



PLANNING COMMISSION AGENDA REPORT

U. 4

MEETING DATE: MAY 9, 2005

ITEM NUMBER:

SUBJECT: CONDITIONAL USE PERMIT PA-05-10
1835 NEWPORT BLVD. # B-129

DATE: APRIL 28, 2005

FOR FURTHER INFORMATION CONTACT: MEL LEE, AICP SENIOR PLANNER 714.754.5136

DESCRIPTION

The applicant is requesting a conditional use permit to establish a specialty retail store selling beer, wine, spirits, gourmet food, and related items (Beverages & More), and a request that the Planning Commission make a finding of public convenience or necessity to allow a State Alcoholic Beverage Control (ABC) License for the sale of alcoholic beverages.

APPLICANT

The applicant is Steve McLaren, representing the property owner, John W. Skillman.

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 applicant proposes to occupy an approximately 11,000 square foot tenant space at the Costa Mesa Courtyards Center. The subject space (B-129) is located in the northerly portion of the center, across the corridor from the adjacent Sav-On.

The proposed tenant is Beverages & More, a specialty retail store selling beer, wine, spirits, gourmet food, and related items. The applicant is proposing to sell beer, wine, and spirits under a Type 21 (Off-Sale General) State Alcoholic Beverage Control (ABC) license. In addition, a Type 42 (On-Sale Beer and Wine) ABC license is proposed for beer and wine tastings within the store. Because the preponderance of floor area and display shelves are allocated for alcoholic beverages, the proposed use is categorized under the Zoning Code as a "liquor store" and subject to a conditional use permit per Section 13-200.71. In accordance with State Law, a finding of public convenience or necessity is also required for the proposed Type 21 and Type 42 ABC licenses (see discussion in the "Analysis" section of the report for additional information).

On October 25, 2004, Planning Commission approved a similar conditional use permit for a proposed wine boutique with retail sales and tastings (WineStyles) to operate at the 17th Street Promenade Center (270 E. 17th Street) under a Type 20 (Off-Sale Beer and Wine) and a Type 42 ABC licenses, and made the finding for public convenience and necessity.

ANALYSIS

Conditional Use Permit

According to the applicant, the proposed use is not a "traditional" liquor store, but a high-end specialty retailer selling 600 brands of beer, 3,000 brands of wine, 1,200 brands of spirits, 600 gourmet food items, and related items such as glassware, wine accessories, and similar items not easily found elsewhere. The applicant also indicates that company policies prohibit the sale of cigarettes, lottery tickets, 40-ounce malt liquor, and pints or half pints of spirits, unlike many convenience and liquor stores. Beer and wine tastings will also be provided. The store will be open seven days a week and hours of operation for most days will be 9 a.m. to 10 p.m., similar to other retail businesses in the center (in other words, no late-night sales are proposed).

It is staff's opinion the proposed use, with the recommended conditions of approval, will be reasonably compatible with the surrounding businesses since the proposed use is not a traditional liquor store, but a high-end specialty retailer with operating hours consistent with the other retail businesses within the center. The conditions of approval, which are standard for establishments with on- or off-site retail alcohol sales, are to minimize impacts to adjacent properties.

Public Convenience or Necessity Finding

Under State Law, ABC cannot approve the issuance of a license in an area of “undue concentration” unless the City’s legislative body makes a finding that public convenience or necessity would be served by the issuance of the license. Government Code Section 23958.4 defines “undue concentration” as being an area where there is high crime (defined as an area exceeding the City-wide average crime rate by more than 20 percent), and/or the ratio of the number of ABC licenses to population within the census tract exceeds the countywide ratio of the number of ABC licenses to population. Both circumstances (high crime and an excessive ratio of ABC licenses to population) exist for the area in which the proposed use is located. A map showing the high crime areas in the City is attached to this report for reference. The number of on-and off-sale licenses within the census tract is summarized in the table below:

Number of On-and Off-Sale Licenses Within Census Tract 637.020 (Subject Property)		
	Off-Sale	On-Sale
Number of Licenses Allowed	6	4
Number of Existing Licenses	7	19

Source: ABC

Despite the fact that the area is considered to have an undue concentration, it is staff’s opinion that a finding of public convenience can be made since, as indicated previously, the proposed use is not a traditional liquor store, but a high-end specialty retailer with operating hours consistent with the other retail businesses within the center.

The Police Department has expressed concerns with an increase in the number of alcohol-related businesses in the City in general and the Westside in particular (see attached memo). In the past, Planning Commission has required applicants to acquire and transfer the licenses from an establishment inside the City, so the citywide number of ABC licenses would not increase. Staff is requiring this as a condition of approval (condition number 6).

ALTERNATIVES

The Planning Commission may consider the following alternatives:

1. Approve the CUP and make the finding for public convenience and necessity, subject to requiring transfer of ABC licenses from (an) establishment(s) inside the City for the proposed use, thereby not increasing the citywide number of ABC licenses; or
2. Deny the application, which would prohibit the proposed use from occupying the tenant space.

ENVIRONMENTAL DETERMINATION

The project is exempt from the provisions of the California Environmental Quality Act.

CONCLUSION

With the recommended conditions of approval, no impacts on the surrounding properties are anticipated. Staff believes that Planning Commission can make a finding of public convenience without any resulting adverse impact on the surrounding community.

Attachments: Draft Planning Commission Resolution
 Exhibit "A" - Draft Findings
 Exhibit "B" - Draft Conditions of Approval
 Applicant's Project Description and Justification
 Police Department Memo
 Maps/Plans

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

Steve McLaren
1470 Enea Circle, Suite 1600
Concord, CA 94520

John W. Skillman
Teachers Retirement System of Illinois
1835 Newport Boulevard, Suite D-252
Costa Mesa, CA 92627

File: 050905PA0510	Date: 042605	Time: 2:00p.m.
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RESOLUTION NO. PC-05-

**A RESOLUTION OF THE PLANNING COMMISSION OF THE
CITY OF COSTA MESA APPROVING PLANNING
APPLICATION PA-05-10**

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

WHEREAS, an application was filed by Steve McLaren, authorized agent for John W. Skillman, with respect to the real property located at 1835 Newport Boulevard, Suite B-129, requesting approval of a conditional use permit to establish a specialty retail store selling beer, wine, spirits, gourmet food, and related items, with a request that the Planning Commission make a finding of public convenience or necessity to allow State Alcoholic Beverage Control (ABC) licenses for the sale of alcoholic beverages in the PDC zone; and

WHEREAS, a duly noticed public hearing was held by the Planning Commission on May 9, 2005.

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 Planning Commission hereby **APPROVES** Planning Application PA-05-10 with respect to the property described above and makes a finding that public convenience or necessity would be served by the issuance of the State Alcoholic Beverage Control (ABC) licenses.

BE IT FURTHER RESOLVED that the Costa Mesa Planning Commission does hereby find and determine that adoption of this Resolution is expressly predicated upon the activity as described in the Staff Report for Planning Application PA-05-10 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 9th day of May, 2005.

Chair, Costa Mesa
Planning Commission

EXHIBIT "A"

FINDINGS

- A. The proposed use complies with Costa Mesa Municipal Code Section 13-29(e) because:
1. The proposed use is compatible and harmonious with uses on surrounding properties.
 2. Safety and compatibility of the design of the buildings, parking areas, landscaping, luminaries, and other site features including functional aspects of the site development such as automobile and pedestrian circulation have been considered.
 3. The use is consistent with the General Plan.
 4. The planning application is for a project-specific case and does not establish a precedent for future development.
- B. The information presented substantially complies with Costa Mesa Municipal Code Section 13-29 (g)(2) in that the proposed specialty retail store is substantially compatible with developments in the same general area. Granting the conditional use permit will not be detrimental to the health, safety, and general welfare of the public or other properties or improvements within the immediate vicinity. Specifically, the sale of alcohol will be limited to within normal retail store hours (no late-night sales) and the use is unlike a traditional "liquor store", but a high-end specialty retailer selling beer, wine, spirits, gourmet food, and related items not easily found elsewhere. Further, because this use will not operate like a traditional liquor store and will offer a greater range of products, public convenience or necessity would be served by the issuance of the State Alcoholic Beverage Control (ABC) licenses for the proposed use.
- C. The project has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines, and the City environmental procedures, and has been found to be exempt from CEQA.
- D. The project is exempt from Chapter XII, Article 3, Transportation System Management, of Title 13 of the Costa Mesa Municipal Code.

EXHIBIT "B"

CONDITIONS OF APPROVAL

- Plng.
1. The conditional use permit herein approved shall be valid until revoked, but shall expire upon discontinuance of the activity authorized hereby for a period of 180 days or more. The conditional use permit may be referred to the Planning Commission for modification or revocation at any time if the conditions of approval have not been complied with, if the use is being operated in violation of applicable laws or ordinances, or if, in the opinion of the development services director or his designee, any of the findings upon which the approval was based are no longer applicable.
 2. 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.
 3. 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.
 4. Hours of operation shall be limited to the hours between 9:00 a.m. to 10:00 p.m., seven days a week.
 5. The use shall be limited to the type of operation described in the staff report, i.e., a high-end specialty retailer selling beer, wine, spirits, gourmet food, and related items with occasional beer and wine tastings. Any change in the operational characteristics including, but not limited to, hours of operation and nature and variety of products sold, shall require approval of an amendment to the conditional use permit, subject to Planning Commission approval.
 6. The applicant shall acquire and transfer the ABC licenses from an establishment inside the City, so the citywide number of ABC licenses does not increase.
 7. No wine shall be sold with an alcoholic content of greater than 15% of volume except for "Dinner Wines" which have been aged two years or more and maintained in corked bottles, excluding Chardonnay, Viognier "Dinner Wines," ports and sherries which may be aged less than two years.
 8. Wine shall not be sold in bottles or containers smaller than 750 milliliters with the exception of Champagne & sparkling wines in 375 milliliter and 4-pack 187 milliliter varietal wines.
 9. Sales of separate alcoholic containers for individual consumption, excluding wine and spirits, unless packaged for sale as such by the manufacturer, are prohibited.
 10. Malt beverages, wine coolers or pre-mixed distilled spirit cocktails (if allowed by the license) packed in 16-ounce containers or smaller, may not be sold as single containers, but must be sold in manufacturer pre-packaged multi-unit quantities.
 11. Beer or wine shall not be displayed or sold from an ice tub or any type of portable refrigerated unit.
 12. Applicant shall secure the premises with appropriate security lighting and employee scrutiny of adjacent areas which applicant has control,

to prevent trash, graffiti, and littering. Any lighting under the control of applicant shall be directed in such a manner so as not to unreasonably interfere with the quiet enjoyment of nearby residences. Applicant shall further provide adequate lighting above the entrance to the premises sufficient in intensity to make visible the identity and actions of all persons entering and leaving the premises.

PLANNING DIVISION - CITY OF COSTA MESA

DESCRIPTION/JUSTIFICATION

Application #: PA-05-10
Address: 1835 Newport # B129A

Environmental Determination: **EXEMPT**

1. Fully describe your request:

We are requesting the approval of our Conditional Use Permit application to allow the operation of Beverages & more!, a specialty retailer selling alcoholic and non-alcoholic beverages and gourmet food items and related accessories.

2. Justification

A. For a Conditional Use Permit or Minor Conditional Use Permit: Describe how the proposed use is substantially compatible with uses permitted in the same general area and how the proposed use would not be materially detrimental to other properties in the same area.

See Attached

B. For a Variance or Administrative Adjustment: Describe the property's special circumstances, including size, shape, topography, location or surroundings that deprive the property of privileges enjoyed by other properties in the vicinity under the identical zoning classification due to strict application of the Zoning Code.

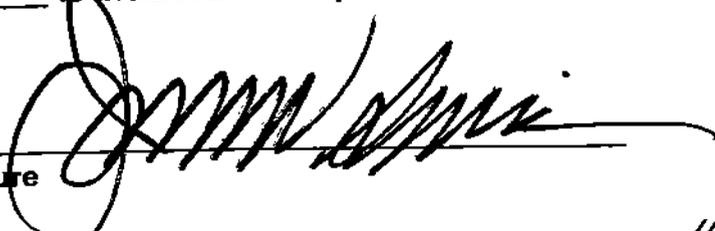
N/A

3. This project is: (check where appropriate) **NA**

- In a flood zone.
- Subject to future street widening.
- In the Redevelopment Area.
- In a Specific Plan Area.

4. I have reviewed the HAZARDOUS WASTE AND SUBSTANCES SITES LIST published by the office of Planning and Research and reproduced on the rear of this page and have determined that the project:

- Is not included in the publication indicated above.
- Is included in the publication indicated above.

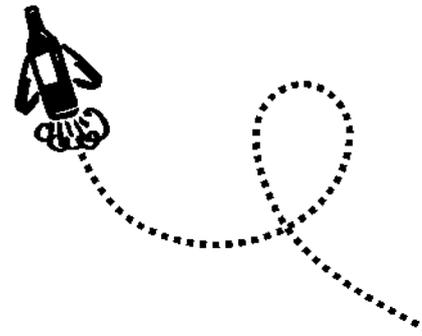
Signature 

Date 03-14-05

Beverages & more!

We are a unique, high-end specialty retailer selling beer, wine, spirits, gourmet food, cheese and related items such as glassware, wine accessories, etc., which are not easily found elsewhere. We have a wide variety and offer over 3000 brands of wines, 600 different gourmet food items, 600 brands of beers and 1200 brands of spirits. Our retail operation would complement other tenants in the Costa Mesa Courtyards Shopping Center.

We feel we would be beneficial to the other retailers in the center due to the fact that we carry products not found elsewhere in the shopping area.



1470 Enea Circle, Suite 1600 Concord, California 94520 T 925.609.6000 F 925.609.7712 www.bevmo.com

April 5, 2005

Ms. Willa Bouwens Killeen, Sr. Planner
City of Costa Mesa
Development Services Department
77 Fair Drive
P.O. Box 1200
Costa Mesa, CA 92628

RE: BEVERAGES & MORE! – 1835 NEWPORT BLVD., SUITE B-129-A.
COSTA MESA, CA
REQUEST FOR LETTER OF PUBLIC CONVENIENCE OR NECESSITY
For issuance of both a 21 Off-Sale and a 42 On-Sale Licenses

Dear Ms. Killeen

As you are probably aware, the Department of Alcoholic Beverage Control requires a letter from the Governing Body of the City of Costa Mesa stating that Public Convenience or Necessity will be met by allowing the issuance of the above referenced licenses. Please consider this our request for that letter. In your letter to the ABC please state that the Letter of Public Convenience or Necessity covers both the 21 Off-Sale license and the 42 On-Sale license.

We feel strongly that Public Convenience or Necessity will be met by allowing the issuance of the above licenses. Beverages & more! is a specialty retailer selling beer, wine, spirits, gourmet food and related items, such as glassware, wine accessories, etc., which are not easily found elsewhere. We have a wide variety and offer over 3000 brands of wines, 600 different gourmet food items, 600 brands of beers and 1200 brands of spirits. We feel our assortment alone guarantees public convenience will be served.

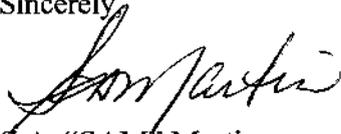
The Costa Mesa location is in a large commercial corridor and regional shopping area which will make it convenient for the many patrons who will frequent this shopping area. In addition, our store will be a safe, well-lit place in which to shop. We currently operate 45 stores in California.

That Beverages & more! is committed to the responsible marketing of alcoholic beverage products is demonstrated by:

- 1) Our hours of operation being limited to: 10a.m. – 7p.m. Sunday; 10a.m. – 9p.m. Monday – Friday; and, 9a.m. – 9p.m. on Saturday, *except for a brief time during the holiday period;*
- 2) Company Policy prohibitions against selling cigarettes and products of abuse such as 40 oz. malt liquors, and pints or half-pints of spirits - unlike some grocery/convenience stores; and
- 3) Company Policy prohibitions against video or pinball games, sales of pornographic videos and magazines, pay telephones, lottery tickets, newspaper stands and other items that would encourage loitering or minors patronizing the store, unlike some convenience stores.

The PCN Letter is the last step of the process prior to the final investigation and issuance of the licenses applied for from the Department of Alcoholic Beverage Control. It would be appreciated if this could be handled in an expeditious manner, as we plan to open this store the in September. It would be appreciated if you would send a copy of your letter to this office. You can fax it to 925.825.3499 if you prefer or, e-mail it to martins@bevmo.com.

Sincerely,



S.A. "SAM" Martin
Executive Coordinator
& Purchasing Manger

cc: Steve McLaren, SVP Ops

COSTA MESA POLICE DEPARTMENT

MEMORANDUM

TO: Lt. Birney
Planning Department

FROM: Sue Hupp
Crime Prevention Specialist

SUBJECT: PA-05-10, 1835 Newport Blvd.

DATE: April 26, 2005

In the City of Costa Mesa there are currently 305 businesses that possess an ABC liquor license. Ninety-five of these businesses have an off-sale liquor license, which include liquor stores, markets and convenience stores. As of January 2005, the City of Costa Mesa ranked 5th of 34 Orange County cities in the number of ABC licenses issued. As of July 2005, ABC has placed a moratorium on issuing any additional off-sale type licenses for those applications in the City of Costa Mesa.

Based on the Police Department's past experience of dealing with liquor/beverage establishments, calls for service increased in this particular area. Some of the calls the Police Department had to deal with were drunks in public, drunk driving, loitering on adjacent properties, trash and debris, fights, and loitering.

Consideration has also been given to the Statewide Integrated Traffic Reporting System (SWITRS) statistics. In the last several reporting years, the City of Costa Mesa, when compared to 44 other California cities with similar population, has ranked second highest in the total number of DUI arrests, and within the top nine in the total number of DUI related traffic collisions.

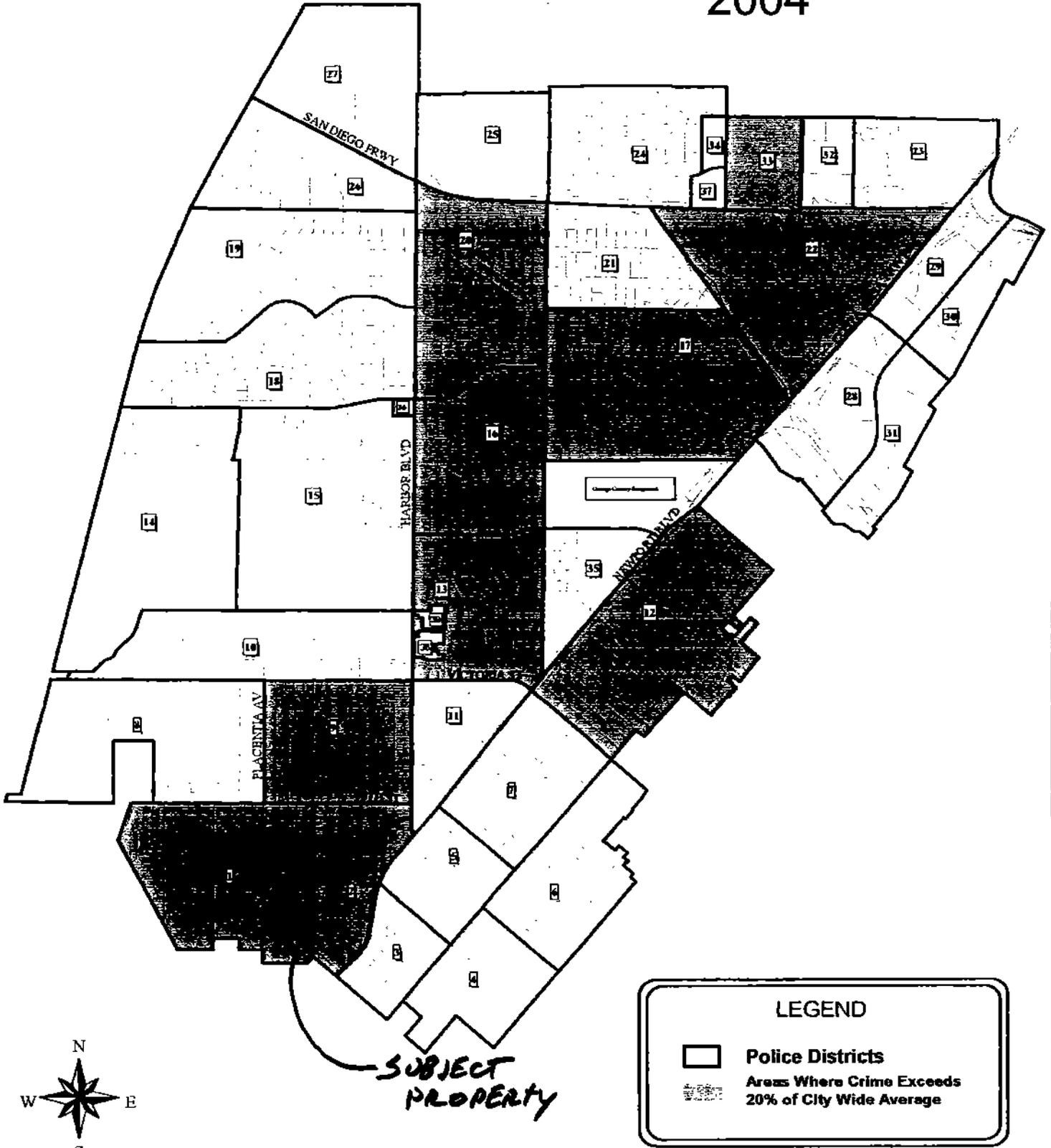
Regarding the Conditions of Approval number #8, we would like it to read, "No sale of beer in single cans or bottles (any size) shall be permitted."

At this time the Police Department is going to deny the request from "Beverages and More" to sell alcohol and specialty items based on the above information.



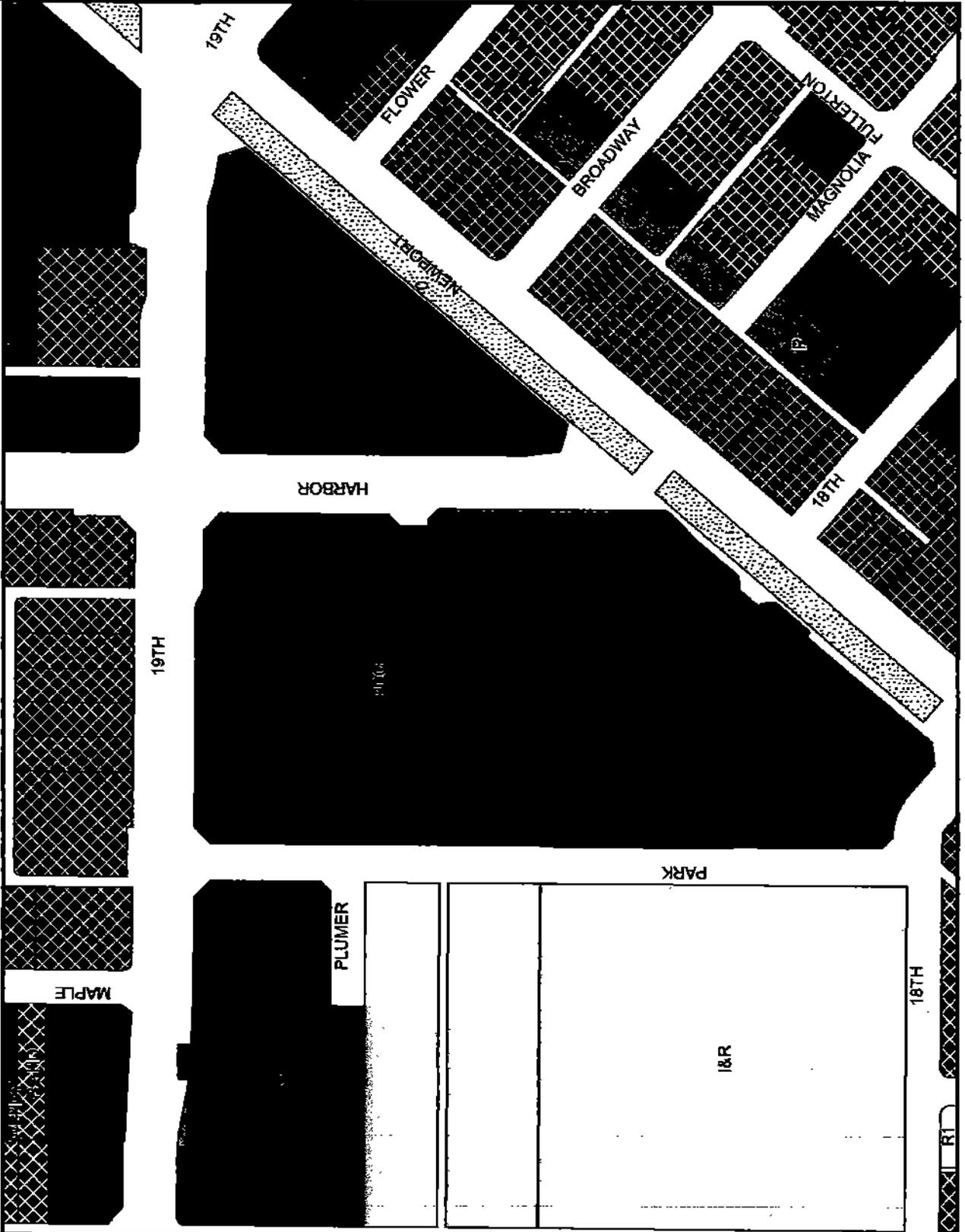
SUE HUPP
Crime Prevention Specialist

High Crime Areas 2004



ZONING/LOCATION MAP

PA-05-10



1835 NEWPORT BLVD.

Legend

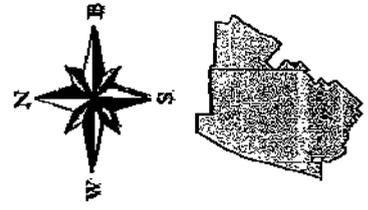
Selected Features

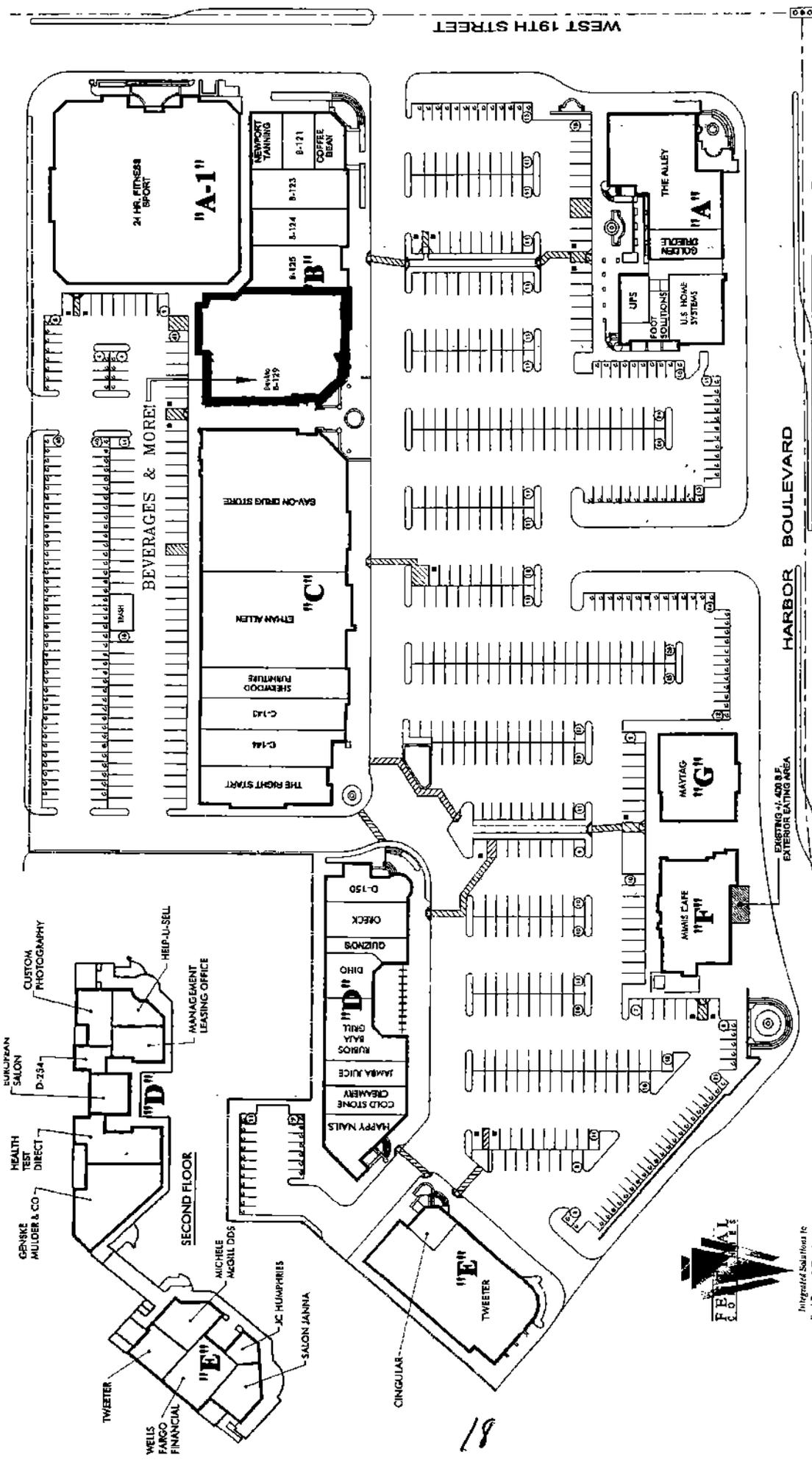
Street Names

Parcel Lines

Ortho
Photography

Parcels





WEST 19TH STREET

HARBOR BOULEVARD

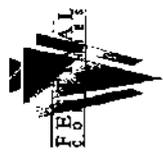
FOR REFERENCE ONLY

File Copy DA. 05-10

SD1

COSTA MESA
COURTYARDS

SWC of Harbor Boulevard & West 19th Street
Costa Mesa, California



Integrated Solutions to
Real Estate & Development

18

HAYASHIDA
 A PROFESSIONAL CORPORATION
 ARCHITECTS
 AIA, CCA, AIAA
 1000 W. 10th St., Suite 200, Phoenix, AZ 85003
 TEL: 602.441.1111 FAX: 602.441.1112

Beverages & more!
 Cost Mesa Courtyard
 1835 Newport Blvd, B 129
 Costa Mesa, California 92627

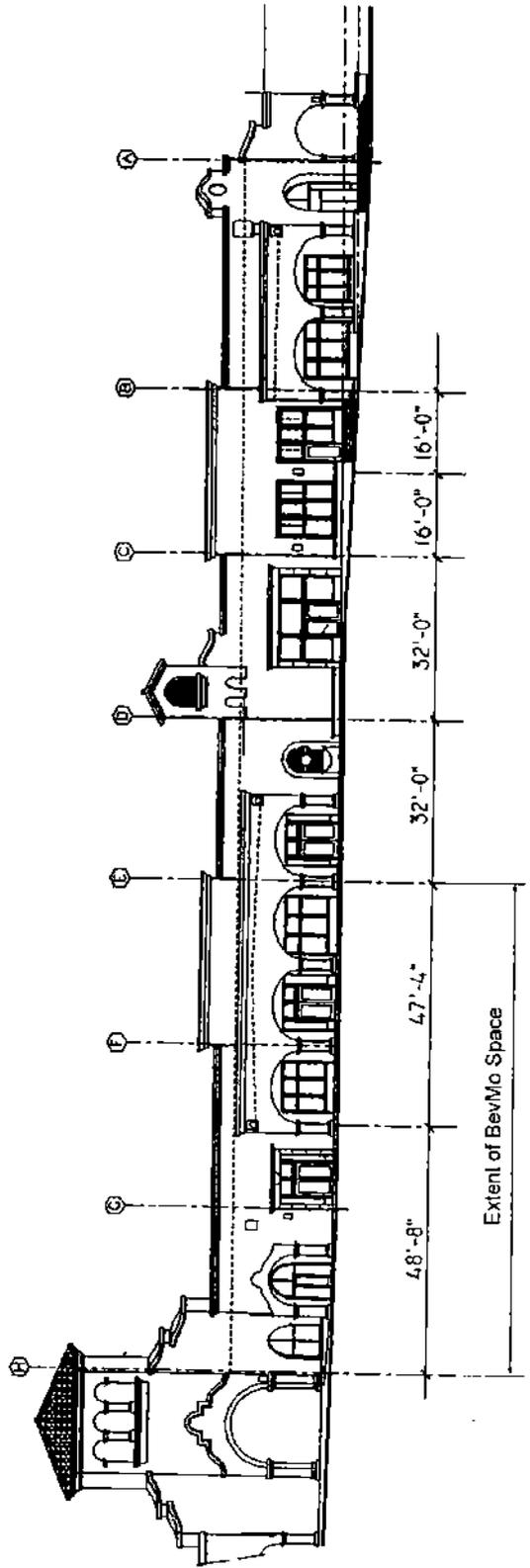


NO.	REVISIONS	BY

EXTERIOR
 ELEVATION

JOB NO. 05-1460-1A
 DATE: APR 31, 2005
 DRAWN:
 CHECKED: WHE

A4.1



1 STOREFRONT ELEVATION
 A4.1
 NOT TO SCALE