



CITY COUNCIL AGENDA REPORT

MEETING DATE: JANUARY 3, 2006

ITEM NO:

SUBJECT: APPEAL OF PLANNING APPLICATION PA-05-24
3048 BRISTOL STREET (PLAZA CHEVRON SERVICE STATION)

DATE: DECEMBER 22, 2005

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 a public hearing and adopt resolution either upholding, reversing, or modifying Planning Commission's decision.

BACKGROUND

The property contains a gasoline station with auto repair service and a 450 square-foot mini-mart. The applicant requested a conditional use permit to demolish all existing improvements on the property and construct a 2,000 square foot convenience store, a 1,087 square foot car wash tunnel, and a fuel canopy with 5 pump islands. Variances to allow reduced landscape setbacks (20 feet required along both street frontages; 10 feet proposed along Bristol Street and 15 feet proposed along Paularino Avenue) were also requested to accommodate the proposed construction.

At their meeting of November 28, 2005, by a vote of 4 to 0 (Donn Hall absent), Planning Commission denied the application because they found that no special circumstances applicable to the property (such as unusual lot size, shape, or topography) exist to justify approval of the landscape setback variances.

On November 29, 2005, the applicant appealed their decision because he believes "denial of the plans prevents the property owners from enjoying the privilege of landscape setback variance approvals that other property owners have at recently permitted and constructed remodel and new developments".

ANALYSIS

Planning Commission found that the landscape setback variances are created not by an unusual lot size or shape, but by the proposed convenience store, car wash tunnel and fuel canopy combined. The property is Code compliant with respect to lot width and lot area. Approval of the deviation would constitute a grant of special privileges inconsistent with the limitation upon other properties. The proposed landscape setbacks are inconsistent with recent developments in the area. The property across Bristol Street to the west (3045 Bristol Street) was developed in 2001 with an Oil Stop oil change facility that complies with all applicable commercial development standards, including landscape setback requirements. The property at 3067 Bristol Street contains a Union 76 gasoline service station with a Circle K convenience store. A variance for a 10-foot landscape setback along a portion of Paularino Avenue was approved in April 2000, when service bays were converted to a convenience store. However, the reduction in landscape setback was required to provide adequate on-site access due to a Transportation Services Division condition requiring closure of the easterly driveway.

A 20-foot pipeline easement exists through the middle of the property. However, deletion of the car wash tunnel and slight adjustments to the site configuration would allow for adequate landscape setbacks.

A Code-compliant project is important not only because there is no justification for variance approvals, but especially because the property is also a gateway into the South Coast Plaza and Pacific Arts Plaza areas to the north.

During the Planning Commission meeting, the applicant cited two developments within the City that do not comply with landscape setback requirements but are aesthetically pleasing; the Harbor Center's (2300 Harbor Boulevard) McDonald's drive-thru lane and Costa Mesa Square's (3030 Harbor Boulevard) Starbucks and Daphnes Greek Cafe pad buildings and outdoor dining areas. McDonald's is part of a larger retail center containing Home Depot, Albertsons, and a wide variety of retail and service businesses. The retail center was approved with a minor modification to allow a 4-foot encroachment into the 20-foot front setback for a drive-thru lane. The remaining setback along Harbor Boulevard was increased to 22 feet. Starbucks and Daphnes also constitute a small portion of a retail center containing Target and Henry's Market. A 12-foot setback was approved for that portion of the development due to an extended right-turn lane required by the Transportation Services Division.

As required by the Zoning Code, all planning applications are reviewed on a case-by-case basis. Approval of deviations for other projects does not establish a precedent for future development within the City.

ALTERNATIVES CONSIDERED

If the Planning Commission's denial of the landscape variances is upheld, the property may not be developed as proposed. A similar request may not be submitted within 6 months.

If the Planning Commission's decision is overturned, with the necessary findings for approval and conditions, the property may be constructed as proposed.

FISCAL REVIEW

Fiscal review is not required.

LEGAL REVIEW

Legal review is not required.

ENVIRONMENTAL REVIEW

An Initial Study/Mitigated Negative Declaration was prepared in accordance with the California Environmental Quality Act (CEQA) and made available for public review from November 8, 2005, to November 28, 2005. The Initial Study/Mitigated Negative Declaration concluded that any potential impacts could be reduced to levels of insignificance with implementation of mitigation measures, standard State and City of Costa Mesa Code requirements, and conditions of approval.

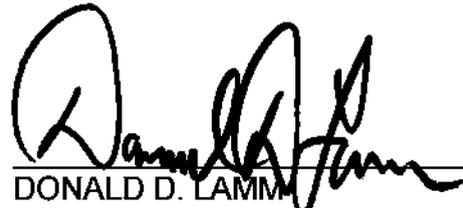
CEQA does not require adoption of the Mitigated Negative Declaration for projects which are denied. Should the City Council approve the project, it must also adopt the Mitigated Negative Declaration.

CONCLUSION

Although the proposed construction will not have adverse impacts on the environment, Planning Commission found that there are no special circumstances relating to the property to justify approval of the landscape setback variances. They felt that reconstruction of the service station should comply with all applicable commercial development standards, not only because there is no justification for variance approvals, but also because many new developments have or will be constructed in the area just south of the subject property especially with the adoption of the potential mixed-use urban plan. The project area is also a gateway into the South Coast Plaza and Pacific Arts Plaza areas to the north. A project that is Code-compliant would contribute to a positive image for commercial properties along Bristol Street.



WENDY SHIH
Associate Planner



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

Attachments: Zoning/Location Map
 Plans
 Draft City Council Resolution
 Exhibit "A" – Draft Findings
 Exhibit "B" – Draft Conditions of Approval
 Appeal Application Form
 Minutes of November 28, 2005, Planning Commission Meeting
 Planning Commission Staff Report
 Planning Commission Resolution with Exhibits

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

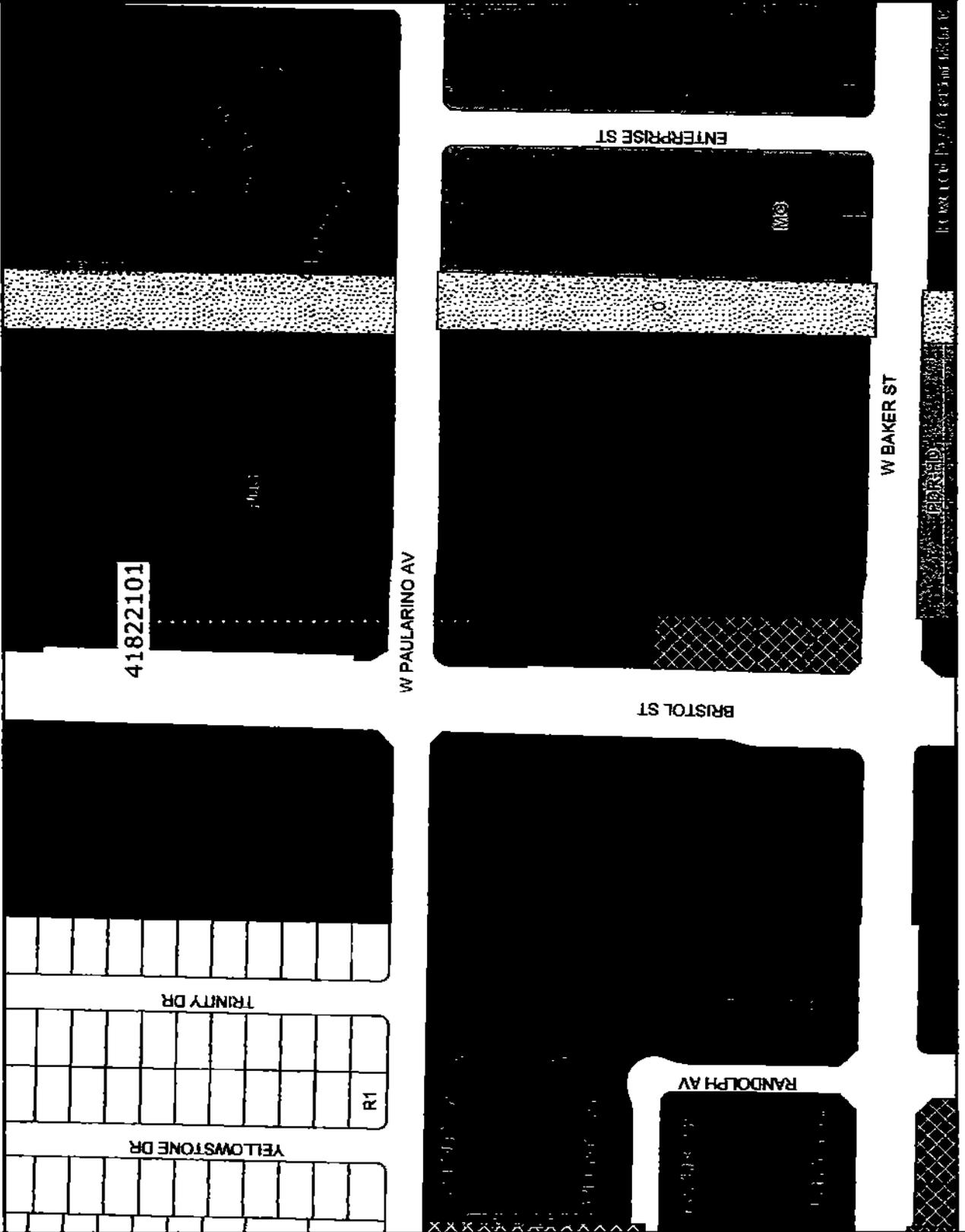
Marylou Mendez
3048 Bristol Street
Costa Mesa, CA 92626

Mark Rodriguez
331 Holgate Street
La Habra, CA 90631

File: 010306PA0524Appeal	Date: 122205	Time: 11:30 a.m.
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ZONING/LOCATION MAP

3048 Bristol Street



Legend

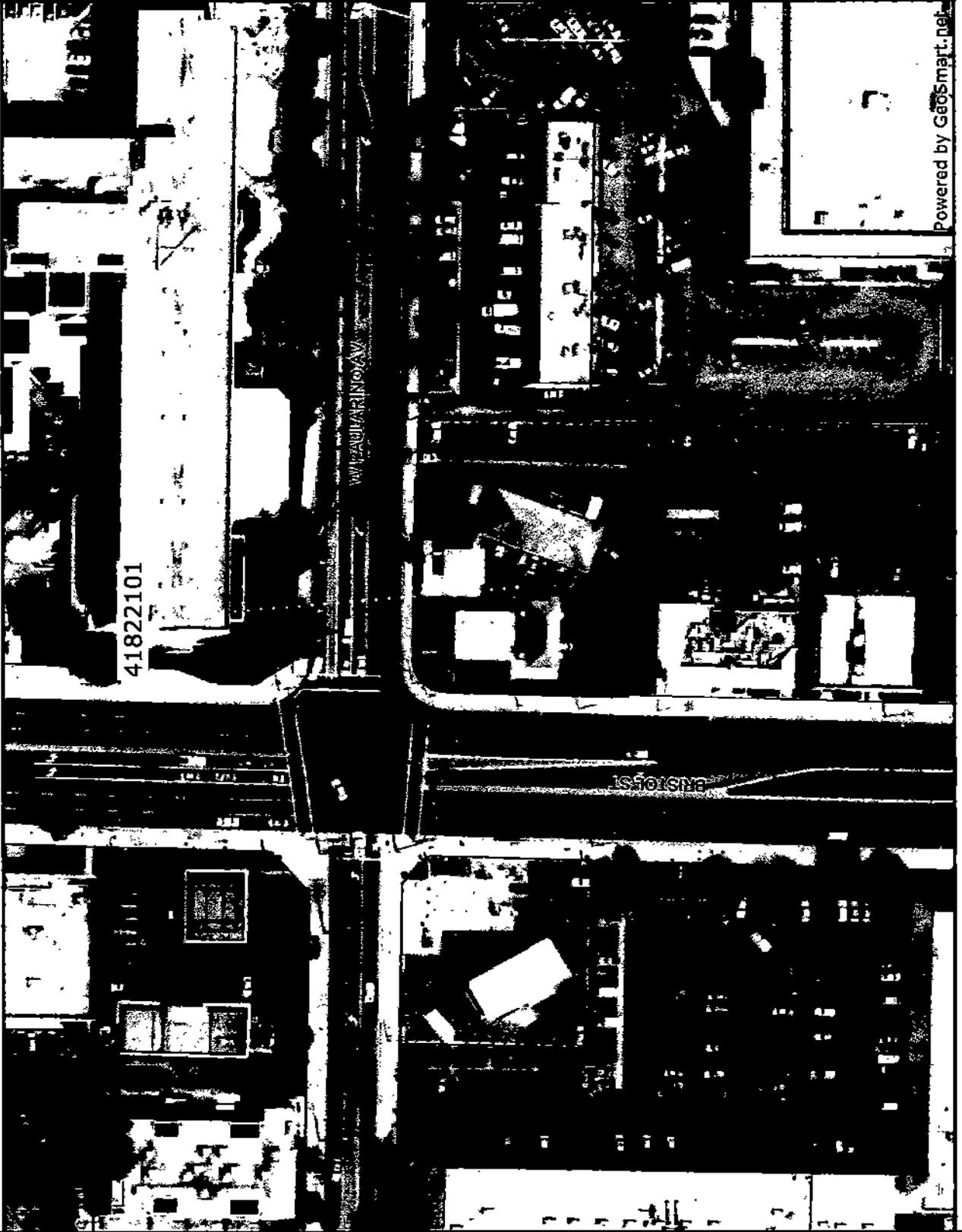
- Selected Features
 - Street Names
 - Parcel Lines
 - City Boundary
 - Zoning
- AP
 C1
 C1-S
 C2
 CL
 IAR
 IAR-S
 MG
 MP
 P
 POC
 POI
 POR-HD
 POR-LD
 POR-MD
 POR-NCM
 R1
 R2-HD
 R2-MD
 R3
 TC
 Parcels



5

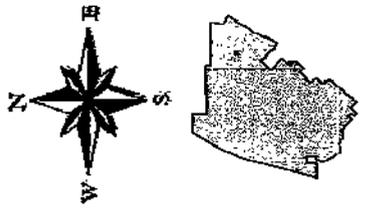
AERIAL PHOTOGRAPH

3048 Bristol Street



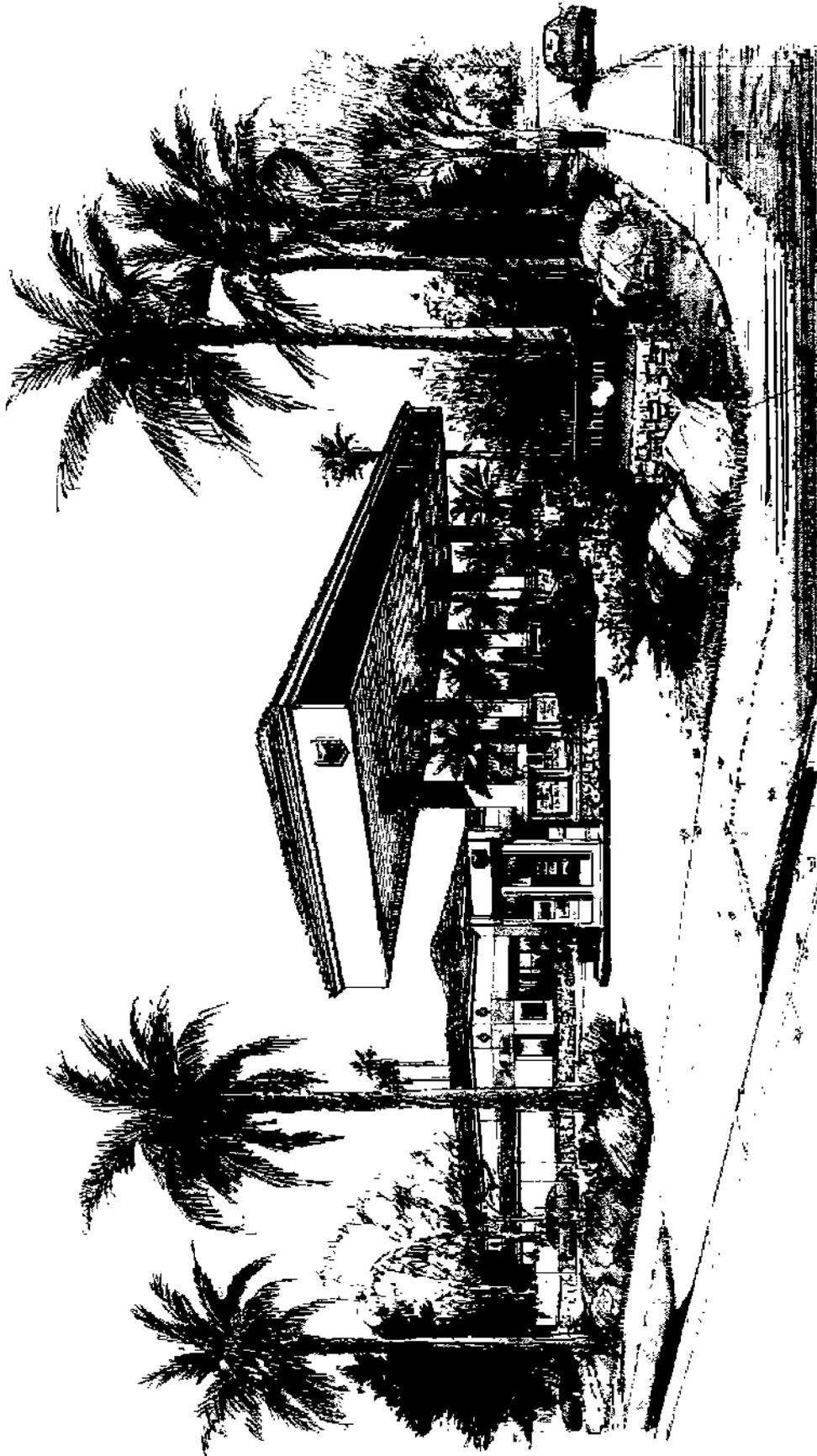
Legend

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



Powered By GeoSmart.net

Printed: 10/24/2005 4:33:24 PM



NO.	DATE	REVISIONS
1	10/15/05	PRELIMINARY SITE PLAN
2	10/15/05	REVISED PER METRO 07/07/05
3	10/15/05	REVISED PER METRO 07/07/05

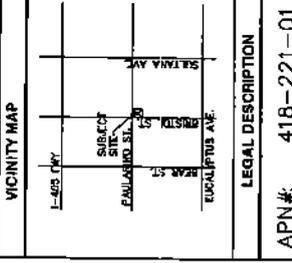
PLAZA CHEVRON
 CHEVROON MARY LOUI REYNOLDS
 3000 BARTON, ST.
 COSTA MESA, CA 92626
 TEL: 949-447-1000

STRONG
 ARCHITECTURAL CONSULTANTS
 10000 WILSON AVENUE, SUITE 100
 COSTA MESA, CA 92626
 TEL: 949-447-1000

PLAZA CHEVRON
 SERVICE STATION REMODEL
 3000 BARTON, ST.
 COSTA MESA, CA

PERMISSION DESIGN & ARCHITECTURAL SERVICES
 10000 WILSON AVENUE, SUITE 100
 COSTA MESA, CA 92626
 TEL: 949-447-1000

PRELIMINARY SITE PLAN
 DATE: 10/05/05
 SCALE: 1" = 20'-0"



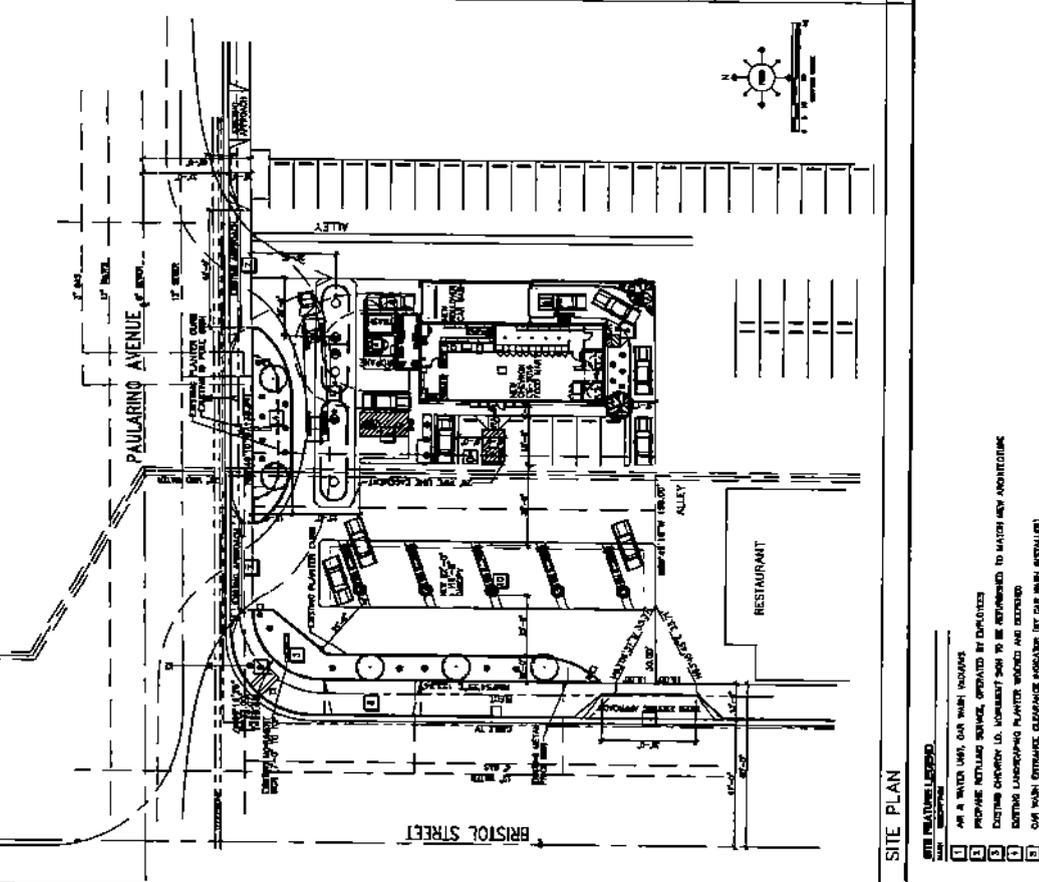
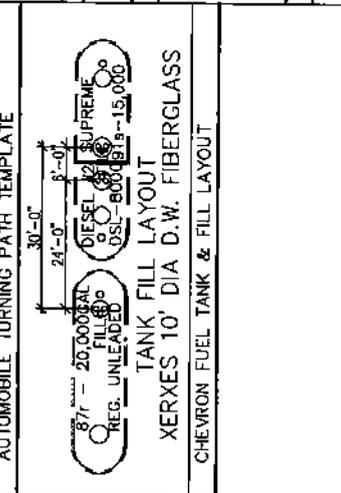
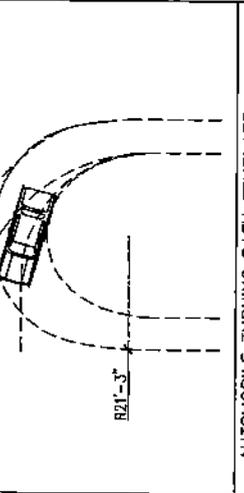
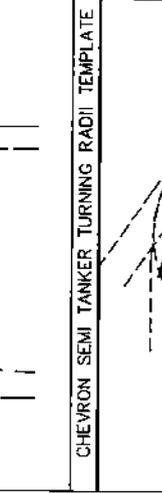
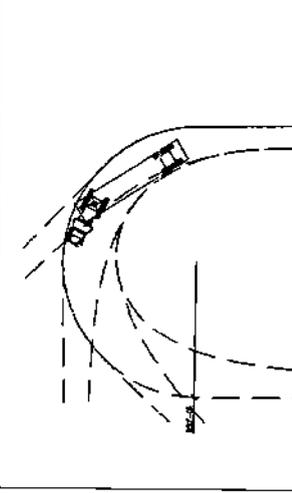
LEGAL DESCRIPTION
 APN# 418-221-01
 PARCEL 1, IN THE CITY OF COSTA MESA, COUNTY OF ORANGE, STATE OF CALIFORNIA, ACCORDING TO THE PARCEL MAP FILED IN THE COUNTY CLERK'S OFFICE, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

CHEVRON SS# 91660

IDENTIFICATION
 PROJECT DATA
 PROJECT NAME: PLAZA CHEVRON
 PROJECT ADDRESS: 3000 BARTON, ST., COSTA MESA, CA 92626
 PROJECT OWNER: CHEVROON MARY LOUI REYNOLDS
 PROJECT ARCHITECT: STRONG ARCHITECTURAL CONSULTANTS

LOT COVERAGE

NET LOT AREA	10,000 SQ. FT.
LOT COVERAGE PERCENT	100%
LOT AREA	10,000 SQ. FT.
LOT COVERAGE PERCENT	100%
LOT AREA	10,000 SQ. FT.
LOT COVERAGE PERCENT	100%
LOT AREA	10,000 SQ. FT.
LOT COVERAGE PERCENT	100%



- SITE PLAN**
- NOTES:**
1. ALL DIMENSIONS SHALL BE AS SHOWN UNLESS OTHERWISE NOTED.
 2. EXISTING UTILITIES SHALL BE MAINTAINED AND PROTECTED.
 3. EXISTING LANDSCAPING SHALL BE MAINTAINED AND PROTECTED.
 4. ALL NEW CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE LATEST REQUIREMENTS AS SET FORTH IN THE CITY OF COSTA MESA ORDINANCES.
 5. ALL NEW CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE LATEST REQUIREMENTS AS SET FORTH IN THE CITY OF COSTA MESA ORDINANCES.
 6. ALL NEW CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE LATEST REQUIREMENTS AS SET FORTH IN THE CITY OF COSTA MESA ORDINANCES.
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 10. ALL NEW CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE LATEST REQUIREMENTS AS SET FORTH IN THE CITY OF COSTA MESA ORDINANCES.

No.	DATE	REVISION
1.	10/12/05	CONCEPT FLOOR PLAN

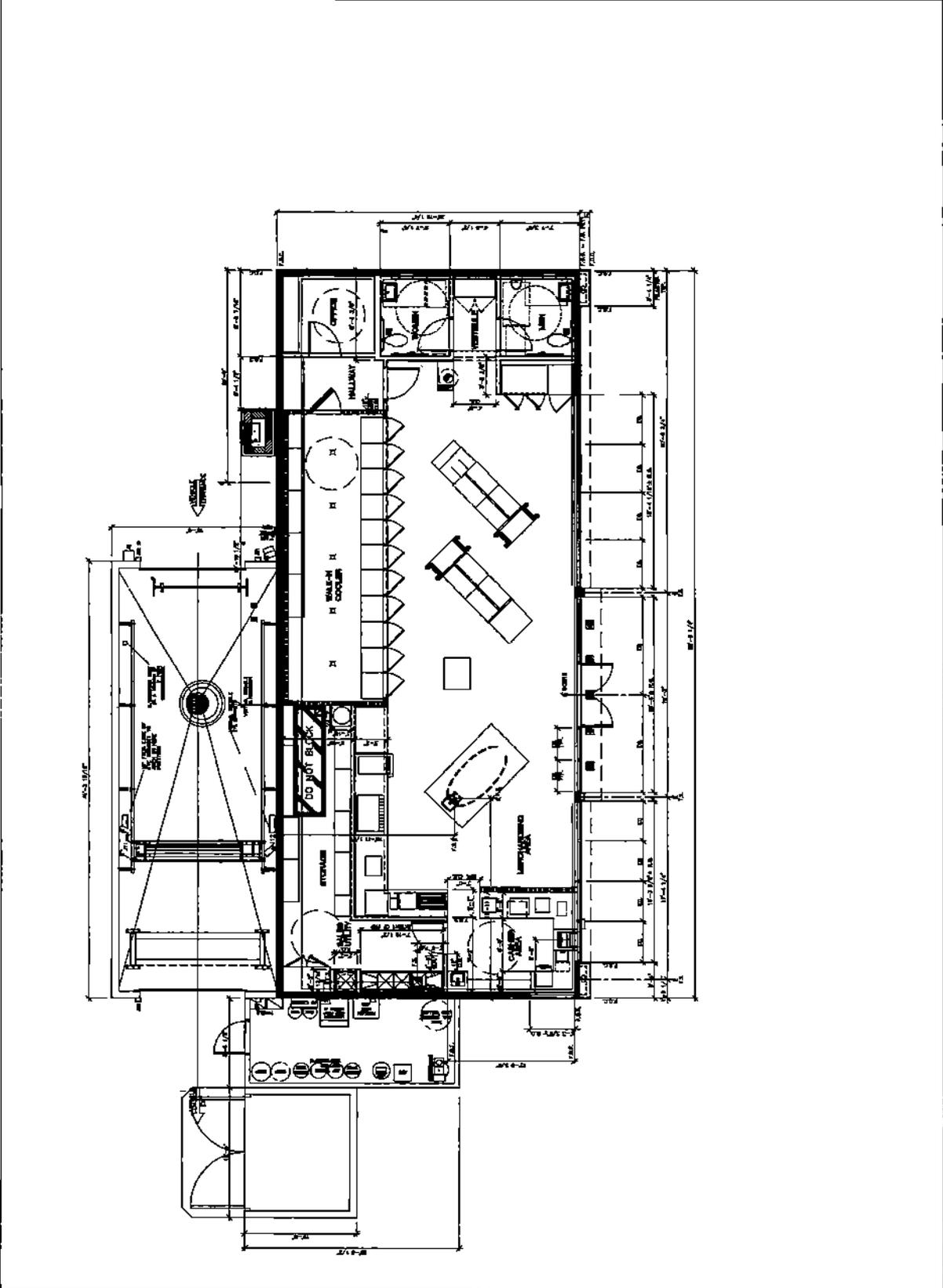
PLAZA CHEVRON
 CLIENT: MARY LOU MENDOZA
 3048 BRISTOL ST.
 COSTA MESA, CA 92626
 TEL: 949-251-1237

STRONG
 ARCHITECTURAL ARCHITECTS
 1000 S. ALAMITOS AVENUE
 COSTA MESA, CA 92626
 TEL: (949) 261-1234

PLAZA CHEVRON
 SERVICE STATION REMODEL
 3048 BRISTOL ST
 COSTA MESA, CA

FREEFORM DESIGN & ENVIRONMENTAL SERVICES
 3000 WILSON AVENUE, SUITE 100
 COSTA MESA, CA 92626
 TEL: (949) 261-1234

CONCEPTUAL FLOOR PLAN
 Date: 10/05
 Date: 8/12/05
 Project: A02.C
 Scale: 1/4"=1'-0"



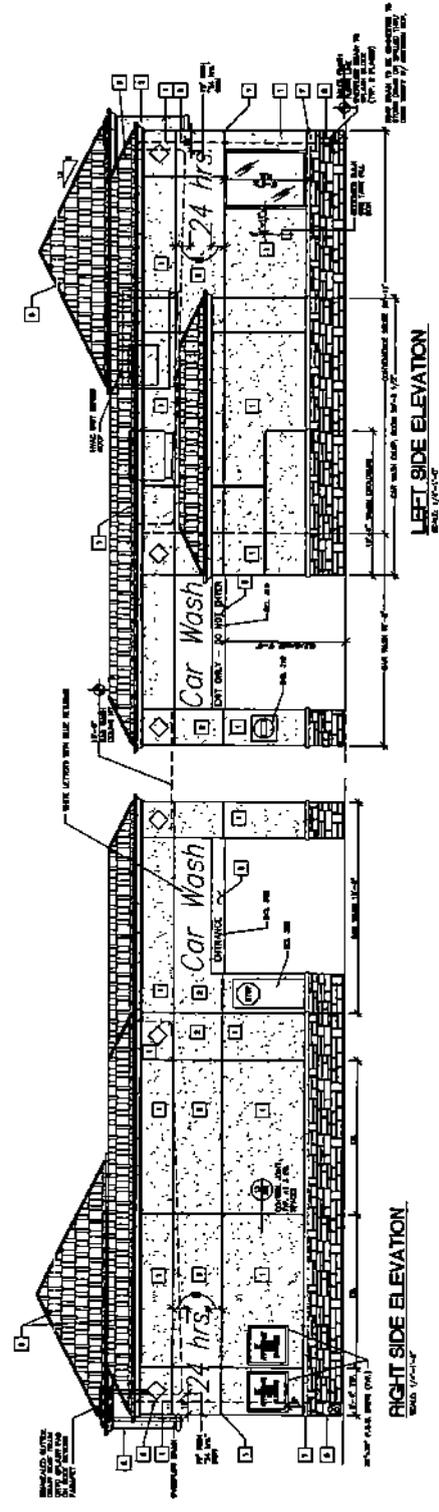
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3	REVISED ELEVATIONS	09/22/05
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5	REVISED ELEVATIONS	09/22/05
6	REVISED ELEVATIONS	09/22/05
7	REVISED ELEVATIONS	09/22/05
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17	REVISED ELEVATIONS	09/22/05
18	REVISED ELEVATIONS	09/22/05
19	REVISED ELEVATIONS	09/22/05
20	REVISED ELEVATIONS	09/22/05

PLAZA CHEVRON
CHEVRON
 SERVICE STATION REMODEL
 3048 BRISTOL ST.
 COSTA MESA, CA

STRONG
 ARCHITECTURAL
 1000 AVENUE OF THE STARS
 SUITE 1000
 COSTA MESA, CA 92626
 TEL: (714) 440-1111
 FAX: (714) 440-1112

FREEDOM DESIGN & ENVIRONMENT SERVICES
 3110 AVENUE OF THE STARS
 SUITE 1000
 COSTA MESA, CA 92626
 TEL: (714) 440-1111
 FAX: (714) 440-1112

CONCEPTUAL BUILDING ELEVATIONS
 DATE: 4/12/05
 NO: A03.1
 SCALE: 1/4" = 1'-0"



NOTES:

1. SEE SHEETS 100-101-102
2. THE EXTERIOR WALLS SHALL BE CONCRETE WITH PORTLAND CEMENT FINISH.
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20. EXTERIOR WALLS SHALL BE CONCRETE WITH PORTLAND CEMENT FINISH.

COLOR LEGEND

NO.	DESCRIPTION	FINISH
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3	EXTERIOR WALL	CONCRETE
4	EXTERIOR WALL	CONCRETE
5	EXTERIOR WALL	CONCRETE
6	EXTERIOR WALL	CONCRETE
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15	EXTERIOR WALL	CONCRETE
16	EXTERIOR WALL	CONCRETE
17	EXTERIOR WALL	CONCRETE
18	EXTERIOR WALL	CONCRETE
19	EXTERIOR WALL	CONCRETE
20	EXTERIOR WALL	CONCRETE

CHEVRON CS 2010 CONVENIENCE STORE WITH CUSTOM CAR WASH

12

NO.	REVISION	DATE	BY	CHECKED
1	ISSUED FOR PERMITS	6/12/05	STRONG	STRONG

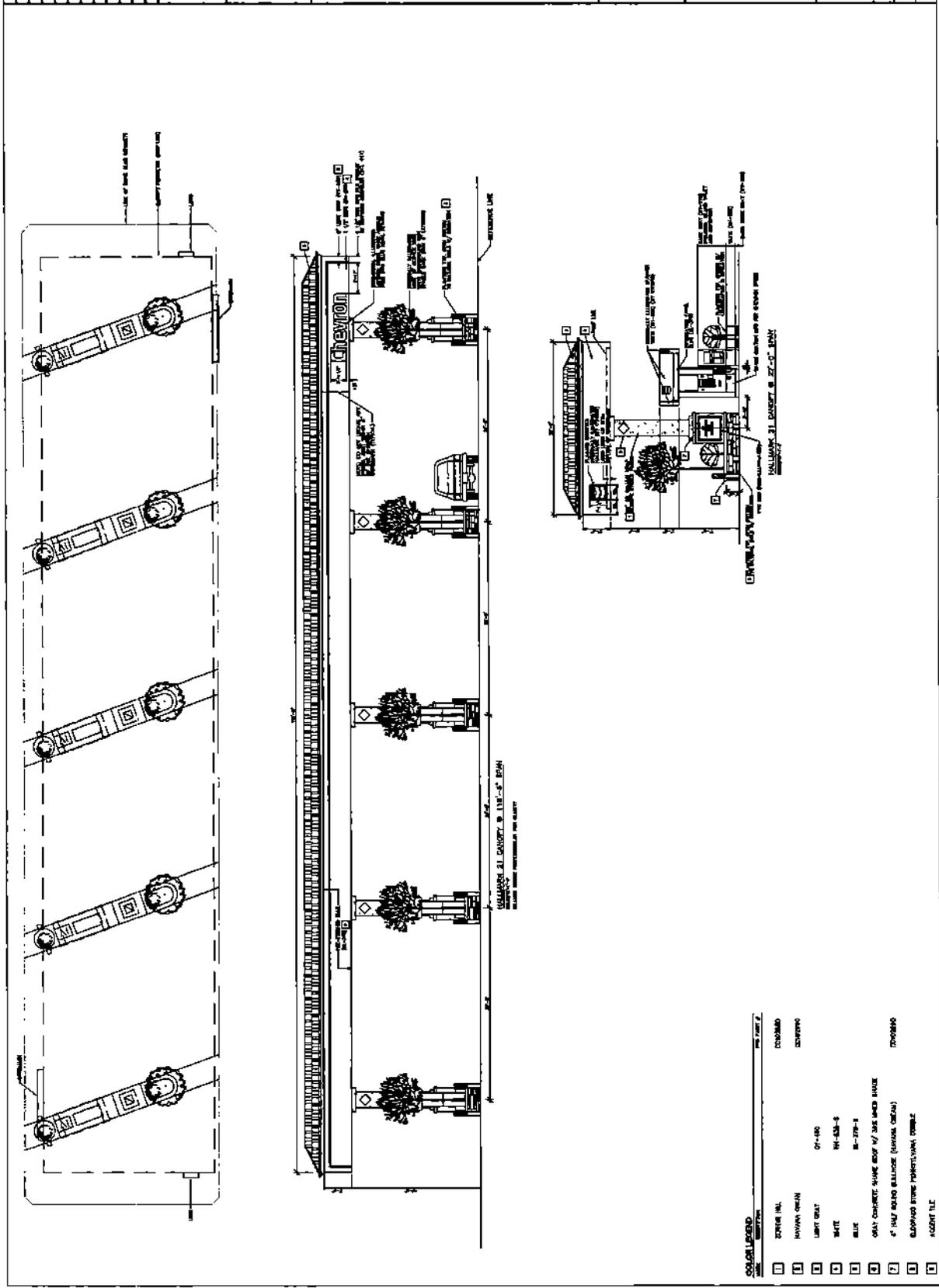
STRONG
 ARCHITECTS
 3000 CALIFORNIA AVENUE, SUITE 200
 COSTA MESA, CA 92626
 TEL: (714) 440-1000
 FAX: (714) 440-1001

PLAZA CHEVRON
 SERVICE STATION REMODEL
 3045 BRISTOL ST
 COSTA MESA, CA

FREEMAN DESIGN
 ENVIRONMENTAL SERVICES
 2000 CALIFORNIA AVENUE, SUITE 200
 COSTA MESA, CA 92626
 TEL: (714) 440-1000
 FAX: (714) 440-1001

CONCEPTUAL CANOPY PLAN & ELEVATIONS

DATE: 6/12/05
 SHEET: 10805
 OF: A04
 SCALE: 3/16"=1'-0"



SOULS LEGEND

1	CONCRETE	CONCRETE
2	PAINT	CONCRETE
3	PAINT	CONCRETE
4	PAINT	CONCRETE
5	PAINT	CONCRETE
6	PAINT	CONCRETE
7	PAINT	CONCRETE
8	PAINT	CONCRETE
9	PAINT	CONCRETE
10	PAINT	CONCRETE

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF COSTA MESA DENYING PLANNING
APPLICATION PA-05-24**

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

WHEREAS, an application was filed by Mark Rodriguez for Mendez Automotive Services, owner of real property located at 3048 Bristol Street, requesting approval of a conditional use permit to allow the construction of a new gas station with a convenience store and a car wash tunnel, to replace an existing gas station with a convenience store and auto service building, with variances from street setback landscape requirements (20 feet required; 10 feet proposed along Bristol Street and 15 feet proposed along Paularino Avenue); and,

WHEREAS, a duly noticed public hearing was held by the Planning Commission on November 28, 2005, and PA-05-24 was denied by Planning Commission; and

WHEREAS, the item was appealed by Mark Rodriguez, to the City Council on November 29, 2005; and

WHEREAS a duly noticed public hearing was held by the City Council on January 3, 2006;

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-05-24 with respect to the property described above.

PASSED AND ADOPTED this 3rd day of January 2006.

Mayor of the City of Costa Mesa

ATTEST:

Deputy City Clerk 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)(1) in that no special circumstances applicable to the property exist to justify approval of the landscape setback variances. The subject property conforms to Code standards for lot width and lot size. Although there is an existing pipeline easement across the property, the variances are created by the proposed construction or number of activities, which is intensive for the site and inconsistent with other similar lots in the area. Approval of the variances would constitute a grant of special privileges inconsistent with the limitation upon other properties in the vicinity and zone in which the property is situated.
- B. The information presented complies with Costa Mesa Municipal Code Section 13-29(g)(2) in that the proposed use (gasoline service station with convenience store and car wash) is substantially compatible with developments in the same general area and would not be materially detrimental to other properties within the area. However, since variance findings cannot be made for the proposed construction, the conditional use permit cannot be approved.
- C. The proposed project does not comply with Costa Mesa Municipal Code Section 13-29 (e) because:
- a. The proposed use and construction are not compatible and harmonious with the surrounding properties.
 - b. The project is not consistent with the General Plan.
 - c. The planning application is for a project-specific case and does not establish a precedent for future development.
 - d. The cumulative effect of all the planning application has been considered.
- D. An initial study was prepared, pursuant to the California Environmental Quality Act. Although the proposed project could have a significant effect on the environment, according to the initial study and negative declaration, which reflect the independent judgment of the City of Costa Mesa, there will not be a significant effect on the environment because a mitigation measure has been added to the project.
- E. 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-05-24**

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

WHEREAS, an application was filed by Mark Rodriguez for Mendez Automotive Services, owner of real property located at 3048 Bristol Street, requesting approval of a conditional use permit to allow the construction of a new gas station with a convenience store and a car wash tunnel, to replace an existing gas station with a convenience store and auto service building, with variances from street setback landscape requirements (20 feet required; 10 feet proposed along Bristol Street and 15 feet proposed along Paularino Avenue); and,

WHEREAS, a duly noticed public hearing was held by the Planning Commission on November 28, 2005, and PA-05-24 was denied by Planning Commission; and

WHEREAS, the item was appealed by Mark Rodriguez, to the City Council on November 29, 2005; and

WHEREAS a duly noticed public hearing was held by the City Council on January 3, 2006;

WHEREAS, the project has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines, and the City environmental procedures, and an Initial Study/Negative Declaration was prepared, which reflect the independent judgment of the City of Costa Mesa, and was available for public review from November 8, 2005, to November 28, 2005, as required by CEQA.

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 **ADOPTS** the Negative Declaration and **APPROVES** Planning Application PA-05-24 with respect to the property described above.

BE IT FURTHER RESOLVED that the Costa Mesa City Council 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-05-24 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 3rd day of January 2006.

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 3rd day of January 2006.

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

EXHIBIT "B"**CONDITIONS OF APPROVAL (If project is approved)**

- Plng. 1. Street addresses shall be displayed on the freestanding sign or, if there is no freestanding sign, on the fuel canopy or store front adjacent to the main entrance of the building, in a manner visible to the public street. Numerals shall be a minimum 12" in height with not less than 3/4" stroke and shall contrast sharply with the background.
2. Exterior elevations with sample color/materials board shall be submitted for pre-plan check review and approval by the Planning Division. Once the exterior elevations have been reviewed and approved by the Planning Division, the exterior elevations shall be incorporated into the plan check drawings.
3. Cornices and other architectural elements shall be wrapped around to the side and rear of building facades.
4. No exterior roof access ladders, roof drain scuppers, or roof drain downspouts shall be permitted.
5. The subject property's ultimate finished grade level may not be filled/raised in excess of 30" above the finished grade of any abutting property. If additional fill dirt is needed to provide acceptable onsite stormwater flow to a public street, an alternative means of accommodating that drainage shall be approved by the City's Building Official prior to issuance of any grading or building permits. Such alternatives may include subsurface tie-in to public stormwater facilities, subsurface drainage collection systems and/or sumps with mechanical pump discharge in-lieu of gravity flow. If mechanical pump method is determined appropriate, said mechanical pump(s) shall continuously be maintained in working order. In any case, development of subject property shall preserve or improve the existing pattern of drainage on abutting properties.
6. Show method of screening for all ground-mounted equipment (backflow prevention devices, Fire Department connections, electrical transformers, etc.). Ground-mounted equipment shall not be located in any landscaped setback visible from the street, except when required by applicable uniform codes, and shall be screened from view, under the direction of Planning Division.
7. All rooftop mechanical equipment shall be screened under the direction of the Planning Division.
8. SCAQMD Rule 403 shall be adhered to, ensuring the clean up of construction-related dirt on approach routes to the site. Rule 403 prohibits the release of fugitive dust emissions from any active operation, open storage pile, or disturbed surface area beyond the property line of the emission source. Particulate matter deposits on public roadways are also prohibited.
9. Adequate watering techniques shall be employed to partially mitigate the impact of construction-generated dust particulates. Portions of the project site that are undergoing earth moving operations shall be watered such that

a crust will be formed on the ground surface and then watered again at the end of the day

10. Grading operations shall be suspended during first and second stage ozone episodes or when winds exceed 25 mph.
- * 11. Applicant shall obtain permits from the Costa Mesa Fire Prevention Bureau and Orange County Health Care Agency for removal of the tanks. A case closure letter from the Hazardous Materials Management Section of the agency, indicating that the project site has been adequately remediated, shall be submitted to the Planning Division prior to the issuance of building permits.
12. The conditions of approval and ordinance or code provisions and special district requirements of Planning Application PA-05-24 shall be blueprinted on the face of the site plan as part of the plan check submittal package.
13. The applicant shall contact the Planning Division to arrange for a Planning inspection of the site prior to the release of occupancy/utilities. This inspection is to confirm that the conditions of approval and code requirements have been satisfied.
14. 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.
15. 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.
- Eng. 16. Maintain the public Right-of-Way in a "wet-down" condition to prevent excessive dust and remove any spillage from the public Right-of-Way by sweeping or sprinkling.
- * Mitigation measure.

CITY OF COSTA MESA
P.O. BOX 1200
COSTA MESA, CALIFORNIA 92626

RECEIVED
CITY CLERK

APPLICATION FOR APPEAL OR REHEARING

FEE: \$ _____

Applicant Name 05 NOV 29 AM 4:00 MARK RODRIGUEZ - FREEDOM DESIGN & ENTITLEMENT SVC.

Address 331 HEDGECOCK ST. LA HABRA, CA. 90631

Phone BY 662-884-8816 Representing MARIO & MARYLON MENDEZ

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.) SA-05-24 3048 BRISTOL

GAS STATION PROPOSED WITH CAR WASH AND CONVENIENCE STORE Decision by: PLANNING COMMISSION

Reason(s) for requesting appeal or rehearing:

PLANNING COMMISSION'S DENIAL OF PLANS PREVENTS THE PROPERTY OWNERS FROM ENJOYING THE PRIVILEGE OF LANDSCAPE SETBACK VARIANCE APPROVALS THAT OTHER PROPERTY OWNERS HAVE AT RECENTLY PERMITTED AND CONSTRUCTED REMODEL AND NEW DEVELOPMENTS.

05 NOV 29 PM 4:05
CITY CLERK
MARK RODRIGUEZ

Date: 11/29/05 Signature: Mark E. Rodriguez

For Office Use Only — Do Not Write Below This Line

SCHEDULED FOR THE CITY COUNCIL/PLANNING COMMISSION MEETING OF:

Excerpt from the minutes of the Planning Commission meeting of November 28, 2005

PLANNING APPLICATION
PA-05-24

Mendez Automotive Services/Rodriguez

The Chair opened the public hearing for consideration of Planning Application PA-05-24 for Mark Rodriguez, authorized agent for Mendez Automotive Services, for a conditional use permit to allow the construction of a new gas station with a convenience store and a car wash tunnel, to replace an existing gas station with a convenience store and auto service building, with variances from street setback landscape requirements (20 feet required; 10 feet proposed along Bristol Street and 15 feet proposed along Paularino Avenue), for property located at 3048 Bristol Street in a C1 zone. Environmental determination: Negative Declaration.

Associate Planner Wendy Shih reviewed the information in the staff report and gave a presentation. She said staff was recommending denial of this application, by adoption of Planning Commission resolution.

There was discussion between the Chair and Ms. Shih regarding temporary environmental impacts, which included construction and the fact that this is a hazardous site for leaking fuel, and should the project be approved, she said the applicant would be required to provide a closure letter from the Orange County Health Agency prior to issuance of building permits.

In response to Commissioner Fisler regarding the project status of legal nonconforming for 3067 Bristol Street (referencing a comparison chart on page 4 of the Planning Division staff report), Ms. Shih stated that it was a "remodel" of an existing building, and that the variance for a landscape setback was required because of a Transportation Services Division requirement for onsite circulation. There was no new construction for that site. On this site however, the applicant could not demolish anything because the nonconforming provision would allow only up to 50% of the market value and if 50% of the property is demolished or remodeled, it would have to comply with current standards

There was discussion between Commissioner Fisler, staff, and City Engineer Ernesto Munoz regarding the boundaries of the setback, property line, and in conjunction with the variance request.

Commissioner Garlich confirmed with Ms. Shih that if the carwash for the proposed site layout was deleted, the landscape setback requirements could be met for everything else the applicant wants to do on the site. Ms. Shih further explained that required landscaping is under "Code Requirements" and would be forwarded to the applicant if the project is approved and that there is a review process as part of the plan check submittal package.

Commissioner Garlich said he received a call from a Newport Beach Planning Commissioner who had concerns about large and unsightly equipment related to the underground storage tanks especially since Newport Beach recently experienced this for a new ser-

vice station on Pacific Coast Highway (PCH) and Bayside. He asked if we had Code Requirements to address that? Ms. Shih explained that she has seen remediation equipment installed on existing gasoline stations and they are high and could go up to 10-15 feet and they are required to be placed at the rear of the property and properly screened.

There was discussion between the Chair and Ms. Shih regarding confirmation of information in the Negative Declaration referenced on pages 8 and 15 in relation to gas stations.

There was discussion between Commissioner Egan and City Engineer Ernesto Munoz regarding a Metropolitan Water District pipeline that runs under the subject property and all the way down the side of the street and whether it could be relocated because of its potential to constrain development along Bristol Street. Mr. Munoz said that as a matter of "process", the applicant would be required to contact every utility within the site and vicinity of the site to either obtain approval from these utilities and/or in the case of an easement, provide adequate access.

Commissioner Egan explained that while this project appears to be compatible with that easement, this whole area is probably going to be redeveloped in the next decade and wondered to what extent that easement would constrain future development.

Mr. Munoz responded that this is something that can be explored. Commissioner Egan suggested that it could perhaps be discussed at the upcoming study session that includes the Bristol Street Urban Plan.

There was discussion between Commissioner Garlich and Mr. Munoz regarding the setback where the variance was requested, and what portion of that setback belonged to the City, its exact determined location, and how much the applicant wanted to encroach.

Mark Rodriguez, authorized agent for the applicant, 331 Holgate Street, La Habra, agreed to the conditions of approval should the application be approved. At this time, Mr. Rodriguez submitted to Planning Commission, a project justification.

Mr. Rodriguez gave a presentation, which focused on the design element with two main objectives; whether the plan provides adequate site circulation, how the elements on site actually work to provide an upscale environment, and the process by which those things were achieved on the plans and in the rendering (conceptual).

Commissioner Garlich said when he met and discussed this project with the applicant's authorized agent, a letter accompanying the application said the site would be designed to consider all zoning and local development ordinances, and that the applicant's hand-written application said no variances were proposed. Commissioner Garlich said he believed the applicant did not realize he would need any

variances but later discovered he had not met the landscape setback requirement. Mr. Rodriguez confirmed that is what happened. Commissioner Garlich asked Mr. Rodriguez had he known initially he would need a variance, would he have proposed something else, or would he have proposed this plan. Commissioner Garlich said with regard to the project justification, it should address the criteria for "findings" to grant a variance, but he could find none in this document. The applicant said he was not an expert on making findings, but his hope was that they could work on that with staff. Commissioner Garlich said it needed to be done this evening if the Commission is to approve the project.

In response to a question from Commissioner Garlich regarding the setbacks of the McDonald's Restaurant, a part of the Harbor Center Master Plan and the Starbuck's which is a part of the Costa Mesa Square Target Center. Ms. Brandt explained that these businesses are part of larger projects (i.e., Harbor and Target Centers). She explained the zoning code does allow outdoor seating areas for restaurants to encroach within the landscaped street setback areas with approval of a minor conditional use permit and these were looked at in conjunction with the overall approval. In some areas of the City, they actually encourage the placement of outdoor seating areas in order to make the street scene more active. In further response to Commissioner Garlich regarding the parking arrangements and stalls there, Ms. Brandt, said that without reviewing the site plan she could not answer to specifics. She said today's code does not allow compact parking spaces.

In response to a question from the Chair regarding a comment made by Mr. Rodriguez's about meeting the spirit of the code but not the letter, Mr. Rodriguez explained the project meets the spirit and intent of the landscaping code, as well as being compatible with other locations around town.

In response a question from the Chair regarding removal of the carwash from the plan and whether it would still require a variance, Ms. Shih explained that if the carwash was taken out of the plan and with the size of the canopy and the convenience store, and a shift of some of the structures, the landscape setbacks could be met without a variance.

In response to a question from the Chair regarding the need for a carwash, Mr. Rodriguez stated that although the lot size is not under minimum lot size for this site, it is exactly square; it is a fairly odd size in shape because most gas stations operate with a forward design and is usually longer than it is wide, even if it doesn't have a carwash. He said in this case, they need 160' minimum and would have preferred to have 165' to 175' but instead moved the buildings around into the best possible position to retain all the design elements. In further response to the Chair

regarding removal of the carwash from the site plan, he agreed that things would fit without a problem, but there are factors to consider such as areas that would be too congested if not designed correctly.

There was discussion between the Chair and Mr. Rodriguez regarding similar businesses in the area and the differences between those and newer ones that offer more services and options to customers.

BREAK:

The Chair called a recess and the meeting resumed at 7:35 p.m.

Mario Mendez, 1965 Clancy Lane, Huntington Beach, stated that he is the president of Mendez Automotive Services and has been in this business for 25 years and at the Paularino address since 1988. He purchased the business in 1992 and last year, acquired the property and the facilities from Chevron. He said the need for *all* three services is essential to the business and the carwash can account for half the profit service in that location. He said he had investigated other options such as a fast food business, retail, etc. The easement makes things very difficult and its best use is a service station. He said the advantages to keeping it as a service station are: Chevron is responsible for cleanup on the site, which includes a written guarantee; they would also provide him with a closure letter from the County Health Care Agency before any other station could be built there. He said the fiber glass tanks, including all old plumbing and vent pipes would be removed and replaced with "state of the art" replacements and would be out-of-sight. He said there would be upscale architecture; all landscaping done by top quality professionals.

Mr. Mendez said if he is not allowed to build this station, everything would stay the same. The same tanks will be in the ground that have been there for 20 years. He would have to increase his automotive repair with more cars parked outside. He discussed why he would like to stay in the automotive service.

Commissioner Fidler confirmed with Mr. Mendez that Chevron would not pull the branding only because he did not have a carwash. A business associate of Mr. Mendez stated that the bank has to see the carwash on the plan because they are counting on that for the loan and just because Chevron does not require it does not mean its not essential.

Martin Millard, 2973 Harbor Boulevard; Mike Berry, 2064 Meadowview Lane; Beth Refakas, 320 Magnolia Street; Costa Mesa, made the following comments in opposition to the project: (1) This project is located just outside the SoBeca Urban Plan area on Bristol Street and is not the highest and best use for this location; (2) this is a good fast food location; (3) there are concerns regarding gas tanks next to water pipes; (4) concerns were raised about a debt service of

\$35,000/month and there is not enough information to make a decision one way or the other; (5) the present rendering is fine, but what if the applicant cuts into the City's setback, what will it look like then; (6) this is new construction, if allowed, it should comply with all standards, including landscaping because it is a gateway entrance.

Commissioner Garlich, in response to comments from Mr. Millard disapproving of his meeting with the applicants, stated that it is standard practice for Commissioners, when request by the applicants, to discuss their projects with them so long as they do not do it in groups of more than two Commissioners so they do not violate the Brown Act; he said in this case, it was done here at City Hall, and Commissioner Egan was also present.

Commissioner Egan added that it is common for people to meet with applicants at City Hall. The purpose of these meetings from the Commission's point of view, is to find out in advance of the meeting, information and to ask questions; to let the applicant know what kinds of things he needs to be prepared to present at the meetings. If they acquire any information that is not part of the record, it is the Commission's obligation to disclose it.

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

Commissioner Garlich stated that as the Commission has looked at the project, it is attractive and the people who run it provide good service and run a good business, but it all comes down to the fact that financial considerations are not findings to justify variances. Either the applicant is giving up the carwash, or the City has to give up landscaping in order to allow this project to happen and since he could not make that finding he made the following motion.

MOTION:
PA-05-24
Denied

A motion was made by Commissioner Garlich, seconded by Chair Perkins, and carried 4-0 (Hall absent) to deny by adoption of Planning Commission Resolution PC-05-78.

During discussion on the motion, Commissioner Egan said there is only one significant issue and that is that the purpose of a variance is to allow for the fact that when a regulation is adopted, there is no way to foresee every situation, and sometimes because of the location of a property, topography, or other situation, that if you apply the regulation to A property, it makes it impossible for the owner to use the property as its allowed to be used in the zoning code. She did not see that case here. She said this is a large parcel; there are many permitted uses, as well as conditional uses that can go there, and there is nothing peculiar about the topography, location, or anything else. Applying the 20' landscaping will not deprive the property owner of the rights that similar uses in the area enjoy. She supported the motion to deny.

The Chair said he felt the same way.

Commissioner Garlich stated that Commissioner Egan brought up specifics regarding the shape of the lot. He said the aerial shot on page 15 of the staff report shows the applicant's lot diagonally across the street from the "76" lot and they are virtually the same shape; the only difference is the "76" station does not have a car-wash.

Commissioner Fislser thanked the applicant for coming forward with a project that will enhance the aesthetics of that whole corridor. He was glad to see it there and felt it would give the City some increased tax dollars, but supported the motion to deny. He said he hoped the applicant could come up with a plan that makes financial sense and does not require a variance, because he would like to see this station upgraded and the applicant succeed.

The Chair explained the appeal process



PLANNING COMMISSION AGENDA REPORT

MEETING DATE: NOVEMBER 28, 2005

U.L.
ITEM NUMBER:

SUBJECT: PLANNING APPLICATION PA-05-24
3048 BRISTOL STREET (PLAZA CHEVRON SERVICE STATION)

DATE: NOVEMBER 17, 2005

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

PROJECT DESCRIPTION

The applicant is requesting approval of a conditional use permit to allow the construction of a new gas station with a convenience store and a car wash, and approval of variances from street setback landscape requirements.

APPLICANT

Mark Rodriguez is representing the property owner, Mendez Automotive Services.

RECOMMENDATION

Deny PA-05-24 by adoption of Planning Commission resolution.


WENDY SHIH
Associate Planner


R. MICHAEL ROBINSON, AICP
Asst. Development Services Director

BACKGROUND

The property is located on the southeast corner of Bristol Street and Paularino Avenue. It was developed with a gasoline station, including auto repair service. In 1988, Conditional Use Permit PA-88-67 was approved to allow the conversion of the sales office to a 450 square-foot mini-mart. In 1990, Planning Commission approved Conditional Use Permit PA-90-50 to allow the concurrent sale of alcoholic beverages (beer and wine) for off-site consumption.

DISCUSSION

The applicant proposes to demolish all existing improvements on the property and construct a 2,000 square-foot convenience store (including the previously approved sale of alcoholic beverages), a 1,087 square-foot car wash tunnel, and fuel canopy with 5 pump islands. Variances to allow reduced landscape setbacks (20 feet required along both street frontages; 10 feet proposed along Bristol Street and 15 feet proposed along Paularino Avenue) are also requested to accommodate the proposed construction.

The applicant did not provide written justification for the landscape setback variances. However, he did indicate that a 20-foot pipeline easement across the property limits site configuration. The existing 10-foot planter along Bristol Street will be extended towards the corner of the property since the northerly driveway is proposed to be closed. The 5-foot planter along Paularino Avenue will be increased to 15 feet.

Staff believes that although the applicant proposes to increase existing setback landscaping, there are no special circumstances applicable to the property to justify approval of landscape setback variances for new construction, which are created by the combined proposed convenience store, car wash tunnel and fuel canopy. The property exceeds Code requirements for minimum lot width and lot area and is flat and square in size. It is staff's opinion that approval of the deviation would constitute a grant of special privileges inconsistent with the limitation upon other properties. It is also staff's opinion the proposed construction is too intensive for the site and the proposed landscape setbacks are inconsistent with recent developments in the area. The property across Bristol Street to the west at 3045 Bristol Street was developed in 2001 with an Oil Stop oil change facility that complies with all applicable commercial development standards, including landscape setback requirements. The property at 3067 Bristol Street contains a Union 76 gasoline service station with a Circle K convenience store. A variance for a 10-foot landscape setback along a portion of Paularino Avenue was approved in April 2000, when service bays were converted to a convenience store. However, the reduction in landscape setback was required to provide adequate on-site access due to a Transportation Services Division condition requiring closure of the easterly driveway.

A 20-foot pipeline easement exists through the middle of the property. However, deletion of the car wash tunnel and slight adjustments to the site configuration would

allow for adequate landscape setbacks. Staff does not feel that the easement is sufficient justification for the variances because the amount of activities and building coverage proposed well exceeds the Oil Stop and Union 76 properties. The chart below compares proposed and existing developments:

Address	Lot Size	Activities	Building Footprint*
3048 Bristol (Chevron)	22,262 sq.ft.	Convenience store, car wash, and gasoline sales.	3,087 sq.ft. plus 2,566 sq.ft. fuel canopy
3067 Bristol (Union 76)	22,500 sq.ft.	Convenience store and gasoline sales.	2,600 sq.ft. plus 1,800 sq.ft. fuel canopy
3045 Bristol (Oil Stop)	17,955 sq.ft.	Oil change facility	2,000 sq.ft.

* Note: This is not gross floor area (GFA) as defined in the Zoning Code (car wash tunnel with opening on both ends is not counted towards GFA). This is the amount of actual building footprint on the property.

It is staff's opinion that a Code-compliant project is important not only because there is no justification for variances, but especially because the property is also a gateway into the South Coast Plaza and Pacific Arts Plaza areas to the north.

ENVIRONMENTAL

An Initial Study/Mitigated Negative Declaration was prepared in accordance with the California Environmental Quality Act (CEQA) and made available for public review from November 8, 2005, to November 28, 2005. The Initial Study/Mitigated Negative Declaration concluded that any potential impacts could be reduced to levels of insignificance with implementation of mitigation measures, standard State and City of Costa Mesa Code requirements, and conditions of approval.

The State of California Department of Toxic Substances Control lists the property as a hazardous waste and substance site because the existing underground fuel tanks are leaking fuel. If the project is approved, the applicant will be required to obtain a case closure letter from the Orange County Health Care Agency, indicating that the site has been adequately remediated, prior to issuance of building permits.

CEQA does not require adoption of the Mitigated Negative Declaration for projects which are denied. Since staff is recommending denial of the project, no recommendation on the Mitigated Negative Declaration provided. However, should Commission wish to approve the project, it must first adopt the Mitigated Negative Declaration.

ALTERNATIVES

If the landscape variances are denied, the property may not be developed as proposed. A similar request may not be submitted within 6 months.

If the proposal is approved with the necessary findings for approval and conditions, the property may be constructed as proposed. It will also be necessary for the Planning Commission to approve the Mitigated Negative Declaration.

CONCLUSION

Although the proposed construction will not have adverse impacts on the environment, it is staff's opinion that there are no special circumstances relating to the property to justify approval of the landscape setback variances. It is staff's opinion that reconstruction of the service station should comply with all applicable commercial development standards, not only because there is no justification for the variances, but also because project area is a gateway into the South Coast Plaza and Pacific Arts Plaza areas to the north. A project that is Code-compliant would contribute to a positive image for commercial properties along Bristol Street.

Attachments: Draft Planning Commission Resolution
 Exhibit "A" – Findings
 Exhibit "B" – Conditions of Approval
 Applicant's Project Description and Justification
 Location Maps
 Plans
 Initial Study/Negative Declaration

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

Marylou Mendez
3048 Bristol Street
Costa Mesa, CA 92626

Mark Rodriguez
331 Holgate Street
La Habra, CA 90631

RESOLUTION NO. PC-05- 78

**A RESOLUTION OF THE PLANNING COMMISSION OF THE
CITY OF COSTA MESA DENYING PLANNING APPLICATION
PA-05-24**

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

WHEREAS, an application was filed by Mark Rodriguez for Mendez Automotive Services, owner of real property located at 3048 Bristol Street, requesting approval of a conditional use permit to allow the construction of a new gas station with a convenience store and a car wash tunnel, to replace an existing gas station with a convenience store and auto service building, with variances from street setback landscape requirements (20 feet required; 10 feet proposed along Bristol Street and 15 feet proposed along Paularino Avenue); and,

WHEREAS, a duly noticed public hearing was held by the Planning Commission on November 28, 2005.

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-05-24 with respect to the property described above.

PASSED AND ADOPTED this 28th day of November, 2005.



Bill Perkins, Chair
Costa Mesa Planning Commission

STATE OF CALIFORNIA)
)ss
COUNTY OF ORANGE)

I, Kimberly Brandt, Acting 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 November 28, 2005, by the following votes:

AYES: COMMISSIONERS: PERKINS, EGAN, FISLER, GARLICH

NOES: COMMISSIONERS: NONE

ABSENT: COMMISSIONERS: HALL

ABSTAIN: COMMISSIONERS: NONE



Secretary, Costa Mesa
Planning Commission

EXHIBIT "A"**FINDINGS**

- A. The information presented does not comply with Costa Mesa Municipal Code Section 13-29(g)(1) in that no special circumstances applicable to the property exist to justify approval of the landscape setback variances. The subject property conforms to Code standards for lot width and lot size. Although there is an existing pipeline easement across the property, the variances are created by the proposed construction or number of activities, which is intensive for the site and inconsistent with other similar lots in the area. Approval of the variances would constitute a grant of special privileges inconsistent with the limitation upon other properties in the vicinity and zone in which the property is situated.
- B. The information presented complies with Costa Mesa Municipal Code Section 13-29(g)(2) in that the proposed use (gasoline service station with convenience store and car wash) is substantially compatible with developments in the same general area and would not be materially detrimental to other properties within the area. However, since variance findings cannot be made for the proposed construction, the conditional use permit cannot be approved.
- C. The proposed project does not comply with Costa Mesa Municipal Code Section 13-29 (e) because:
- a. The proposed use and construction are not compatible and harmonious with the surrounding properties.
 - b. The project is not consistent with the General Plan.
 - c. The planning application is for a project-specific case and does not establish a precedent for future development.
 - d. The cumulative effect of all the planning application has been considered.
- D. An initial study was prepared, pursuant to the California Environmental Quality Act. Although the proposed project could have a significant effect on the environment, according to the initial study and negative declaration, which reflect the independent judgment of the City of Costa Mesa, there will not be a significant effect on the environment because a mitigation measure has been added to the project.
- E. The project is exempt from Chapter XII, Article 3 Transportation System Management, of Title 13 of the Costa Mesa Municipal Code.