



Agenda Report

Item #: 24-101

Meeting Date: 04/16/2024

TITLE: REVIEW OF THE PLANNING COMMISSION'S DECISION TO APPROVE MINOR CONDITIONAL USE PERMIT APPLICATION ZA-22-11 FOR A DRIVE-THROUGH OPERATION AND A REDUCTION OF REQUIRED PARKING; DEVELOPMENT REVIEW (PDVR-23-0003) TO ALLOW THE DEMOLITION OF AN EXISTING 25,159-SQUARE-FOOT COMMERCIAL BUILDING AND TO CONSTRUCT A NEW 2,913-SQUARE-FOOT RAISING CANES RESTAURANT WITH 1,303 SQUARE FEET OF COVERED OUTDOOR PATIO AREA; MINOR MODIFICATION PMND-23-0003 TO ALLOW FOR A DECREASE OF 20% IN REQUIRED FRONT YARD/LANDSCAPE SETBACK; FOR A PROPERTY LOCATED AT 1595 OLD NEWPORT BOULEVARD

DEPARTMENT: ECONOMIC AND DEVELOPMENT SERVICES DEPARTMENT/ PLANNING DIVISION

PRESENTED BY: CHRISTOPHER ALDANA, ASSISTANT PLANNER

CONTACT INFORMATION: CHRISTOPHER ALDANA, ASSISTANT PLANNER, (714) 754-4868

RECOMMENDATION:

Staff recommends the City Council review the Planning Commission's decision to approve ZA-22-11, PDVR-23-0003, and PMND-23-0003.

APPLICANT OR AUTHORIZED AGENT:

The authorized agent is Jay Higgins, on behalf of the property owner, Barry Von Hemert.

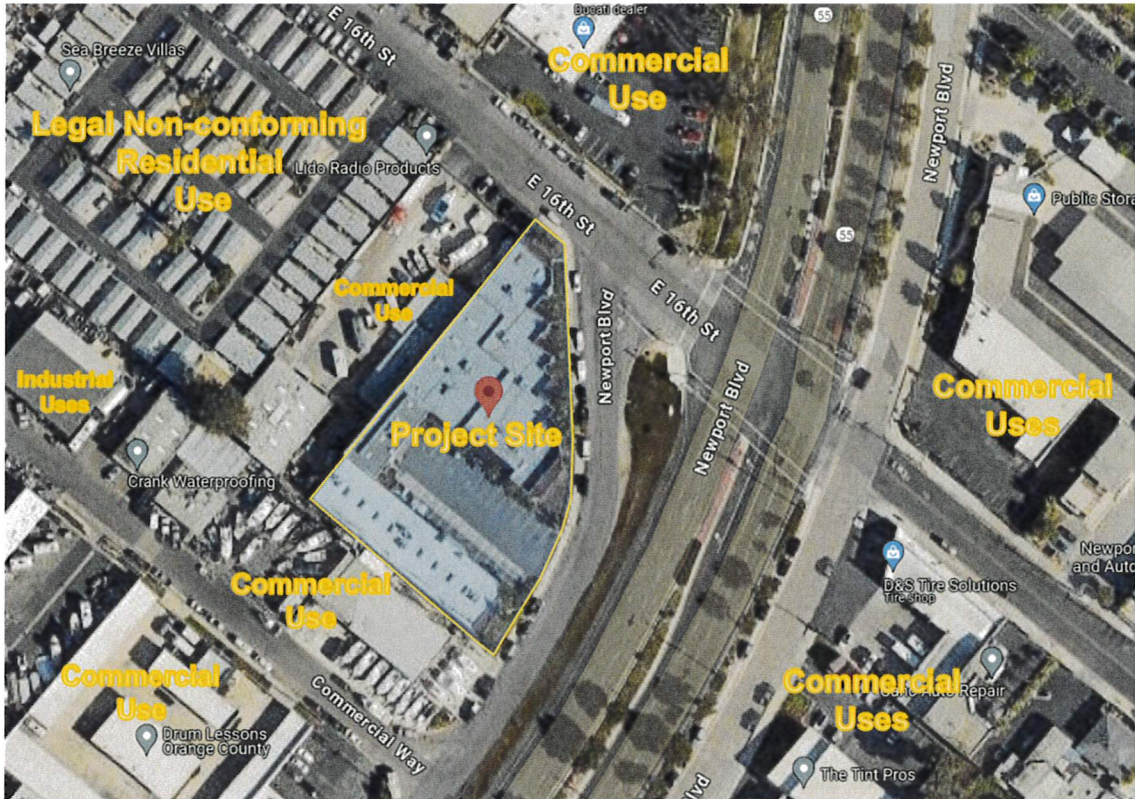
BACKGROUND:

Raising Cane's submitted applications for a new fast-food drive-through restaurant with outdoor dining patio at the southwest corner of Old Newport Boulevard and East 16th Street, which is the former Von Hemert Interiors Furniture Store site. Old Newport Boulevard is a frontage street located adjacent and parallel to Newport Boulevard. The proposal would be Raising Cane's second location in Costa Mesa. Their first was established in 2015 at 3150 Harbor Boulevard.

The property is designated "General Commercial" in the Land Use Element of the General Plan and is zoned "C2 – Commercial Business." The property abuts commercial properties used for boat storage and repair purposes in the C2 zone to the west and south. Property to the north is zoned "C1 – Local Business District" and operates as a Ducati motorcycle sales and service center. Newport Boulevard is located east of the subject property. Other properties in the area include a variety of automotive dealers and repair shops and retail uses. Located one parcel away and approximately 100 feet west of the project site is Sea Breeze Villas. The Sea Breeze Villas is a rental community of 62 single-story one- and two-bedroom mobile homes located on a split-zoned

lot. The Sea Breeze Villas is split zoned “MG – General Industrial” and “C2 – Commercial Business.” (See Figure 1, Location Map, below.)

Figure 1 - Location Map



ANALYSIS:

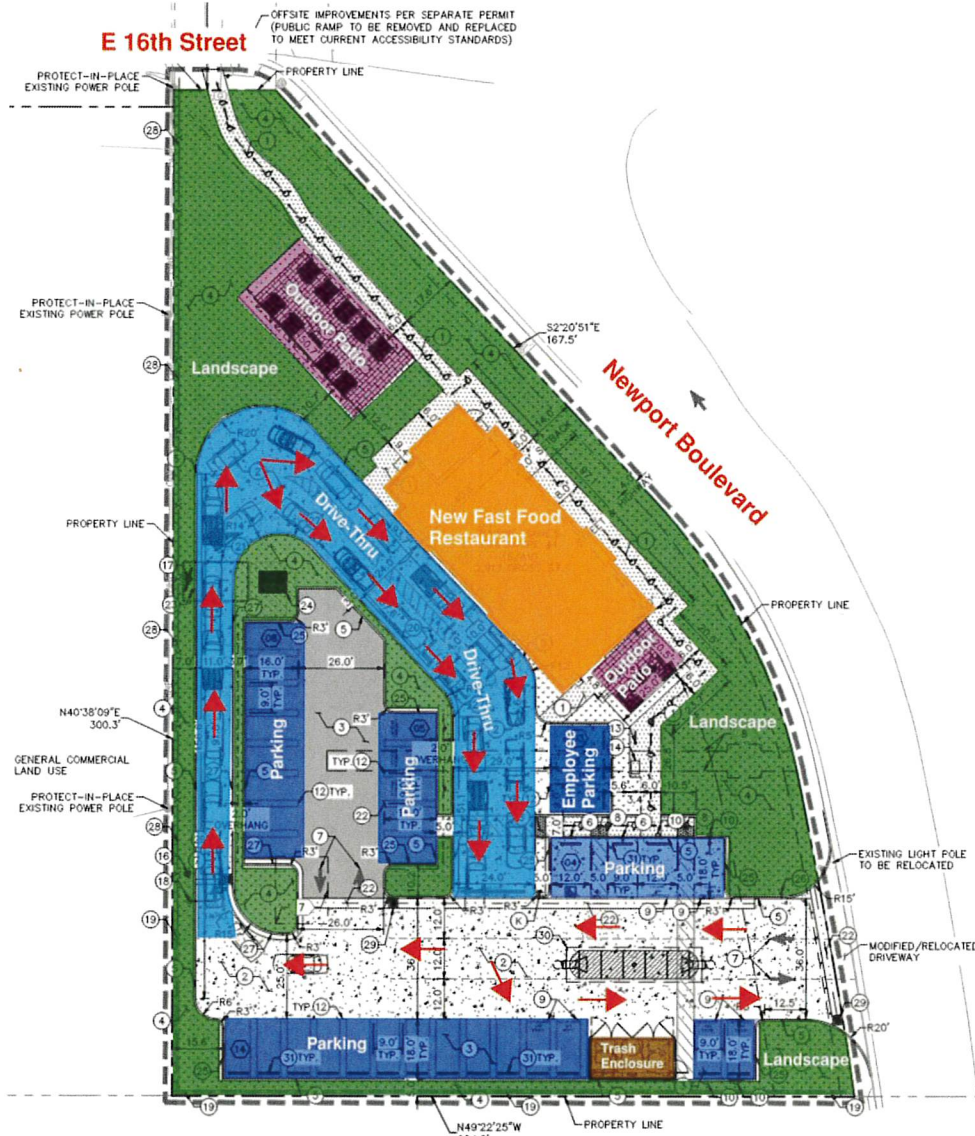
The proposed Raising Cane’s restaurant requires City approval of the following applications:

- **Minor Conditional Use Permit (MCUP)** to reduce required parking by seven spaces;
- **Minor Conditional Use Permit** for a drive-through and modification to lane width;
- **Development Review** for the demolition of an existing 25,159-square-foot furniture store and the construction of a new 2,913-square-foot Raising Cane’s restaurant with 1,303-square-foot outdoor dining area; and
- **Minor Modification** to allow a 20 percent (i.e., four foot) decrease in the required twenty 20-foot front yard/landscape setback.

The restaurant is proposed approximately 20 feet from the front property line abutting Old Newport Boulevard. A single, two-way driveway from Old Newport Boulevard would provide ingress and egress for the site and leads to 34 on-site parking spaces and drive-through lanes. The drive-through lane is located behind the proposed building to reduce its street visibility. The restaurant includes an interior dining room and an outdoor dining patio area. The project also provides one bicycle locker and ten bicycle racks. The proposed landscape plan includes a variety of drought-tolerant trees, shrubs, groundcover and 50 new trees. Within the landscaped area, the project proposes a walkway that connects to the public sidewalk to promote pedestrian access to and from the site. See Figure 2, Site Plan, below.

The restaurant was approved to operate from 9 a.m. to 2 a.m. Sunday through Wednesday, and 9 a.m. to 3:30 a.m. Thursday through Saturday. Based on the site's proximity to the Sea Breeze Villas, a noise analysis was conducted. The noise study determined that the use would not exceed the City's exterior or interior noise standards and would not result in a perceptible noise increase at the nearest residential uses.

Figure 2 - Site Plan



A detailed description of the proposed use, operations, and improvements to the property are described in the February 12, 2024 Planning Commission staff report (also provided as Attachment 6) and attachments, linked below:

<https://costamesa.legistar.com/LegislationDetail.aspx?ID=6512375&GUID=C51F739D-D1C9-435A-928D-7B24BE114EE3>

The Planning Commission meeting minutes are provided as an attachment to this report and the meeting video is linked below:

https://costamesa.granicus.com/player/clip/4086?view_id=14&redirect=true

Public Comments

Twenty-two public comment letters were submitted to the Planning Commission (11 letters indicated support for the the project and 11 letters indicated project opposition). Reasons for support included the projects' potential to promote walkability and bike-ability, the creation of jobs, and the renovation and reactivation of the site that would provide an alternative use for the property that differs from the current vacant building. Reasons for opposing the project included concerns about traffic due to the project's proximity to the intersection of East 16th Street and Old Newport Boulevard and Newport Boulevard, and inadequate on-site parking.

Eighteen public speakers also attended the Planning Commission meeting and provided public comments (10 speakers were in support of the project and eight speakers spoke in opposition). Testimonies in support of the project stated that the project would be an overall improvement from the current condition of the site which consists of a vacant building with various parked vehicles along Old Newport Boulevard. Some expressed support for the late-night hours, stating that working professionals on swing-shifts (such as those working at Hoag Hospital) benefit from having access to a near-by restaurant. A community member also expressed support for having a new restaurant within walking and biking distance. Reasons for opposing the project consisted of concerns pertaining to long vehicle queues, similar to what had occurred at the first Raising Cane's on Harbor Blvd when it first opened, traffic congestion at the intersection of Old Newport Boulevard and East 16th Street, potential parking spillage onto neighboring businesses, and potential noise impacts to Sea Breeze Villas residents. Copies of the submitted public comment letters are provided in Attachment 5.

Planning Commission Review

In its review of the project, the Planning Commission raised questions regarding drive-through queuing, traffic impacts to adjacent streets, hours of operation, noise, and the deviations from the development standards requested by the applicant. Specifically, the Planning Commission discussed:

- The reduction in drive-through lane width from the code required 11 feet to 10 feet - Per Costa Mesa Municipal (CMMC) 13-50 each drive-through lane shall be striped, marked or otherwise distinctly delineated, and shall be a minimum of 11 feet wide unless modified by minor conditional use permit. The Raising Cane's drive-through is proposed with a 11-foot-wide single lane that converts into two, 10-foot-wide lanes. The dual lane system is delineated by a 6" curb on the outsides of each drive-through lane and a 4-foot striped island in the center. The City's Transportation Division reviewed the proposed design and confirmed that the lane width reduction would function appropriately and not result in any vehicle maneuverability concerns.
- Hours of operation for fast-food restaurants when in proximity to residentially zoned properties - Per CMMC 13-49 (g), the hours of operation for establishments where food or beverage are served that are within 200 feet of residentially zoned property shall not occur any time between 11:00 p.m. and 6:00 a.m. unless modified through the issuance of a minor conditional use

permit or conditional use permit. While there is a legal non-conforming mobile home park located within 200 feet of the project site, it is not residentially zoned, and therefore, these hours of operation do not apply. Additionally, the Planning Commission asked the applicant if they would have applied to extend their hours of operation had the mobile home park been zoned residential. The applicant confirmed they would have applied for extended hours of operation. Other than hours of operation, the project complies with all required criteria listed in CMMC 13-49. Because of the project's location and site design, the Planning Commission concluded that it was likely that approval for the additional hours would be granted.

- The Minor Modification to allow for a decrease of 20% in required front/landscape setback - Pursuant to CMMC Section 13-28 (j), a deviation from the required front setback can be approved to a maximum of 20% of the required setback. Since the encroachment was only for a small portion of the building, the Planning Commission found this request approvable.
- Reduction in parking - CMMC Section 13-89.5 permits, with the approval of an MCUP, a reduction in required parking when it can be demonstrated that the City's nonresidential parking standard will exceed the use's actual demand. The applicant submitted a traffic and parking study prepared by Stantec Consulting that evaluated the actual parking utilization based on empirical data at other operating Raising Cane's restaurants. This study concluded that the project as designed would result in a surplus of one parking space. Staff determined the reduced parking request was supportable.
- Crosswalk improvements with ADA ramp upgrades along East 16th and Old Newport - Staff confirmed that this work is part of the project's scope.
- Drive-through queuing – A queuing analysis was also conducted that demonstrated that there is enough dedicated drive-through space to accommodate the projected maximum demand of vehicles on site without disturbing circulation on Old Newport Boulevard.

By a vote of four to two, with one Commissioner absent, the Planning Commission determined it was able to make the Findings for the permits and conditionally approved the project. The Planning Commission added project conditions to narrow the driveway width from 36 feet to 26 feet and included a condition that the Planning Commission conduct a review of the restaurant operations (including consideration of operating hours, adverse nuisance and safety) after a year of restaurant operations. (Resolution No. PC-2024-04 approving the Raising Cane's project is provided as Attachment 4.)

Call for Review

On February 20, 2024, City Council Member Arlis Reynolds submitted an application to call the Planning Commission's decision up for review by the City Council, which is provided as Attachment 2 to this report.

City Council “De Novo” Hearing

Pursuant to CMMC Chapter 9, Appeal and Review Procedures, the City Council shall conduct a new or “de novo” review of the matter. The City Council may exercise its independent judgment and discretion in making a decision, and the call for review hearing is not limited to the grounds stated for the review or the evidence that was previously presented to the Planning Commission. The City Council’s decision on the matter is the final decision.

Findings and Review Criteria

Pursuant to the Costa Mesa Municipal Code (CMMC), approval of each of the project’s applications must be based on evidence in the administrative record that substantially supports the following review criteria and findings:

Costa Mesa Municipal Code Section 13-29 (e) Review Criteria:

- *Compatible and harmonious relationship between the proposed building and site development, and use(s), and the building and site developments, and uses that exist or have been approved for the general neighborhood;*
- *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;*
- *Compliance with any performance standards as prescribed elsewhere in the Zoning Code;*
- *Consistency with the general plan and any applicable specific plan; and*
- *The planning application is for a project-specific case and is not to be constructed to be setting a precedent for future development.*

Minor Conditional Use Permit Findings:

- *The proposed development or use is substantially compatible with developments in the same general area and would not be materially detrimental to other properties within the area;*
- *Granting the 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; and*
- *Granting the 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.*

Minor Modification Findings:

- *The improvement will not be materially detrimental to the health, safety and general welfare of persons residing or working within the immediate vicinity of the project or to property and improvements within the neighborhood; and*
- *The improvement is compatible and enhances the architecture and design of the existing and anticipated development in the vicinity. This includes the site planning, land coverage, landscaping, appearance, scale of structures, open space, and any other applicable features relative to a compatible and attractive development.*

Staff has attached a draft City Council resolution for approval based on the February 12, 2024 Planning Commission's decision. Should the City Council determine to overturn the Planning Commission's decision, staff requests that the City Council articulate its reasons for denial based on required the aforementioned criteria and findings in order for staff to incorporate into a resolution.

ENVIRONMENTAL DETERMINATION:

The project is categorically exempted from the provisions of the California Environmental Quality Act (CEQA) under CEQA Guidelines Section 15303, Class 3, for new construction or conversions of small structures, and Section 15332, Class 32, for infill development projects. The project proposes to demolish an existing 25,159-square-foot furniture store and construct a new 2,913-square-foot drive-through restaurant with 1,303 square feet of outdoor dining area. The existing site is currently developed and without environmental resources. In addition, none of the exceptions that bar the application of a categorical exemption pursuant to CEQA Guidelines Section 15300.2 applies. Specifically, the project would not result in cumulative impact; would not have a significant effect on the environment due to unusual circumstances; would not result in damage to scenic resources; is not located on a hazardous site or location; and would not impact any historic resources.

ALTERNATIVES:

The City Council has the following alternatives:

- Uphold the Planning Commission's decision and adopt a resolution to approve Planning Application ZA-22-11, PDVR-23-0003 and PMND-23-0003; or
- Overturn the Planning Commission's decision and adopt a Resolution to deny Planning Application ZA-22-11, PDVR-23-0003 and PMND-23-0003; or
- Remand Planning Application ZA-22-11, PDVR-23-0003 and PMND-23-0003 back to the Planning Commission to reconsider the matter based on specific City Council direction.

FISCAL REVIEW:

There are no fiscal impacts associated with this agenda item.

LEGAL REVIEW:

The City Attorney has reviewed and approved this report as to form.

PUBLIC NOTICE:

Pursuant to Title 13, Section 13-29(d), of the Costa Mesa Municipal Code, three types of public notification have been completed no less than 10 days prior to the date of the City Council public hearing:

1. **Mailed notice.** A public notice was mailed to all property owners and occupants within a 500-foot radius of the project site. The required notice radius is measured from the external boundaries of the property.
2. **On-site posting.** A public notice was posted on each street frontage of the project site.
3. **Newspaper publication.** A public notice was published once in the Daily Pilot newspaper.

Public comments received prior to the April 16, 2024 City Council meeting, may be viewed at this link: [CITY OF COSTA MESA - Calendar \(legistar.com\)](https://legistar.com/Calendar/CITY_OF_COSTA_MESA)

CITY COUNCIL GOALS AND PRIORITIES:

This item is administrative in nature.

CONCLUSION:

The subject review is intended to provide the City Council with an opportunity to review the Planning Commission's decision to approve a new restaurant development and operation at 1595 Old Newport Boulevard.