

**City of Culver City, California
Agenda Item Report**

Meeting Date: 9/10/2012		Item Number: PH-3	
CITY COUNCIL AGENDA ITEM: PUBLIC HEARING – Consideration of Appeal of Planning Commission Approval of an Administrative Site Plan Review to Allow the Development of a One-Story Retail Building with 2,500 Square Feet of Floor Area and 12 On-Site Parking Spaces Located at 4436 Sepulveda Boulevard			
Contact Person/Dept.: Thomas Gorham, Joshua Williams/CDD		Phone Number: (310) 253-5710 (310) 253-5706	
Fiscal Impact: Yes ☒ No ☐		General Fund: Yes ☐ No ☒	
Public Hearing: ☒		Action Item: ☐ Attachments: ☒	
Commission Action Required: Yes ☒ No ☐		Date: 05/23/12	
Public Notification: Notices mailed to all property owners and occupants within a 1000- foot radius of the project site (8/20/12); Meetings and Agendas – City Council (9/5/12); Applicant and property owner (8/20/12).			
Department Approval: Sol Blumenfeld: (08/29/12)		City Attorney Approval: Carol Schwab (by H. Baker) (08/29/12)	
Chief Financial Officer Approval: Jeff Muir (09/05/12)		City Manager Approval: John M. Nachbar (09/05/12)	

RECOMMENDATION:

Staff recommends the City Council consider the appeal of the Planning Commission's approval of Administrative Site Plan Review, ASPR P-2011127, to allow the development of a one-story retail building with 2,500 square feet of floor area and 12 on-site parking spaces located at 4436 Sepulveda Boulevard and either:

1. Deny the appeal and affirm the Planning Commission's approval of ASPR P-2011127.

OR

2. Grant the appeal and reverse the Planning Commission's approval of ASPR P-2011127.

PROCEDURE:

1. Mayor calls on staff for a brief staff report and Council poses questions to staff as desired.

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2. Mayor seeks a motion to open the public hearing, providing the applicant the first opportunity to speak, followed by the appellant and then the general public.
3. Applicant and appellant are given an opportunity to provide rebuttal comments.
4. Mayor seeks a motion to close the public hearing after all testimony has been presented.
5. Council discusses the matter and arrives at its decision.

BACKGROUND:

Appeal

On May 23, 2012 the Planning Commission adopted Resolution No. P2012-003 (Attachment No. 1) approving Administrative Site Plan Review, ASPR P-2011127 (ASPR) to permit construction of a 2,500 sq. ft. 7- Eleven convenience store (the "Project"). On June 8, 2012, a timely appeal was filed pursuant to Culver City Municipal Code (CCMC) Section 17.640.030, regarding the Planning Commission's ASPR approval.

The basis for the appeal is summarized as follows:

- Inadequacy of conditions to mitigate potential impacts.
- Increased risk and liability to the City given the insufficient discovery, testing and evaluation of the impact on public safety of the proposed Project, with respect to traffic and building parameters (blind corner or diminished traffic visibility) and investigation of vehicular accidents at the intersection of Sepulveda Boulevard and Braddock Drive.
- Previous traffic studies (Gap Study related to pedestrians) were inadequate.
- Store safety related to "hold-ups" may be an issue due to the store design.

A copy of the entire appeal is included as Attachment No. 2 - Appeal Document, dated June 8, 2012.

Project

The Project consists of the construction of a new 2,500 square foot one-story 7-Eleven convenience store at 4436 Sepulveda Boulevard. The Project has received significant public, staff and Commission input¹ since the original application submittal in September 2011 and has evolved from the standard

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company 7-Eleven building plan with parking located along street frontage, to the current plan which locates the building along the street edge to make it more pedestrian oriented. (See Attachment No. 3 - Project Site Plan).

Further, under the revised plan, the building has been sited to accommodate a new "Outdoor Retail Component" along Sepulveda Boulevard as a means to activate the pedestrian environment with a flower stand, coffee vendor, newsstand, or other similar use to complement the convenience store. The Outdoor Retail Component is intended to generate pedestrian activity consistent with the revitalization of the area. Toward that end, the City has also recently installed new benches, planters, canopy shade trees and accessibility ramps along Sepulveda Boulevard adjacent to the proposed Project.

The outdoor retail area is approximately 10 feet in depth and 35 feet in length and will incorporate special paving and planters and the necessary utility hook-ups and lighting to provide a safe, attractive and functional environment.

The site plan has also evolved to include new landscaping with tall columnar trees, shrubs and ground cover along the site perimeter to screen the parking areas from view. An 8-foot high decorative block wall and large planter has been added at the rear property line to provide a visual screen for residential neighbors to the east.

The Planning Commission determined that it was necessary to avoid the standard company store design and encouraged the Project architect to produce a more modern architectural style, unique to the 7-Eleven franchise and the neighborhood. The building facade incorporates varied building materials including an aluminum screen mesh that accentuates the building form. A second store entry has also been incorporated at the northeast corner of the building at Sepulveda Boulevard and Braddock Drive. An on-street loading zone on Sepulveda Boulevard has also been added to minimize impacts to adjacent residential neighbors during deliveries.

DISCUSSION:

Response to Appeal

The proposed Project is a convenience store, which is a permitted use "by-right" in the zone (Commercial General - CG, Table 2-5 – Allowable Uses and Permit Requirements for Commercial Zoning Districts). Pursuant to the Zoning Code, the Project is subject only to administrative review. However,

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given the extent of public comment received on the Project, the Director exercised his authority, pursuant to CCMC Section 17.540.015.D, to refer the matter to the Planning Commission for consideration,

Since the use is permitted in the zone, the Planning Commission's project review was limited to the Site Plan Review findings related to site plan layout, architectural design and the landscaping; general compatibility of the project with surrounding uses and development; and whether the project serves the public health, safety and general welfare.

If a use is permitted in the zone and comports with basic zoning restrictions including traffic and parking requirements, and if the required project findings for approval can be made, then the Commission is authorized to approve the project under the City's Zoning Code and the California Government Code.

Below is a response to the above-listed grounds of the appeal:

APPEAL RESPONSE NO. 1: *Inadequacy of conditions to mitigate potential impacts.*

The current Project design and conditions of approval reflect the Planning Commission's comments to the original Project building design, siting, traffic, transients, parking, loading, business operations, and neighborhood compatibility issues in response to the public testimony received during three public meetings and two public hearings.

Some public comments regarding the Project were favorable and recommended Project approval as a means to eliminate the existing, blighted abandoned gas station at the property. However, to the extent feasible, the Planning Commission also wanted to address those neighbors who were critical of the Project. The Applicant has worked closely with staff and the Planning Commission to modify the building architecture and site plan and volunteered changes to the conditions of approval to address neighborhood concerns, including the relocation of late night/early morning loading to an on-street location, trash pick-up by 7-Eleven staff at multiple times during the day on and around the property perimeter, and the placement a tall landscape screen around the property.

Special Conditions of Approval

The conditions of approval that mitigate project impacts and address potential nuisance issues are:

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- A lighting plan for the building and parking area shall be approved by the Planning Division prior to building permit issuance. The Project shall comply with the City's outdoor lighting standards to ensure that all on-site exterior lighting is directed away from or shielded from residential neighbors.
- No vending machines or reverse vending machines shall be permitted on the exterior of the building to minimize noise and nuisance impacts.
- The driveway at Sepulveda Boulevard shall be right turn-in and right turn-out only. Signage restricting left turns out of the driveway shall be posted on site. The sign is subject to Director of Public Works/City Engineer and Planning Manager approval.
- The applicant shall prepare a Construction Management Plan identifying construction area parking, service area, materials storage, and emergency or complaint contact information.
- During construction, the Planning Division may periodically inspect the project and/or request status updates from the Applicant and construction contractor(s) to ensure the Project design comports with the approved plan. The Planning Division, with the Building & Safety Division, may issue general stop work notices for any violations of the Conditions of Approval, including any non-conformance with the specified design and materials for the Project and any violations of the CCMC.
- The Property Owner and any tenant of the Property shall be responsible for on-site trash pickup within 100-feet of the Property at least twice per day, and for trash pickup around the Property's perimeter, including the sidewalks, gutters, and other public areas where trash may collect.
- The setback area along the Sepulveda Boulevard street frontage, designated on the approved development plans for an "Outdoor Retail Component" and comprising an area of 7 feet by 35 feet, shall be utilized for a pedestrian oriented retail use. It may be operated by the same entity that operates the convenience store, or it may be run as a separate business operation by a subtenant approved by the Community Development Director. It shall open at the time of occupancy of the convenience store use, and shall operate seven days a week for no less than 10 hours a day.
- All Project employees who drive to work must park on-site. Employees shall be informed of this requirement during any employee training or orientation.
- No outdoor chairs, benches, and/or tables shall be permitted on the Property without an Outdoor Dining Administrative Use Permit approval.
- The Project shall maintain a clear line of sight for vehicles negotiating the project access points and adjacent alleyways. Trees, shrubs, and other landscaping shall be trimmed and architectural décor shall be located so as to not block pedestrian line of sight requirements.

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- Follow-up inspection of the operation of the traffic, on-site circulation and parking, shall be conducted by the Planning Division after six months and after one year of full operation. If it is determined by the Planning Manager and the City's Traffic Engineer that the recommendations of the traffic study are insufficient, additional requirements may be imposed as determined by the Planning Manager and the City's Traffic Engineer. In the event the Project fails to operate subject to the traffic study requirements, the matter shall be set for public hearing pursuant to CCMC Chapter 17.660 – Revocations and Modifications.

APPEAL RESPONSE NO. 2: *Increased risk and liability to the City given the insufficient discovery, testing and evaluation of the impact on public safety of the proposed Project, with respect to traffic and building parameters (blind corner or diminished traffic visibility) and investigation of vehicular accidents at the intersection of Sepulveda Boulevard and Braddock Drive.*

Project parking and traffic have been thoroughly vetted by the City's traffic engineer as follows:

Vehicular & Pedestrian Safety at Sepulveda and Braddock

Staff worked with the City's Engineering Division to acquire a list of traffic accidents occurring at the intersection of Sepulveda Boulevard and Braddock Drive. The information was provided through the California Highway Patrol's Statewide Integrated Traffic Records System (SWITRS) database, which compiles traffic incidents as reported by the Culver City Police Department to the CHP. The SWITRS database has collected incident reports from all California cities between January 2000 and December 2010. For this ten year period, the SWITRS database identified 18 vehicular accidents at the intersection, including two incidents involving vehicles and pedestrians. The Culver City Police Department has provided a report to supplement SWITRS and notes that from 2011 through May 2012, there have been four traffic collisions at the intersection of Sepulveda & Braddock. The City's Traffic Engineer indicates that the number of reported accidents for this intersection is considered low.

Further, the project is subject to the Pedestrian Traffic Safety Sightline clearance requirements in Section 17.300.030 (Table 3-4) of the Zoning Code which requires a 10 foot setback for walls in excess of 4 feet in height. This requirement is also noted in the 7-Eleven Traffic Impact Study (Exhibit M – Recommendations). The City's Traffic Engineer reviewed the Project plans for conformance with this setback provision and found that the Project rear

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property line wall and landscaped setback of 10 feet comport with this requirement.

APPEAL RESPONSE NO. 3: *Previous traffic studies (Gap Study related to pedestrians) were inadequate.*

To address concerns by the adjacent neighbors, the Planning Commission directed the Applicant to prepare, a *Traffic and Pedestrian Safety Evaluation* also known as a “Gap Study” (the “Study”). The Study, prepared by RK Engineering Group and reviewed and approved by the City’s Traffic Engineer, analyzes the movement of pedestrians and vehicles at the proposed 7-Eleven driveways on Sepulveda Boulevard and Braddock Drive for the purpose of determining pedestrian safety and identifying potential conflicts. The study determined that based on the “gap time” assumptions for vehicles comfortably turning into and out of the Project site, more vehicles will be able to access the site than there are vehicles generated by the Project during the traffic peak hour (in some cases almost three times as many). The study measured the number of vehicles and pedestrians on both sides of Braddock Drive and on Sepulveda Boulevard during the peak hours in the morning (6:30 AM to 8:30 AM), lunch hour (12:15 PM to 1:15 PM), and afternoon (2:15 PM to 4:15 PM). The peak hours were determined according to the times associated with students walking to school during the morning, walking toward Sepulveda Boulevard during their lunch period, and leaving school during the afternoon. The study did not show a significant amount of pedestrian traffic and determined that the potential for conflicts with vehicles would be considered minimal.

Pedestrian and vehicle counts were taken on Thursday, March 22, 2012, which is shown as being a normal operating school day by the Culver City Unified School District calendar. The counts were taken along the eastern sidewalk of Sepulveda Boulevard and the northern sidewalk (adjacent to Taco Bell) and southern sidewalk (adjacent to the Project site) of Braddock Drive.

As noted in the Study, in order for a vehicle to safely enter or exit the site, a gap in pedestrians traveling along the sidewalk, as well as a gap in vehicles traveling along the roadway must be present. The “gap” is defined as the time interval between a car or pedestrian crossing a point and another car or pedestrian crossing that same point. In this instance, the “point” is a driveway to the proposed 7-Eleven store. The more gaps there are between the pedestrians and the cars, the less likely it is that a conflict will occur. The study looked at the worst case peak one-hour totals, i.e. the 60-minute interval within the survey period where the least amount of gap time occurs.

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The minimum gap time needed for one car to complete a turn is seven (7) seconds with each subsequent car following the first car requiring five (5) seconds to complete the turn. A more conservative estimate would require seven (7) seconds for both the first car and subsequent cars to complete a turn. The study showed that under both scenarios, pedestrian and vehicle gaps were available to safely and efficiently provide access to and from the site. Therefore the Planning Commission considered the Project traffic and pedestrian analysis (Gap Study) and determined there was sufficient evidence in the record to make the necessary finding that the design and layout of the Project would not result in vehicular or pedestrian hazards.

APPEAL RESPONSE NO. 4: *Store safety related to "hold-ups" may be an issue due to the store design.*

Public Safety

The Culver City Police Department was asked to supply crime and transient incident statistics over the prior year at the four existing 7-Eleven stores in Culver City. The Police Department provided the following information based on an examination of police records from September 1, 2011 to April 12, 2012:

- 5495 Sepulveda Boulevard: One police call for a person in the parking lot (PD stated that this response did not identify if it was related to a transient and may have been due to a loitering teenager or other suspicious person.) The 7-Eleven is located in a strip mall and another store may have been the source of the incident.
- 5900 Washington Boulevard: One police call regarding a robbery and 3 calls related to a transient. The 7-Eleven is located in a strip mall and the 7-Eleven may not have been the source of the incident.
- 11299 Washington Boulevard: One police call for a person in the parking lot (PD stated that this response did not identify if it was related to a transient and could have been due to a loitering teenager or other suspicious person.) The 7-Eleven is a stand-alone store.
- 11001 Washington Boulevard: 1 police call for a transient. The 7-Eleven is a stand-alone store.

The Police Department did not believe that the number or types of incidents reported were significant and did not believe that the 7-Eleven stores in the City were attracting crime and nuisance activities. Further, the Police

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Department did not believe that the design of the store, in particular the two entrances, would make it more likely to attract crime and nuisance activities.

Required Findings in Support of the Project Approval

Zoning Code Chapter 17.540 – “Site Plan Review” outlines procedures and standards for the comprehensive review of proposed development projects including the required findings that must be made in order to approve the Site Plan Review as listed below:

- A. The general layout of the project, including orientation and location of buildings, open space, vehicular and pedestrian access and circulation, parking and loading facilities, building setbacks and heights, and other improvements on the site, is consistent with the purpose and intent of this Chapter, the requirements of the zoning district in which the site is located, and with all applicable development standards and design guidelines.
- B. The architectural design of the structure(s) and their materials and colors are compatible with the scale and character of surrounding development and other improvements on the site and are consistent with the purpose and intent of this Chapter, the requirements of the zoning district in which the site is located, and with all applicable development standards and design guidelines.
- C. The landscaping, including the location, type, size, color, texture, and coverage of plant materials, provisions for irrigation, and protection of landscape elements has been designed to create visual relief, complement structures, and provide an attractive environment and is consistent with the purpose and intent of this Chapter, the requirements of the zoning district in which the site is located, and with all applicable development standards and design guidelines.
- D. The design and layout of the proposed project will not interfere with the use and enjoyment of neighboring existing or future development, will not result in vehicular or pedestrian hazards, and will be in the best interest of the public health, safety, and general welfare.
- E. The existing or proposed public facilities necessary to accommodate the proposed project (e.g., fire protection devices, parkways, public utilities, sewers, sidewalks, storm drains, street lights, traffic control devices, and the width and pavement of adjoining streets and alleys) will be available to serve the subject site.

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F. The proposed project is consistent with the General Plan and any applicable specific plan.

The Planning Commission determined that there was sufficient evidence in the record to make all of the required findings and, therefore, approved the Project.

Environmental Determination

Pursuant to the California Environmental Quality Act (CEQA) guidelines, the Project has been determined to be Categorically Exempt pursuant to Section 15303, Class 3, New Construction and Section 15332, Class 32, In-Fill Development Projects. The environmental review of the Project was not appealed.

City Council Review Authority

The City Council's consideration of the appeal is "de novo." In essence, this means the City Council is holding a new hearing. In that regard, the City Council is not solely limited to considering the record that was before the Planning Commission.

The City Council's review authority for this appeal is governed by CCMC Section 17.640.030.D, which provides that the City Council may consider any issue involving the matter that is the subject of the appeal in addition to the specific grounds that form the basis of the appeal. In its consideration of this matter, the City Council may take the following actions:

- Affirm, affirm in part, or reverse the Planning Commission's decision.
- Amend or adopt additional conditions of approval that may address issues or concerns regarding the Project (regardless of whether they were raised in the appeal).
- If new or different evidence is presented on appeal, the City Council may, but is not required to, refer the matter back to the Planning Commission for further consideration.

CONCLUSION:

The Planning Commission conducted two public hearings on the 7-Eleven Administrative Site Plan Review application and continued the hearing to direct the Applicant to evaluate vehicle movements and potential conflicts with

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pedestrians at the store driveways. In order to address the Project architecture, the Planning Commission also requested a new site plan with a pedestrian orientation and directed the Project architect to design a building unique for the neighborhood and not merely to replicate a corporate building style. After deliberating over two public hearings and considering the traffic and pedestrian analysis and the new architectural concept for the store, the Planning Commission unanimously voted to approve the application making the necessary findings in Resolution, No. 2012-P003.

FISCAL IMPACT:

The Project will generate one-time building permit revenues and on-going sales and property tax revenues. There will be potential emergency service costs to the City. If the project is not constructed the property may remain an undeveloped site as it has since it ceased operating as a gas station 14 years ago.

ATTACHMENTS:

1. Planning Commission, Resolution P2012-003, dated May 23, 2012
2. Appeal Document, dated June 8, 2012
3. Project Plans
4. Traffic Analysis and Gap Study
5. Written Public Comments
6. Draft Resolution No. 2012-R___ Denying the Appeal
7. Draft Resolution No. 2012-R___ Granting the Appeal
8. Planning Commission Minutes, March 14, 2012
9. Additional Correspondence

MOTION:

That the City Council:

1. Adopt Resolution No. 2012-R_____ denying the appeal and affirming the Planning Commission's approval of Administrative Site Plan Review, ASPR P-2011127, for the construction of a 2,500 square foot convenience store at 4436 Sepulveda Boulevard.

OR

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2. Adopt Resolution No. 2012-R _____ granting the appeal and reversing the Planning Commission's approval of Administrative Site Plan Review, ASPR P-2011127, for the construction of a 2,500 square foot convenience store at 4436 Sepulveda Boulevard.

NOTES:

1. As part of the entitlement proceedings there have been three community meetings on the proposed project. Due to the high level of public interest and in order to provide an opportunity for local residents to provide comments on the project in a public hearing setting, the matter was referred to the Planning Commission for review and decision pursuant to CCMC Section 17.540.015.D, "Referral to the Planning Commission". Further, due to the high level of interest in the proposed Project by local residents pursuant to CCMC Section 17.630.010.E, the public notice for the Project was extended beyond the required adjacent property owners and occupants to property owners and occupants within a 1000-foot radius of the Project site.