



PLANNING COMMISSION AGENDA REPORT

III.8.

MEETING DATE: JANUARY 24, 2005

ITEM NUMBER:

SUBJECT: CONDITIONAL USE PERMIT PA-04-33
1777 NEWPORT BOULEVARD, 1764 ANAHEIM AVENUE, AND 640 W. 17TH STREET

DATE: JANUARY 11, 2005

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

PROJECT DESCRIPTION

The applicant is requesting a conditional use permit to allow off-site valet parking at 1764 Anaheim Avenue (a vacant paved lot), in an R2-HD zone, and 640 W. 17th Street (Trader Joe's), in a C2 zone, for a proposed restaurant/nightclub at 1777 Newport Boulevard, also in a C2 zone, and to serve alcoholic beverages for on-site consumption after 11:00 p.m. (2:00 a.m. seven days a week proposed) with live entertainment and dancing within 200 feet of a residential zone.

APPLICANT

The applicant is John DeFrenza, representing the property owners, Dennis D'Alessio and Marie Janssen.

RECOMMENDATION

Deny by adoption of Planning Commission resolution.

Handwritten signature of Mel Lee in black ink.

MEL LEE
Senior Planner

Handwritten signature of R. Michael Robinson in black ink.

R. MICHAEL ROBINSON
Asst. Development Services Director

BACKGROUND

At the November 8, 2004 Planning Commission meeting, Commission considered the proposed use, described by the applicant and Tom Yelenick, the operator, as an upscale restaurant and martini lounge named "Ami Beaucoup". According to the operator, the restaurant and lounge would cater to patrons 35 years of age and older and would provide entertainment in the form of background acoustical music and dancing for weddings and other special functions. No on-site parking spaces are provided for the subject building; off-site valet parking was proposed on a 11,325 square foot parking lot approximately 250 feet to the south of the subject building addressed as 1764 Anaheim Avenue. The lot, which is zoned R2-HD, has been used in the past as a parking lot and is legal nonconforming.

During the hearing, 7 persons spoke in support of the proposed use and 15 persons spoke in opposition. Concerns noted by those opposed on the request included potential noise and parking problems from both properties, and on nearby residential properties, which was the basis for staff's recommendation for denial of the project. A copy of the original staff report and the minutes of the November 8, 2004 Commission hearing are attached to this report for reference.

The Commission continued the item to the December 13, 2004 meeting to allow the applicant additional time to provide a detailed off-site valet parking plan addressing the concerns raised by area residents, to allow an additional proposed off-site parking location at 640 W. 17th Street (Trader Joe's) to be included in the public notice, and to allow the Police Department to prepare a follow-up report providing additional information as to if there could be an increase in calls for Police service due to the proximity of the proposed use to residential properties.

At the December 13, 2004 meeting, the project was continued again to the hearing of January 10, 2005, which was cancelled. On December 22, 2004, Planning and Transportation Services staff reviewed the off-site valet parking plan submitted by Mr. Yelenick, which is discussed below.

ANALYSIS

Off- Site Valet Parking

As indicated earlier, the revised off-site valet parking plan (a copy of which is attached to this report) now includes the parking lot for Trader Joe's located at 640 W. 17th Street. The plan, as proposed, is as follows:

1. The patron pulls up to the valet station, which would be located in the public right-of-way (the Newport Boulevard frontage road) at the front of Winston Jewelers at 1775 Newport Boulevard;
2. The valet drives the patron's car south along the frontage road, turns from Anaheim Avenue on to the public alley at the rear heading north, and parks in the 1764 Anaheim Avenue lot;

3. At 10:00 p.m., the valet relocates the patron's cars to the Trader Joe's parking lot on W. 17th Street;
4. When the patron is ready to leave, the valet drives the car north along the frontage road to the front of the restaurant.

Transportation Services staff noted serious concerns with use of the frontage road, which is public right-of-way, for the valet station and vehicle queue, including the potential of creating a traffic safety hazard due to the insufficient street width. As a result, Transportation Services recommends denial of the request. A detailed description of their concerns has been included in a separate memo attached to this report.

Additionally, Planning staff remains concerned that if off-site valet parking is approved, it would likely not be utilized by patrons due to the excessive distance from the restaurant to the off-site parking areas and the resulting "time lag" patrons would experience in obtaining their vehicles, causing patrons to instead park within the parking area along the frontage road and adjacent to nearby residential properties.

Police Department Review

Attached to this memo are two reports prepared by the Police Department describing the department's experience with dealing with restaurants and bars in proximity to residential neighborhoods and potential traffic safety concerns with the proposed off-site valet parking. Based on the information provided in the reports, the Police Department concludes that there would be an increase in calls for Police service if the use were to be approved due to the nature of the use and its proximity to nearby residential properties, and unsafe traffic conditions as a result of the off-site valet parking. Therefore, the Police Department recommends denial of the applicant's request.

Other Issues

One of the letters received from the public requested information on the number of Alcoholic Beverage Control (ABC) licenses in the area. That information has been attached to this report for reference.

According to Code Enforcement staff, 1777 Newport Boulevard and 1764 Anaheim Avenue have several property maintenance code violations that have not been addressed by the property owner (Mr. D'Alessio), including, overflowing trash dumpsters, weeds, broken windows, etc. As of the date of this report, these violations have not been corrected by the owner and the fines levied by the City have not been paid. This raises a concern that noise or other complaints related to the operation of the use (if it were to be approved) would not be corrected in a timely manner.

ALTERNATIVES

The Commission has the following alternatives:

1. Deny the applicant's request for the proposed restaurant/nightclub and off-site valet parking due to potential adverse impacts of the second story location of the proposed use to adjacent residential properties and traffic safety issues;
2. Approve the applicant's requests, subject to the recommended conditions of approval, which are designed to help minimize impacts to surrounding uses.

CONCLUSION

Approval of the requested proposed restaurant/nightclub and off-site valet parking could create adverse noise and parking impacts on nearby residents and businesses, create a potential traffic safety hazard, and create an increase in calls for Police service. Therefore, staff recommends denial of the requests.

Attachments: Applicant's Project Description and Justification
 Draft Planning Commission Resolution
 Exhibit "A" – Findings
 Exhibit "B" – Conditions of Approval (If Request is Approved)
 Valet Parking Plan
 Correspondence From Public
 ABC License Information
 Police Department and Transportation Services Division
 Memorandums
 Planning Staff Reports (Including Location Maps and Plans)
 Minutes of the November 8, 2004 Planning Commission Meeting

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

John DeFrenza
20301 S.W. Birch Street, Suite 101E
Newport Beach, CA 92660

D'Alessio Investments
440 Fair Drive, Suite H
Costa Mesa, CA 92626

File: 012405PA0433	Date: 01/13/05	Time: 1015a.m.
--------------------	----------------	----------------

A

RESOLUTION NO. PC-05-

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY
OF COSTA MESA DENYING CONDITIONAL USE PERMIT
PA-04-33**

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

WHEREAS, an application was filed by John DeFrenza, authorized agent for Dennis D'Alessio, owner of real property located at 1764 Anaheim Avenue and 1777 Newport Boulevard, requesting approval of a conditional use permit to allow off-site valet parking at 1764 Anaheim Avenue (a vacant paved lot), in an R2-HD zone, and 640 W. 17th Street (Trader Joe's), in a C2 zone, for a proposed restaurant/nightclub at 1777 Newport Boulevard, in a C2 zone, and to serve alcoholic beverages for on-site consumption after 11:00 p.m. (2:00 a.m. seven days a week proposed) with live entertainment and dancing within 200 feet of a residential zone; and

WHEREAS, a duly noticed public hearing was held by the Planning Commission on November 8, 2004, and continued to the hearing of January 24, 2005.

BE IT RESOLVED that, based on the evidence in the record and the findings contained in Exhibit "A", the Planning Commission hereby **DENIES** Conditional Use Permit PA-04-33 with respect to the property described above.

PASSED AND ADOPTED this 24th day of January, 2005.

Chair, Costa Mesa
Planning Commission

EXHIBIT "A"**FINDINGS**

- A. The proposed use does not comply with Costa Mesa Municipal Code Section 13-29(e) because:
- The proposed use is not compatible and harmonious with the residential uses in the surrounding area.
- B. 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. Granting the conditional use permit will be detrimental to the health, safety and general welfare of the public or other properties or improvements within the immediate vicinity. Specifically, the proposed use is a combination restaurant/nightclub, with off-site valet parking. The restaurant/nightclub is proposed for the second floor of an existing 2-story commercial building, and is approximately 80 feet away from existing two-story residential structures. The proposed restaurant/nightclub would not be compatible with the nearby residents, based upon the second story location of the proposed use and the City's experience with similar establishments in close proximity to residential uses. Additionally, the proposed use could create an increase in calls for Police service for noise, loitering, and security problems, as well as create unsafe traffic conditions as a result of the off-site valet parking.
- C. The request for off-site valet parking does not comply with Costa Mesa Municipal Code Section 13-29(g)(2) in that the request will be detrimental to the health, safety and general welfare of the public or other properties or improvements within the immediate vicinity. Specifically, there are no on-site parking spaces for the subject property, and the nearest proposed off-site parking area can only accommodate 29 non-tandem parking spaces, which is not sufficient for the proposed use, and the additional off-site parking location proposed by the applicant is too far away from the subject site. Whereas the parking for a retail or office use at the subject property can easily be accommodated within the surrounding parking areas, this would not be the case for the proposed restaurant/nightclub use. There are also serious concerns with use of the public right-of-way for the valet station, including a potential traffic safety hazard due to the insufficient street width.
- D. The project has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines, and the City environmental procedures, and has been found to be exempt from CEQA.
- E. 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. The conditional use permit herein approved shall be valid until revoked, but shall expire upon discontinuance of the activity authorized hereby for a period of 180 days or more. The conditional use permit may be referred to the Planning Commission for modification or revocation at any time if the conditions of approval have not been complied with, if the use is being operated in violation of applicable laws or ordinances, or if, in the opinion of the development services director or his designee, any of the findings upon which the approval was based are no longer applicable.
 2. Approval shall be for a period of one year. Prior to expiration, applicant may request renewal, subject to reevaluation at that time. The Development Services Director may extend the planning application for a period not to exceed two (2) years if all conditions of approval have been satisfied, no complaints have been received, and the site inspection reveals compliance with applicable ordinance requirements. Thereafter, the Development Services Director may extend the permit for successive two (2) year periods under the same terms.
 3. The use shall be limited to the type of operation described in the staff report. Any change in the operational characteristics including, but not limited to, hours of operation, sale of alcoholic beverages or provision of live entertainment and/or dancing, will require approval of an amendment to the conditional use permit, subject to Planning Commission approval.
 4. Off-site valet parking shall be provided and operated per the description attached to this report. Any change in the operational characteristics including, but not limited to, hours of operation, will require approval of an amendment to the conditional use permit, subject to Planning Commission approval.
 5. A copy of the conditions of approval shall be kept on premises and presented to any authorized city official upon request. Applicant shall notify new business/property owners of conditions of approval upon transfer of business or ownership of land.
 6. Construction, 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, Sunday, and Federal holidays. Exceptions may be made for activities that will not generate noise audible from off-site, such as painting and other quiet interior work.
 7. The licensee shall not employ or use the services of any full-or part-time active or reserve peace officer currently employed by the City of Costa Mesa or any contiguous agency for security purposes.

8. Live entertainment, amplified music and/or dancing may only be permitted subject to City issuance of a public entertainment permit. Contact Code Enforcement at (714) 754-5623 for application information.
9. The maximum occupancy, 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.
10. There shall be no room or designated area reserved for the exclusive use of designated persons or "private club members."
11. The business 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.
12. There shall be no sales of alcoholic beverages for off-site consumption.
13. At all times the premises is open for business, the sale and service of alcoholic beverages shall be made only in conjunction with the sale and service of food.
14. The quarterly gross sales of alcoholic beverages shall not exceed the gross sales of food and meals during the same time period. The applicant shall at all times maintain records, which reflect separately the gross sales of food and gross sales of alcoholic beverages of the business. The records shall be kept no less frequently than on a quarterly basis and shall be made available to the Development Services Director or his designee on demand.
15. The restaurant shall remain a "bona fide public eating place" as defined by Section 23038 of the California Business and Professions Code.
16. The parking lot shall be posted with signs directing employees to use consideration when entering their cars and leaving the parking lot.
17. Applicant shall secure the premises with appropriate security lighting and employee scrutiny of adjacent areas over which applicant has control, to prevent trash, graffiti, and loitering. Applicant shall further provide adequate lighting above the entrances to the premises sufficient in intensity to make visible the identity and actions of all persons entering and leaving the premises.
18. The applicant shall maintain free of litter of all areas of the premises over which applicant has control.
19. Any graffiti painted or marked upon the premises shall be removed or painted over within 48 hours of being applied.
20. All operational conditions and restrictions shall be complied with, regardless of operating hours, 24 hours a day, seven days a week.
21. Hours of operation shall be limited to 11:00 a.m. to 2:00 a.m., seven

days a week.

22. Music shall not be audible beyond the area under the control of the licensee.
23. Second floor windows shall be double-paned and shall remain closed after 8 p.m.
24. The use of the portion of the alley north of 1764 Anaheim Avenue to access the off-site parking lot shall be prohibited after 10 p.m.
25. The applicant shall contact the Planning Division to arrange a Planning inspection of the site prior to occupancy. This inspection is to confirm that the conditions of approval and code requirements have been satisfied.
26. Permanent masonry walls shall be constructed along the interior property lines of the property at 1764 Anaheim Avenue. The wall(s) shall have a finished quality on both sides. Where walls on adjacent properties already exist, the applicant shall work with the adjacent property owners to prevent side-by-side walls with gaps in between them.
27. The conditions of approval and ordinance or code provisions of PA-04-33 shall be blueprinted on the face of the site plan as part of the plan check submittal package.
28. 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.

Eng.

**VALET PARKING PLAN SUBMITTED BY
APPLICANT FOR PA-04-33**

**Ami Beaucoup
1777 Newport Blvd.
Costa Mesa, CA.
92627**

RECEIVED
CITY OF COSTA MESA
DEVELOPMENT SERVICES DEPARTMENT

DEC 13 2004

12.10.04

Valet Parking Plan:

Cars will queue at the front entrance of the jewelry store(4 car lengths staging no driveway congestion) and the Valet Captain, which will be present at all times, will greet the guest and delegate a staff member to promptly remove the car from the staging area. The staff member will continue heading south on the frontage road to Anaheim Street turning right and then right again into the alley entering the parking lot at 1764 Anaheim Ave. The parking lot will be staffed at all times and that staff member will be in constant communication with the Valet Captain via a two-way radio.

The cars will be parked in the 1764 Anaheim Ave lot until 10:00 PM. After 10:00 PM the Valet's will park all cars in the Trader Joes parking lot located at 640 W. 17th St. The Anaheim lot will be completely Vacated and secured before 11:00 PM.

The Trader Joes parking lot will be continually staffed and supervised and that staff member will be in constant communication with the Valet Captain.

The route for the returning cars will simply be reversed. Cars coming from the Trader Joes parking lot will go through the Petsmart Lot turn right on Anaheim then north on the frontage road and the Valet Captain will assist in transition between the valet and the guest. Valet's will return using a guests car or on foot.

To: Mel Lee
Fax: 714.754.4856
From: Tom Yelenick
Fax: 949.608.0281

12.10.04
Pages 4

Re: 1777 Newport Blvd.
Answers to Questions

Q. How many cars in the queue?

A. Four cars may queue at a time since the starting point will be in front of the jewelry store. The staff can easily and swiftly remove four cars in the staging area consistently so there is no congestion.

Q. What about special events (charity events/weddings) where guests will be arriving and departing at the same time?

A. With the ability to park four cars at a time coupled with an increase in staff the queue would flow smoothly. The returning cars would only arrive four cars at a time.

Q. Where is the staging area located?

A. The staging area will be located in front of Winston Jewelers which would allow a four car queue.

Q. Where would the staff be located?

A. The staff would be stationed at the start of the queue ready to park the cars.

Q. Would there be a noise issue with the communication device?

A. It would be the same decibel level of a cell phone call.

Q. How many staff members would be needed?

A. Staffing is based on demand. We estimate on weekends we would need seven on weekdays five and special events ten.

Q. What are Trader Joes hours of operation?

A. 9 :00 AM to 9 :00 PM

Q. What about lighting?

A. Lighting would not be an issue since there would be no public parking.

Q. How many parking places in Trader Joes parking lot?

A. 204

Q. Is there going to be security at Trader Joes parking lot?

A. The lot will staffed at all times.

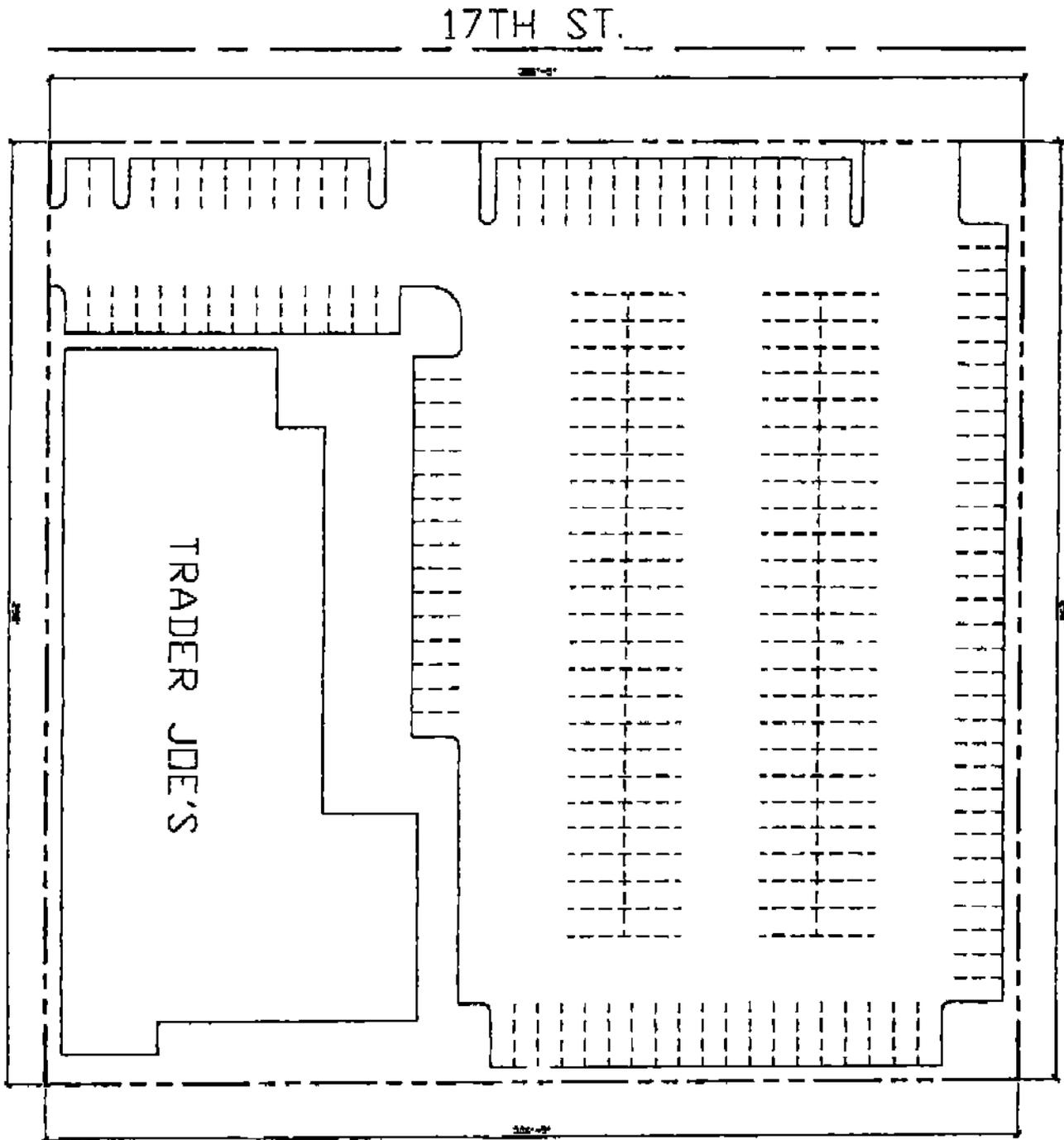
Q. Will there be a designated area in the lot on which the cars will be parked?

A. We have permission to park anywhere on the lot.

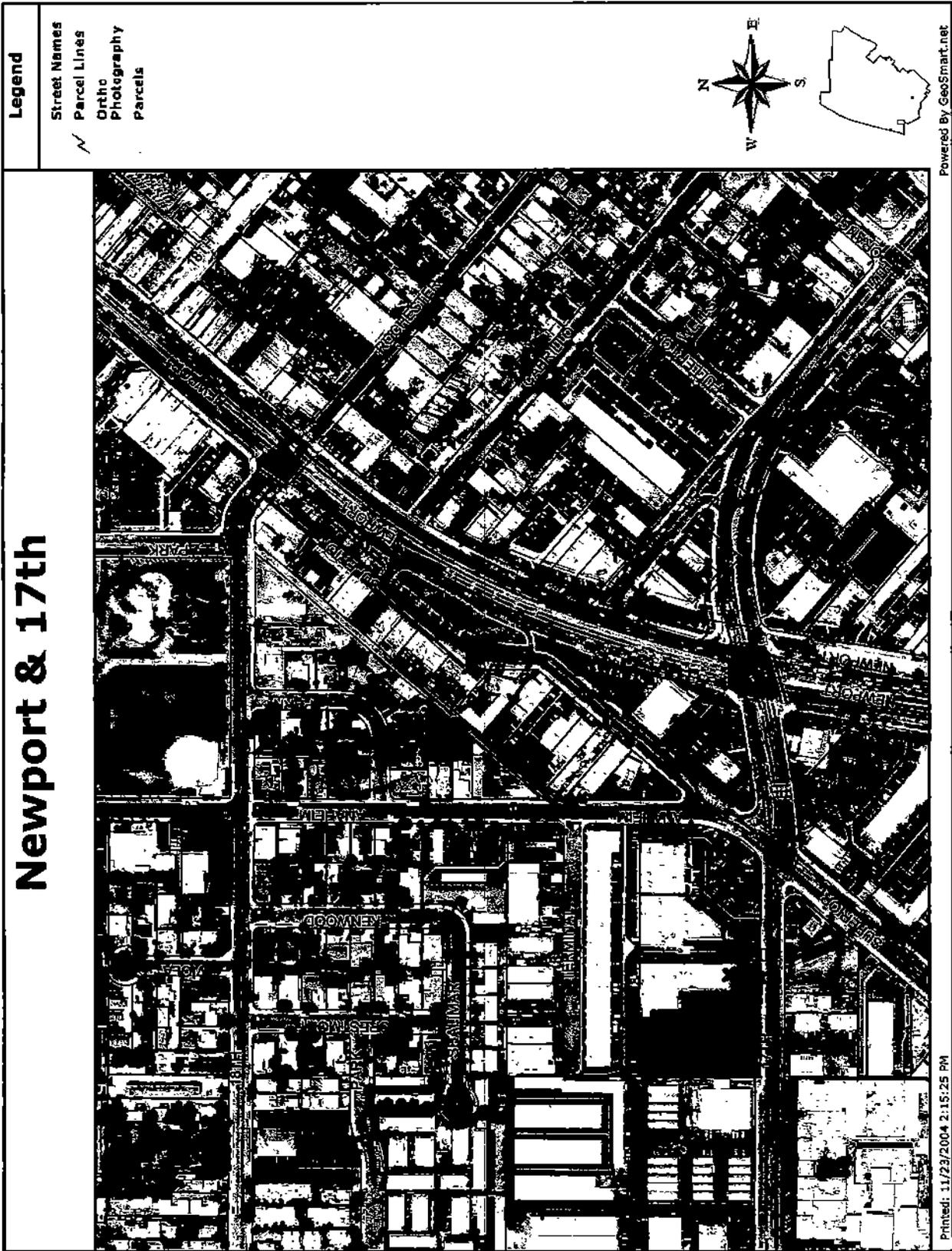
Mel, I dropped off the map with Dennis Johnson outlining the valet route. If you need anything else please call me.

**Thank You,
Tom Yelenick**

TOTAL SPACES 204



Newport & 17th



Powered by GeoSmart.net

Printed: 11/23/2004 2:15:25 PM



CITY OF COSTA MESA

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

DEVELOPMENT SERVICES DEPARTMENT

**FOR ATTACHMENTS NOT INCLUDED IN THIS REPORT,
PLEASE CONTACT THE PLANNING DIV. AT (714)754-5245.**