character of the adjacent residential neighborhood.

B. The subject property is not suitable for the uses permitted in the C-3 zone in terms of access, size of parcel, relationship to similar or related uses, for the following reasons:

1. Chapter 17.33 of the Corona Municipal Code describes the purpose, permitted and non-permitted land uses and development standards for the C-P (Professional and Office), C-2 (Restricted Commercial) and C-3 (General Commercial) zones. Section 17.33.010 of said chapter states *the purpose of the C-2 zone is intended for a limited range of commercial uses that serve local community needs, provide a buffer between residential properties and higher intensity uses and will be encouraged to be compatible with adjacent land uses. The C-2 designation is generally applied to areas appropriate to serve the daily shopping needs within the neighborhood, including restaurants, small businesses and studios. The purpose of the C-3 zone is intended for higher intensity commercial uses that serve community and sub-regional needs with an emphasis on convenient automobile access, while incorporating efficient, safe and attractive on-site pedestrian circulation. The C-3 designation is generally applied to areas appropriate to serve the entire community, including shopping centers, automotive service and repair, theaters and drive-throughs.* CZ16-007 does not meet the purpose described in Section 17.33.010 as the change in zoning from C-2 to C-3 on the project site would allow higher intensity commercial uses, such as automobile services and repair, car washes, drive-throughs and other types of commercial uses designed to serve the entire community, to be located immediately adjacent to residential properties.

2. Access to and from the project site from Ontario Avenue will be limited to right-in and right-out only turn movements. Based on the traffic study prepared for the project site, the trip distribution pattern associated with the proposed drive-through restaurant and self-service drive-through car wash shows 70% of the daily trips exiting the site making a U-turn at the intersection of State Street and Ontario Avenue to either get back on Interstate 15 or go westbound on Ontario Avenue with the other 30% going eastbound on Ontario Avenue. Inbound traffic coming westbound on Ontario Avenue shows 30% of the vehicles making a U-turn in the center median turn-pocket on Ontario Avenue before the I-15 northbound ramp and Ontario Avenue intersection. CZ16-007 as proposed would allow opportunity for commercial drive-through establishments, which generally result in short-term stays on the property and quick turn-over of vehicle trips with the majority of those vehicle trips exiting the property having to make U-turns at the intersection of Ontario Avenue and State Street. As such, the location of the project site has limited access opportunities as a left-out turn-movement would be prohibited from the project site.

- C. The proposed change of zone is not necessary and proper at this time, and is likely to be detrimental to the adjacent property or residents, because CZ16-007 would replace the C-2, Restricted Commercial, zone with the C-3, General Commercial, zone, and eliminate the zoning buffer created between the residential properties to the east of the project and the higher intensity commercial uses to the west.
- D. The proposed change of zone is not in the interest of the public health, safety, necessity, convenience and general welfare and not in accordance with good zoning practice because the C-3 zone would allow more intensive commercial uses that are currently prohibited in the C-2 zone to be located on the project site, such as a drive-through restaurant and car wash, adjacent to single family residences that have rear yards along the common property line of the project site. CZ16-007 would remove the transitional zone that was put in place by CZ78-14 to buffer the residences from higher intensity commercial uses.

Denial of CUP16-009

As required by Section 17.93.020(D), upon receipt of an appeal, the Commission shall make a report to the City Council stating the factual and legal basis on which the Commission determined that the application failed to meet the criteria and requirements for granting a conditional use permit.

The Planning and Housing Commission at its meeting on October 9, 2017, determined the findings necessary for granting a Conditional Use Permit as set forth in Section 17.92.110 of the Corona Municipal Code cannot be made in reference to CUP16-009 for the following reasons:

- A. The proposed development will be detrimental to the public health, safety, convenience and general welfare because the use associated with CUP16-009 does not comply with the C-2 (Restricted Commercial) zone, as a car wash is not permitted in the C-2 Zone pursuant to CMC Section 17.33.030.
- B. The proposed land use associated with CUP16-009 would be detrimental to other existing and permitted uses in the general area of the project site because the site abuts a residential neighborhood to the east and south and the current C-2 zoning on the project site is intended for a limited range of commercial uses that provides a buffer between residential properties and higher intensity commercial uses, such as a car wash, as proposed by CUP16-009. A car wash service is not permitted in the C-2 zone pursuant to CMC Section 17.33.030. For this reason, CUP16-009 would be detrimental to the adjacent residential neighborhoods.
- C. In accordance with CMC Section 17.33.030, car wash is not permitted in the C-2 zone; therefore, CUP16-009 is not consistent with the zoning of the project site.
- D. CUP16-009 is not consistent with the City's General Plan for the following reasons:
 - 1. General Plan Policy 1.4.3 encourages the development of vacant lands within the city on the periphery of existing development that complements the scale and pattern of existing uses, protects significant plant, animal and other natural environmental resources,

protects development and population from natural hazards and where it is feasible to extend infrastructure improvements. The car wash use associated with CUP16-009 is not permitted in the C-2 zone, which is intended for a limited range of commercial uses that serve local community needs and provides a buffer between residential properties and higher intensity uses. The project site is adjacent to residential properties zoned R-1-8.4 on the east and commercial properties zoned C-3 to the west. Because of the limited range of commercial uses permitted in the C-2 zone, a car wash is expressly prohibited in the zone, which is the reason the project site was zoned as C-2, as it serves as a transitional zone between the C-3 zone to the west and R-1-8.4 zone to the east.

2. General Plan Policy 1.11.7 encourages the ability to regulate the extent and location of drive-through and big box commercial uses to ensure their compatibility with the functional role and character of adjoining uses. Because the project site is adjacent to residential properties on one side and was historically used for residential purposes prior to the zoning of the property being changed from Agriculture to the C-2 zone in 1978 (CZ 78-14), CUP16-009 proposes to establish a higher intensity commercial use, namely a self-service drive-through car wash, adjacent to existing residential land uses, which is not compatible with the character of the adjacent residential neighborhood

Denial of PP16-016

Pursuant to Section 17.91.100 of the CMC an appeal of the Commission's decision shall be made pursuant to Chapter 17.93. Upon receipt of an appeal, the Commission shall make a report to the City Council stating the factual and legal basis on which the Commission determined that the application failed to meet the criteria and requirements for granting a precise plan.

The Planning and Housing Commission at its meeting on October 9, 2017, determined the findings necessary for granting a Precise Plan as set forth in Section 17.91.070 of the Corona Municipal Code cannot be made in reference to PP16-016 for the following reasons:

- A. PP16-016 does not comply with the C-2 (Restricted Commercial) Zone, as restaurants with a drive-through service are not permitted in the C-2 Zone pursuant to CMC Section 17.33.030.
- B. The site is of a sufficient size and configuration to accommodate the design and scale of the proposed development, including buildings and elevations, landscaping, parking and other physical features of the proposal, as demonstrated in Exhibit A of this report. However, the drive-through restaurant use associated with PP16-016 is not permitted in the C-2 zone and therefore not consistent with the zoning of the property.
- C. The design, scale and layout of the proposed development will unreasonably interfere with the use and enjoyment of the existing and future neighboring developments because the drive-through restaurant use associated with PP16-016 is not permitted in the C-2 zone. Therefore, PP16-016 is considered to have a negative impact on the health, safety and welfare of the neighboring uses because the use is not consistent with the zoning of the property.
- D. The architectural design of the proposed development is not compatible with the character of the surrounding neighborhood, as the building has modern eclectic architecture that is different

from the Mediterranean style used on the commercial properties to the west and north. Although the project would enhance the visual character of the neighborhood by improving a vacant undeveloped property, it will not provide harmonious development in relation to the other commercial properties.

- E. The design of the proposed development will not provide a desirable environment for its occupants and visiting public or the adjacent neighbors because the modern eclectic architecture of the proposed building is dramatically different from the Mediterranean style buildings established to the west and north of the project and thus the proposed materials, texture and color of the proposed development is not aesthetically appealing for the occupants, visiting public or the adjacent residential neighborhood.

Applicant's Reasons for Appeal to the City Council

The department's Application for Appeal form states the appeal shall state clearly the grounds for the appeal and the specific factual or legal errors by the Planning Commission on which the appeal is based and shall state how the public necessity, convenience, welfare or good planning practice requires the zone change or general plan amendment.

The applicant submitted the following reasons to the Community Development Department.

1. After two years and multiple revisions and reports, we were told six weeks before Planning Commission that our project was not going to have staff support.

Staff's response. The applicant on his own will chose to submit Development Plan Review applications for the project in 2016 after the Infrastructure Committee at its meeting on December 2, 2015, initially discussed the proposed project with the applicant's representatives. The Infrastructure Committee summary minutes from that meeting disclose staff's explanation for the current C-2 zone and that it is an appropriate transitional buffer between the existing land uses and if there is no support for the change of zone, the application [for the car wash and drive-through restaurant] may not be pursued. At the time, Vice Mayor Scott mentioned the architecture would need to be re-worked to reflect more closely the existing commercial development in the immediate area, but still would not be supportive of the zone change and resultant project. Mayor Montanez also stated the zone change is not a favorable action unless it can be shown that the applicant conducted outreach to the residents and garnered their support for the project.

The applicant chose to submit formal applications for a change of zone, conditional use permit for the car wash and precise plan for the drive-through restaurant in December 2016. The Infrastructure Committee revisited the project at its meeting on March 1, 2017, at which time was provided an update on the applicant's outreach effort to the residents. The Infrastructure Committee summary minutes of that meeting mentioned the applicant notified the five adjacent residents and received a response from three [in support of the project]. At the conclusion of the meeting, the Committee indicated that even if all five adjacent residents were to concur, there still would be the general public that can express opposition through the public hearing process and that no guarantees of outcome could be made.

Staff believes it has been clearly articulated throughout the course of this project the concerns regarding the proposed project and the lack of support for the change of zone. It is also worth noting,

Mr. Salim was not present at the Infrastructure Committee meetings, only his representatives were in attendance.

2. We were told to speak with five residents that live next to the project. We did and then we were told that we should have spoken with the entire neighborhood.

Staff's response. Staff should not have to tell the applicant how to engage in community outreach to garner support for his project. This is something the applicant should know through his own experience as a developer and should utilize his own staffing resources to determine the best means of outreach for his project. The Community Development Department received correspondence in opposition to the project from seven of the 13 residents that live on State Street east of the project site. This correspondence was received after the project was publicly noticed for public hearing. Only three letters of support from the State Street residents were provided by the applicant at the time of submittal of the application.

3. Even after they [staff] said we would have no support, they [staff] requested more revisions which we did.

Staff's response. The Commission has the option of disagreeing with staff's recommendation if they determine the project would be in the interest of public necessity, convenience, welfare or good planning practice and requires the change of zone. As such, it is the responsibility of staff to ensure the project site is properly designed to meet the development standards required by the Corona Municipal Code.

4. Would like to see if one of the projects could be considered, but that was not considered.

Staff's response. Mr. Salim inquired if proposing only the car wash and not the drive-through restaurant would staff recommend support for the project. Staff's recommendation would not change if the proposal was for just the car wash as the zoning of the project site still would need to be changed to the C-3 zone. The C-3 zone would allow more intensive commercial uses that are currently prohibited in the C-2 zone to be located on the project site, such as a drive-through restaurant and car wash, adjacent to single family residences.

COMMITTEE ACTION:

The Infrastructure Committee at its meetings on December 2, 2015 and March 1, 2017 discussed the proposed project. The Infrastructure Committee summary minutes are provided as Exhibits 6 and 7.

STRATEGIC PLAN:

Not applicable.

FISCAL IMPACT:

The applicant has paid all required processing fees for this request.

ENVIRONMENTAL ANALYSIS:

In accordance with Section 21080 (b)(5) of the California Public Resources Code, projects that a public agency rejects or disapproves are exempt from the California Environmental Quality Act ("CEQA") and thus are not required to prepare an initial study or adopt a negative declaration or EIR.

If the Planning and Housing Commission disagrees with staff's recommendation to deny the change of zone on land use grounds and would like to further consider approval of the project, an initial study would need to be prepared to determine potential environmental impacts and mitigation measures associated with the proposed project prior to it being considered for possible approval. Therefore, no environmental analysis is being considered with CZ16-007, CUP16-009 and PP16-016 as the recommendation by staff is to deny the proposed project.

PLANNING AND HOUSING COMMISSION ACTION:

At its meeting of October 9, 2017, the Planning and Housing Commission considered the subject matter and took the following action:

Motion was made, seconded (Bennett/Jones) and carried unanimously, that the Planning and Housing Commission deny CZ16-007 to the City Council, based on the findings contained in the staff report.

Motion was made, seconded (Bennett/Ruscigno) and carried unanimously, that the Planning and Housing Commission deny PP16-016 to the City Council, based on the findings contained in the staff report.

Motion was made, seconded (Bennett/Norton) and carried unanimously, that the Planning and Housing Commission deny CUP16-009 to the City Council, based on the findings contained in the staff report.

The minutes of the Planning and Housing Commission meeting are included as Exhibit 8.

PREPARED BY: JOANNE COLETTA, COMMUNITY DEVELOPMENT DIRECTOR

REVIEWED BY: KERRY D. EDEN, ASSISTANT CITY MANAGER/ADMINISTRATIVE SERVICES DIRECTOR

SUBMITTED BY: DARRELL TALBERT, CITY MANAGER

EXHIBITS

1. Resolution No. 2017-110.
2. Locational and Zoning Map.
3. Planning and Housing Commission Staff Report CZ16-007.
4. Planning and Housing Commission Staff Report CUP16-009.
5. Planning and Housing Commission Staff Report PP16-006.
6. Infrastructure Committee Summary Minutes dated December 2, 2015.
7. Infrastructure Committee Summary Minutes dated March 1, 2017.
8. Minutes of the Planning and Housing Commission meeting of October 9, 2017.