



## Legislation Text

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**File #:** 14-0316, **Version:** 1

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Recommendation to receive supporting documentation into the record, conclude the public hearing, consider the appeals from John LaBelle, Carolyn LaBelle, Anita Hrishikesan and Jeff Bovernam, and Mark Nevin with 56 others, and uphold the decision of the Planning Commission to approve a Categorical Exemption (CE13-095), Site Plan Review and Conditional Use Permit to allow the demolition of two, one-story commercial buildings, and the construction of a 1,899-square-foot Dunkin' Donuts ready-to-eat establishment with a drive-thru lane, located at 5560 East 7th Street in the CCA zoning district. (District 3)

On February 6, 2014, the Planning Commission conducted a public hearing on the Site Plan Review and Conditional Use Permit request for the demolition of two, one-story commercial buildings and the construction of a 1,889-square foot, one-story Dunkin' Donuts ready-to-eat establishment with a drive-thru lane (Exhibit A - Plans and Photographs). After considering testimony from the public and applicant, the hearing was continued to March 6, 2014. On that date, the Planning Commission received the supporting documentation into the record, concluded the hearing, and voted 5-2 to accept the Categorical Exemption (CE 13-095) (Exhibit B - Categorical Exemption), and approve the Site Plan Review and Conditional Use Permit, subject to conditions (Exhibit C - Findings and Conditions of Approval). Four separate appeals to the Planning Commission's decision were filed within the 10-day appeal period. One appeal form had a primary appellant, Mark Nevin, with 56 other co-appellants listed on the form (Exhibit D - Appeals). Issues raised in the appeals related to potential traffic impacts due to the project and its configuration on the site, the City's definition of the use as a "ready to eat" establishment, and issues with the City's approach to reviewing the project in conjunction with the California Environmental Quality Act (CEQA).

The subject site is located on the southwest corner of Flint Avenue and 7<sup>th</sup> Street in the Community Commercial Automobile-Oriented (CCA) zone (Exhibit E- Location Map), and is currently developed with two, one-story commercial buildings: a 1,100-square-foot retail liquor store and an 864-square-foot coffee shop with two drive-thru lanes, including a distinctive donut-shaped pole sign. The liquor store is vacant and the coffee shop is currently occupied. According to building permit records, both commercial buildings were constructed in 1958. Since the City did not keep building permit records for signs back in 1958, staff assumes that the sign, which is constructed through the roof of the coffee shop, was constructed at the same time the building was constructed in 1958.

The CCA zoning district permits retail and service uses for an entire community, including convenience and comparison-shopping goods, restaurants, and associated services. The CCA zone allows ready-to-eat establishments as of right. A ready-to-eat establishment with a drive-thru lane is allowed with the approval of a Conditional Use Permit (CUP) when special

development standards can be met. Special development standards prohibit fast food restaurants abutting a residential zone (Section 21.52.231), but a ready-to-eat establishment with a drive-thru lane is allowed with a CUP. A ready-to-eat establishment is defined as a use that sells food in a form that is ready to eat at the time of sale, and is primarily designed for takeout, with on-site service area limited to one hundred fifty square feet of dining/in front of counter area. While the proposed use exceeds this limitation, other features of the proposed floor plan, such as the lack of a full kitchen, support the definition as a ready-to-eat establishment as opposed to a fast food restaurant or a sit-down restaurant. Full service kitchens are not allowed in ready-to-eat establishments. Uses such as bakeries, delicatessens, donut shops, ice cream shops, and yogurt shops are common ready-to-eat establishments, and staff has consistently defined such businesses as Starbucks and It's a Grind, as ready-to-eat establishments. The lack of a full kitchen significantly minimizes the potential impact to adjacent properties as there will be no smoke or odors typically associated with fast food restaurants. In this case, the project meets all other applicable zoning regulations, including parking requirements and drive-thru queuing standards. Additionally, the applicant originally considered placing the drive-thru lane adjacent to the nearest residential property. Based on staff discussions, the site plan oriented the drive thru lane along 7<sup>th</sup> Street and away from the residential neighbors to reduce potential nuisances associated with cars idling, noise from the speaker box at the point of ordering, and other issues associated with a drive-thru.

At the February 6, 2014 Planning Commission hearing, many speakers testified to the importance of retaining the giant donut sign on site. The donut sign is a prime example of thematic architecture popularized in the late 1950's. As a result of the public testimony and at the direction of the Planning Commission, staff added a Condition of Approval requiring a separate permit under the Creative Sign regulations, which will retain the donut sign on site, and allow corporate branding to be incorporated into the design. The Planning Commission approved this Condition of Approval as part of their March 6, 2014 approval of the overall project.

Also in February, many speakers testified about potential traffic impacts, issues with queuing on and off site, accessibility to and from 7<sup>th</sup> Street, and the potential for cut-through traffic to utilize the adjacent neighborhood streets or alley to bypass 7<sup>th</sup> Street. As proposed, the project includes a five-foot dedication along the western property line to widen the throat of the alley, and will remove existing nonconforming curb cuts on 7<sup>th</sup> Street and consolidate traffic to one access point on 7<sup>th</sup> Street and one access point on Flint Avenue. Staff subsequently added a Condition of Approval providing the City Traffic Engineer with the ability to require traffic improvements if traffic impacts materialize after the business operations have commenced. The Planning Commission approved this Condition of Approval as part of their March 6, 2014 approval of the overall project.

Subsequent to the Planning Commission decision, corrections were made to the findings and conditions of approval removing any references to restaurant and replacing them with ready-to-eat establishment. This was done to be consistent with the decision of the Planning

Commission to avoid confusion moving forward. The changes to the finding and conditions are shown as strikethroughs and underlined text in the attachments.

In accordance with the California Environmental Quality Act (CEQA), a Class 3 (new construction of small projects), Categorical Exemption (CE13-095) was prepared. The project is not increasing density or overall building square footage on the site as compared to existing conditions, does not require a zoning or General Plan land use modification, is replacing a similar use, and the site is considered an infill site. For these reasons and more, a Categorical Exemption is the appropriate level of environmental review under CEQA for this project.

The proposed development will significantly improve the property with a new one-story commercial building, new block walls along property lines to provide better separation from adjacent residential uses, new paving, curbs and landscaping. Further, the project will remove two outdated commercial buildings, remove two existing curb approaches on 7<sup>th</sup> Street and provide for improvements to the alley along the entire depth of the site. The proposed Dunkin Donuts will be one of the first stores built in Southern California by this national franchise. Staff feels the project will significantly improve a very busy and prominent corridor in the City with a contemporary building and new landscaping. Thus, with the revisions to the design and improvements to the lot, along with the incorporated Conditions of Approval, staff is recommending approval of this project and a denial of the appeals.

This matter was reviewed by Assistant City Attorney Michael Mais on April 22, 2014 and by Budget Management Officer Victoria Bell on April 16, 2014.

Section 21.21.504 of the Long Beach Municipal Code requires City Council action within 60 days of receiving an application for appeal. The first of the four appeals was received on March 13, 2014.

There is no fiscal or local job impact as a result of the recommended action.

Approve recommendation.

AMY J. BODEK, AICP  
DIRECTOR OF DEVELOPMENT SERVICES

APPROVED:

PATRICK H. WEST  
CITY MANAGER