



PLANNING COMMISSION AGENDA REPORT

TP 4.

MEETING DATE: OCTOBER 24, 2005

ITEM NUMBER:

SUBJECT: **CONDITIONAL USE PERMIT PA-05-40
ALVAND MARKET
3033 BRISTOL STREET, SUITE G**

DATE: **OCTOBER 13, 2005**

FOR FURTHER INFORMATION CONTACT: **MEL LEE, AICP SENIOR PLANNER (714)754-5136**

DESCRIPTION

The applicant is requesting approval of a modification to conditional use permit PA-91-82 for an existing delicatessen and market to add off-sale liquor to the existing permitted off-sale beer and wine sales.

APPLICANT

The applicant is Donald A. Bailey, representing the property owner, John B. Heffernan.

RECOMMENDATION

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

Handwritten signature of Mel Lee in black ink.

MEL LEE, AICP
Senior Planner

Handwritten signature of R. Michael Robinson in black ink.

R. MICHAEL ROBINSON, AICP
Asst. Development Services Director

BACKGROUND

On September 23, 1991, Planning Commission approved PA-91-82, a conditional use permit for the current business. Alvand Market is a combination market and delicatessen selling specialty food items and is allowed to have an indoor and outdoor seating area of not more than 12 seats. The center is nonconforming with regard to on-site parking and the business has no unusual operating characteristics that would allow an increase in seating.

The business currently operates under a State Alcoholic Beverage Control (ABC) license Type "20" – Off-Sale Beer and Wine license. The applicant is proposing to add liquor to their existing sales of beer and wine by acquiring a Type "21" – Off-Sale General, ABC license. As a result, the applicant is requesting approval to modify their conditional use permit, as required by Code. Additionally, State Law requires a finding of public convenience or necessity for the proposed sale of liquor.

ANALYSIS

Conditional Use Permit

The business is currently open seven days a week and hours of operation are 8:00 a.m. to 9:30 p.m., which will not change as a result of the proposed liquor sales. The retail sales of alcohol will remain ancillary to the primary specialty market/delicatessen use.

It is staff's opinion the proposed use, with the recommended conditions of approval, will be reasonably compatible with the surrounding businesses since the use is existing and there have been no problems regarding compliance with their current conditional use permit. The conditions of approval, which are standard for establishments with on- or off-site retail alcohol sales, are intended 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 off-sale licenses within the census tract is summarized in the table below:

Number of Off-Sale Licenses Within Census Tract 639.080 (Subject Property)	
	Off-Sale
Number of Off-Sale Licenses Allowed	4
Number of Existing Off-Sale Licenses	10

Source: ABC

The Police Department has reviewed the applicant's request and has no objections to the proposal. Despite the fact that the area is considered to have undue concentration, it is staff's opinion that a finding of public convenience can be made since, as indicated previously, the proposed liquor sales is for an existing business which has not had a record of Code Enforcement or Police problems, nor have there been any violations of the conditions of approval for their current CUP.

In the past, the City has required applicants to acquire and transfer new licenses from an establishment inside the City, or, in the case of an establishment that already has an existing license, surrender the existing license to ABC, so the citywide number of ABC licenses would not increase. In this case, staff is recommending, as a condition of approval, that the applicant surrender the Type 20 ABC license (condition number 6) if the Type 21 license is granted.

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 that the current license be surrendered to ABC, thereby not increasing the citywide number of ABC licenses; or
2. Deny the application, which would prohibit the proposed sale of liquor at the establishment. The applicant would still be allowed to sell beer and wine.

ENVIRONMENTAL DETERMINATION

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

CONCLUSION

The business already sells beer and wine with no complaints or problems noted by Code Enforcement or the Police Department. Hours of operation will remain unchanged even with the expanded sales of alcoholic beverages. 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
Maps/Plans

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

Donald A. Bailey
17853 Santiago Boulevard, #107 PMB315
Villa Park, CA 92861

John B. Heffernan
26 Corporate Plaza Drive, #100
Newport Beach, CA 92660

Alvand Market
3033 Bristol Street, Suite G
Costa Mesa, CA 92626

File: 102405PA0540	Date: 101305	Time: 2:15 p.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-05-40**

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

WHEREAS, an application was filed by Donald A. Bailey, authorized agent for John B. Heffeman, with respect to the real property located at 3303 Bristol Street, Suite G, requesting approval of a modification to a conditional use permit for an existing delicatessen and market to add off-sale liquor to the existing permitted off-sale beer and wine sales, with a request that the Planning Commission make a finding of public convenience or necessity to allow a State Alcoholic Beverage Control (ABC) license for in the C1 zone; and

WHEREAS, a duly noticed public hearing was held by the Planning Commission on October 24, 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-05-40 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) license.

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-05-40 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 24th day of October, 2005.

Bill Perkins, 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 combination market and delicatessen selling specialty food items. As a result, public convenience or necessity would be served by the issuance of the State Alcoholic Beverage Control (ABC) license 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. The conditions of approval for PA-91-82, shall continue to be complied with, including, but not limited to, the following:
 - A. Hours of operation shall be limited to between the hours of 8:00 a.m. to 9:30 p.m., seven days a week.
 - B. At no time shall seating of any type, including, but not limited to, indoors or outdoors, tables or counter exceed 12.
 - C. The outdoor seating shall not inhibit pedestrian circulation and/or interfere with handicap access from the ramp adjacent to the walkway.
 - D. On-site consumption of alcoholic beverages shall not be permitted.
 - E. Sales of alcoholic beverages shall remain ancillary to the primary market/delicatessen use.
 5. 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 surrender the current Type "20" license to ABC, so that 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.
 8. Wine shall not be sold in bottles or containers smaller than 750 milliliters.
 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.

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.

- PIng. 1. Approval of the planning action is valid for one (1) year and will expire at the end of that period unless the Type 21 ABC license is obtained, 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.

PLANNING DIVISION - CITY OF COSTA MESA
DESCRIPTION/JUSTIFICATION

Application #: PA-05-40
Address: 3033 BRISTOL, #G

Environmental Determination: EXEMPT

1. Fully describe your request:

Existing Convenience Market applying
FOR ABC License FOR sale OF HARD LIQUOR.

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.

CONVENIENCE MARKET HAS BEEN IN BUSINESS
APPROXIMATELY 20 YEARS.

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.

CONVENIENCE MARKET ALREADY OPEN, JUST
UPGRADING LIQUOR LICENSE FROM BEER AND
WINE TO HARD LIQUOR.

3. This project is: (check where appropriate)

In a flood zone.

Subject to future street widening.

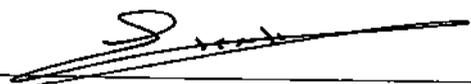
In the Redevelopment Area.

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:

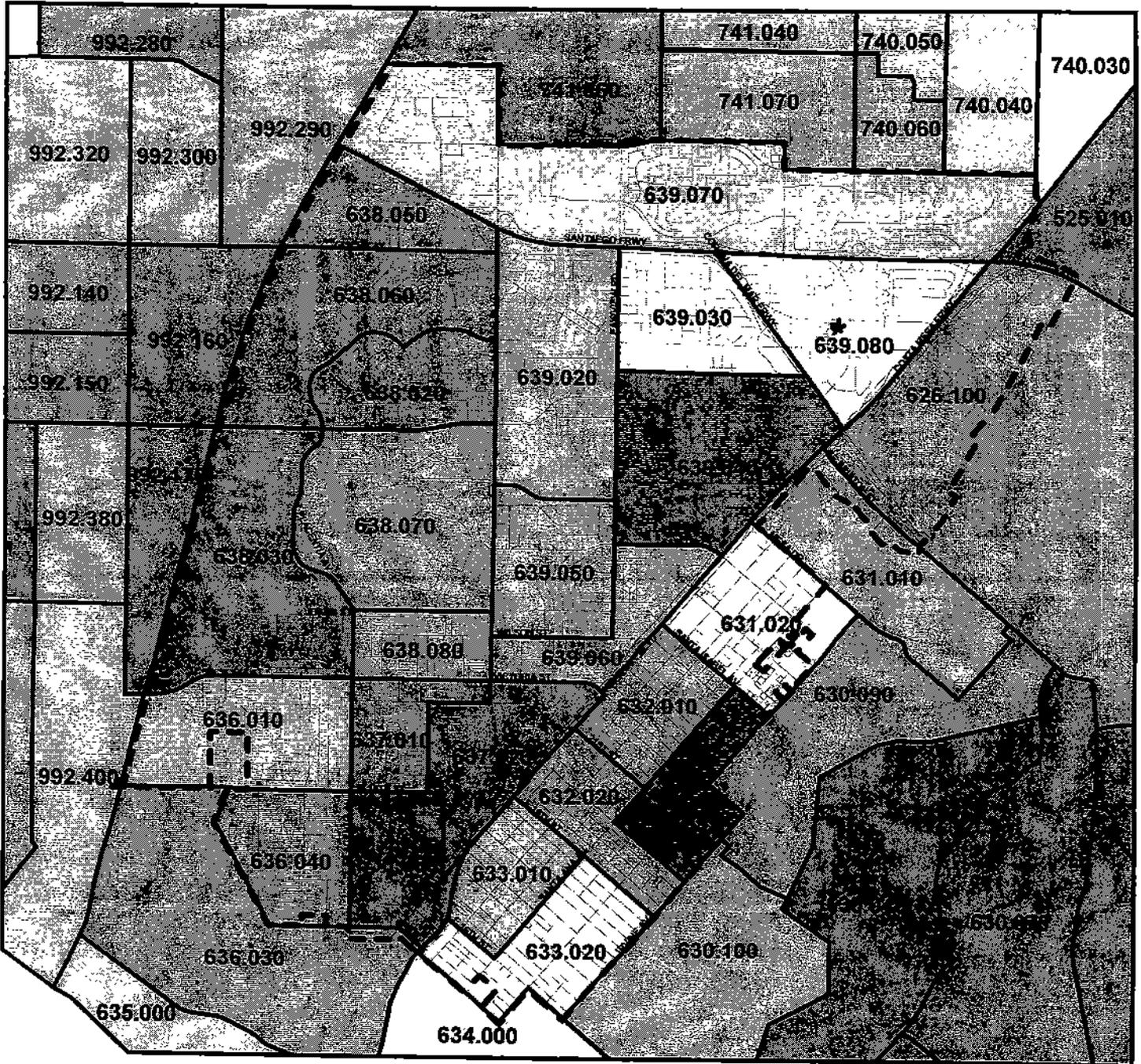
Is not included in the publication indicated above.

Is included in the publication indicated above.

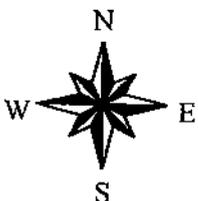

Signature

9/15-5
Date

Census Tracts Map



*** SUBJECT PROPERTY**

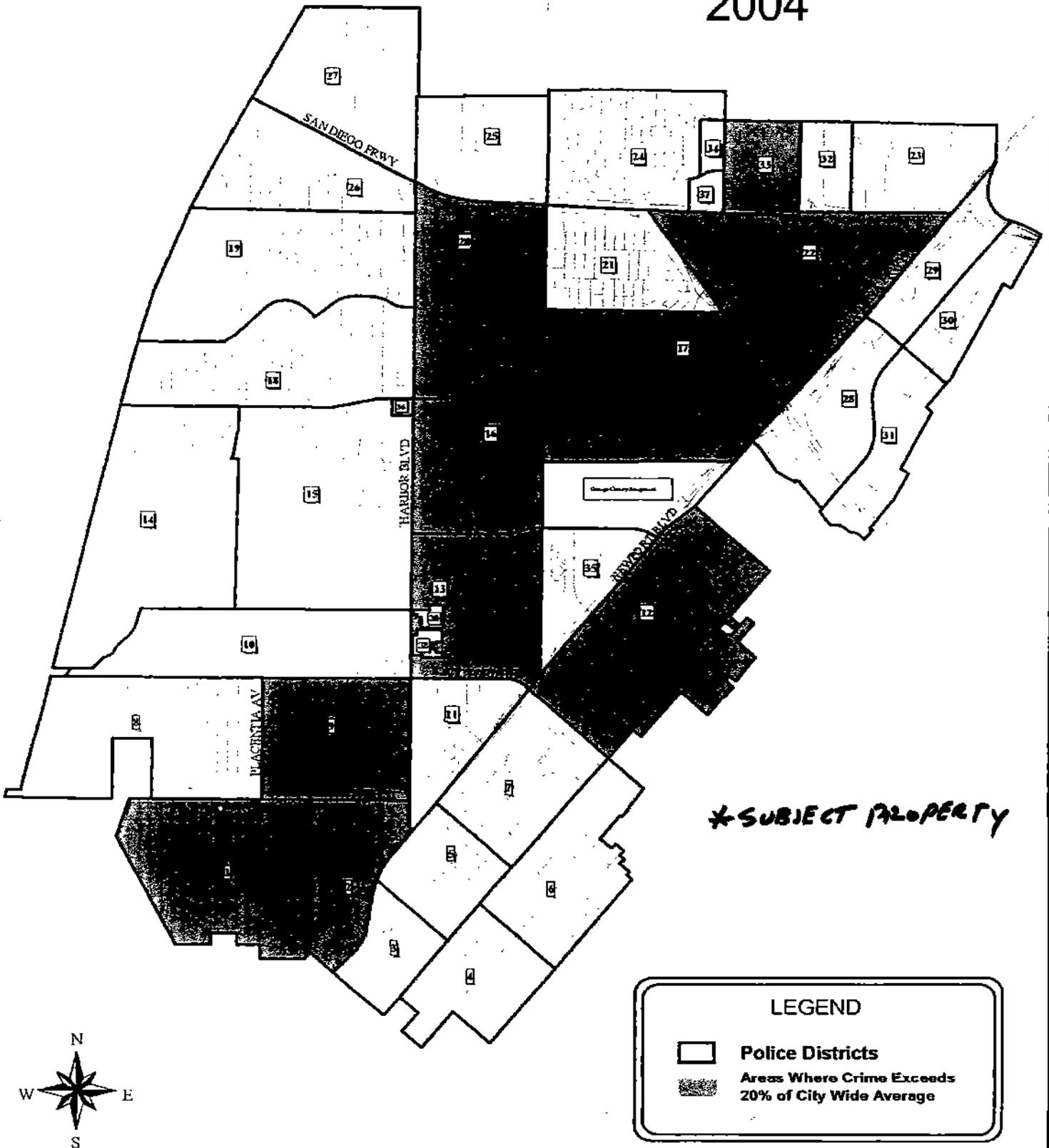


LEGEND

- City Streets
- City Boundary Line

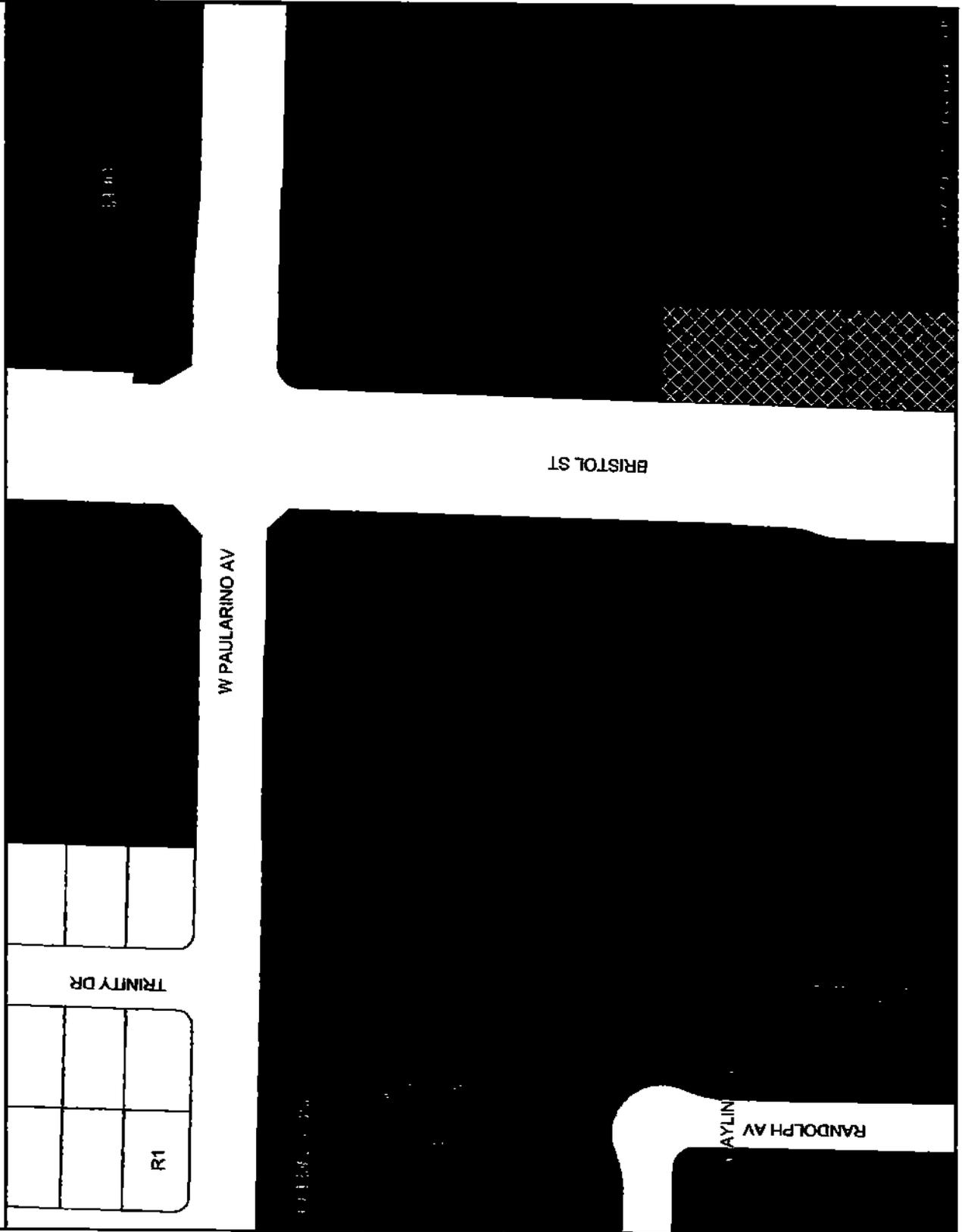
Updated: January 2002

High Crime Areas 2004



ZONING/LOCATION MAP

PA-05-40



Legend

Street Names

Parcel Lines

Zoning

- AP
- C1
- C1-S
- C2
- CL
- IGR
- IGR-S
- MG
- MP
- P
- PDC
- PDI
- PDR-MD
- PDR-LD
- PDR-MD
- PDR-NCM
- R1
- R2-MD
- R3-MD
- R3
- TC
- Parcels

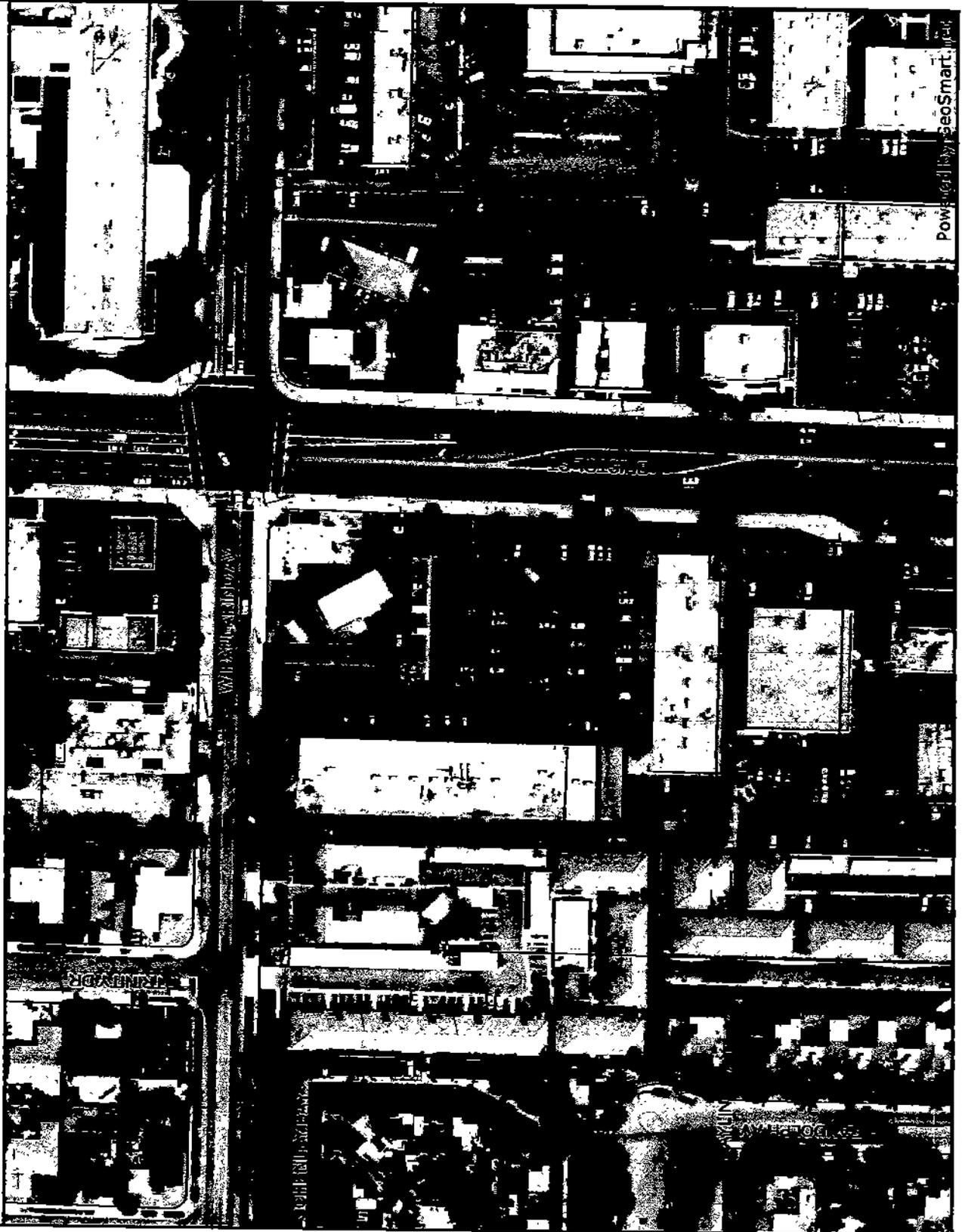


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3033 BRISTOL

Legend

- Street Names
- Parcel Lines
- Ortho
Photography
- Parcels





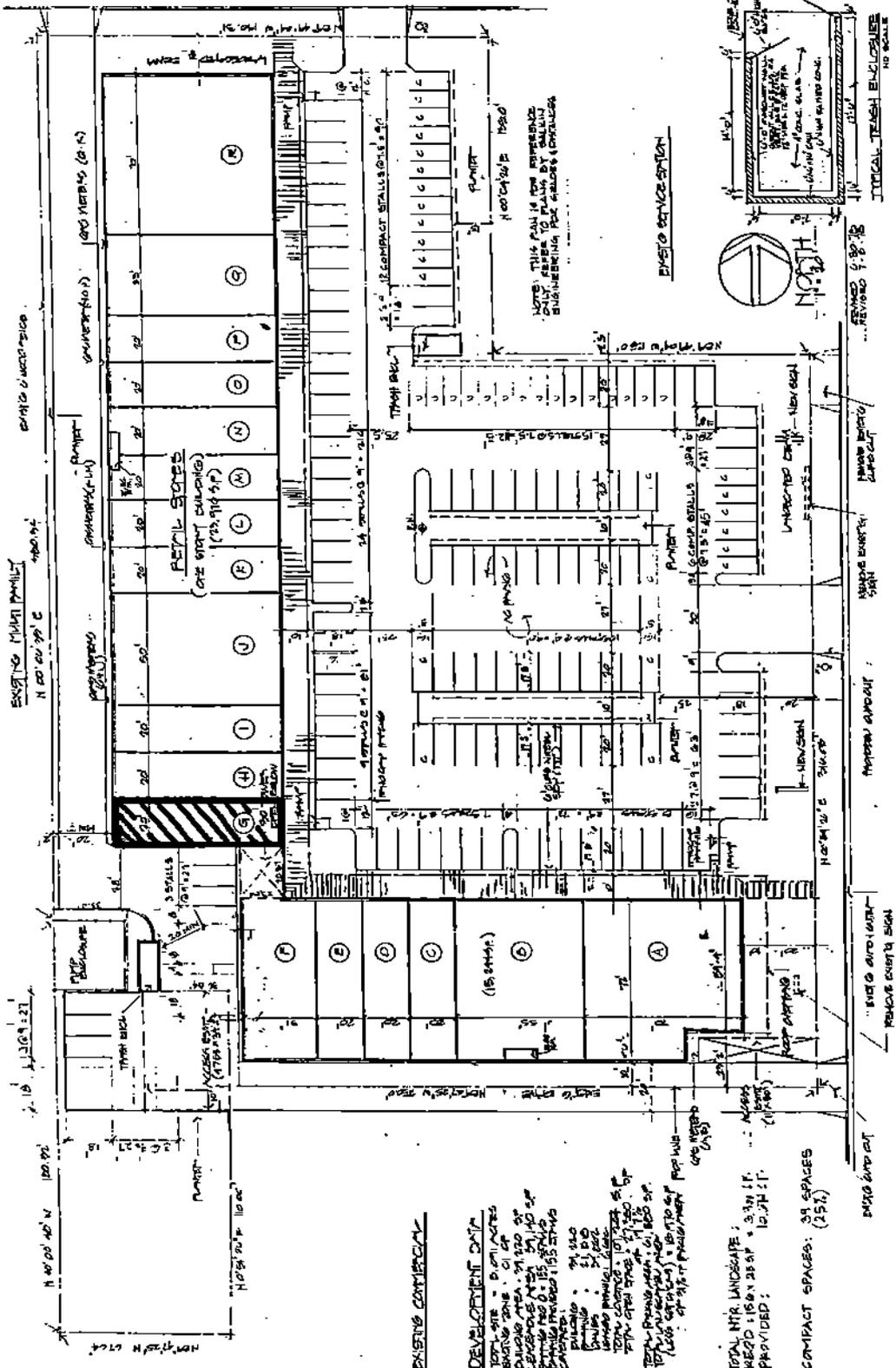
Craig Combs
ASSOCIATES ARCHITECTS PLANNERS
 1535 MONROVA AVENUE NEWPORT BEACH
 CALIFORNIA 92663
 714/845-8040

COMMERCIAL CENTER
 3033 Bristol Street
 Costa Mesa

REVISIONS	DATE	BY
	4.20.93	
DRAWN		
JOB SHEET		1 of 3

Paturno Avenue

Site plan



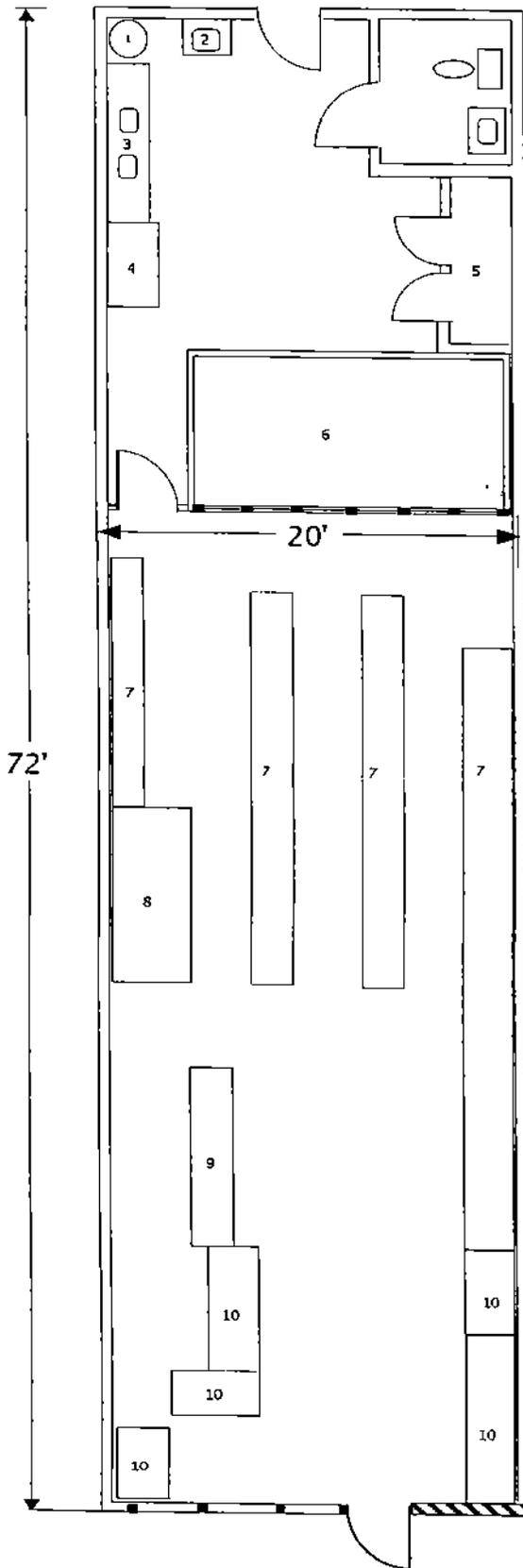
NOTE: THIS PLAN IS FOR INFORMATION ONLY. IT IS NOT TO BE USED FOR CONSTRUCTION. SEE THE ARCHITECT'S CONTRACT FOR MORE INFORMATION. THIS PLAN IS NOT TO BE USED FOR CONSTRUCTION.

Bristol Street

EXISTING CONDITIONS

DEVELOPMENT DATA
 TOTAL SITE = 0.01 ACRES
 ZONING = C-1
 EXISTING USE = 10,000 SF
 PROPOSED USE = 10,000 SF
 TOTAL PROPOSED = 10,000 SF
 TOTAL EXISTING = 10,000 SF
 TOTAL PROPOSED = 10,000 SF
 TOTAL EXISTING = 10,000 SF
 TOTAL PROPOSED = 10,000 SF
 TOTAL EXISTING = 10,000 SF

TOTAL NET LANDSCAPE = 3,333 SF
 - WOOD 1,500 SF
 - ASPHALT 1,833 SF
 - PROVIDED:
 COMPACT SPACES: 25 SPACES (25%)



File
PA-05-40
 ALVAND MARKET
 1440 Square Feet
 3033 G Bristol St.
 Costa Mesa, CA 92626

NOTES

- 1. HOT WATER HEATER
- 2. MOP SINK
- 3. 2 COMPARTMENT SINK
- 4. STORAGE CASE
- 5. STORAGE ROOM
- 6. WALKIN COOLER
- 7. SHELVING
- 8. FRUIT COOLER
- 9. COUNTER
- 10. REFRIGERATION CASES

Building Line

WALKWAY