



May 1, 2014

Honorable Mayor Bill Bogaard
Vice Mayor Jacque Robinson
Councilmember Margaret McAustin
Councilmember John J. Kennedy
Councilmember Gene Masuda
Councilmember Victor M. Gordo, Esq.
Councilmember Steve Madison
Councilmember Terry Tornek

175 North Garfield Avenue
Pasadena, California 91101

**RE: Pasadena City Council, May 5, 2014
Chick-fil-A, Inc.: 1700 E. Colorado Blvd
MCUP#6088, PLN2013-00337**

Dear Mayor Bogaard and Members of the City Council:

The purpose of this letter is to summarize our responses to Hearing Officer Yepremian's approval and findings of December 10, 2013 and subsequent affirmation of that approval by the Board of Zoning Appeals (BZA) at a *de novo* hearing on March 19. We have attached our original responses to Ms. Yepremian's findings for reference.

At issue is whether our proposal to add approximately 1,448 square feet to the existing building and a second order point to the **existing** drive-thru operation meets the criterion set forth in Section 17.61.050.H of the *Pasadena Municipal Code*. Furthermore, it has been alleged that neither the Hearing Officer nor the Board of Zoning Appeals adequately addressed the city's general intent with respect to encouraging the re-investment into previously legal drive-thru uses that exist within a specific plan that has subsequently rendered its present use as non-conforming.

It is our contention that not only can all of the six findings be made on the merits of the facts of the proposal, but that both the Hearing Officer and the Board of Zoning Appeals did in fact consider the issue of the city's posture toward expanding existing non-conforming uses and made their findings based on a thorough application of the relevant code sections.

Item No. 8
5/05/2014

Commissioners Williamson and Persico specifically raised this issue and referenced the staff's Addendum to their report that quoted Section 17.71.010 B (the provision in the city's zoning code that generally discourages the long-term continuance of nonconformities). There was considerable discussion among the Board concerning the language of Criterion 3 (whether the proposed use was in conformance with the purpose and intent of the East Colorado Specific Plan) and Criterion 6 (whether the operating characteristics and size of the proposed use was compatible with the ... future uses.). Commissioner Greg Jones, who voted with Commissioner Vince Farhatt and Chairman Ann Marie Hickambottom to approve the project, spoke directly to the issue when he informed the Board that he was on the committee that had worked on the *ECSP*. He noted that what they intended to accomplish with the land use provisions in the plan was to *prevent the proliferation of new drive-thru businesses along East Colorado Blvd and that there was not any intent to limit the expansion of existing drive-thru businesses*. Commissioner Jones summarized his assessment of the proposal when he stated, "...we can make the findings based on all the reasons why the specific plan says what we wanted."

It is also our contention that the City Council should approve the project as proposed as a matter of integrity and fairness. From the very beginning, we relied upon a straightforward interpretation, univocally concurred by the Planning staff, of the applicable sections of the city's zoning code (namely, the entirety of Sections 17.71 and 17.61.050.H) and the *ECSP*, in addressing the question of whether the city would allow the applicant to expand the building and add a second drive-thru ordering point to meet their operational needs. It was the city's planning staff that pointed out that, a) the *NLSP* had very specific language limiting the expansion of existing non-conforming drive-thru uses, and b) the absence of similar language in the *ECSP* meant that the city would allow an expansion of the existing use as long as the design was consistent with the other buildings in the vicinity, met all of the applicable development standards, and each of the criteria listed in Section 17.61.050.H.

To deny our proposal at this late stage in the entitlement process is not in keeping with a number of policy objectives articulated in the 2004 update to the city's *General Plan* – namely Policy 10.7 that states that it shall be the city's policy to "*Provide a more stable and sound environment for investment and business decisions by reducing uncertainty and streamlining the land use entitlement approval process.*" The process we are experiencing is anything but streamlined. Also, our project proposal is in keeping with the city having targeted the East Colorado area for new development (Policy 10.1) and the city's desire to "*Support the continuation or expansion of existing businesses in harmony with their surroundings and provide new spaces for growth and changing business requirements* (Policy 10.3). Also, Policy 12.1 says that it is the city's policy to "*Encourage retail and sales-producing businesses to remain, **expand in, or come to, Pasadena and promote healthy retail areas.***"

Additionally, approving the project as proposed, the city greatly benefits from a significant number of conditions that otherwise would not be imposed on Chick-fil-A or any other

Mayor Bogaard and Members of the City Council
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restaurateur that would simply inhabit the existing building. The remodeled building will more closely match the scale and size of the adjacent buildings and will be LEED certified. The MCUP imposes 36 Conditions of Approval (all of which we agree to), including a number of development-related impact fees; safer and more efficient traffic circulation; improved landscaping throughout the property; sound dampening of the wall to the east; and increased pedestrian amenities along Bonnie Ave and Colorado Blvd such as increased patio seating, low patio walls, and bicycle parking. And finally, please consider this: Chick-fil-A will likely be the only applicant that would operate the drive-thru only 6 days per week.¹

While we are dismayed that the council has decided to delay our project and subject our proposal to yet another *de novo* hearing, we are confident that once the relevant Zoning Code and specific plans sections are thoroughly examined, you will see that our efforts to work closely with the Planning, Building, Public Works, and Transportation staff to ensure that our proposed improvements to this property meet or exceed each and every development standard that applies to this project were not in vain.

We are united with the city staff in our opinion that it is in keeping with the spirit and letter of the *Zoning Code*, the city's *General Plan*, and the *East Colorado Specific Plan*.

Sincerely,

Jennifer M Daw,
Development Supervisor

¹ Chick-fil-A is closed every Sunday.

Allen Matkins

Allen Matkins Leck Gamble Mallory & Natsis LLP
Attorneys at Law
515 South Figueroa, 9th Floor | Los Angeles, CA 90071-3309
Telephone: 213.622.5555 | Facsimile: 213.620.8816
www.allenmatkins.com

Patrick A. Perry
E-mail: pperry@allenmatkins.com
Direct Dial: 213.955.5504 File Number: 370424-00047/LA980870.01

Via Electronic and First Class Mail

February 11, 2014

Chair Ann Marie Hickambottom
Mr. Vince Farhat
Mr. Greg Jones
Mr. Mark Persico
Mr. Michael Williamson
175 North Garfield Avenue
Pasadena, California 91101

**Re: Minor Conditional Use Permit No. 6084 - 1700 East Colorado
Boulevard**

Dear Members of the Pasadena Board of Zoning Appeals:

This firm represents Chick-Fil-A in connection with its application for the above-referenced Minor Conditional Use Permit ("MCUP"), which was approved by the City Hearing Officer on December 20, 2013 and was called for review by the City Council on January 13, 2014. Among the issues discussed by members of the City Council in connection with their decision to call this case for review was whether approval of the alteration and enlargement of the existing drive-through use on the property located at 1700 East Colorado Boulevard (the "Property") is permissible under current planning and zoning regulations. Please be advised that the proposed alteration and enlargement of the existing drive-through use fully complies with all City planning and zoning regulations regarding such alteration and enlargement of legal nonconforming uses, and any consideration of whether the existing legal nonconforming use can be continued is not within the City's purview in the context of the present proceeding.

The Property is located in the College District Subarea of the East Colorado Boulevard Specific Plan ("ECBSP") and is currently occupied by a Burger King restaurant that has continuously operated as a fast food restaurant with drive-through since 1976. The ECBSP was adopted by the City in 2003 and provides that new drive-through restaurants will no longer be allowed in the College District Subarea. Because the existing fast food restaurant with drive-through was lawfully established prior to the adoption of the ECBSP, it is a legal nonconforming use.

Allen Matkins Leck Gamble Mallory & Natsis LLP
Attorneys at Law

Chair Ann Marie Hickambottom

January 17, 2014

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Section 17.71.030A.1 of the Pasadena Municipal Code ("PMC") provides that a nonconforming use may be maintained and continued, provided there is no increase or enlargement of the area, space, or volume occupied or devoted to the nonconforming use, except as otherwise allowed by the PMC. Section 17.71.080E of the PMC provides that a legal nonconforming use may be altered and enlarged subject to approval of a Minor Conditional Use Permit. The proposed alteration and enlargement of the existing improvements on the Property are therefore permitted pursuant to the approval of the MCUP.

It is a fundamental principle of California land-use law that the rights of property owners to maintain legal nonconforming uses are protected from infringement by local governments. It has long been established by the courts that "[t]he rights of users of property as those rights existed at the time of the adoption of a zoning ordinance are well recognized and have always been protected." *Edmonds v. County of Los Angeles* (1953) 40 Cal.2d 642, 651. A city may impose restrictions on the alteration or expansion of a legal nonconforming use by imposing specific permit requirements. A city may not, however, use a conditional use permit for the alteration or enlargement of a legal nonconforming use as a pretext to terminate the use altogether.

Chick-Fil-A has fully complied with the requirements of Section 17.71.080E of the PMC by obtaining approval for the MCUP pursuant to the Hearing Officer's determination on the basis of substantial evidence that all of the findings necessary for the approval of the MCUP can be made in the affirmative. Any suggestion that Chick-Fil-A's proposed alteration and expansion of the existing legal nonconforming use on the Property is not consistent with the requirements of the ECBSB and PMC is therefore not correct and may not lawfully form any basis for your deliberations.

Chick-Fil-A will provide additional evidence of its diligent and conscientious efforts to comply with City regulations and its firm commitment to contribute to the local community when its representatives appear before you on February 19, 2014. In the meantime, please do not hesitate to contact me if you have any questions or require additional information with regard to this matter.

Very truly yours,



Patrick A. Perry

PAP



March 11, 2014

Chair Ann Marie Hickambottom
Mr. Vince Farhat
Mr. Greg Jones
Mr. Mark Persico
Mr. Michael Williamson

175 North Garfield Avenue
Pasadena, California 91101

RE: **Board of Zoning Appeals (BZA) Hearing, March 19, 2014**
MCUP#6088, PLN2013-00337
Applicant's Response to MCUP Criteria and Hearing Officer's Findings of Fact.

Dear Members of the Pasadena Board of Zoning Appeals:

Please accept the attached "Response to MCUP Criteria and Hearing Officer's Findings of Fact" with exhibits in preparation for the Board of Zoning Appeals hearing scheduled for March 19, 2014.

In summary, the proposed Chick-fil-A will utilize the existing drive-thru, expand the building square footage, and enhance the current landscaping. The Minor Conditional Use Permit for the legal nonconforming use to allow the expansion, [MCUP #6068, PLN 2013-00337], was approved by the City of Pasadena's Hearing Officer, Ms. Shoghig Yepremian on December 10, 2014. Although the East Colorado Specific Plan prohibits "new drive-through restaurants within the (Specific) area", it does not prohibit or even limit the expansion or increase of area, space, or volume occupied or devoted to the nonconforming use.

Section 17.71.030A.1 of the Pasadena Municipal Code ("PMC") allows a legal nonconforming use to be maintained and continued, provided there is no increase or enlargement of the area, space, or volume occupied or devoted to the nonconforming use, except as otherwise allowed by the PMC. However, PMC Section 17.71.080E allows a legal nonconforming use to be altered and enlarged subject to the approval of Minor Conditional Use Permit. The proposed alteration and enlargement of the existing drive-through use fully complies with the City of Pasadena Planning and Zoning regulations regarding alteration and enlargement of legal nonconforming uses.

We look forward to the Board of Zoning Appeals hearing on March 19, 2014 where the merits of our proposal will be heard. If you have any questions or need any additional information, please do not hesitate to contact our Project Manager, Ed Hale, at (760) 884-7011.

Sincerely,

A handwritten signature in cursive script that reads "Jennifer M Daw".

Jennifer M Daw,
Development Supervisor



Hearing Officer's Findings:

1. The proposed use is allowed with a Minor Conditional Use Permit within the applicable zoning district and complies with all applicable provisions of the Zoning code in that the proposed expansion of an existing 3,094 sf restaurant building to 4,598 sf (net increase of 1,504 sf) and retaining the drive-through service. Any alteration or enlargement of non-conforming use is subject to review and approval of a Minor Conditional Use Permit, pursuant to Zoning Code Section 17.71.080E. The proposed project meets all applicable development standards, including setbacks, height limit, parking, loading, queuing, and litter control.

Applicant's Response:

- According to an ALTA/ACSM Land Title Survey¹ the actual square footage of the existing Burger King restaurant is 3,150 sq ft. (3,094 sf was obtained from the Los Angeles County Tax Assessor property records). This reduces the project scope slightly from what was originally reported – with a net increase of only 1,448 sf.
- The East Colorado Specific Plan does not prohibit expansion of existing non-conforming uses.
- Neither the Pasadena Zoning Code nor the E. Colorado Specific Plan delineates limits to the expansion of existing non-conforming uses.
- Conventional practice among municipalities is to allow up to and including 50% increase in length, width, or total square area without defining the resulting building as a new building (and hence, a new use.) This is entirely consistent with the guidance provided to us by the planning personnel with whom we spoke and we confirmed this criterion with the building department prior to commencing with our design.
 - The nominal width of the building increases by only 16% (from 50' to 58')
 - The nominal length of the building increases by only 25% (from 64' to 80')
 - The total square footage increases by only 46% (from 3,150 sf to 4,598 sf)
- The Pasadena Building Department confirmed they would consider the proposed scope of work as a “renovation and construction of the proposed 4,700 sf building and not a new building square footage of 4,598 square feet [Exhibit 1]”².

¹ Joseph C. Truxaw and Associates, Nov 28, 2011

² E-mail from Johnny Lee, Plans Examiner, dated 4/9/2013. At the time of the inquiry, the applicant considered expanding the existing building to 4,700 sf. The final design proposal was modified to expand to only 4,598 sf.

Hearing Officer's Findings:

2. *The location of the proposed use complies with the special purposes of this Zoning Code and purposes of the applicable zoning district in that...*the proposed expansion of an existing Formula Fast Food Restaurant, Drive-Through Business, Restaurant ('Burger King') to be operated by another company ('Chick-Fil-A') will not change the existing land use. The new restaurant operator shall meet all applicable development standards and operational requirements of the Zoning Code and the use is compatible with other established neighborhood commercial uses in the vicinity. The use complies with the 500-foot distance separation requirement from a park and recreation facility, or another fast food or formula fast food restaurant with drive-through service. The project site, however, is less than 100 feet of a public school, Pasadena City College. Although the distance from a school is less than the minimum 500 feet separation, the restaurant's distance from PCC is a legal, non-conforming standard and may be continued without a specific separate entitlement.

Applicant's Response:

- The Pasadena Zoning Code defines "public and private schools" to include only schools up through 12th grade. All post-secondary schools, including colleges and technical schools are not included in this definition. Therefore, it is NOT less than the minimum standard and is in fact fully conforming.

Hearing Officer's Findings:

3. *The proposed use is in conformance with the goals, policies, and objectives of the General Plan and the purpose and intent of any applicable specific plan in that the proposed use is consistent with Objective 10, Diverse Economy, of the Land Use Element of the General Plan. Allowing the use in the project site will promote a diverse economy base and long-term economic contribution to the City. The existing Formula Fast Food Restaurant, Drive-Through Business, Restaurant has been in operation since 1976 and has provided numerous jobs to local residents and has contributed to the local economy and to the City with no major negative impacts to the adjacent uses in the past 37 years.*

Applicant's Response:

- The proposed construction and site modifications will provide over 300 part-time and full-time employees.
- Once operational, Chick-fil-A will employ approximately 60 full and part time employees – a tremendous opportunity for a number of the college students attending Pasadena City College and other members of the local community.
- The proposed use is consistent with *Objective 10, Diverse Economy, of the Land Use Element* of the current General Plan³ in that:
 - Policy 10.1 identifies East Colorado Blvd as a targeted area for development;
 - Policy 10.3 states that it shall be the city's policy to "support the continuation or expansion of existing business in harmony with their surroundings ...;"
 - Policy 10.6 states that it shall be the city's policy to "recruit new businesses to provide retail and other services, and employment and other opportunities for Pasadena residents and visitors."
- Additional Objectives within the Land Use Element of the General Plan that are met with this proposal are as follows:
 - Objective 11, Policy 11.6 states that it shall be the city's policy to "Create opportunities for entrepreneurial activities that generate new employment and job training opportunities suitable to the existing and potential skill levels of unemployed and underemployed residents of areas such as Northwest Pasadena;"
 - Objective 12, Policy 12.1 states that it shall be the city's policy to "Encourage retail and sales-producing businesses to remain, expand in, or come to, Pasadena and promote healthy retail areas."
- That the existing formula fast food restaurant has been contributing to the local economy for 37 years without negative impacts to the adjacent uses is commendable, as Chick-fil-A's proposal heralds an even better result in the neighborhood.

³ Pasadena General Plan, Land Use Chapter, updated in 2004

Hearing Officer's Findings:

4. *The establishment, maintenance, or operation of the use would not, under the circumstances of the particular case, be detrimental to the health, safety, or general welfare of persons residing or working in the neighborhood of the proposed use in that the proposed expansion of the existing Formula Fast Food Restaurant, Drive-Through Business, Restaurant ('Burger King') and proposed to be operated by another company ('Chick-Fil-A') has been operating from the site since 1976. The project does not involve the change in use. The new restaurant building will be larger in size than the existing building; however, it will be subject to the current applicable requirements of the Building Code, Fire Code, Zoning Code, Public Works [and] Health Code.*

Applicant's Response:

- The Applicant has no additional comments and fully supports the Hearing Officer's Findings of Fact regarding this criterion.

Hearing Officer's Findings:

5. *The use, as described and conditionally approved, would not be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City in that the Formula Fast Food Restaurant, Drive-Through Business, Restaurant ('Burger King'), to be operated by another company ('Chick-Fil-A') has been operating from the site since 1976 and for 37 years, the use was not detrimental or injurious to the surrounding uses including the single-family and multi-family residential uses to the south of the site. The use is compatible with the adjacent commercial, public school (Pasadena City College) and residential uses in the neighborhood and will not detrimentally affect the surrounding area.*

Applicant's Response:

- The Applicant has no additional comments and fully supports the Hearing Officer's Findings of Fact regarding this criterion.

Hearing Officer's Findings:

6. *The design, location, operating characteristics, and size of the proposed use would be compatible with the existing and future land uses in the vicinity in terms of aesthetic values, character, scale, and view protection.* The existing Formula Fast Food Restaurant, Drive-through Business, Restaurant ('Burger King') was established in 1976. The proposed expansion and operation by another company ('Chick-Fil-A') will be slightly larger in size than the existing building. The primary use will remain unchanged. The project site provides sufficient lighting to ensure a safe and well-lit area for dine-in and drive-through customers. The primary operating characteristics of the site will remain unchanged as a Formula Fast Food Restaurant, Drive-Through Business, Restaurant ('Burger King'). The project will not result in any negative aesthetic impacts to the neighborhood. The existing building is 37 years old and is in need of an aesthetic facelift, which will improve the aesthetic values and character of the neighborhood.

Applicant's Response:

- If property owner is not allowed to expand and improve the building and site as proposed, the property will continue to be used and operate as a formula fast-food restaurant with drive-thru.
- The proposed modifications to the existing building and site will greatly enhance the aesthetic impact to the neighborhood by providing updated architectural façade treatments and enhanced landscaping.
- The Traffic Impact and Queuing studies show the scale of drive-through operations will not significantly impact the area with respect to traffic impact. In addition, the multi order point will greatly improve the efficiency of the drive-through operation, shortening the amount of time idling vehicles will be on the site.⁴
- The building exterior does not negatively impact view protection in that no coveted views are impinged in any way.
- With respect to scale:
 - The surrounding buildings, including those on the college campus, the retail buildings on the north side of E. Colorado Blvd at the intersection at Bonnie Ave, and the large retail store immediately adjacent to the east of the subject property, are all considerably larger in scale than the 3,092 sf Burger King, which is both smaller and shorter than the surrounding buildings. It appears out of place both because of its diminutive stature and appearance. The architecture is dated; the condition of the building is rapidly deteriorating; and the bright primary colors are out of place, especially adjacent to an institution of higher learning (Pasadena City College).
 - The proposed Chick-fil-A building will "hold its own" among its neighbors will be much more in line with the existing buildings and the design guidelines for the East Colorado Specific Plan.

⁴ Traffic Impact Analysis by Overland Associates, Oct 2013; Queuing Analysis by TJW Engineering, Sept 2013.

- Please see "Exhibit 2" – computer renderings showing eye level and bird's eye views of the scale of the existing and proposed buildings.
- This criterion is about how the design, location, operating characteristics, and size of the proposed use **are compatible with existing and future land uses in the vicinity** in terms of aesthetic values, character, scale, and view protection. It is not about how the proposed use is consistent with a subjective interpretation of the city's earlier intentions for future use
- The proposed project is entirely consistent with existing and future uses in the vicinity in that the existing code language **assumes** continuous and future drive-through use for each existing restaurant presently providing drive-through service. If it were not so, and if the city had intended to eliminate existing non-conforming uses through attrition, then the city council could easily have done so with different or additional provisions in the applicable Specific Plan.
 - To wit: the *North Lake Specific Plan ("NLSP")*, implemented in 1997 and modified in 2007, contains specific provisions and exclusions for expanding non-conforming uses and specifically addresses the question of whether drive-thru businesses may be expanded. Please see "Exhibit 3", an excerpt from the NLSP, Section 17.34.030, which contains these provisions.
 - **The conspicuous absence of similar language in the East Colorado Specific Plan demonstrates that there was not any specific intent to limit the future expansion of existing non-conforming drive-through operations.**

Hearing Officer's Findings:

7. *The proposed parking and circulation plan will provide adequate area for safe queuing and maneuvering of vehicles, and the site design will provide adequate buffering of the use from adjoining land uses in that a queuing analysis was conducted for the project by TJW Engineering, Inc. in September 2013. The study determined that the side-by-side drive-through lanes will result in a more streamlined ordering process, which is an improvement to the current conditions. The study concludes that as designed, the drive-through lanes will provide sufficient queuing space to accommodate the anticipated drive-through vehicles during the peak period without spilling back into the parking lot aisles. The project is in compliance with drive-through queuing requirement. The proposed parking and circulation plan will provide adequate area for safe queuing and maneuvering of vehicles.*

Applicant's Response:

- The applicant has agreed to prohibit left turns into the northern driveway on Bonnie Avenue, thereby increasing the efficient flow of traffic away from the intersection of Bonnie Ave and E. Colorado Blvd. Also, the project proposes to limit the drive thru exit onto E. Colorado Blvd to right turn only.

Hearing Officer's Findings:

8. *The proposed location of the drive-through business will not result in adverse impacts upon the vicinity after giving consideration to a litter clean-up plan, the hours of operation, and the site plan in that* the proposed expansion of the existing restaurant to be operated by another Formula Fast Food Restaurant, Drive-Through Business, Restaurant ('Chick-Fil-A') proposes to maintain the same operating hours as the current Burger King, which are 6:00 am to 11:00 pm Monday to Friday, and 6:00 am to 1:00 am Saturday, and will be closed on Sunday. As conditioned in this report, this will not result in any adverse impact on the adjacent uses. A Litter Clean-up Plan indicates that four trash bins are strategically located throughout the property to ensure that trash is properly disposed of, and that the entire site shall be maintained in a clean and orderly manner.

Applicant's Response:

- The Applicant has no additional comments and fully supports the Hearing Officer's Findings of Fact regarding this criterion.

From: [Lee, Johnny](#)
To: ["ehale@4qdev.com"](mailto:ehale@4qdev.com)
Subject: 1700 E. Colorado Blvd., Pasadena
Date: Tuesday, April 9, 2013 9:38:13 AM
Attachments: [image001.png](#)

Ed,

After discussing with the building official, the project description will be "Renovation & Construction of Restaurant @ 4700 S/F (Chick-fil-A)". So it will not be viewed as a new building.

Hope that answers your questions.

THE CITY OF PASADENA

Johnny Lee

Plans Examiner

Planning & Community Department

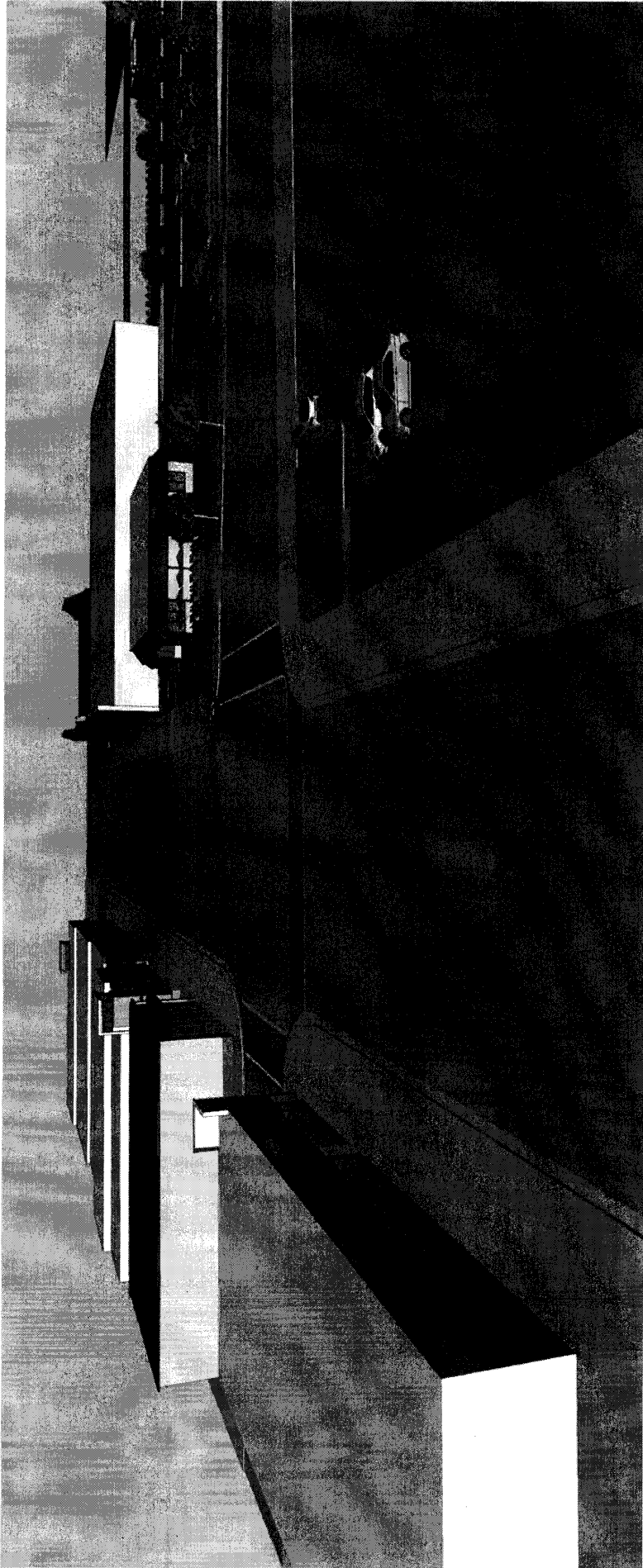
Building & Safety Division

175 N. Garfield Ave., 1st Flr Sp 126

P: (626) 744-6887

F: (626) 396-7659

johnnylee@cityofpasadena.net



BIRD'S EYE VIEW

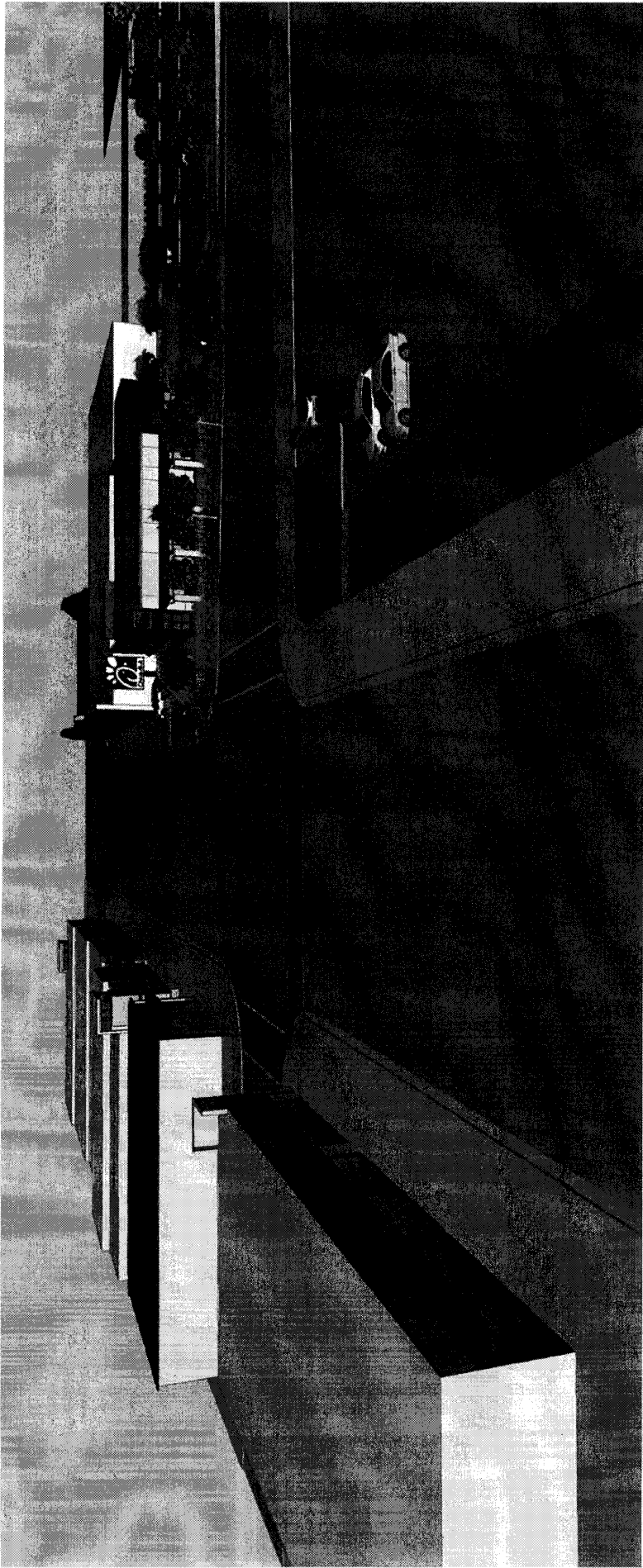


STREET VIEW RENDERING
Pasadena, California

03/14 Rendering

3-0-04

C · R · H · O
Architecture Interior Planning
185 South W. Street Suite 200
Tempe, California 85282
714.832.1834
FAX 714.832.1935



BIRD'S EYE VIEW

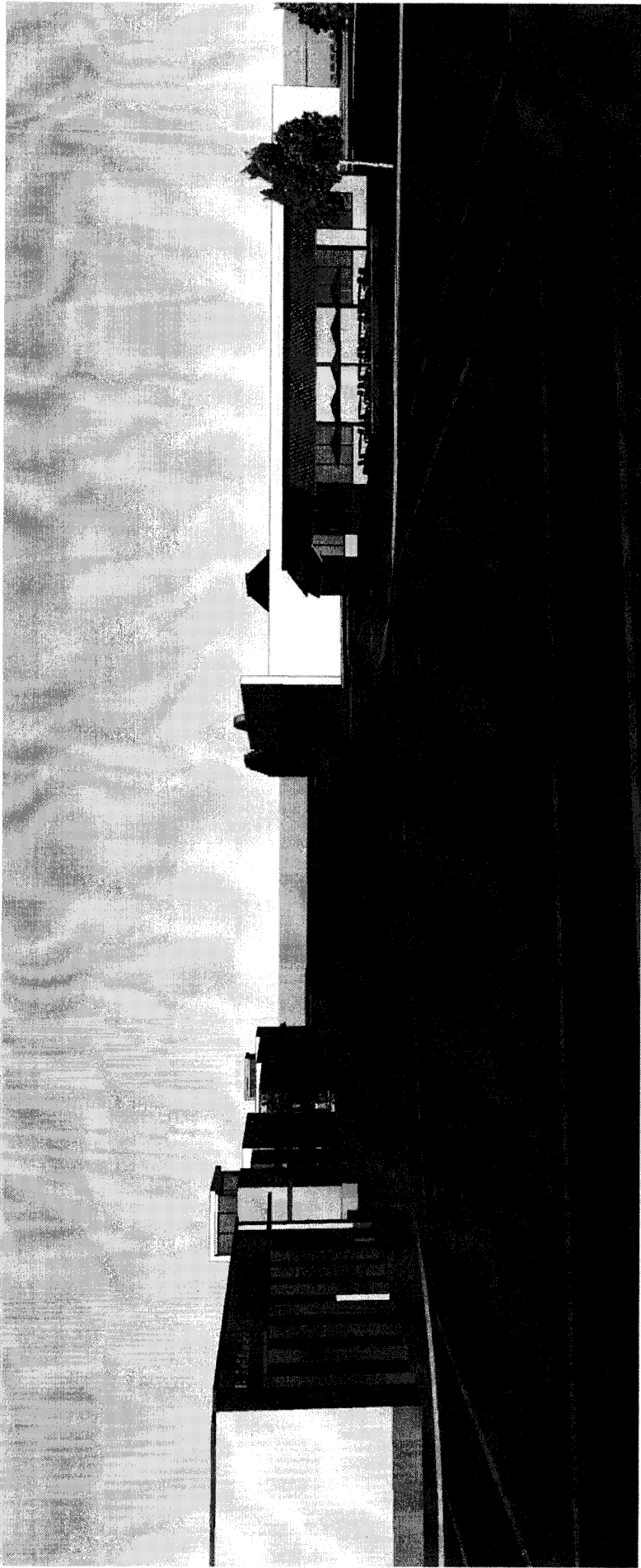


STREET VIEW RENDERING
Pasadena, California

1/24/14 Rendering

4-3-14

C · R · H · O
Architecture · Interior · Planning
195 South "C" Street Suite 200
Essex, California 92729
714.832.7634
FAX 714.832.1930



EYE LEVEL VIEW

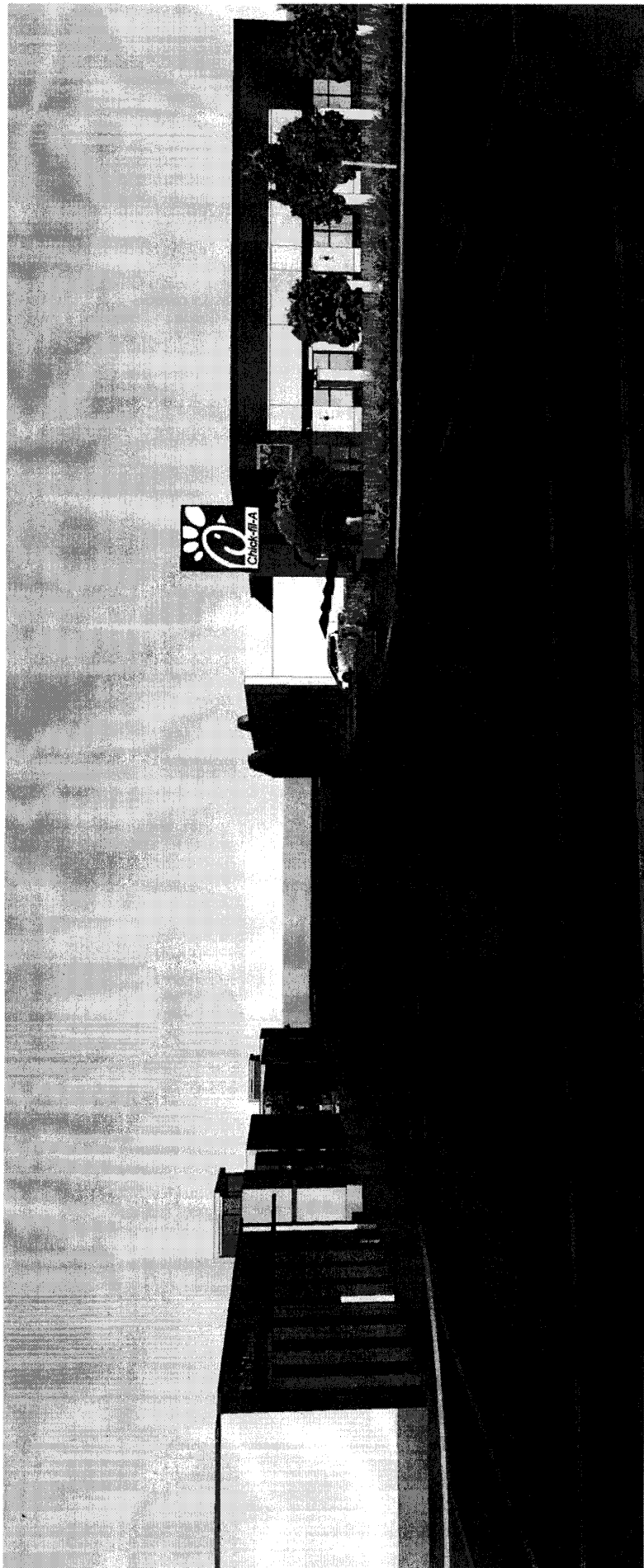


STREET VIEW RENDERING
Pasadena, California

02246 Rendering

3-3-14

C · R · H · O
Architecture · Interiors · Planning
195 South 'C' Street Suite 203
Tempe, California 85283
760.832.1034
FAX 760.832.1910



EYE LEVEL VIEW



STREET VIEW RENDERING
Pasadena, California

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3/14

C · R · H · O

Architecture · Interiors · Planning
195 South "C" Street Suite 200
Tustin, California 92780

714 832 1034

FAK714 832 1910

**Relevant Excerpt from North Lake Specific Plan
Implemented June 1997, Amended June 2007**

17.34.030 - SP-1 Allowable Land Uses and Permit Requirements

- B. **Nonconforming uses.** Except as modified in this Section, the provisions of Chapter 17.71 (Nonconforming Uses, Structures, and Parcels) shall apply to nonconforming uses in the overlay district.
1. **Expansion prohibited.** The following uses shall not be expanded:
 - a. Mini-malls;
 - b. Vehicle services - service stations;
 - c. Vehicle services - vehicle/equipment repair;
 - d. Vehicle services - sales and leasing limited;
 - e. Vehicle services - vehicle storage;
 - f. Vehicle services - vehicle washing/detailing and vehicle washing/detailing, small scale; or
 - g. Commercial off-street parking.
 2. **Expansion defined.** For the uses listed above in subsection 1, expansion or enlargement is prohibited. The use is expanded if any of the following occurs:
 - a. Enlargement or expansion of the gross floor area;
 - b. The paved parking area serving the use is increased;
 - c. One of the following occurs:
 1. Increasing the number of fueling positions for a service station;
 2. Increasing the number of work stations for vehicle equipment repair; or
 3. Adding or changing a service at a service station or vehicle/equipment repair use that was not previously offered, including an auto wash or mini-mart.
 3. **Allowed Alterations.** The following changes are allowed:
 - a. Modernization of equipment;
 - b. Reconfiguration of the parking in order to provide a more efficient plan;
 - c. Modification of existing landscaping or new landscaping to accommodate a reconfiguration of the parking;
 - d. Modernization that is consistent with the intent of this subsection as determined by the Zoning Administrator.
 4. **Alterations.** Buildings housing any of the uses listed in Subsection B.3.a may be altered according to the provisions of Chapter 17.71 (Nonconforming Uses, Structures, and Parcels).
- C. **Drive-through businesses.** The number of queuing positions or service windows for any use that provides drive-through services may be increased with the approval of a conditional use permit; however, the gross square footage of such business shall not be increased. A drive-through business may be completely demolished and rebuilt with the approval of a conditional use permit as long as the square footage of the new building is not more than the building proposed to be demolished.

If the city had intended to prohibit or limit the expansion of existing nonconforming drive through uses in the East Colorado Specific Plan area, it could easily have done so with language similar to that contained in the North Lake Specific Plan.