



City of Costa Mesa

Inter Office Memorandum

TO: CITY COUNCIL AND PLANNING COMMISSION
CC: TOM HATCH, PETER NAGHAVI, AND CLAIRE FLYNN
FROM: WILLA BOUWENS-KILLEEN, ZONING ADMINISTRATOR
DATE: SEPTEMBER 20, 2012
SUBJECT: ZONING ADMINISTRATOR DECISION(S)



This is to advise you of the following decision(s) made by the Zoning Administrator within the last week. The decision(s) will become final unless a member of the Planning Commission or City Council requests a review of the decision(s) or an interested party files an appeal by 5:00 p.m. on September 27, 2012. Project descriptions have been kept brief for this notice. As a result, there may be details to the project or conditions of approval that would be of interest to you in deciding whether to request a review of a decision. Please feel free to contact me by e-mail at willa.bouwens-killeen@costamesa.gov if you have any questions or would like further details.

ZA-12-23 2263 Fairview, Suite C

Minor conditional use permit to legalize an existing restaurant (Subway) within 200 feet of residentially-zoned property to remain open past 11:00 pm (24 hours proposed).

Approved, subject to conditions.

Comments received: None.



CITY OF COSTA MESA

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

DEVELOPMENT SERVICES DEPARTMENT

September 20, 2012

Mr. Balkar Bisla
Subway
2263 Fairview Road, Suite C
Costa Mesa, CA 92626

**RE: ZONING APPLICATION ZA-12-23
MINOR CONDITIONAL USE PERMIT TO LEGALIZE AN EXISTING
RESTAURANT (SUBWAY) WITHIN 200 FEET OF RESIDENTIALLY-ZONED
PROPERTY TO REMAIN OPEN PAST 11:00 P.M. (24 HOUR PROPOSED)
2263 FAIRVIEW ROAD, SUITE C, COSTA MESA**

Dear Ms. Bisla:

Review of the minor conditional use permit for the above-referenced project has been completed. The application, as described in the attached project description, has been approved, based on the findings and subject to the conditions of approval (attached). The decision will become final at 5:00 p.m. on September 27, 2012, unless appealed by an affected party (including filing of the necessary application and payment of the appropriate fee) or 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, Raynald F. Pascua, at 714-754-5245, between 1:00 p.m. and 5:00 p.m. or via email at ray.pascua@costamesaca.gov.

Sincerely,

WILLA BOUWENS-KILLEEN, AICP
Zoning Administrator

Attachments: Project description
 Findings
 Conditions of approval
 Applicant's Project Description/Justification Letter

cc: Engineering
 Fire Protection Analyst
 Building Division

PROJECT DESCRIPTION

Site Location

- The property is located on the northwest corner of Fairview Road and W. Wilson Street.
- The property is immediately adjacent to commercial uses on the north, low density residential on the west, Fairview Road on the east and Wilson Street on the south.
- The property is zoned C1 (Local Business District) with a General Plan designation of General Commercial.
- The property, which is 1.71 net acres in size, was developed in the 1980's with approximately 25,458 square feet of retail space and approximately 111 standard and compact off-street parking spaces.
- Vehicular access to the property is provided via driveways along Fairview Road on the east and W. Wilson Street on the south.

Existing Use

- Subway restaurant has been operating at the current location since August 2010. In July 2011, the restaurant began operating 24 hours a day, 7 days a week.
- The proposed use is a permitted use by right within the C1 zone; however, it is subject to development standards pursuant to Section 13-49 of the Zoning Code due to the establishment being located within 200 feet of residentially-zoned properties. Section 13-49 (g), in particular, prohibits customer service between the hours of 11:00 p.m. and 6:00 a.m. Therefore, the restaurant operator is requesting approval of a Minor Conditional Use Permit (MCUP) to allow the deviation from the hours of operation.

Operational Characteristics

- Currently, Subway is approved to operate Monday through Sunday from 7:00 a.m. to 11:00 p.m. The proposal is to legalize the restaurant's operation to 24 hours a day, 7 days a week.
- There are a total of 8 employees.

Analysis

- City staff does not anticipate any negative impacts upon the adjacent residences, as well as the existing tenants of the shopping center, as a result of expanding the operating hours, since there has been no service calls to the location for noise complaints or other disturbances in the past 14 months that the restaurant expanded their hours. In addition, the Police Department has stated that they have no objections to the proposed operating hours.
- The manner in which the shopping center is designed provides a substantial physical buffer from any potential noise and visual impacts from the residents to the west along Columbia Drive.

- The proposed hours of operation will result in customer activity throughout the day and evening hours. Presence of people will afford the shopping center added security that would not otherwise exist when storefronts close at the end of the normal business day.

FINDINGS

1. The information presented substantially complies with Section 13-29(e) of the Costa Mesa Municipal Code in that:
 - a. The proposed use is compatible and harmonious with uses on-site as well as those on the surrounding properties.
 - b. Safety and compatibility of the design of the buildings, parking areas, landscaping, luminaries, and other site features, including the functional aspects of the site development, such as automobile and pedestrian circulation have been considered.
 - c. The General Plan permits a wide range of commercial uses within the property's General Commercial land use designation. Approval of the MCUP to address operating hours will allow a use consistent with the General Plan.
 - d. The planning application is for a project-specific case and does not establish a precedent for future development.
2. The minor conditional use permit to allow the expansion of operating hours will not be detrimental to the health, safety and general welfare of the public or other properties or improvements within the immediate vicinity. Specifically, there has been no service calls to the location for noise complaints or other disturbances in the past 14 months since the restaurant expanded their hours. Additionally, the Police Department has stated that they have no objections to the proposed operating hours. Furthermore, the manner in which the shopping center is designed and oriented on the property is such that it provides a substantial physical buffer from any potential noise and visual impacts from the residents to the west along Columbia Drive. Lastly, the proposed hours of operation will result in customer activity throughout the day and evening hours. Presence of customers will afford the shopping center added security that would not otherwise exist when storefronts close at the end of the normal business day. Granting the minor conditional use permit will not allow a use, density or intensity, which is not in accordance with the General Plan designation for the property.
3. The project has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines, and the City environmental procedures, and has been found to be exempt from CEQA under Section 15301, Class 1 for Existing Facilities.
4. The project is exempt from Chapter XII, Article 3 Transportation System Management, of Title 13 of the Costa Mesa Municipal Code.

CONDITIONS OF APPROVAL

- PIng.
1. Any change in the operational characteristics including, but not limited to, the hours of operation and additional services provided, shall require review by the Planning Division and may require an amendment, subject to the approval by the Zoning Administrator.
 2. A copy of the conditions of approval for the minor conditional use permit shall be kept on premises and presented to any authorized City official upon request. New business/property owners shall be notified of conditions of approval upon transfer of business or ownership of land.
 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 whatever reasonable security and operational measures are necessary to comply with this requirement.
 4. The business operator shall comply with the applicable code sections of Chapter XIII, Noise Control.

CODE REQUIREMENTS

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

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1. On-site landscaping shall be maintained in a healthy condition free of dying, dead, diseased, decayed, discarded and/or overgrown vegetation. On-site landscaping shall be restored or replaced with new plant materials wherever necessary; trees shall not be destroyed or removed without prior City approval.
 2. All business activities shall be conducted within the suite. Outdoor activities and loitering shall be prohibited.

July 13, 2012

We at the Subway located on Fairview and Wilson , would like to introduce ourselves to those of you who may not be aware of our current location.

This Subway restaurant has been open 24 hours since July 2011. In that time we have been growing steadily, and offering a unique customer service experience that has delighted everyone who has come in to our restaurant. Staying open 24 hours 7 days a week is a convenience to all the locals who work during graveyard hours or work in the early morning. This location is one of the few that offers our complete menu (including breakfast) all day long . Vanguard and OCC students have made this a favorite spot to bring their laptops and use our free wifi and enjoy all their favorite sandwiches during school, after school or in any occasion.