CITY COUNCIL AGENDA REPORT

MEETING DATE: JANUARY 2, 2007 ITEM NUMBER:

SUBJECT: APPEAL OF ZONING APPLICATION ZA-06-51
440 FAIR DRIVE

DATE: DECEMBER 21, 2006

FROM: DEVELOPMENT SERVICES DEPARTMENT/PLANNING DIVISION

PRESENTATION BY: MEL LEE, AICP, SENIOR PLANNER

FOR FURTHER INFORMATION CONTACT: MEL LEE, AICP, SENIOR PLANNER
(714)754-5611

RECOMMENDATION:

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

BACKGROUND:

The subject property contains a two-story medical office building constructed in the early 1960's and a parking lot containing approximately 152 spaces.

On September 21, 2006, the Zoning Administrator approved a zoning application to legalize two outdoor storage containers within the parking area, as well as to allow a proposed third storage container. Also included was a request to allow an outdoor dining patio area within the required front landscaped area along Fair Drive to accommodate a proposed pizza restaurant within the building. The approval was called up for review to the Planning Commission by Council Member Linda Dixon on September 28, 2006.

On November 13, 2006, Planning Commission overturned the Zoning Administrator's approval and denied the request on a 4-1 vote (Vice Chair Hall voting no). On November 20, 2006, an appeal of the Commission's decision was filed by Dennis D'Alessio, the property owner.

ANALYSIS:

The appellant states the reasons for the appeal include his agreement to a condition of approval suggested by Council Member Dixon prohibiting the rental of on-site parking spaces to any businesses not located on-site. This condition was a result of complaints related to the use of the parking area by employees of the adjacent Orange Coast Jeep

Dealership, which resulted in overflow parking on surrounding streets. The appellant also had a concern with the Commission's perception that he did not bring the property into compliance with conditions of approval for Conditional Use Permit PA-05-31 in a timely manner. PA-05-31 was approved by Commission on November 28, 2005 and required site improvements such as resurfacing and restriping the parking area, which was only recently completed by the property owner.

During the hearing, four people spoke in opposition to granting the request, citing noise, graffiti, litter, traffic, and loitering concerns. Two people spoke in support of the request. The concerns of those who spoke in opposition were primarily related to the proposed outdoor seating area. Concerns were also expressed about the type of restaurant proposed, i.e., a "pizza parlor". However, staff noted during the hearing that a restaurant, regardless of its type, is a permitted use at this site; the zoning application is only required for an outdoor patio in the required landscape setback.

Commission was also concerned with existing unsightly outdoor storage of recycled materials within the parking area, the delayed compliance with the conditions of approval for PA-05-31 mentioned earlier, and past alleged activity associated with several businesses within the building. Also, Commission determined that the proposed outdoor patio's proximity to residences could exacerbate the noise and other concerns raised by the residents. As a result, the request to legalize the storage containers and to allow the outdoor patio was denied by Commission.

ALTERNATIVES CONSIDERED:

City Council may consider the following alternatives:

1. Uphold Planning Commission's decision to deny the request. If the request is denied, it is recommended that the appellant be required to remove the storage containers and replace the landscaping removed to accommodate the outdoor seating area no later than 30 days from the date of Council's decision.

2. Reverse Planning Commission's decision and approve the request, subject to conditions of approval. If the request is approved, appropriate findings would need to be made.

FISCAL REVIEW:

Fiscal review is not necessary.

LEGAL REVIEW:

Legal review is not necessary.

ENVIRONMENTAL REVIEW

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

CONCLUSION:

Planning Commission denied the request based on findings that the storage containers and outdoor seating area would not be compatible with surrounding properties.

MEL LEE, AICP
Senior Planner

DONALD D. LAMM, AICP
Deputy City Mgr./Development Svs. Dir.

DISTRIBUTION: City Manager
Asst. City Manager
City Attorney
City Clerk (2)
Staff (4)
File

D'Alessio Investments, LLC
Attn: Dennis D'Alessio
440 Fair Drive, Suite 200
Costa Mesa, CA 92627

Mark Mitchell
25108 Marguerite Parkway
Ste-A#174
Mission Viejo, CA 92692

ATTACHMENTS:
1. Location Maps and Plans
2. Draft City Council Resolutions
   Exhibit "A" Draft Findings
   Exhibit "B" Conditions of Approval
3. Appeal Form
4. Petitions for and against the request submitted at the Planning Commission meeting of November 13, 2006
5. Correspondence received from public
6. Minutes from Planning Commission Meeting of November 13, 2006
7. Planning Agenda Report and Attachments
8. Planning Commission Resolution

File Name: 010207ZA0651Appeal	Date: 122106	Time: 10:30 a.m.

ZONING/LOCATION MAP

ZA-06-51 (REVIEW)

Legend

Street Names

Parcel Lines

Zoning

- AP
- C1
- C1-S
- C2
- CL
- I&R
- I&R-S
- MG
- MP
- P
- PDC
- PDI
- PDR-HD
- PDR-LD
- PDR-MD
- PDR-NCM
- R1
- R2-HD
- R2-MD
- R3
- TC

Parcels

N W E S

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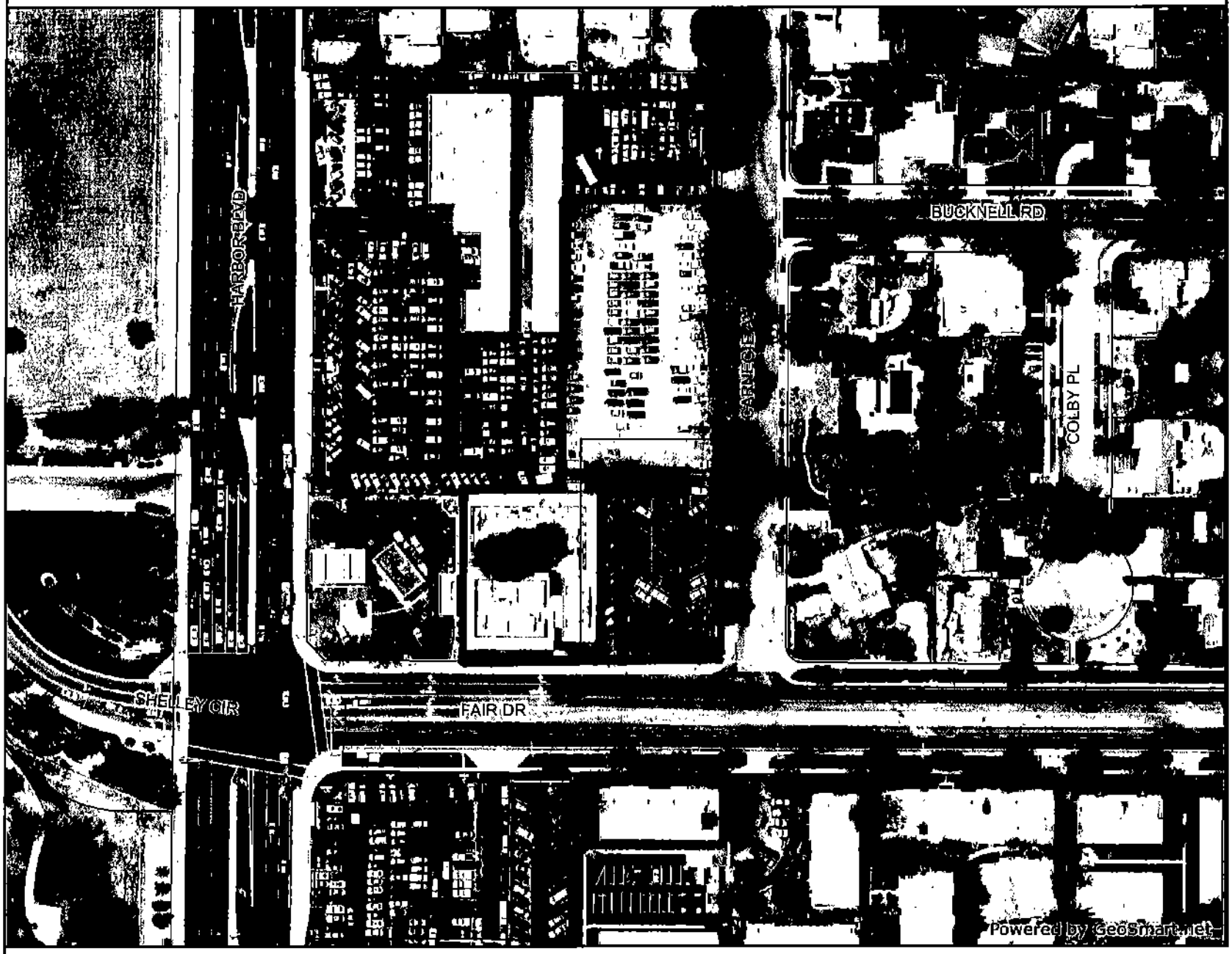
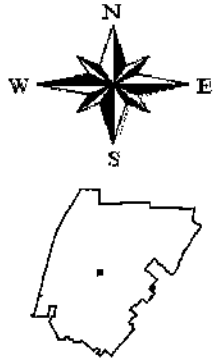
440 Fair Drive



Legend

- Street Names
- Parcel Lines
- Ortho Photography
- Parcels



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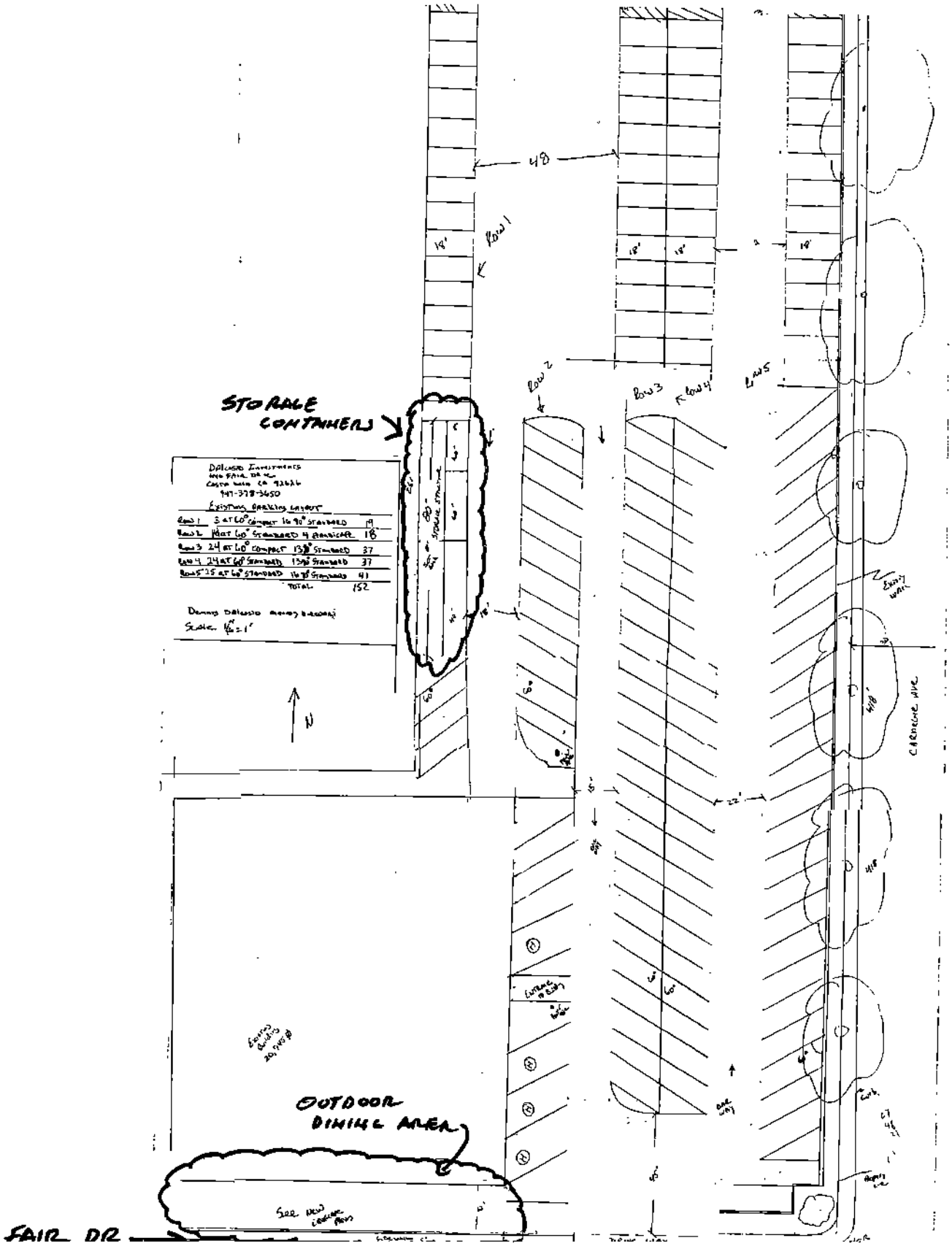
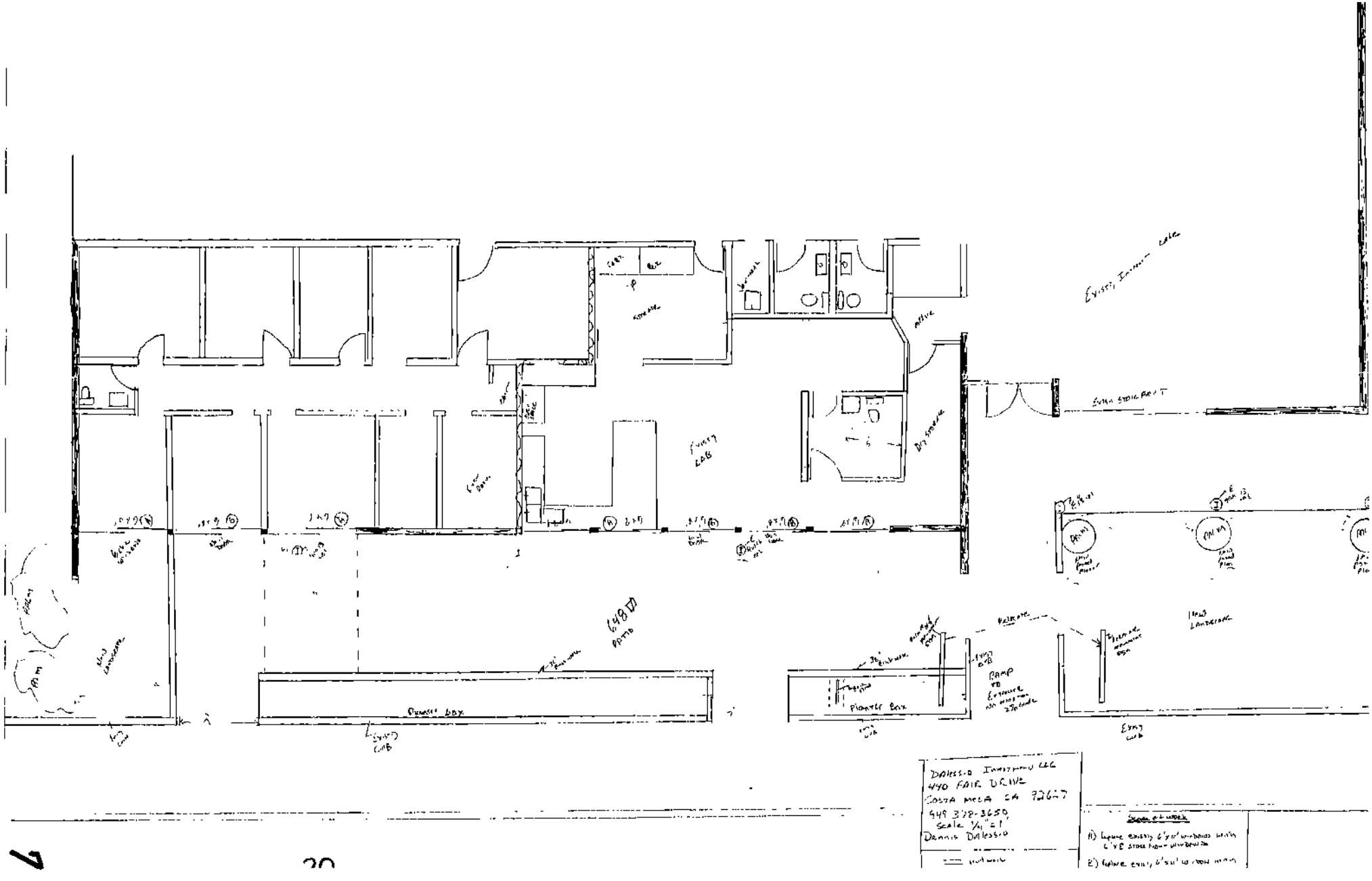

48
Row 1
Row 2
Row 3
Row 4
Row 5
STORAGE CONTAINERS
Dallosso Investments
Existing Parking Layout
Row 1 5 at 60° Compact 14 90° Standard 19
Row 2 18 at 60° Standard 4 Handicap 18
Row 3 24 at 60° Compact 13 90° Standard 37
Row 4 24 at 60° Standard 13 90° Standard 37
Row 5 25 at 60° Standard 16 90° Standard 41
Total 152
Scale 1/16" = 1'
N
Carnegie Ave
Outdoor Dining Area
See new landscape plan
Fair Dr


Existing Entrance Walk
Extra Storage Area
Existing Lobby
Dry Storage
Active
Existing Lobby
648 SF Patio
Planter Box
Ramp to Entrance
Existing Curb
Existing Curb
Existing Curb
Existing Curb
Dalessio Investments LLC
440 Fair Drive
Costa Mesa CA 92627
949 378-3650
Scale 1/4" = 1'
Dennis Dalessio

RESOLUTION NO. 07-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA DENYING ZONING APPLICATION ZA-06-51

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

WHEREAS, an application was filed by Mark Mitchell, authorized agent for Dennis D'Alessio, with respect to the real property located at 440 Fair Drive, requesting approval of a Zoning Application to legalize two storage containers and install a third container and to allow an outdoor dining patio within the required front landscaped area; and

WHEREAS, the request was approved by the Zoning Administrator on September 21, 2006; and

WHEREAS, on September 28, 2006, the request was called up by a Councilmember for review by the Planning Commission; and

WHEREAS, the Planning Commission denied the request at a public hearing on November 13, 2006; and

WHEREAS, on November 20, 2006, Planning Commission's denial of ZA-06-51 was appealed by the property owner to City Council; and

WHEREAS, a duly noticed public hearing was held by the City Council on January 2, 2007.

BE IT RESOLVED that, based on the evidence in the record and the findings contained in Exhibit "A", the City Council hereby **DENIES** Zoning Application ZA-06-51 with respect to the property described above and hereby requires the property owner to remove the storage containers and replace the landscaping removed to accommodate the outdoor seating area no later than 30 days from the date of this resolution.

PASSED AND ADOPTED this 2nd day of January, 2007.

ATTEST:

Deputy City Clerk of the City of Costa Mesa	**Mayor of the City of Costa Mesa**
	APPROVED AS TO FORM:
	City Attorney

EXHIBIT "A"

FINDINGS (Denial)

A. The information presented does not comply with Costa Mesa Municipal Code Section 13-29(g)(2) in that the proposed use is not compatible with developments in the same general area and would be materially detrimental to other properties in the area. Granting the minor conditional use permit will also be materially detrimental to the health, safety and general welfare of the public or otherwise injurious to properties or improvements within the immediate neighborhood. Specifically, the outdoor storage of recyclable materials is not completely screened and creates an unsightly appearance from the street and adjacent properties. Based upon public testimony presented at the meeting, the outdoor seating area will create additional adverse impacts such as noise, traffic, loitering, graffiti, and similar impacts to surrounding residential properties from customers due to its proximity to an existing cyber café on the property, especially if the sale and service of alcoholic beverages were introduced at this location. Additionally, the storage containers were placed on the site prior to the submittal of the request for Zoning Administrator approval. Granting the minor conditional use permit will allow a use, density or intensity that is not in accordance with the General Plan designation for the property. Specifically, the use is not consistent with the City's General Plan Objective LU-1F.1, which requires the protection of stabilized residential neighborhoods from incompatible or potentially disruptive land uses and/or activities.

B. The use does not comply with Costa Mesa Municipal Code Section 13-29(e) because:
   - The use is not compatible and harmonious with uses on surrounding properties.
   - The use is not consistent with the General Plan.

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 under Section 15301, Class 1, Existing Facilities, of the CEQA Guidelines.

D. The project is exempt from Chapter IX, Article 11, Transportation System Management, of Title 13 of the Costa Mesa Municipal Code.

RESOLUTION NO. 07-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA APPROVING ZONING APPLICATION ZA-06-51

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

WHEREAS, an application was filed by Mark Mitchell, authorized agent for Dennis D'Alessio, with respect to the real property located at 440 Fair Drive, requesting approval of a Zoning Application to legalize two storage containers and install a third container and to allow an outdoor dining patio within the required front landscaped area; and

WHEREAS, the request was approved by the Zoning Administrator on September 21, 2006; and

WHEREAS, on September 28, 2006, the request was called up by a Councilmember for review by the Planning Commission; and

WHEREAS, the Planning Commission denied the request at a public hearing on November 13, 2006; and

WHEREAS, on November 20, 2006, Planning Commission's denial of ZA-06-51 was appealed by the property owner to City Council; and

WHEREAS, a duly noticed public hearing was held by the City Council on January 2, 2007.

NOW, THEREFORE, BE IT RESOLVED that, based on the evidence in the record and the findings contained in Exhibit "A", and subject to the conditions contained in Exhibit "B", the City Council hereby **APPROVES** Zoning Application ZA-06-51 for 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 Zoning Application ZA-06-51 and upon applicant's compliance with each and all of the conditions contained in Exhibit "B". Should any material change occur in the operation, or should the applicant fail to comply with the Conditions of Approval, then this Resolution, and any recommendation for approval herein contained, shall be deemed null and void.

PASSED AND ADOPTED this 2nd day of January, 2007.

ATTEST:

Deputy City Clerk of the City of Costa Mesa

Mayor of the City of Costa Mesa

APPROVED AS TO FORM:

City Attorney

//

EXHIBIT "A"

FINDINGS (Approval)

A. The information presented complies with Costa Mesa Municipal Code Section 13-29(g)(2) in that the proposed use, is substantially compatible with developments in the same general area. Granting the minor conditional use permit will not be materially detrimental to the health, safety and general welfare of the public or otherwise injurious to properties or improvements within the immediate neighborhood. Granting the minor conditional use permit will not allow a use, density or intensity that is not in accordance with the General Plan designation for the property. Specifically, the storage containers will not reduce required on-site parking or landscaping, will not interfere with on-site vehicle circulation, and are not visible from the street. The outdoor seating area will incorporate a raised landscaped planter between the outdoor seating area and the public street, will be of a decorative material, and contain appropriate plant materials to provide an attractive appearance from the street. The proposed site improvements comply with General Plan Policy CD-8A.3, which encourages patios, courtyards and similar features in commercial areas, and CD-8A3.6, which encourages the shielding of storage areas from public view.

B. The use complies with Costa Mesa Municipal Code Section 13-29(e) because:
- The use is compatible and harmonious with uses on surrounding properties.
- The use is consistent with the General Plan.
- 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 under Section 15301, Class 1, Existing Facilities, of the CEQA Guidelines.

D. The project is exempt from Chapter IX, Article 11, Transportation System Management, of Title 13 of the Costa Mesa Municipal Code.

EXHIBIT "B"

CONDITIONS OF APPROVAL (If Request is Approved)

Plng.

1. Street addresses shall be displayed in a manner visible from the street. Street address numerals shall be a minimum 12 inches in height with not less than ¾-inch stroke and shall contrast sharply with the background.
2. A copy of the conditions of approval for the Zoning Application shall 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. Construction, grading, materials delivery, equipment operation or other noise-generating activity shall be limited to between the hours of 7 a.m. and 8 p.m., Monday through Friday, and between the hours of 8 a.m. and 7 p.m., on Saturday; there shall be no construction activity on Sunday and Federal holidays. Exceptions may be made for activities that will not generate noise audible from off-site, such as painting or other quiet interior work.
4. A raised landscape planter, a minimum of three (3) feet in height and four (4) feet in width, shall be provided as a buffer between the outdoor seating area and the public street. The planter shall be of decorative material (i.e., decorative block, stucco, or stone), and shall contain appropriate plant materials to provide an attractive appearance from the street. Plant materials shall meet with the approval of the Planning Division. The remaining street setback landscape areas shall comply with Costa Mesa Municipal Code Section 13-106 for required landscaping materials, including turf and/or ground cover, and the correct number of trees and shrubs
5. The conditions of approval and ordinance or code provisions of Zoning Application ZA-06-51 shall be blueprinted on the face of the site plan as part of the plan check submittal package.
6. The maximum occupancy for the outdoor seating area and adjoining restaurant, as determined by provisions of the Uniform Building Code or other applicable codes, shall be posted in public view within the premises, and it shall be the responsibility of management to ensure that this limit is not exceeded at any time. Occupant loads for the open patio area and the enclosed building area shall be calculated and posted separately.
7. The outdoor seating area and adjoining restaurant shall be conducted, at all times, in a manner that will allow the quiet enjoyment of the surrounding neighborhood. The applicant and/or business owner shall institute whatever security and operational measures are necessary to comply with this requirement.
8. Backflow prevention devices and other utility equipment shall be screened from view in a manner approved by the Planning Division.
9. No signage of any type shall be displayed on the outdoor patio area (including umbrellas).
10. The parking area shall be re-slurried and re-striped. New parking lot

striping shall comply with the City's Parking Design Standards.

11. The storage containers shall be painted to match the existing building.
12. Site improvements related to the proposed outdoor seating area, the raised landscape planter, screening of trash enclosures, and the re-slurry and re-stripe of the parking lot, are required to be completed prior to the commencement of the restaurant use. The applicant shall contact the Planning Division to arrange an inspection of the site. This inspection is to confirm that the conditions of approval and code requirements have been complied with.
13. If the outdoor seating area is not installed, the applicant shall provide building setback landscaping per Costa Mesa Municipal Code Sections 13-103 through 13-108.
14. The storage containers shall be immediately removed upon discontinuance of their use or change of property ownership.
15. The parking lot spaces shall not be leased or rented to any businesses not located on-site.

CITY OF COSTA MESA
P. O. Box 1200
Costa Mesa, CA 92628-1200

RECEIVED
CITY CLERK
2006 NOV 20 PM 12: 46
CITY OF COSTA MESA

FEE: $ 1070.00

APPLICATION FOR REVIEW, APPEAL OR REHEARING

Applicant Name D'Alessio Investments

Address 440 Fair dr. Costa Mesa CA 92626

Phone 949-378-3650 Representing*

REQUEST FOR: ☐ **REVIEW**** ☒ **APPEAL** ☐ **REHEARING**

Decision of which review, appeal or rehearing is requested: (give number of rezone, zone exception, ordinance, etc., if applicable, and the date of the decision, if known.) Zoning Application ZA-06-51
Commission ruling PC-06-82
11/13/06

Decision by: 4-1

Reasons for requesting review, appeal or rehearing:
Please See attached

Date: 11/20/06 Signature:

For office use only – do not write below this line

SCHEDULED FOR THE CITY COUNCIL/PLANNING COMMISSION MEETING OF:
If review, appeal or rehearing is for person or body other than City Council/Planning Commission, date of hearing of review, appeal or rehearing:

* If you are serving as the agent for another person, please identify the person you represent and provide proof of agency.
** Review may be requested only by City Council or City Council Member
Costa Mesa/Forms1/Application for Review-Appeal-Rehearing

RECEIVED
CITY CLERK
2006 NOV 20 PM 12:46
CITY OF COSTA MESA
BY

Reasons for requesting appeal

Re: Zoning Application ZA-06-51 and Planning Commission Resolution PC-06-82

I am herewith appealing the Planning Commission's denial of my Zoning Application for various reasons explained below.

First of all, the Zoning Administrator originally approved my request. Council Member Linda Dixon called for review of the request for the purpose of adding a condition and not for reasons of denying the request. Ms. Dixon told me specifically that she did not disagree with my intended use but that she wanted to add that the parking lot only be used for tenants and, in other words, not be rented out to third parties. Nothing about Ms. Dixon's recommended condition was discussed or considered at the Commission Meeting and the request was denied on other grounds not pertaining to Ms. Dixon's recommendation. Ms. Dixon was not present at the Commission meeting.

Second, my zoning application request was two-part. I wanted to legalize storage containers on the property and add an outdoor dining area for a restaurant facility on the premises. There was public objection to the outdoor dining request but not to the storage container request, although both items of the request were denied. When a Council Member attempted to make a motion separating the two distinct requests, her motion, which had been seconded, was interrupted and a "substitute motion" was offered by the Chairman of the Commission to deny both parts of the request. The Chairman explained to the Commission that he would explain later why he was offering the substitute motion, that motion was made and seconded, but no explanation was given. A vote ensued and my request was denied. I believe that it would have been more fair to let the previous motion, which had been seconded, come before a vote but I think the Commission assumed there would be some explanation for the substitute motion which was forgotten about when it was called to question.

Lastly, a Commission Member stated that I should have applied for an extension to finalize my CUP and stated that such an extension is routine. His comment suggested to the Commission that I failed to use options that are readily available to bringing a CUP into compliance on a timeline basis. I attempted to correct his statement with a point of information that I did, in fact, apply for an extension and was denied. The Chairman did not allow me to speak as he said the time for public discussion had ended. I think fairness would suggest that I should have been able to correct a Commission Member's misstatement but I was not allowed to do so.

I am appealing the Commission's decision for all of the above and I thank you for your consideration.

Sincerely,

Dennis D'Alessio

(1)

November, 2006

WE, THE UNDERSIGNED, STAND OPPOSED TO THE ESTABLISHMENT OF A PIZZA PARLOR AT 440 FAIR DRIVE, COSTA MESA BECAUSE

1. IT WOULD HAVE A NEGATIVE IMPACT ON THE ENVIRONMENT OF THE ADJACENT RESIDENTIAL AREA, e.g., the disposal of trash, the resultant increased noise, and traffic interruption;
2. A PIZZA PARLOR JUST DOES NOT FIT EITHER WITH OUR RESIDENTIAL AREA OR WITH THE PROFESSIONAL CHARACTER OF OTHER OFFICES IN THAT BUILDING.

1) ALICE BOWMAN 2510 Carnegie 714 545-0129
Alice Bowman nov. 11, 2006.

2) Linda Hogsett 246 Bowling Green Dr.
Linda Hogsett nov. 11, 2006

3) Ryana Parker 2526 Carnegie Ave 714-785-9059
11/11/2006

4) JACOB PARKER 2526 CARNEGIE AVE 714-785-3929
11/11/2006

5) 2531 JOE CERONE 2531 COLBY PLACE 11/11/06 949-337-2057

6) SUE YOUNG 2519 COLBY PL. CM 11/11/06 714 549-0590

7) Delores Sheahan 2506 Colby Pl. (714) 556-3751
Delores Sheahan Costa Mesa

8) Kelly Giffen 2512 Colby Pl. 714-708-2688
Costa Mesa

9) Mary Hamby 420 Bucknell Rd 714-545-0670
Mary Hamby

10) DONALD CHRISTENSON 2518 CARNEGIE
Donald L. Christenson COSTA MESA

17

We, the undersigned, stand opposed to the establishment of a pizza parlor at 440 Fair Drive, Costa Mesa CA because:

1) It would have a negative impact on the environment of the adjacent residential area (e.g. The disposal of trash, the resulting increased noise, and traffic interruption).

2) A pizza parlor just does not fit either with our residential area or the character of other offices in that professional building.

1	Name: Loya Ann Diniz	Telephone: 714 545-5291
	Signature: Loya Ann Diniz	
	Address: 450 Elmhurst Lane Costa Mesa, CA. 92626	
2	Name: Nafey Wennerberg	Telephone:
	Signature: ~~457 Elmhurst Ln.~~ Nafey Wenner	
	Address: 457 Elmhurst Ln.	
3	Name: DAN WENNERBERG	Telephone: (714) 556-2732
	Signature: Dan Wenn	
	Address: 457 ELMHURST LN	
4	Name: KATHEVINE HANUF	Telephone: 714-
	Signature: Katherine Hanuf	
	Address: 463 Elmhurst Ln 92626	
5	Name: Bob D Hill	Telephone: 714-557-4575
	Signature: Bob D. O'Hill	
	Address: 456 ELMHURST LN COSTA MESA CA.	
6	Name: Jerry Hebert	Telephone: (714) 401-9662
	Signature: Jerry A Hebert	
	Address: 453 Elmhurst Lane C.M	
7	Name: Clemente Ayala	Telephone: 714-662-0559
	Signature:	
	Address: 447 Elmhurst LN Costamesa CA	
8	Name: Salbador Anaya	Telephone: (714) 662-05-59
	Signature: Salvador Ayala Anaya	
	Address: 447 Elmhurst LN Costamesa CA	
9	Name: ROBERT PONIEWAZ	Telephone: (714) 751-8194
	Signature:	
	Address: 444 ELMHURST LN. CM. CAL 92626	
10	Name: LINDA COX	Telephone: 714/751-8194
	Signature: Linda Cox	
	Address: 444 ELMHURST LN CM 92626	

We, the undersigned, stand opposed to the establishment of a pizza parlor at 440 Fair Drive, Costa Mesa CA because:

1) It would have a negative impact on the environment of the adjacent residential area (e.g. The disposal of trash, the resulting increased noise, and traffic interruption).

2) A pizza parlor just does not fit either with our residential area or the character of other offices in that professional building.

1	Name: GINA WARD	Telephone: (714) 979-7770
	Signature:	
	Address: 440 ELMHURST LN COSTA MESA	
2	Name: DENNIS SMITH	Telephone: 714-641-0338
	Signature:	
	Address: 2535 CARNEGIE	
3	Name: DONNA SMITH	Telephone: 714-641-0338
	Signature: Donna Smith	
	Address: 2535 Carnegie Ave, C.M.	
4	Name: CHARLES HOLLINGER	Telephone:
	Signature: Charles E. Hollinger	
	Address: 2538 CARNEGIE AVE	
5	Name: JONE MERKOL	Telephone: 714-548-0178
	Signature: Jone H. Merkol	
	Address: 2564 Carnegie	
6	Name: JEAN E. AMBURGEY	Telephone: 714-546-5833
	Signature: Jean E. Amburgey	
	Address: 2574 CARNEGIE, C.M. 92626	
7	Name: TERESA DRAIN	Telephone: 714-751-3553
	Signature:	
	Address: 427 PRINCETON, CM 92626	
8	Name: HENRY S. PAHIAN	Telephone: (714) 979-1803
	Signature: Henry S. Pahian	
	Address: 436 SWARTHMORE LN.	
9	Name: Richard Thayer	Telephone: 714-432-9021
	Signature:	
	Address: 442 Swarthmore	
10	Name: Sharon Thayer	Telephone: 714-432-9021
	Signature: Sharon Thayer	
	Address: 442 Swarthmore	

We, the undersigned, stand opposed to the establishment of a pizza parlor at 440 Fair Drive, Costa Mesa CA because:

1) It would have a negative impact on the environment of the adjacent residential area (e.g. The disposal of trash, the resulting increased noise, and traffic interruption).

2) A pizza parlor just does not fit either with our residential area or the character of other offices in that professional building.

1	Name: SHIRLEY HOLLINGER	Telephone:
	Signature: Shirley Hollinger	
	Address: 2538 Carnegie Ave	Costa Mesa, 92626
2	Name: George Enos	Telephone: 714-751-7105
	Signature: George S Enos	
	Address: 2550 Carnegie Ave	
3	Name: Carole Call	Telephone: 714-751-4551
	Signature: Carole Call	
	Address: 2568 Carnegie Ave	Costa Mesa
4	Name: EVA KJETLAND	Telephone: 714-557-0848
	Signature: Eva Kjetland	
	Address: 2580 CARNEGIE AVE. COSTA MESA.	
5	Name: SIG KJETLAND	Telephone: 714-557-0848
	Signature: Sig Kjetland	
	Address: 2580 CARNEGIE AVE C.M.	
6	Name: JUDITH TRACEY	Telephone: 714-556-9822
	Signature: Judith Tracey	
	Address: 1264 Buckwell Rd.	
7	Name: Jan Rotunno	Telephone: 714-556-5741
	Signature: Jan Rotunno	
	Address: 278 Buckwell Rd CM	
8	Name: Michael Rotunno	Telephone: 714 556 5741
	Signature: [illegible]	
	Address: 278 Buckwell Rd CM	
9	Name: AGNES E WAKELEY	Telephone: 714-549-1276
	Signature: Agnes E. Wakeley	
	Address: 3527 Fairoak Rd - C.M	
10	Name: ROGER NEDH	Telephone: 714 540-7023
	Signature: Roger Nedh	
	Address: 200 Buckwell Rd. C.M.	

We, the undersigned, stand opposed to the establishment of a pizza parlor at 440 Fair Drive, Costa Mesa CA because:

1) It would have a negative impact on the environment of the adjacent residential area (e.g. The disposal of trash, the resulting increased noise, and traffic interruption).

2) A pizza parlor just does not fit either with our residential area or the character of other offices in that professional building.

1	Name: JOHN MACK	Telephone: 714 751 3176
	Signature: John Mack	
	Address: 2519 LEHIGH	
2	Name: KELLI SMITH	Telephone: 714 435 9037
	Signature: Kelli Smith	
	Address: 2513 LEHIGH PL	
3	Name: Billie Deiding	Telephone: 714) 545-4677
	Signature: Billie Deiding	
	Address: 2524 Lehigh Place	
4	Name: Colleen Whitfield	Telephone: 714 436-0793
	Signature: Colleen Whitfield	
	Address: 2525 Lehigh Place Costa Mesa 92626	
5	Name: Sam Lovell	Telephone: 714 360 0081
	Signature: Sam Lovell	
	Address: 372 Buckwell RD CM CA 92626	
6	Name: CIZIL BIASCHK	Telephone: 714-557 8TO
	Signature: Cizil Blaschke	
	Address: 2558 CARNEGIE AVE CM	
7	Name: Bob Schwenke	Telephone: 714-545-6491
	Signature:	
	Address: 2544 Carnegie Ave. CM. CA 92626	
8	Name: Ralph Kelsch	Telephone: 714 979-7610
	Signature:	
	Address: 2554 Carnegie Ave	
9	Name: BARBARA PANIAN	Telephone: 714-979-1813
	Signature: Barbara Panian	
	Address: 436 Swarthmore Costa Mesa 92626	
10	Name: John Cullen	Telephone: (714) 540-1035
	Signature: John D. Cullen	
	Address: 441 Swarthmore Ln	

We, the undersigned, stand opposed to the establishment of a pizza parlor at 440 Fair Drive, Costa Mesa CA because:

1) It would have a negative impact on the environment of the adjacent residential area (e.g. The disposal of trash, the resulting increased noise, and traffic interruption).

2) A pizza parlor just does not fit either with our residential area or the character of other offices in that professional building.

1	Name: CHARLES T. HAMILTON	Telephone:	714 546 5542
	Signature: Charles T. Hamilton		
	Address: 434 ELMHURST LA	CM	92626
2	Name: PATRICIA A HAMILTON	Telephone:	714 546 5542
	Signature: Patricia A. Hamilton		
	Address: 434 ELMHURST LANE, COSTA MESA 92626		
3	Name: Emy G. Bowman	Telephone:	714 556-8901
	Signature: Emy G. Bowman		
	Address: 2502 Carnegie Ave C.M. 92626		
4	Name: [illegible]	Telephone:	714 556-8901
	Signature: [illegible]		
	Address: 2502 CARNEGIE AVE CM. 92626		
5	Name:	Telephone:	
	Signature:		
	Address:		
6	Name:	Telephone:	
	Signature:		
	Address:		
7	Name:	Telephone:	
	Signature:		
	Address:		
8	Name:	Telephone:	
	Signature:		
	Address:		
9	Name:	Telephone:	
	Signature:		
	Address:		
10	Name:	Telephone:	
	Signature:		
	Address:		

I am in favor of hotties pizza bistro to be located at 440 Fair drive with outside dining. I have reviewed the plan and I think it would be good for the area
I also have personal knowledge that there is more than enough parking available at the site

	Print name	Signature
1	Lan Wu	
2	NICOLE HOCKING	Nicole M. Hocking
3	Krista Bannister	Krista Bannister
4	Mary Wertheimer	Mary Wertheimer
5	John J Wagner	
6	Tyler White	
7	Michael Jumean	Michael Jumean
8	JASON MARTIN	
9	Mary Ferrara	
10	Sylvia Pham SYLVIA PHAM	Sylvia Pham
11	JEFF DEVOW, D.O.	D.O.
12	Patricia Sandoval	
13	Annette Smith	
14	Liz Simmons	
15	Rhonda Northcutt	Rhonda Northcutt
16	Mary Jones	Mary Jones
17	Monique White	
18	Jim Kelly	Jim Kelly
19	MARIA Mendez	Maria Mendez
20	Armen Gekchyan	
22	Matt Post	
23	JOAN BURTON	
24	Trevor Foster	

I am in favor of hotties pizza bistro to be located at 440 Fair drive with outside dining. I have reviewed the plan and I think it would be good for the area
I also have personal knowledge that there is more than enough parking available at the site

	Print name	Signature
1	Joe Bell	
2	Justin Vaughan	
3	Mike Weber	
4	Erin Mickelos	E.C. Mickelos.
5	Erwin Ferrer	
6	Theo Dillerney	Theo Dillerney
7	Chris Hardaway	
8	Scott Kaufhausler	
9	Adam Clay	Adam Kanady
10	Zach Lunn	
11	Chris Ouellette	
12	Doug McClements	
13	Ryan Sart	
14		
15		
16		
17		
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19		
20		
22		
23		
24		

ZA-06-51

Alice Bowman (2510 Carnegie is) opposed to the proposed use based on the following:

- Noise from cyber café and proposed pizza restaurant;
- Customers (primarily teenagers) urinating and causing trouble in neighborhood;
- Trash;
- Car parking ;
- Remove barb wire from block wall along Carnegie;
- Block wall needs repair.
- Would also like to see block wall along Carnegie repaired and raised, and the street be maintained;

Also represents son (Allen) who lives at 2402 Carnegie.

Mel 11/8/06

11-13-06 PC Minute Excerpts for ZA-06-51

PLANNING COMMISSION REVIEW OF ZONING APPLICATION ZA-06-51

MARK MITCHELL/D'ALESSIO INVESTMENTS

The Chair opened the public hearing for consideration of Zoning Application ZA-06-51, for Mark Mitchell, authorized agent, for D'Alessio Investments, for a minor conditional use permit to allow three storage containers (640 sq. ft. total) and for outdoor seating area within the front landscaped setback, located at 440 Fair Drive, in a C1 zone. Environmental determination: exempt.

Senior Planner Mel Lee reviewed the information in the staff report and gave a presentation. He said staff is recommending approval by adoption of Planning Commission resolution, subject to conditions.

Commissioner Egan stated for the record her concerns about the recycled materials, the five massage parlors, and asked Mr. Lee if there is a permit for outdoor storage and if there were any Police problems.

Mr. Lee replied that the City does not have a permit on file for the outdoor storage, the only storage that is the subject of this permit is the storage containers themselves. Also, Mr. Lee said he believes that there have been some Police problems associated with this location, but does not have any details on that.

In response to a question from Commissioner Fisler, Mr. Lee confirmed that this request is to legalize these storage containers. If this request is not approved, the storage containers would have to be removed.

Dennis D'Alessio, applicant, D'Alessio Investments, 440 Fair Drive (Suite 200), indicated he read the staff report and agreed to the conditions of approval. He also gave a presentation and spoke about the benefits of this project.

The Chair opened the public hearing for public comments.

PUBLIC COMMENT:

Allen Bowman, 2502 Carnegie Avenue, Costa Mesa, spoke in opposition to the project and presented a petition with 62 signatures from residents in College Park opposing the project. He noted there are already four pizza restaurants near College Park, and this project does not fit into the residential neighborhood.

The Chair and Mr. Bowman had a discussion about one of the pizza restaurants.

Delores Sheahan, 2506 Colby Place, Costa Mesa, opposed the project citing noise and loitering concerns.

Ann Diniz, 450 Elmhurst Lane, Costa Mesa, opposed the project citing graffiti and noise concerns.

Alice Bowman, 2510 Carnegie Avenue, Costa Mesa, and mother of Allen Bowman, opposed the project citing traffic, loitering, and trash concerns.

Jason Martin, 440 Fair Drive, Costa Mesa, a business owner in the same building, spoke in favor of the project.

Rich D'Alessio, 440 Fair Drive, Suite 200, Costa Mesa, brother of the applicant and owner of the pizza restaurant, spoke of the benefits of this project and its service to the community.

Mr. Dennis D'Alessio continued to speak about the benefits of the pizza restaurant and presented a petition with 48 signatures in favor of this project. The signatures were from people working in the building and living in the neighborhood. He stated he believed that the graffiti was not from his clientele.

Mr. Lee replied to the Chair's question about Police concerns for this site address stating that there have been concerns relating to the massage parlors and loitering.

Mr. D'Alessio explained that due to time constraints, he applied for storage containers after moving them to the site. He also explained to Vice Chair Hall that in answer to what's causing residents' concerns, the outdoor seating would be in front of the building, facing the street, and he offered to put cameras and lighting in, which would benefit the community.

There was also a discussion about the cyber café's closing time.

Mr. D'Alessio replied to Vice Chair Hall's question about having lighting and cameras placed in the parking lot by noting that he wants to make the area safe. Appropriate lighting was discussed.

There was a discussion about the closing time of the restaurant; serving alcohol; noise generating from the parking lot; and the Chair asked Deputy City Attorney Christian Bettenhausen about adding a condition to this application not to serve alcohol. The discussion continued about serving alcohol past a certain time, and Ms. Shih noted that a minor conditional use permit would be needed to serve alcohol past 11:00 p.m., otherwise serving alcohol is permitted.

The Chair closed the public hearing.

Vice Chair Hall discussed the application, in review, and moved for

approval of Zoning Application ZA-06-51. The motion died for lack of a second.

Commissioner Egan asked if approval could be for just one of the issues (storage containers) and so moved for approval to allow three storage containers, and to modify the resolution, and Vice Chair Hall seconded the motion.

The Chair made a clarification and made a substitute motion.

MOTION: ZA-06-51

DENIED

A substitute motion was made by Chairman Perkins, seconded by Commissioner Fisler and carried 4-1 (Hall voted no) to deny Zoning Application ZA-06-51, by adoption of Planning Commission Resolution PC-06-82, based on public testimony and findings contained in exhibit "A".

During discussion on the motion, the Chair mentioned his concerns about legalizing the storage containers; the noise from an outdoor seating area; the proximity to the residents; alcohol use; and Police problems contributed to his substitute motion.

Vice Chair Hall discussed with Mr. Lee about the minor conditional use permit for outdoor storage containers.

Commissioner Garlich supported the substitute motion.

The Chair explained the appeal process.

PLANNING COMMISSION AGENDA REPORT

VII.

MEETING DATE: NOVEMBER 13, 2006 ITEM NUMBER:

SUBJECT: REVIEW OF ZONING APPLICATION ZA-06-51
440 FAIR DRIVE

DATE: NOVEMBER 2, 2006

FOR FURTHER INFORMATION CONTACT: MEL LEE, AICP, SENIOR PLANNER
(714) 754-5611

PROJECT DESCRIPTION

Request for review of Zoning Administrator's approval of a Zoning Application to legalize two storage containers and install a third container, and to allow an outdoor dining patio area within the required front landscaped area.

APPLICANT

The review was requested by Councilmember Linda Dixon. The applicant is Mark Mitchell, representing the property owner, Dennis D'Alessio.

RECOMMENDATION

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

MEL LEE, AICP
Senior Planner

R. MICHAEL ROBINSON, AICP
Asst. Development Services Director

BACKGROUND

The 440 Fair Drive property contains a two-story, 20,745 square-foot medical office building constructed in the early 1960's.

On November 28, 2005, Planning Commission, on a 3-1 vote (Commissioner Fisler voting no, Vice Chair Hall absent) approved Conditional Use Permit PA-05-31 to legalize the parking of employee vehicles off-site for the Orange Coast Jeep Dealership at 2524 Harbor Boulevard at 440 Fair Drive, in conjunction with a minor conditional use permit to legalize outdoor boat and recreational vehicle (RV) storage and a development review to construct a 600 square foot storage building.

The property owner eliminated the off-site employee parking for the auto dealer, removed the outdoor RV and boat storage, and replaced the proposed storage building with the storage containers, for which the applicant requested approval under Minor Conditional Use Permit ZA-06-51. The applicant also proposes to install a 648 square foot outdoor seating area within the previously landscaped area along the Fair Drive frontage to accommodate a proposed pizza restaurant within the building.

The storage containers will not reduce required on-site parking or landscaping, will not interfere with on-site vehicle circulation, and are not visible from the street. The outdoor seating area will incorporate a raised landscaped planter between the outdoor seating area and the public street, will be of a decorative material, and contain appropriate plant materials to provide an attractive appearance from the street.

The Zoning Administrator approved ZA-06-51 on September 21, 2006. The decision was called up for review by Councilmember Linda Dixon on September 28, 2006.

ANALYSIS

Councilmember Dixon's request for review was based on a lack of parking for the subject application due to the parking spaces that were leased or rented to businesses other than those physically located on the site, resulting in spill-over parking on surrounding streets. It was also recommended that a condition of approval be added prohibiting the rental or leasing of the parking lot spaces to any businesses not located on-site.

According to the property owner, the portion of the parking lot used by Orange Coast Jeep for off-site parking was terminated on June 30, 2006 (see attached letter). However, staff has incorporated an additional condition of approval (condition no. 15) prohibiting the spaces in the parking lot being leased or rented to any businesses not located on-site.

If the request is denied, the applicant would be required to remove the storage containers and replace the landscaping that has been removed to accommodate the outdoor seating area.

GENERAL PLAN CONFORMITY

The use is consistent with the City's General Plan because the proposed use will not affect the Floor Area Ratio (FAR) of the site or generate traffic volumes in excess of those anticipated under the building intensity standards of the land use designation and the General Plan Traffic Model. The proposed site improvements comply with General Plan Policy CD-8A.3, which encourages patios, courtyards and similar features in commercial areas, and CD-8A3.6, which encourages the shielding of storage areas from public view.

ALTERNATIVES

The Commission has the following alternatives:

1. Uphold the Zoning Administrator's decision and approve ZA-06-51 with the recommended additional condition of approval; or
2. Overturn the Zoning Administrator's decision and deny ZA-06-51. The applicant could not submit substantially the same type of application for six months. Also, if the request is denied, it is also recommended that the applicant be required to remove the storage containers and replace the landscaping removed to accommodate the outdoor seating area no later than 30 days from the date of the decision.

CONCLUSION

The proposed use, with the recommended conditions of approval, should be compatible with surrounding properties and uses. Therefore, staff recommends approval of the uses.

Attachments:
Draft Planning Commission Resolution
Exhibit "A" - Draft Findings
Exhibit "B" - Draft Conditions of Approval
Review Request
ZA Letter
Off-Site Parking Termination Letter
Zoning/Location Map
Plans Prepared By Applicant

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

D'Alessio Investments, LLC
Attn: Dennis D'Alessio
440 Fair Drive, Suite 200
Costa Mesa, CA 92627

Mark Mitchell
25108 Marguerite Parkway
Ste-A#174
Mission Viejo, CA 92692

File: 111306ZA0651Appeal	Date: 103006	Time: 8:30 a.m.

CITY OF COSTA MESA
P.O. BOX 1200 COSTA MESA, CALIFORNIA 92628
APPLICATION FOR APPEAL OR REHEARING

FEE: $

Applicant Name: Linda W. Dixon

Address: 77 Fair Drive, Costa Mesa, California, 92626

Phone: (714) 754-5327 Representing: Self (Council Member)

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.): ZA-06-51, 440 Fair Drive, Costa Mesa, CA.

Decision by: Zoning Administrator

Reason{s) for requesting appeal or rehearing:

The basis for this appeal is an apparent lack of parking for the subject application. Prior personal observations of the parking lot at 440 Fair Drive suggest that parking spaces are being leased/rented to businesses other than those physically located at this location. This results in spill over parking on residential streets. I am not opposed to the proposed use under the ZA, but believe a condition or other similar requirement be established which prohibits spaces in the parking lot to be leased/rented to any businesses not located on-site.

Date: 9/28/06 Signature: for Linda Dixon

For Office Use Only - Do Not Write Below This Line

SCHEDULED FOR THE CITY COUNCIL/PLANNING COMMISSION MEETING OF:

11.13.06

RECEIVED
CITY OF COSTA MESA
DEVELOPMENT SERVICES DEPARTMENT

SEP 28 2006

0407-30 rev. 10189

CITY OF COSTA MESA

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

DEVELOPMENT SERVICES DEPARTMENT

September 21, 2006

D'Alessio Investments, LLC
Attn: Dennis D'Alessio
440 Fair Drive, Suite 200
Costa Mesa, CA 92627

RE: ZONING APPLICATION ZA-06-51
MINOR CUP FOR STORAGE CONTAINERS AND OUTDOOR SEATING AREA
440 FAIR DRIVE, COSTA MESA

Dear Mr. D'Alessio:

Staff's review of your zoning application for the above-referenced project has been completed. The application, as described in the attached project description, has been approved; based on the findings and subject to the conditions of approval, code requirements, and special district requirements (attached). The decision will become final at 5 p.m. on September 28, 2006, unless appealed by an affected party including filing of the necessary application and payment of the appropriate fee or called up for review by a member of the Planning Commission or City Council.

If you have any questions regarding this letter, please feel free to contact the project planner, Mel Lee, at (714) 754-5611, between 1 p.m. and 5 p.m., Monday through Friday.

Sincerely,

R. MICHAEL ROBINSON
Zoning Administrator

Attachments: Project Description
Findings
Conditions of Approval, Code Requirements, and Special District Requirements
Approved Conceptual Plans

cc: Engineering
Fire Protection Analyst
Building Safety Division

Building Division (714) 754-5273 • Code Enforcement (714) 754-5623 • Planning Division (714) 754-5245
FAX (714) 754-4856 • TDD (714) 754-5244 • www.ci.costa-mesa.ca.us

PROJECT DESCRIPTION:

The subject property contains a two-story, 20,745 square-foot commercial building constructed in the early 1960's. The property is zoned C1 (Local Business). The two requests related to this application are summarized below.

Storage Containers

- The applicant is proposing to legalize two storage containers and install a third container for a total 640 square feet. The containers are used for storage of books and other materials related to one of the businesses within the building.
- The containers are located north of the existing building on the westerly side of the property, abutting the Orange Coast Jeep Dealership property.
- The containers, which are painted to match the building, will not reduce required on-site parking or landscaping, will not interfere with on-site vehicle circulation, and are not visible from the street.
- The containers are not counted toward Floor Area Ratio (FAR), nor do they generate additional parking requirements nor are they considered "structures" because they will not be allowed to have foundation or utility hookups for water or power to facilitate use as a habitable room. Additionally, the storage containers are required to be removed upon discontinuance of their use or change of property ownership.

Outdoor Patio Area

- The applicant proposes converting a former office space within the building to a pizza restaurant. A portion of the existing building façade along the Fair Drive frontage, which is currently a solid wall with high windows, is proposed to be replaced with storefront windows and doors. Because most of the area within the proposed 700 square foot restaurant space would be occupied by kitchen, storage, and restrooms, a 648 square foot outdoor dining patio is proposed within the required front landscaped area.
- A raised landscaped planter, a minimum of three (3) feet in height and four (4) feet in width, is required to be provided as a buffer between the outdoor seating area and the public street. The planter will be required to be of a decorative material (i.e., decorative block, stucco, or stone), and contain appropriate plant materials to provide an attractive appearance from the street. The applicant will be required to provide landscape and irrigation plans per code.
- The site provides adequate area to accommodate the required number of on-site parking spaces for the restaurant and the other existing uses within the building per Code (104 parking spaces total)[1]; however, the applicant will be required to re-slurry and re-stripe the parking lot to ensure the minimum number of spaces are available for use by employees and patrons.
- Site improvements related to the proposed outdoor seating area, the raised landscape planter, screening of trash enclosures, and the re-slurry and re-stripe

[1] Based upon shared parking analysis.

of the parking lot, are required to be completed prior to the commencement of the restaurant use.

- To avoid an overuse of signage for the use, no signage of any type will be permitted to be displayed on the outdoor patio area (including umbrellas).
- The use is consistent with the City's General Plan because the proposed use will not affect the Floor Area Ratio (FAR) of the site or generate traffic volumes in excess of those anticipated under the building intensity standards of the land use designation and the General Plan Traffic Model. The proposed site improvements comply with General Plan Policy CD-8A.3, which encourages patios, courtyards and similar features in commercial areas, and CD-8A3.6, which encourages the shielding of storage areas from public view.

FINDINGS:

A. The information presented complies with Costa Mesa Municipal Code Section 13-29(g)(2) in that the proposed use, is substantially compatible with developments in the same general area. Granting the minor conditional use permit will not be materially detrimental to the health, safety and general welfare of the public or otherwise injurious to properties or improvements within the immediate neighborhood. Granting the minor conditional use permit will not allow a use, density or intensity that is not in accordance with the General Plan designation for the property. Specifically, the storage containers will not reduce required on-site parking or landscaping, will not interfere with on-site vehicle circulation, and are not visible from the street. The outdoor seating area will incorporate a raised landscaped planter between the outdoor seating area and the public street, will be of a decorative material, and contain appropriate plant materials to provide an attractive appearance from the street. The proposed site improvements comply with General Plan Policy CD-8A.3, which encourages patios, courtyards and similar features in commercial areas, and CD-8A3.6, which encourages the shielding of storage areas from public view.

B. The use complies with Costa Mesa Municipal Code Section 13-29(e) because:
   - The use is compatible and harmonious with uses on surrounding properties.
   - The use is consistent with the General Plan.
   - 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 under Section 15301, Class 1, Existing Facilities, of the CEQA Guidelines.

D. The project is exempt from Chapter IX, Article 11, Transportation System Management, of Title 13 of the Costa Mesa Municipal Code.

CONDITIONS OF APPROVAL:

Plng.

1. Street addresses shall be displayed in a manner visible from the street. Street address numerals shall be a minimum 12 inches in height with not less than ¾-inch stroke and shall contrast sharply with the background.
2. A copy of the conditions of approval for the Zoning Application shall 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. Construction, grading, materials delivery, equipment operation or other noise-generating activity shall be limited to between the hours of 7 a.m. and 8 p.m., Monday through Friday, and between the hours of 8 a.m. and 7 p.m., on Saturday; there shall be no construction activity on Sunday and Federal holidays. Exceptions may be made for activities that will not generate noise audible from off-site, such as painting or other quiet interior work.
4. A raised landscape planter, a minimum of three (3) feet in height and four (4) feet in width, shall be provided as a buffer between the outdoor seating area and the public street. The planter shall be of decorative material (i.e., decorative block, stucco, or stone), and shall contain appropriate plant materials to provide an attractive appearance from the street. Plant materials shall meet with the approval of the Planning Division. The remaining street setback landscape areas shall comply with Costa Mesa Municipal Code Section 13-106 for required landscaping materials, including turf and/or ground cover, and the correct number of trees and shrubs.
5. The conditions of approval and ordinance or code provisions of Zoning Application ZA-06-51 shall be blueprinted on the face of the site plan as part of the plan check submittal package.
6. The maximum occupancy for the outdoor seating area and adjoining restaurant, as determined by provisions of the Uniform Building Code or other applicable codes, shall be posted in public view within the premises, and it shall be the responsibility of management to ensure that this limit is not exceeded at any time. Occupant loads for the open patio area and the enclosed building area shall be calculated and posted separately.
7. The outdoor seating area and adjoining restaurant shall be conducted, at all times, in a manner that will allow the quiet enjoyment of the surrounding neighborhood. The applicant and/or business owner shall institute whatever security and operational measures are necessary to comply with this requirement.
8. Backflow prevention devices and other utility equipment shall be screened from view in a manner approved by the Planning Division.
9. No signage of any type shall be displayed on the outdoor patio area (including umbrellas).
10. The parking area shall be re-slurried and re-striped. New parking lot

striping shall comply with the City's Parking Design Standards.

11. The storage containers shall be painted to match the existing building.
12. Site improvements related to the proposed outdoor seating area, the raised landscape planter, screening of trash enclosures, and the re-slurry and re-stripe of the parking lot, are required to be completed prior to the commencement of the restaurant use. The applicant shall contact the Planning Division to arrange an inspection of the site. This inspection is to confirm that the conditions of approval and code requirements have been complied with.
13. If the outdoor seating area is not installed, the applicant shall provide building setback landscaping per Costa Mesa Municipal Code Sections 13-103 through 13-108.
14. The storage containers shall be immediately removed upon discontinuance of their use or change of property ownership.

CODE REQUIREMENTS:

The following list of federal, state and local laws applicable to the project has been compiled by staff for the applicant's reference. Any reference to "City" pertains to the City of Costa Mesa.

Plng.

1. Approval of the Zoning Action is valid for one (1) year and will expire at the end of that period unless: building permits are obtained and construction commences; business license(s) is obtained and the business commences; or the applicant applies for and is granted an extension of time. A written request for an extension of time must be received by Planning staff prior to the expiration of the planning action.
2. Use shall comply with all requirements of Section 13-43 and Chapter V, Article 3, of Title 13 of the Costa Mesa Municipal Code relating to development standards for commercial projects.
3. Permits shall be obtained for all signs according to the provisions of the Costa Mesa Sign Ordinance.
4. Hours of operation for customer service of the restaurant shall not include any time between 11:00 p.m. and 6:00 a.m.
5. Truck deliveries for the restaurant shall not occur between 8:00 p.m. and 7:00 a.m.
6. Landscape and irrigation plans shall meet the requirements set forth in Costa Mesa Municipal Code Sections 13-103 through 13-108 as well as irrigation requirements set forth by the water agency.
7. Two (2) sets of landscape and irrigation plans, approved by the Planning Division, shall be required as part of the project plan check review and approval process. Plans shall be forwarded by the applicant to the Planning Division for final approval.
8. All landscaping and irrigation materials shall be properly installed, inspected, and maintained in a healthy condition, prior to release

of building utilities or the issuance of a Certificate of Occupancy, whichever is applicable or occurs first.

9. Trash enclosure(s) or other acceptable means of trash disposal shall be provided. Design of trash enclosure shall conform with City standards. Standard drawings are available from the Planning Division.

Bus. Lic.

10. All contractors and subcontractors must have valid business licenses to do business in the City of Costa Mesa. Final inspections and releases will not be granted until all such licenses have been obtained.

11. Business license(s) shall be obtained prior to the initiation of any business on this site.

Bldg.

12. Comply with the requirements of the Uniform Building Code as to design and construction and CCR Title 24 pertaining to "Disabled Access Regulations".

Trans.

13. No traffic impact fee for the storage containers shall be required, provided that the containers have no foundation and have no utility hookups for water or power to facilitate use as a habitable room.

SPECIAL DISTRICT REQUIREMENTS:

The requirements of the following special districts are hereby forwarded to the applicant:

Sani.

1. It is recommended that the applicant contact the Costa Mesa Sanitary District at (949) 645-8400 to obtain Sanitary District requirements.

Orange Coast
COSTA MESA

CHRYSLER

JUNE 1ST,2006
DALESSIO INVESTMENTS
440 Fair dr suite 200
Costa Mesa, CA, 92626

DEAR VENDOR

Please be advised that effective June 30th we will be terminating our tenancy.

If you have any questions,please contact Gary C Gray.

Sincerely yours,

Armina Mgerian
Business manager

40

RESOLUTION NO. PC-06-82

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COSTA MESA DENYING ZONING APPLICATION ZA-06-51

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

WHEREAS, an application was filed by Mark Mitchell, authorized agent for Dennis D'Alessio, with respect to the real property located at 440 Fair Drive, requesting approval of a Zoning Application to legalize two storage containers and install a third container and to allow an outdoor dining patio within the required front landscaped area; and

WHEREAS, the request was approved by the Zoning Administrator on September 21, 2006; and

WHEREAS, on September 28, 2006, the request was called up by Councilmember Linda Dixon for review by the Planning Commission; and

WHEREAS, the Planning Commission held a public hearing on November 13, 2006.

BE IT RESOLVED that, based on the evidence in the record and the findings contained in Exhibit "A", the Planning Commission hereby **DENIES** Zoning Application ZA-06-51 with respect to the property described above and hereby requires the property owner to remove the storage containers and replace the landscaping removed to accommodate the outdoor seating area no later than 30 days from the date of this resolution.

PASSED AND ADOPTED this 13th day of November, 2006.

Bill Perkins, Chair,
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 use is not compatible with developments in the same general area and would be materially detrimental to other properties in the area. Granting the minor conditional use permit will also be materially detrimental to the health, safety and general welfare of the public or otherwise injurious to properties or improvements within the immediate neighborhood. Specifically, the outdoor storage of recyclable materials is not completely screened and creates an unsightly appearance from the street and adjacent properties. Based upon public testimony presented at the meeting, the outdoor seating area will create additional adverse impacts such as noise, traffic, loitering, graffiti, and similar impacts to surrounding residential properties from customers due to its proximity to an existing cyber café on the property, especially if the sale and service of alcoholic beverages were introduced at this location. Additionally, the storage containers were placed on the site prior to the submittal of the request for Zoning Administrator approval. Granting the minor conditional use permit will allow a use, density or intensity that is not in accordance with the General Plan designation for the property. Specifically, the use is not consistent with the City's General Plan Objective LU-1F.1, which requires the protection of stabilized residential neighborhoods from incompatible or potentially disruptive land uses and/or activities.

B. The use does not comply with Costa Mesa Municipal Code Section 13-29(e) because:
   - The use is not compatible and harmonious with uses on surrounding properties.
   - The use is not consistent with the General Plan.

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 under Section 15301, Class 1, Existing Facilities, of the CEQA Guidelines.

D. The project is exempt from Chapter IX, Article 11, Transportation System Management, of Title 13 of the Costa Mesa Municipal Code.

STATE OF CALIFORNIA)
)ss
COUNTY OF ORANGE)

I, R. Michael Robinson, 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 13, 2006, by the following votes:

AYES: COMMISSIONERS: PERKINS, EGAN, FISLER, GARLICH

NOES: COMMISSIONERS: HALL

ABSENT: COMMISSIONERS: NONE

ABSTAIN: COMMISSIONERS: NONE

Secretary, Costa Mesa
Planning Commission