



# **CITY COUNCIL AGENDA REPORT**

MEETING DATE: SEPTEMBER 7, 2004

ITEM NUMBER:

**SUBJECT: APPEAL OF CONDITIONAL USE PERMIT PA-04-21  
1045 EL CAMINO DRIVE, COSTA MESA**

**DATE: AUGUST 26, 2004**

**FROM: DEVELOPMENT SERVICES DEPARTMENT – PLANNING DIVISION**

**PRESENTATION BY: WENDY SHIH, ASSOCIATE PLANNER**

**FOR FURTHER INFORMATION CONTACT: WENDY SHIH, ASSOCIATE PLANNER 714-754-5136**

## **RECOMMENDED ACTION**

Conduct public hearing and either uphold, reverse, or modify Planning Commission's decision.

## **BACKGROUND**

At their meeting on July 26, 2004, by a vote of 2 to 1 (Bruce Garlich voting no, Katrina Foley abstained, and Eric Bever absent), Planning Commission denied Planning Application PA-04-21 to modify an existing conditional use permit to discontinue the car wash and gasoline sales and to become solely an automotive repair facility at the above address. The Planning Commission felt the change in use is incompatible with other (residential) developments in the same general area and that it is not in conformance with the General Plan designation for the property (Medium Density Residential). Daniel Carlton, representing the business owner as well as the property owner, appealed Planning Commission's decision to deny the application because he believes that there has not been a change or intensification of use on the property.

## **SITE HISTORY**

The property currently contains an automotive repair facility in a former gasoline service station building, and is located adjacent to a neighborhood commercial center, surrounded by El Camino Drive to the north, Mendoza Drive to the west, and Coronado Drive to the south. The properties to the north and south are residentially zoned and developed, the property to the west is commercially zoned and developed, and to the east is a nonconforming commercial center in an R2-MD (Multiple-Family Residential, Medium Density) zone.

In 1964, a conditional use permit (C-254) was approved to allow a service station (gasoline sales and auto repair) on the property. Conditional Use Permit PA-87-204(A) was approved

in 1988 (amendment in 1996), for an expansion of the service station to include an automated car wash facility. In February 2004, the underground tanks, gasoline pumps and canopies were removed. A case closure letter from the County of Orange Health Care Agency was received on February 9, 2004, stating that site remediation had been completed. The car wash facility is also no longer operating.

Since the original conditional use permit (CUP) approved a gasoline service station with incidental automotive repair and car wash, upon learning that gasoline tanks and pumps had been removed, City staff advised the owner that he must either discontinue the use or apply for modification of the CUP. An amendment to the CUP would be necessary to recognize the change in use to auto repair and service only, including smog check and certification. Site design (including number of driveways and amount of landscaping) and conditions of approval are generally different for gasoline service stations than for automotive repair facilities.

The subject site (and adjacent commercial center) was zoned C1 (Local Business District) with a General Plan designation of Neighborhood Commercial. On April 2, 2001, City Council approved a rezone of the properties to R2-MD with a General Plan designation of Medium Density Residential. Therefore, the commercial uses are now nonconforming.

## **DISCUSSION**

According to the Zoning Code (Sec. 13-204), any nonconforming use may be changed to another nonconforming use provided that the change does not expand or intensify the nonconforming use.

As mentioned above, all underground tanks, gasoline pumps and canopies have been removed. The service garage building (approximately 1,500 sq.ft.) will remain unchanged and the former car wash tunnel (approximately 400 sq.ft.) will be used for storage. Since the auto repair building was designed as an incidental use to the gasoline station, staff felt continuation of its use without the gasoline sales and car wash would lessen the impact on nearby residential properties, assuming no significant increase in the intensity of repair services. The applicant states that the majority of his income has always been generated by the auto repair and service portion of the business, and that the "gasoline sales accounted for no more than 25% of the gross profits".

The Planning Commission felt that changing the use to solely auto repair and service constitutes an intensification of use on the property. They believe that elimination of the gasoline sales results in an increase of auto repair services, which would constitute expansion of a nonconforming use.

If the application is approved, staff recommends site improvements to make the development more compatible with the area. There are currently three driveway entrances onto the property; two on El Camino Drive and one on Mendoza Drive. Since the additional circulation and fueling stations required for gasoline sales are no longer needed, staff recommends a condition to remove the driveway closest to the intersection on El Camino Drive and to improve the northwest corner of the property (between the two remaining

driveways) with a minimum of 15 ft. wide landscape planter. A condition is also recommended to provide a total of eight parking spaces (4 spaces/1,000 sq.ft. of building area) to serve the auto repair use. There are currently four parking spaces located on the adjacent property serving this site and one handicap space in front of the building. Approval of this application would be contingent upon the continued availability of the four parking spaces on the adjacent lot unless a total of eight parking spaces can be provided on-site. A site/landscaping/parking improvement plan would be required for Planning staff approval.

### **FISCAL REVIEW**

Fiscal review is not required.

### **LEGAL REVIEW**

Please refer to the confidential memo from the City Attorney's Office provided under separate cover.

### **ENVIRONMENTAL REVIEW**

Pursuant to Section 15301 (Existing Facilities) of the California Environmental Quality Act (CEQA) Guidelines, this project is exempt from CEQA.

### **ALTERNATIVES**

The City Council may:

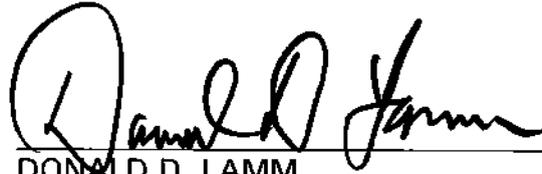
1. Approve modification of the CUP and allow continued operation of the auto repair business, subject to additional conditions,
2. Approve modification of the CUP and allow continued operation of the auto repair business without additional conditions, or
3. Deny modification of the CUP and direct the Planning Commission to schedule a hearing to revoke the existing CUPs.

### **CONCLUSION**

Since the property was rezoned from commercial to residential, the gasoline service station with automotive repair and car wash became legal nonconforming uses. Upon removal of the underground tanks and closure of the car wash tunnel, the gasoline sales and car wash portion of the business lost their legal nonconforming status, which means they cannot be reinstated. Since this left the business with an auto repair use only, it no longer complied with the original CUP. Staff advised the owner that he must either close the business or apply for modification of the CUP. He chose to apply for modification of the CUP, and that is the subject of this report. The Planning Commission voted to deny the requested modification, because they felt continued operation as an auto repair business only would be incompatible with the surrounding residential area.



WENDY SHIH  
Associate Planner



DONALD D. LAMM  
Deputy City Mgr. – Dev. Svs. Director

Attachments:        Zoning/Location Map  
                         Plans  
                         Photo Exhibit  
                         Draft City Council Resolution  
                         Exhibit "A" – Draft Findings  
                         Exhibit "B" – Draft Conditions of Approval  
                         Appeal application  
                         Minutes of Planning Commission meeting of July 26, 2004  
                         Planning Division Staff Report  
                         Planning Commission Resolution and Findings  
                         Correspondence from Neighbors

Distribution:        City Manager  
                         City Attorney  
                         Assistant City Attorney  
                         Public Services Director  
                         City Clerk (2)  
                         Staff (4)  
                         File (2)

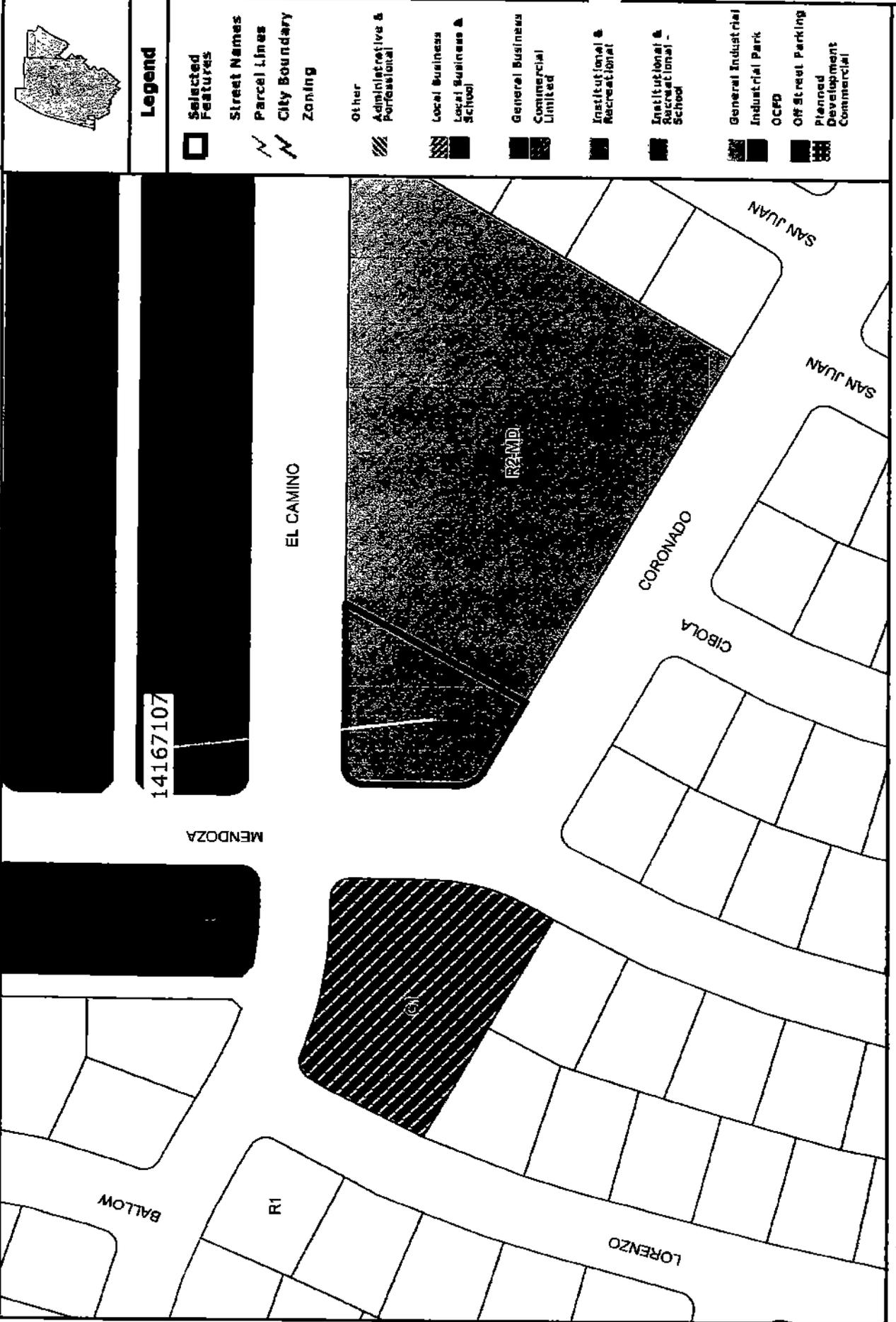
                         Carl Reinhart  
                         El Camino Partners  
                         17871 Mitchell, Ste. 100  
                         Irvine, CA 92614

                         Daniel Carlton  
                         2600 Michelson Dr., Ste. 1120  
                         Irvine, CA 92612

File: PA0421CC090704	Date: 082604	Time: 1130a.m.
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# ZONING/LOCATION MAP

1045 El Camino Drive



14167107

## Legend

- Selected Features
- Street Names
- Parcel Lines
- City Boundary
- Zoning
- Other
- Administrative & Professional
- Local Business
- Local Business & School
- General Business
- Commercial Limited
- Institutional & Recreational
- Institutional & Recreational - School
- General Industrial
- Industrial Park
- OCPD
- Off Street Parking
- Planned Development
- Commercial

# AERIAL PHOTOGRAPH

1045 El Camino Drive



## Legend

- Selected Features
- Street Names
- Parcel Lines
- City Boundary
- Ortho Photography
- Parcels

El Camino Drive

Mendoza Drive

Coronado Drive

EXISTING PAVE TO PAVEN

EX. SODA DRAM

VAN ACCESSIBLE HANDICAP PARKING STALL PATH OF TRAVEL: 2% SLOPE FROM STALL TO ROAD 2% CROSS SLOPE - 1/4" 2% GRADE CHANGE FROM EXTERIOR TO INTERIOR.

HANDICAP PARKING SIGN 8'x11" FOR 2000' SECTORS IN 2000'

Existing Auto Service

Storage area

EXISTING CLEANING

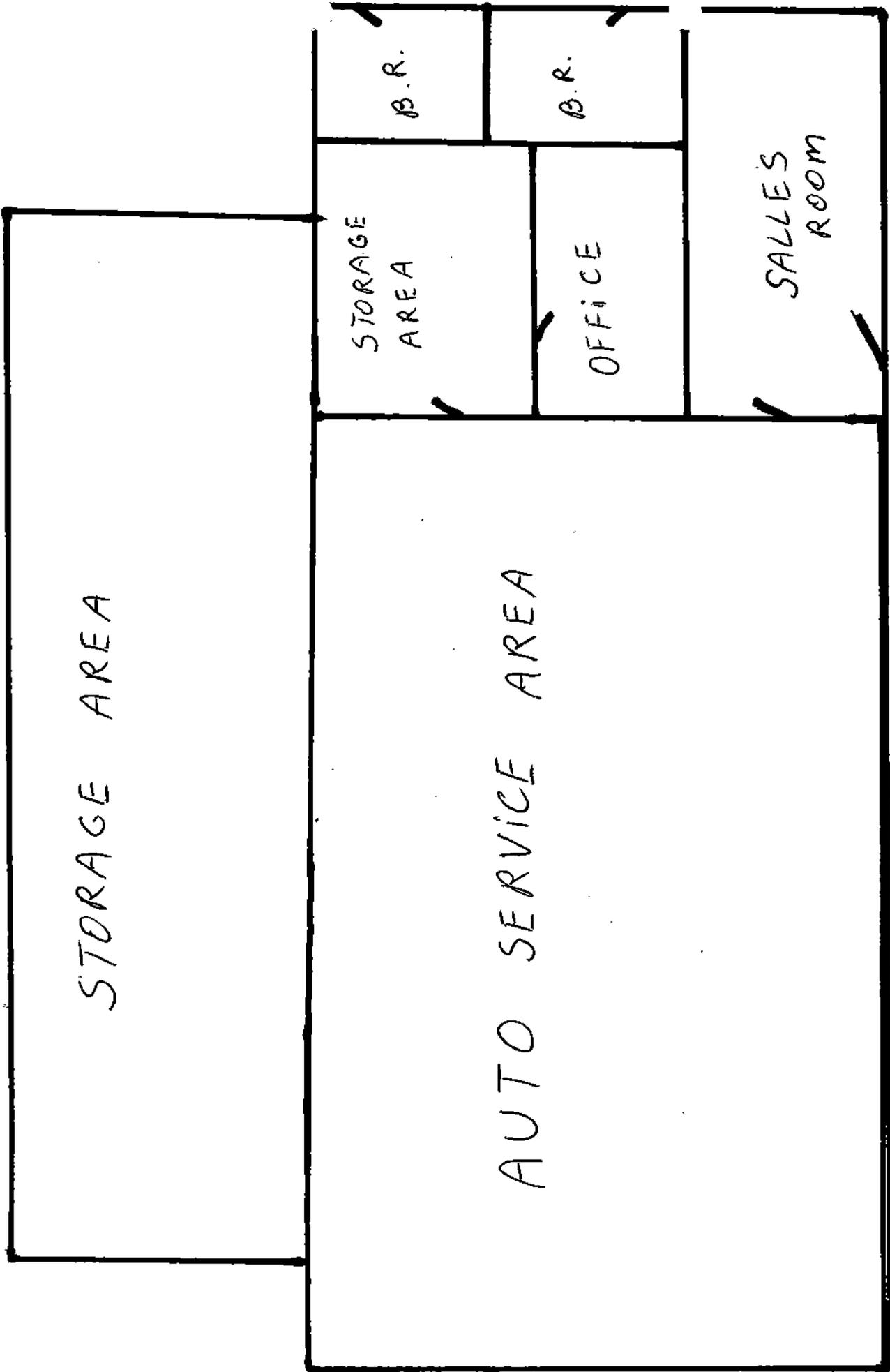


NOTE  
ADDITIONS, DELETIONS, OR CORRECTIONS SHALL BE APPROVED BY THE PLANNING DIVISION

Stippling, Landscaping, and other hatched areas are to be removed.  
**APPROVED**  
CITY OF COSTA MESA  
PLANNING DIV.  
SUBJECT TO BLDG. DEPT. REG.  
BY *Usher* DATE 1/25/00

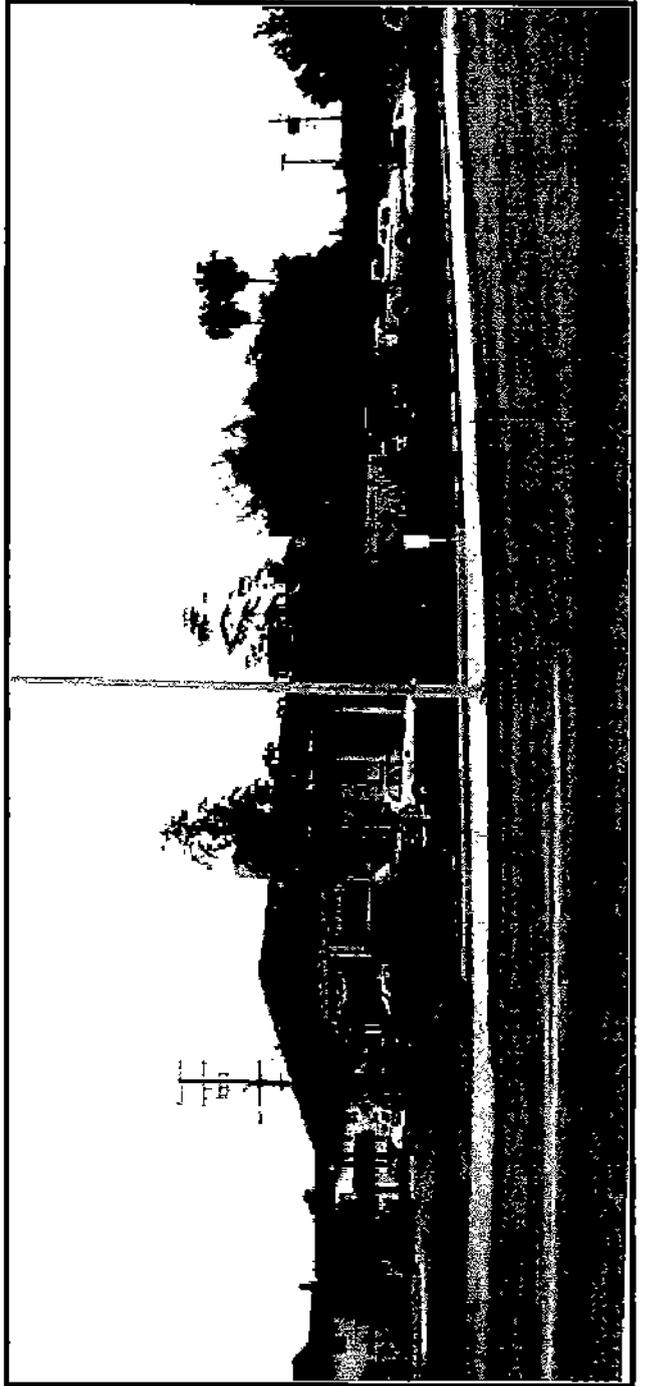
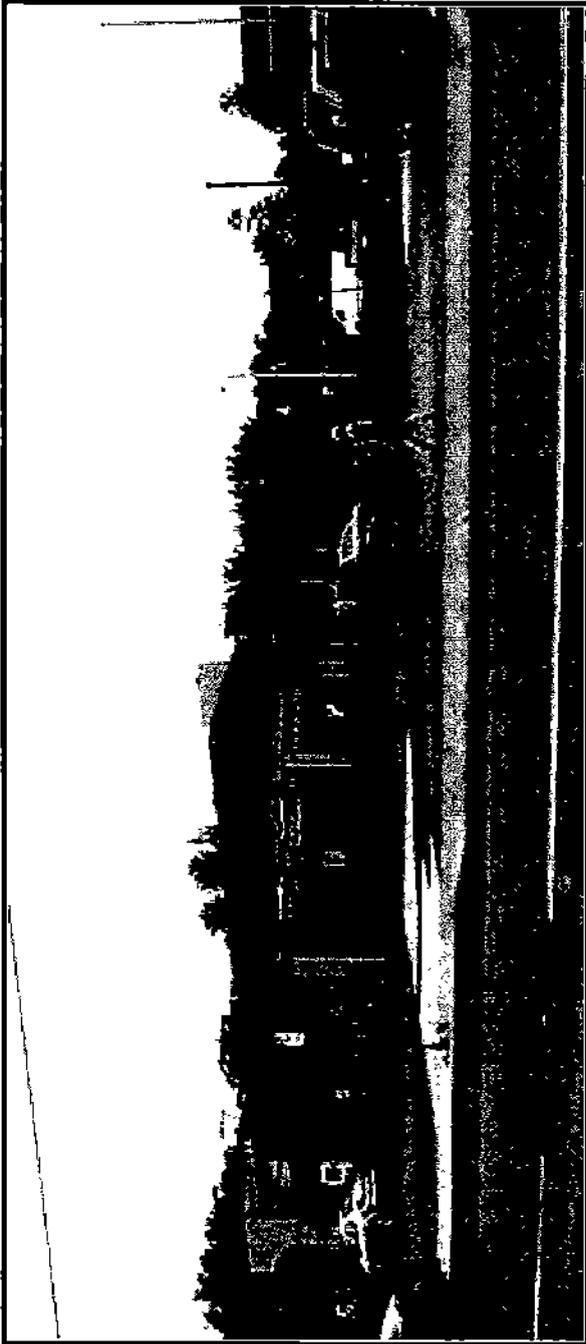
PA - 87-204A

PERFORM INSPECTION FOR SPECIFIC REQUIREMENTS NEED BE REQUIRED IN ORDER TO RELEASE OF PERMITS TO CONSTRUCTION CA 1000000  
*Landscaping*



FLOOR PLAN

**SITE PHOTOS**



RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
COSTA MESA DENYING PLANNING APPLICATION PA-04-  
21**

THE CITY COUNCIL OF THE CITY OF COSTA MESA HEREBY RESOLVES AS  
FOLLOWS:

WHEREAS, an application was filed by Daniel Carlton, representing Carl Reinhart, owner of real property located at 1045 El Camino Drive, requesting approval to modify an existing conditional use permit to discontinue the car wash and gasoline sales and to become solely an automotive repair facility; and,

WHEREAS, duly noticed public hearings were held by the Planning Commission on June 28, 2004, and July 26, 2004.

WHEREAS, the item was appealed to the City Council on August 2, 2004, and a duly noticed public hearing was held by the City Council on September 7, 2004;

NOW, THEREFORE, BE IT RESOLVED that, based on the evidence in the record and the findings contained in Exhibit "A", the City Council of the City of Costa Mesa hereby **DENIES** Planning Application PA-04-21 with respect to the property described above.

**PASSED AND ADOPTED this 7<sup>th</sup> day of September 2004.**

\_\_\_\_\_  
Mayor of the City of Costa Mesa

ATTEST:

\_\_\_\_\_  
Deputy City Clerk of the City of Costa Mesa

STATE OF CALIFORNIA)  
COUNTY OF ORANGE )ss  
CITY OF COSTA MESA)

I, JULIE FOLCIK, Deputy City Clerk and ex-officio Clerk of the City Council of the City of Costa Mesa, do hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the said City Council at a regular meeting thereof held on the 7<sup>th</sup> day of September 2004.

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Deputy City Clerk and ex-officio Clerk of the  
City Council of the City of Costa Mesa

**EXHIBIT "A"****FINDINGS**

- A. The information presented does not comply with Costa Mesa Municipal Code Section 13-29(g)(2) in that the proposed change of use, as conditioned, will not be more compatible with developments in the same general area. Granting the conditional use permit will be detrimental to the health, safety and general welfare of the public or other properties or improvements within the immediate vicinity. Specifically, the property will be more intensely used than before, without the gasoline sales and car wash. The recommended conditions of approval will not ensure that the operation will not be disruptive to residential uses or properties in the vicinity. The use is not in conformance with the current General Plan designation for the property (Medium Density Residential), and it does not comply with the Nonconforming Provisions with regard to allowable change of nonconforming use in nonresidential structures, because the degree of nonconformity will be increased.
- B. The proposed project does not comply with Costa Mesa Municipal Code Section 13-29 (e) because:
- a. The proposed use will not be more compatible and harmonious with uses both on-site as well as those on surrounding properties.
  - b. 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.
  - c. The planning application is for a project-specific case and does not establish a precedent for future development.
- C. 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.
- D. The project is exempt from Chapter XII, Article 3 Transportation System Management, of Title 13 of the Costa Mesa Municipal Code.

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
COSTA MESA APPROVING PLANNING APPLICATION PA-  
04-21**

THE CITY COUNCIL OF THE CITY OF COSTA MESA HEREBY RESOLVES AS  
FOLLOWS:

WHEREAS, an application was filed by Daniel Carlton, representing Carl Reinhart, owner of real property located at 1045 El Camino Drive, requesting approval to modify an existing conditional use permit to discontinue the car wash and gasoline sales and to become solely an automotive repair facility; and,

WHEREAS, duly noticed public hearings were held by the Planning Commission on June 28, 2004, and July 26, 2004.

WHEREAS, the item was appealed to the City Council on August 2, 2004, and a duly noticed public hearing was held by the City Council on September 7, 2004;

NOW, THEREFORE, BE IT RESOLVED that, based on the evidence in the record and the findings contained in Exhibit "A", the City Council of the City of Costa Mesa hereby **APPROVES** Planning Application PA-04-21 with respect to the property described above.

BE IT FURTHER RESOLVED that the Costa Mesa Planning Commission does hereby find and determine that adoption of this Resolution is expressly predicated upon the activity as described in the Staff Report for Planning Application PA-04-21 and upon applicant's compliance with each and all of the conditions contained in Exhibit "B". Any approval granted by this resolution shall be subject to review, modification or revocation if there is a material change that occurs in the operation, or if the applicant fails to comply with any of the conditions of approval.

**PASSED AND ADOPTED this 7<sup>th</sup> day of September, 2004.**

\_\_\_\_\_  
Mayor of the City of Costa Mesa

ATTEST:

\_\_\_\_\_  
Deputy City Clerk of the City of Costa Mesa

STATE OF CALIFORNIA)  
COUNTY OF ORANGE )ss  
CITY OF COSTA MESA )

I, JULIE FOLCIK, Deputy City Clerk and ex-officio Clerk of the City Council of the City of Costa Mesa, do hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the said City Council at a regular meeting thereof held on the 7<sup>th</sup> day of September 2004.

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Deputy City Clerk and ex-officio Clerk of the  
City Council of the City of Costa Mesa

**EXHIBIT "A"****FINDINGS**

- A. The information presented substantially complies with Costa Mesa Municipal Code Section 13-29(g)(2) in that the proposed change of use, as conditioned, will be more compatible with developments in the same general area. Granting the conditional use permit will not be detrimental to the health, safety and general welfare of the public or other properties or improvements within the immediate vicinity. Specifically, the property will be less intensely used than before, without the gasoline sales and car wash. The recommended conditions of approval will ensure that the operation will not be disruptive to residential uses or properties in the vicinity. The added landscaping at the northwest corner of the property will also improve the aesthetics of the property as viewed from the street intersection and increase its compatibility with the surrounding residential neighborhood. Parking will comply with current Code requirements and approval of the use is contingent upon availability of the existing 4 parking stalls provided off-site plus 4 parking stalls on-site unless a total of 8 parking stalls can be provided on-site to serve the automotive repair business. Although the use is not in conformance with the current General Plan designation for the property (Medium Density Residential), it complies with the Nonconforming Provisions with regard to allowable change of nonconforming use in nonresidential structures, and the degree of nonconformity will not be increased.
- B. The proposed project complies with Costa Mesa Municipal Code Section 13-29 (e) because:
- a. The proposed use will be more compatible and harmonious with uses both on-site as well as those on surrounding properties.
  - b. 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 have been considered.
  - c. The planning application is for a project-specific case and does not establish a precedent for future development.
- C. 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.
- D. The project is exempt from Chapter XII, Article 3 Transportation System Management, of Title 13 of the Costa Mesa Municipal Code.

**EXHIBIT "B"****CONDITIONS OF APPROVAL**

- Plng. 1. The conditional use permit herein approved shall be valid until revoked, but shall expire upon discontinuance of the activity authorized hereby for a period of 180 days or more. The conditional use permit may be referred to the Planning Commission for modification or revocation at any time if the conditions of approval have not been complied with, if the use is being operated in violation of applicable laws or ordinances, or if, in the opinion of the development services director or his designee, any of the findings upon which the approval was based are no longer applicable.
2. A copy of the conditions of approval for the conditional use permit must 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. A total of 8 parking stalls shall be available to serve the property. Approval is contingent upon continued availability of the existing 4 parking spaces off-site plus 4 on-site unless all 8 parking spaces can be provided on-site.
4. Close the drive approach at the northwest corner of the lot on El Camino Drive and replace with full-height curb, gutter, and sidewalk.
5. Provide a minimum 15 ft. continuous landscape strip at the northwest corner of the property, between the two driveways. This condition shall be completed under the direction of the Planning staff.
6. A site/parking/landscape plan shall be submitted reflecting the above conditions (no. 3-5). This condition shall be completed under the direction of the Planning staff.
7. All site improvements shall be completed by **December 31, 2004**.
8. The applicant shall contact the Planning Division to arrange for a Planning inspection of the site prior to the above date. This inspection is to confirm that the conditions of approval and code requirements have been satisfied.
9. There shall be no outdoor overnight storage of vehicles.
10. The use shall be limited to the number of vehicles that will not interfere with on- or off-site parking and circulation.
11. No queuing of customer vehicles within the public right-of-way shall be permitted.
12. No vehicles shall be parked/stored on the street or at the adjacent shopping center.
13. The use shall be conducted, at all times, in a manner to allow the quiet enjoyment of the surrounding neighborhood. The applicant and/or business owner shall institute whatever operational measures

are necessary to comply with this requirement.

14. Complaints regarding noise related to the operation of the use and/or violation of any of the operating conditions and restrictions shall be immediately remedied by the applicant.
15. The use shall be limited to the description in the staff report (auto repair/service including smog check and certification in the main building and storage in the former car wash building). No body work/repair, engine replacement/rebuilding, or vehicle working/detailing shall be permitted.
16. The freestanding sign for the auto service facility shall be repaired/replaced and maintained in good condition.
17. The hours of operation shall be limited to 8 a.m. to 6 p.m., Mondays through Fridays, and 8 a.m. to 2 p.m. on Saturdays. No work shall be permitted on Sundays.
- Eng. 18. Obtain a permit from the Engineering Division, at the time of development and then remove existing driveway on El Camino Drive and replace with full height curb and sidewalk at applicant's expense.
- Trans. 19. Close westerly drive approach on El Camino Drive with full height curb and gutter.

CITY OF COSTA MESA  
P.O. BOX 1200  
COSTA MESA, CALIFORNIA 92626  
APPLICATION FOR APPEAL OR REHEARING

RECEIVED  
CITY OF COSTA MESA  
FEE: \$ 810.00

Applicant Name Jack Sakzlyan 04 AUG -2 PM 2:06

Address 1045 El Camino Drive CITY OF COSTA MESA

Phone (949) 757-0707 Representing Business owner and property owner

Decision upon which appeal or rehearing is requested: (Give number of rezone, zone exception, ordinance, etc., if applicable, and the date of the decision, if known.) PA-04-21 July 26, 2004

Decision by: Planning Commission

Reason(s) for requesting appeal or rehearing:

See "Exhibit A" to Application for Appeal PA-04-21 July 26, 2004, attached hereto.

Date: 8/2/04 Signature: [Signature] Attorney for Jack Sakzlyan

For Office Use Only — Do Not Write Below This Line  
SCHEDULED FOR THE CITY COUNCIL/PLANNING COMMISSION MEETING OF:

## **EXHIBIT A**

### **APPLICATION FOR APPEAL Applicant Jack Sakzlyan PA-04-21 JULY 26, 2004**

The Planning Commission's decision to deny this Application was arbitrary and an abuse of their discretionary authority.

This is not an application for a new Conditional Use Permit (CUP), and the existing CUP has not been abandoned. There has been no change in the use of the business. The business has always been conducted as a service station (hence the name "Your Neighborhood Service Station"). The majority of its income has always been generated by its auto repair and service. Gasoline sales accounted for no more than 25% of the gross profits. When the gas tanks were removed earlier this year, it did not change the nature of the business. The City merely requested that the existing CUP be modified to reflect that dispensing gas and a car wash was no longer a part of the business.

A minority of the members of the Planning Commission improperly decided that a vote to deny this Application would somehow motivate the property owner to build homes as intended and requested in 2001. Their reasoning was that an appeal to the City Council would somehow force the issue. This is not a legitimate reason for a denial. It is not sufficient to merely change to the negative all of the City staffs' findings of approval, and send the parties on their way to appeal the decision.

No evidence was provided to justify a denial. Indeed, forcing Applicant out of literally the same business he has been in for almost ten years and boarding up the windows cannot be in the best interest of the neighborhood. It certainly will not force the property owner to build homes as intended any faster.

July 26, 2004

PLANNING APPLICATION  
PA-03-42

Mozayeni/Garrison

Planning Application PA-03-42 for John Garrison, authorized agent for ABCO Realty/Al Mozayeni, for a design review to construct a 26-unit residential town house project with variances from building height (2 stories, 27' allowed; 3 stories, 36' proposed), chimney height (29' allowed; 42' proposed), and off-street parking (84 spaces required; 58 spaces proposed), with a minor conditional use permit to allow up to 6 compact parking spaces, and a minor modification to reduce the front landscape setback (20' required; 16' proposed), located at 2013-2029 Anaheim Avenue in an R3 zone. Environmental determination: exempt.

Removed from calendar

The applicant requested this item be removed from the calendar for rescheduling at a later date.

The Chair called a break and the meeting resumed at 8:17 p.m.

CONDITIONAL USE PERMIT  
PA-04-21

Reinhart/El Camino Partners

The Chair opened the public hearing for consideration of Conditional Use Permit PA-04-21 for Daniel C. Carlton, authorized agent for Carl Reinhart/El Camino Partners, to modify an existing conditional use permit for a former gasoline service station to discontinue sales of gasoline and become solely an auto repair facility, located at 1045 El Camino Drive in an R2-MD zone. Environmental determination: exempt.

Commissioner Foley excused herself from this item because of a conflict of interest in that her home is within 500 feet of the subject property.

Associate Planner Wendy Shih reviewed the information in staff report and gave a presentation. She said staff is recommending approval by adoption of Planning Commission resolution, subject to conditions.

Ms. Shih informed the Commission that additional conditions were included in their packets to ensure that the repair work does not become more nonconforming in nature or volume. She said staff is also recommending a condition of approval to eliminate the driveway on El Camino Drive closest to Mendoza Drive, since gasoline sales no longer exist. Another condition to require a minimum 15' landscape area at that corner to improve the aesthetics of the site was also included. Ms. Shih advised that the proposed change in use with the recommended conditions of approval would not adversely affect the neighboring residential properties. However, if the conditional use permit is denied, the auto repair use would not be allowed to continue its operation. She pointed out that future residential development of the property, as a result of the rezone in 2001, is not a subject of this evening's agenda.

Senior Deputy City Attorney Marianne Milligan researched this matter and based on the existing case law, she said it would be difficult to find that the use of this property as a service station has been abandoned because of the continued use of the auto repair business. She said the municipal code allows a legal nonconforming use such as the auto repair business to be changed and gives the opportunity to impose additional conditions to bring that use into greater compliance and allows the business to be maintain under the present CUP. It is a choice of whether the Commission wants to regulate the auto repair business, or leave it unregulated.

In response to a question from Vice Chair Perkins, Mr. Shih explained that the original car wash area would be converted for storage as part of the auto repair service operation.

In response to a question from Commissioner DeMaio, Ms. Milligan explained that Planning Commission always has the option to deny the application, however, at that point in time, it would be necessary to set a public hearing to revoke the conditional use permit and then enforce the revocation.

Carl Reinhart, El Camino Partners, 17871 Mitchell, Irvine, stated that he was one of the managers of the entity that owns this property. In response to a question from the Chair, he stated that he does not object to the condition of approval. He said the responsibility for those rests with the tenant. The Chair reminded him, that was something between he and his tenant.

Mr. Reinhart said they purchased the property in 2000 and felt at the time, they would be able to negotiate with the tenants relocation or purchase of their businesses. At that point, they sought to have the property rezoned which was successful, but then many of the tenants determined that they didn't want to sell their business for what was originally discussed; consequently, it has not been economically viable for the partners to deal with the tenants and convert the property. He said they anticipate at a future time it will be viable. Mr. Reinhart stated that Jack Sakzylan, owner of "Your Neighborhood Service Station" operates this business at the center, and they would appreciate the Commission requiring the minimum conditions for the property because it is the intention of the partners to redevelop as soon as it is economically viable. He pointed out that when the tanks were removed a few months ago, it was done because the equipment was getting old and would take significant upgrades, which were not economically viable considering the amount of gas being pumped.

In response to the Chair, Mr. Reinhart stated that other tenants have leases and options for another ten years and some of those options, may or may not be exercised; it didn't appear that the tenants were interested in exercising any of the those options when the partners first spoke to them. After the property was rezoned, many of them decided to consider exercising those options. He said the partners believe that it will be economically viable to buy out those leases or to do something to acquire those businesses in a much shorter time span. He said in this case, the auto repair service tenant exercised an option he had to continue his business there for another 5 years.

In response to a question from Vice Chair Perkins regarding how many tenants are left at the center, Mr. Reinhart stated that there are about 10-12 tenants, with some on month-to-month leases and a few long-term leases (3 or 4 with considerable tenancy left). In response to another question from Vice Chair Perkins regarding not being able to move forward on the residential project until the year 2014, Mr. Reinhart stated that there are only 1 or 2 tenants with options for that period of time and he believed those businesses would exercise those options. In response to a question from the Chair regarding the options and the time period if they were not exercised, Mr. Reinhart felt it would be approximately 5-6 years from now. Further, he said they have not signed new leases with most of the tenants, at least not more than 2 years, and that there are only 1 or 2 large businesses in the center that have exercised an option to renew their leases. Vice Chair Perkins asked when the rezone was approved, and Ms. Shih stated it was April of 2001.

The applicant, Jack Sakzylan, 1045 El Camino Drive, Costa Mesa, stated that this business has been at the Center for over 40 years and has provided excellent service for the neighborhood. He said they removed the gas tanks and the dispensing equipment thinking that they were operating a cleaner and safer environment for the neighborhood and did not anticipate problems with the new CUP. He felt they had many neighbors supporting this business because it is reliable, and he did not believe removing the business from the corner would speed up the landlord's project as far as building homes there is concerned. If this business is going to sit there collecting dust, it won't be any better for the neighborhood. He asked the Commission to approve his application and allow them to continue their business. In response to the Chair, Mr. Sakzylan agreed to the

conditions of approval. The Chair reminded Mr. Sakzylan that some of the conditions deal with the hours of operation and prohibition of detailing on site.

Vice Chair Perkins asked Mr. Sakzylan if he had worked on the "overnight storage" problem since the last meeting and he responded that, if the cars are on his property, they are his cars and no cars are stored outside the property. Regarding the question raised previously about cars being parked on the street, research was done by the Planning Division and they were found not to be a part of his business; they belonged to a neighbor selling cars out of his home. Another issue was the business sign, and he has repaired the sign and is waiting for the lettering.

The Chair asked Mr. Sakzylan and Mr. Reinhart if they would be agreeable to a condition of approval that would cause the CUP to expire in 5 years, at the end of the current lease. They had no objections.

Martin Millard, 2973 Harbor Boulevard, Costa Mesa, opposed approval of the request. He suggested that if the partners/owners really wanted to be aggressive, they could start building homes around the existing tenants because it's done all the time. By approving the CUP, the Commission is allowing the automotive service to stay in business to create more foot-traffic for the center as a whole, so that the tenants that are there, will pick up more business with no incentive to ever get out of their leases.

Senior Deputy City Attorney advised that this application is not for a new CUP, but to amend the current CUP as allowed under code for a change of use.

Terri Breer, 956 Magellan Street; Jeffrey Wilcox, 924 Junipero Drive; David Stiller, 2879 Regis Lane; Michael D'Alessandro, 2734 Cibola Avenue; Michael Berry, 2064 Meadow View Lane; Judy Berry, 2064 Meadow View Lane; Scott Brown, 929 Junipero Drive; Sam Clarke, 3077 Coolidge Avenue; Beth Refakas, 320 Magnolia Street; Lisa Reide, 2747 San Carlos Lane; Costa Mesa, generally disagreed with staff's conclusions in the staff report, and that this was an example of one of the systemic conditions blocking the improvement efforts in the City by both the applicant and property owners. They made the following comments regarding this application: (1) The zoning code requires that Planning Commission decide whether a change to an auto repair facility is equally, or more appropriate, than a gasoline service station and a car wash; (2) It seems neither the business owner, nor the property owner is willing to take responsibility for any of the improvements; at a recent meeting with the homeowners board, one of the partners stated that they do not have the funds to implement the conditions, and the business owner, at the last public hearing stated that he does not have the funds to comply with the conditions; it was felt that on that basis, the application should be denied; (3) it is time that the partners realize the fact that money is at an all time low and the value of the property has probably doubled since they bought it, and should be incentive enough to get this project in the works; (4) one speaker said it is his understanding that the operator of this business was willing to relocate; (5) the neighborhood does not want to see this eyesore for another 5 years, and asked so how this benefits the City of Costa Mesa. (6) Another speaker said three years ago the owner of the property led the community to believe that new homes were soon to be erected on that property once it was rezoned. He described the last few weeks of how once again, the neighborhood has been deceived by the ownership of this property, who has provided limited information to them concerning this CUP. (6) Most speakers felt that the City should step in and make a stand with regard to the residential zoning issue. (7) One speaker felt that since almost half the units are vacant at the cen-

ter, it qualifies as a "blighted area." If this property is not going to be turned into residential, the owners of the property should fix it up to look like a place where people would want to patronize the businesses. (8) Another speaker pointed out that this is not an issue of city government versus a small business as some people would like it to appear; it's an issue of a landowner not taking responsibility for his actions. The Commission should make the landlord responsible for his actions and deny the conditional use permit. (9) Another speaker was in hopes of a denial so this item would go through the appeal process to City Council where further discussion of the development concerns the neighborhood has, could be heard. (10) The applicant has refused to follow the conditions of the original CUP, and has known what the new conditions are, but has shown no interest in taking the steps necessary to come into compliance.

During public testimony, the Chair asked staff what the options were concerning noncompliance with the conditions. Ms. Shih explained that there is a deadline date given in the CUP and if the conditions are not completed by that deadline, the CUP could be called back for revocation.

During public testimony, the Chair asked staff to define their statement regarding this use as, "...would not adversely affect the neighborhood." He also asked staff if any evidence was found linking the business owners with noncompliance. Ms. Shih reviewed the recommendation and said she could find no violations of conditions of the conditional use permit in 1964. In response to a question from Vice Chair Perkins regarding overnight storage, Ms. Shih said it was not included in the original CUP.

There was discussion between the Chair and Ms. Shih regarding the differences between the recommended conditions of approval (to ensure the use will not impact the neighborhood) and those already existing in the original CUP.

During public comment, the Chair explained the CUP process for the benefit of several speakers who wished to have clarification. He also explained that this conditional use permit would allow the CUP to be called back to Planning Commission for possible revocation because of noncompliance with the conditions of approval.

Mr. Reinhart returned to the podium to clarify that they have not granted any new long-term leases. On the longer leases, in this particular case, the tenant chose to exercise his option; it is not a mutual consent thing. For the cost of paying the various conditions required for the permit, El Camino partners is financially capable of implementing these items. He said their counsel has advised that it is the tenants responsibility, so if the CUP is approved and the tenant does not comply, the Chair has already explained the remedy. With respect to code enforcement issues at the property, he did not believe there are any code enforcement issues existing at the property.

Katrina Foley, Mesa del Mar resident, Costa Mesa, asked if there is another conditional use permit for the car wash. Ms. Shih confirmed that in 1988 a conditional use permit was approved for the car wash. In response to a question from Ms. Foley regarding the conditions of approval for that use, Ms. Shih said that although she could not remember all the conditions in that CUP, she believed most related to noise generated from the car wash. Mr. Valentine said that one of the conditions for the car wash was for the installation of the landscaping along Coronado Drive, which is currently in place—and its positive effect is part of the reason staff is recommending additional landscaping on both Mendoza and El Camino Drives. Ms. Foley requested a copy of the conditional use permit for the car wash.

In response to another question from Ms. Foley, regarding approval of the CUP for a limited period of time, Ms. Milligan stated it was

discussed previously and the applicant was asked and has accepted a 5-year limit on the CUP.

Ms. Foley commented that Planning Commission always has the option to deny because it is a discretionary approval.

She said she read some of the cases regarding expansion of a legal nonconforming use, and every one of those cases indicates that where there is a legal nonconforming use, the goal is to expeditiously change that use to make it more compatible with the use that it has been rezoned to. The spirit of underlying ordinances, is to restrict, rather than to increase the nonconforming use. The policy of the law is for the elimination for nonconforming uses and she noted that all of these cases support the fact that the Planning Commission has a duty to eliminate nonconforming uses. Staff's determination that the use is less intensive is void of any real factual investigation or support. The proposed use would in fact, increase the nonconforming use—not decrease it. This decision (if approved) does exactly what the Sabeck case says is not allowed. It would make it a more permanent use and would expand a legal-nonconforming use by the very conditions that are being imposed. The condition requiring additional landscaping, the conditions asking for the driveways to be changed are conditions that add to the investment in the legal nonconforming use. Additionally, the issue before the Planning Commission is whether there's sufficient evidence in the record to support a denial and she believes there is substantial evidence in the record. There is evidence that the detailing of cars which is not allowed occurs (an increase in the use); there is also evidence that, although the car wash was approved, it was never used, and should not be used in the analysis to determine whether the use has been expanded or decreased; the number of cars parked during the day and overnight are more impactful than previously; the landscape proposed will increase the expansion of the use and will not buffer the parked cars. The owner testified that the pumps were removed because of the low volume of gas being pumped, so the intensity of the auto repair must have increased to offset loss of gasoline revenues. The smog checks going on there were not conducted before and there was no discussion with staff whether there were more employees there than had been previously; there is no information as to any discussion with residents who live adjacent; no requests for receipts to show a comparison of the use between gas station and the current auto repair. The staff decision is not based on much factual investigation, but the testimony in the record supports that the use has expanded.

In response to a question from Ms. Foley Mr. Valentine said if there is a legal nonconforming development, which this is, as well as a nonconforming use, the development itself couldn't be expanded, so they could not add to the area of the service station. The only physical improvements being looked at here, are landscaping which would not necessarily be inconsistent with residential development, although it may have to be modified or even removed to allow that development, but he would not consider the landscaping to be an expansion of the commercial use.

Ms. Foley felt the landscaping and the change of the driveway makes the nonconforming use more permanent; it causes the business owner to invest money into that improvement which then encourages the business owners to exercise yet another option which would again, make the legal nonconforming use more permanent.

In response to Ms. Foley's comments, Mr. Sakzylan said that this type of business cannot be expanded if you don't have more space and he is not adding any more space to this service center and the business cannot service more cars than they did before.

Ms. Milligan said she would like to clarify and/or address some issues that Ms. Foley had brought up. She agreed that the case law does indicate one of the main purposes of nonconforming uses is to eliminate nonconforming uses. However, our municipal code allows for a change in use in legal nonconforming uses.

No one else wished to speak and the Chair closed the public hearing.

The Chair stated that there is no one who would like to see the residential development that was permitted by the general plan amendment for that property to go forward more than he, but as he said repeatedly tonight, that's not on the agenda. He said he agrees with the comments made about economic viability. He sent two major builders over to talk to the property owner about the economic viability of developing residential. He did not know anything further, but felt he would be hearing from them at a later date. He said he has also taken note of the fact that if the Commission denied the CUP for the auto repair service, it would not necessarily cause any residential development to occur because there are still businesses there with ongoing leases. He said for those reasons and others, he would make the following motion.

MOTION 1:  
PA-04-21  
Fails for lack of a second

A motion was made by Chairman Garlich to approve PA-04-21, based on the findings in exhibit "A", subject to conditions in exhibit "B" with the following addition. Condition of approval #21. The Conditional Use Permit (CUP) shall expire 5 years from expiration of the current leases. The motion failed for lack of a second.

In response to a question from Vice Chair Perkins regarding how the Commission would go about processing a denial for this CUP, Mr. Valentine stated that the Commission would need to amend findings A and B, deny the expansion of the conditional use permit, or the modification, and allow the operator some period of time, established by the Commission, to relocate the business from the premises.

Ms. Milligan stated that, in addition, if the application is denied, pending any appeals to the City Council, and/or rehearing if applicable, a hearing would need to be set for revocation for the current CUP. The applicant would be allowed to continue his business until the CUP was revoked. In response to the Chair, she said the conditions of the current CUP would apply and there really are no conditions on that CUP for the regulation of the auto repair business.

Ms. Milligan explained, in answer to Vice Chair Perkins' question, in order to revoke a CUP, the Planning Commission would have to find that either the business was a public nuisance as defined by civil code, or that there was a failure to comply with conditions. Typically, she said the courts look to see if, before revocation, the conditions could have been modified so that the business could continue.

In further response to a question from Vice Chair Perkins about the courts' position on revocation, Ms. Milligan said that the courts do not favor putting a business out of business, if there are other more reasonable conditions that can be imposed to regulate the business, and resolve the problems with the business.

MOTION 2  
PA-04-21  
Failed for lack of a second  
(see below)

A motion was made by Commissioner DeMaio, to deny the modification to PA-04-21. He said his reasoning to deny it goes back to the fact that it was zoned residential on April 2, 2001. The intent by the property owners at that time, was to develop the property with single-family homes. He felt the Commission should deny the CUP and hope that the property owners will build residential. He felt it would be devastating for the surrounding community if they approved the CUP. (The motion was amended and called later; it failed for lack of a second—see below).

At this point, Mr. Valentine offered that one option the Commission

may wish to consider is to continue this item for 2 weeks and ask staff to draft findings to support a denial. He clarified that his intent is not to drag anything out, but to take a little more time than is really practically available to try to do this on the dais to come up with some findings.

Commissioner DeMaio amended his motion to recommend a continuance and asked staff to come back with findings to support a denial. The motion failed for lack of a second.

MOTION 3:  
PA-04-21  
Denied

A motion was made by Vice Chair Perkins, seconded by Commissioner DeMaio and carried 2-1 (Bruce Garlich voted no, Katrina Foley abstained, Eric Bever absent), to deny by adoption of Planning Commission Resolution PC-04-51, based on public testimony, information in the record, and findings in exhibit "A" with the following modifications:

Findings

- A. The information presented ~~substantially complies~~ does not comply with Costa Mesa Municipal Code Section 13-29(g)(2) in that the proposed change of use, as conditioned, will not be more compatible with developments in the same general area. Granting the conditional use permit will ~~not~~ be detrimental to the health, safety and general welfare of the public or other properties or improvements within the immediate vicinity. Specifically, the property will be ~~less~~ more intensely used than before, without the gasoline sales and car wash. The recommended conditions of approval will not ensure that the operation will not be disruptive to residential uses or properties in the vicinity. ~~The added landscaping at the northwest corner of the property will also improve the aesthetics of the property as viewed from the street intersection and increase its compatibility with the surrounding residential neighborhood. Parking will comply with current Code requirements and approval of the use is contingent upon availability of the existing 4 parking stalls provided off site plus 4 parking stalls on site unless a total of 8 parking stalls can be provided on site to serve the automotive repair business. Although~~ The use is not in conformance with the current General Plan designation for the property (Medium Density Residential), and it does not comply ~~complies~~ with the Nonconforming Provisions with regard to allowable change of nonconforming use in nonresidential structures, and because the degree of nonconformity will ~~not~~ be increased.
- B. The proposed project does not comply ~~complies~~ with Costa Mesa Municipal Code Section 13-29 (e) because:
- The proposed use will not be more compatible and harmonious with uses both on-site as well as those on surrounding properties.
  - 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.
  - The planning application is for a project-specific case and does not establish a precedent for future development.

During the motion Vice Chair Perkins explained that in any case he felt this item would be appealed regardless of what the Planning Commission did. He said Ms. Reide's comment about putting it in Council's lap to force the issue impacted him the most and he based his decision on that premise. He said he was confident that Mr. Sakzylan would be able to continue operating his business until this process is completed. He said he believed Mr. Sakzylan runs a decent operation. He said his major concern throughout this hearing, was that he felt he was sold a bag of goods three years ago, and it appears to have been set aside. He said he is very discouraged about that. He made it clear that he understands this item was brought forward as an amended change in use. He said he was somewhat disappointed that Commissioner Bever was not able to be here this evening because he wanted to have his input on this item. He felt Mr. Millard's comment about beginning the building process on site now, was a good suggestion and should be noted. He was also concerned about the lack of integrity on the part of property owners as stated by several speakers.

Chairman Garlich said the only comment he would make is that, it can get to the Council by either an approval or denial method, and his personal feeling is that there is more integrity to approve it based on land use criteria and legal opinions. In either case, he believed the outcome would be the same.

The Chair explained the appeal process.

**REPORT OF THE DEVELOPMENT SVS. DEPARTMENT**

Mr. Valentine announced the nomination for the Planning Commission biannual design awards. A motion was made by Chairman Garlich, seconded by Vice Chair Perkins, and it carried unanimously to present the award to the Armstrong Garden Center at 2123 Newport Boulevard.

**REPORT OF THE SENIOR DEPUTY CITY ATTORNEY**

None.

**ADJOURNMENT:**

There being no further business, Chairman Garlich adjourned the meeting at 9:38 p.m., to the study session of Monday, August 2, 2004.

Submitted by:

\_\_\_\_\_  
PERRY L. VALANTINE, SECRETARY  
COSTA MESA PLANNING COMMISSION



# **PLANNING COMMISSION AGENDA REPORT**

MEETING DATE: JUNE 28, 2004

*U.3.*  
ITEM NUMBER:

SUBJECT: CONDITIONAL USE PERMIT PA-04-21  
1045 EL CAMINO DRIVE

DATE: JUNE 17, 2004

FOR FURTHER INFORMATION CONTACT: WENDY SHIH, ASSOCIATE PLANNER (714) 754-5136

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## **PROJECT DESCRIPTION**

The applicant is requesting modification of an existing conditional use permit to discontinue the car wash and gasoline sales, and become solely an automotive repair facility.

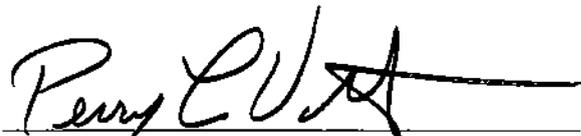
## **APPLICANT**

The applicant is Daniel Carlton, representing the property owner, Carl Reinhart of El Camino Partners.

## **RECOMMENDATION**

Approve by adoption of Planning Commission resolution, subject to conditions.

  
\_\_\_\_\_  
WENDY SHIH  
Associate Planner

  
\_\_\_\_\_  
PERRY L. VALANTINE  
Asst. Development Services Director

**BACKGROUND**

The property currently contains an automotive repair facility and is located adjacent to a neighborhood commercial center, surrounded by El Camino Drive to the north, Mendoza Drive to the west, and Coronado Drive to the south. The properties to the north and south are residentially zoned and developed; the property to the west is commercially zoned and developed; and to the east, is a nonconforming commercial center in an R2-MD (multiple-family residential, medium density) zone.

In 1964, a conditional use permit (C-254) was approved to allow a service station (gasoline sales and auto repair) on the property. Conditional Use Permit PA-87-204(A) was approved in 1988 (amendment in 1996), for an expansion of the service station to include an automated car wash facility. In February 2004, the underground tanks, gasoline pumps and canopies were removed. A case closure letter from the County of Orange Health Care Agency was received on February 9, 2004, stating that site remediation had been completed. The car wash facility is no longer operating.

Since the original conditional use permit (CUP) approved the operation of a service station, including incidental automotive repair and car wash, an amendment to the CUP is necessary to recognize the change in use to auto repair and service only, including smog check and certification. Site design (including number of driveways and amount of landscaping), and conditions of approval, are generally different for gasoline service stations than automotive repair facilities.

The subject site and adjacent commercial center were zoned C1 (local business district) with a General Plan designation of neighborhood commercial. On April 2, 2001, City Council approved a rezone of the properties to R2-MD with a General Plan designation of medium-density residential; consequently, the commercial uses are now nonconforming.

**DISCUSSION**

According to the Nonconforming Provisions of the Zoning Code (Sec. 13-204), any nonconforming use may be changed to another nonconforming use provided that the change is to a use equally appropriate, or more appropriate to the district than the existing nonconforming use.

It is staff's opinion that continuation of the automotive repair use on the property without the gasoline sales and car wash, can be considered a less intensive use and more appropriate to the area since elimination of the gasoline sales will reduce the number of vehicle trips generated. As mentioned above, all underground tanks, gasoline pumps, and canopies have been removed. The service garage building (approximately 1,500 sq. ft.) will remain unchanged and the former car wash tunnel (approximately 400 sq. ft.) will be used for storage. Since the auto repair building was designed as an incidental use to the gasoline station, continuation of its use without the gasoline sales and car wash, will lessen the impact on nearby

residential properties, assuming there is no significant increase in the intensity of repair services. A condition has been included to require removal of all car wash equipment and conversion of the tunnel for storage purposes only.

There are currently three driveway entrances onto the property: two on El Camino Drive and one on Mendoza Drive. Since the additional circulation and fueling stations required for gasoline sales are no longer needed, staff is recommending a condition to remove the driveway closest to the intersection on El Camino Drive, and to improve the northwest corner of the property (between the two remaining driveways) with a minimum 15-foot wide landscape strip. A condition is also included to provide a total of 8 parking stalls (4 spaces/1,000 sq. ft. of building area) to serve the auto repair use. There are currently 4 parking stalls located on the adjacent property serving this site and 1 handicap stall in front of the building. Approval of this application would be contingent upon the continued availability of the 4 parking stalls on the adjacent lot unless a total of 8 parking stalls can be provided on-site. A site/landscaping/parking improvement plan will be required for Planning staff approval.

Additional conditions are recommended to ensure that repair work does not become more nonconforming in nature or volume.

### **ALTERNATIVES**

If the conditional use permit were denied, the auto repair use would not be allowed to continue its operation on the property. The residentially zoned property can no longer accommodate gasoline sales and a car wash. Denial of this application would require that the commercial use cease to operate and the site be subject to residential development standards.

### **CONCLUSION**

It is staff's opinion that the proposed amendment, with the recommended conditions of approval, will not adversely affect neighboring residential properties and will bring the development more in line with an automotive repair facility. The property will be less intensely used than before, and the added landscaping will represent an improvement to the generally residential area. Therefore, staff recommends approval of the conditional use permit.

Attachments:           Draft Planning Commission Resolution  
                               Exhibit "A" – Findings  
                               Exhibit "B" – Conditions of Approval  
                               Applicant's Project Description and Justification  
                               Location Map  
                               Plans/Photos

c: Deputy City Manager - Dev. Svcs. Director  
Sr. Deputy City Attorney  
City Engineer  
Fire Protection Analyst  
Staff (4)  
File (2)

Carl Reinhart  
El Camino Partners  
17871 Mitchell, Ste. 100  
Irvine, CA 92614

Daniel Carlton  
2600 Michelson Dr., Ste. 1120  
Irvine, CA 92612

**RESOLUTION NO. PC-04-51**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE  
CITY OF COSTA MESA DENYING PLANNING APPLICATION  
PA-04-21**

THE PLANNING COMMISSION OF THE CITY OF COSTA MESA HEREBY RESOLVES  
AS FOLLOWS:

WHEREAS, an application was filed by Daniel Carlton, representing Carl Reinhart, owner of real property located at 1045 El Camino Drive, requesting approval to modify an existing conditional use permit to discontinue the car wash and gasoline sales and to become solely an automotive repair facility; and,

WHEREAS, duly noticed public hearings were held by the Planning Commission on June 28, 2004, and July 26, 2004.

BE IT RESOLVED that, based on the evidence in the record and the findings contained in Exhibit "A," the Planning Commission hereby **DENIES** Planning Application PA-04-21 with respect to the property described above.

**PASSED AND ADOPTED** this 26th day of July 2004.



Chair  
Costa Mesa Planning Commission

STATE OF CALIFORNIA)  
                                          )ss  
COUNTY OF ORANGE )

I, Perry L. Valantine secretary to the Planning Commission of the City of Costa Mesa, do hereby certify that the foregoing Resolution was passed and adopted at a meeting of the City of Costa Mesa Planning Commission held on July 26, 2004, by the following votes:

AYES:           COMMISSIONERS: DEMAIO, PERKINS

NOES:           COMMISSIONERS: GARLICH

ABSENT:        COMMISSIONERS: BEVER

ABSTAIN:       COMMISSIONERS: FOLEY

  
\_\_\_\_\_  
Secretary, Costa Mesa  
Planning Commission

**EXHIBIT "A"****FINDINGS**

- A. The information presented does not comply with Costa Mesa Municipal Code Section 13-29(g)(2) in that the proposed change of use, as conditioned, will not be more compatible with developments in the same general area. Granting the conditional use permit will be detrimental to the health, safety and general welfare of the public or other properties or improvements within the immediate vicinity. Specifically, the property will be more intensely used than before, without the gasoline sales and car wash. The recommended conditions of approval will not ensure that the operation will not be disruptive to residential uses or properties in the vicinity. The use is not in conformance with the current General Plan designation for the property (Medium Density Residential), and it does not comply with the Nonconforming Provisions with regard to allowable change of nonconforming use in nonresidential structures, because the degree of nonconformity will be increased.
- B. The proposed project does not comply with Costa Mesa Municipal Code Section 13-29 (e) because:
- a. The proposed use will not be more compatible and harmonious with uses both on-site as well as those on surrounding properties.
  - b. 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.
  - c. The planning application is for a project-specific case and does not establish a precedent for future development.
- C. 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.
- D. The project is exempt from Chapter XII, Article 3 Transportation System Management, of Title 13 of the Costa Mesa Municipal Code.



# **CITY OF COSTA MESA**

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

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DEVELOPMENT SERVICES DEPARTMENT

**FOR ATTACHMENTS NOT INCLUDED IN THIS REPORT,  
PLEASE CONTACT THE CITY CLERK AT (714) 754-5223**