PLANNING COMMISSION AGENDA REPORT

VIII. 1

MEETING DATE: SEPTEMBER 14, 2009 **ITEM NUMBER:**

SUBJECT: APPEAL OF ZONING APPLICATION ZA-09-16
A MINOR CONDITIONAL USE PERMIT FOR OUTDOOR DISPENSERS AT 2281 NEWPORT BOULEVARD

DATE: SEPTEMBER 3, 2009

FOR FURTHER INFORMATION CONTACT: REBECCA ROBBINS, ASSISTANT PLANNER
714-754-5609

PROJECT DESCRIPTION

Continued from the meetings on June 8 and July 13, 2009:

Appeal of the Zoning Administrator's denial of Zoning Application ZA-09-16, a minor conditional use permit to legalize four beverage dispensers outside the cashier kiosk at the Costa Mesa Oil Company Gas Station.

APPLICANT

David Cabrinha is representing the property owner, Shahram Rahimian.

RECOMMENDATION

Uphold, reverse, or modify the Zoning Administrator's decision.

REBECCA ROBBINS
Assistant Planner

KHANH NGUYEN
Acting Asst. Development Services Director

BACKGROUND

On May 7, 2009, the Zoning Administrator denied the request for a minor conditional use permit to legalize the location of beverage dispensers outside the cashier kiosk due to the negative appearance of the assorted coolers (unscreened and visible from the streets) and obstruction of a handicapped parking space and drive aisle.

On May 14, 2009, an appeal of the Zoning Administrator's denial was submitted by the project applicant.

A full description and discussion of the project is contained in the July 13th Planning Commission report, which is attached (Attachment 4).

ANALYSIS

The applicant has not provided any new information with regard to concept plans since the last meeting.

Planning Commission continued the item on June 8th and July 13th to allow the applicant additional time to submit acceptable plans to integrate a screened area for the outdoor beverage dispensers with the existing kiosk. However, because neither the applicant nor a legally designated representative attended the hearing, the meeting was continued for the second time. The Planning Commission directed the applicant to remove the four beverage dispensers from the property within five days of the July 13th meeting, while the appeal application is pending.

Noncompliance with Planning Commission's Directive

The applicant failed to remove the beverage dispensers from the property within five days of Planning Commission's directive. A $75.00 citation was issued on the seventh day on July 20, 2009. At the time of the preparation of this report, it has been almost 4 months since the Zoning Administrator's decision that the property remains noncompliant with Code. In addition, the conceptual drawings have not been submitted to date, and the beverage dispensers remain on the property. A current dated photo is provided as Attachment 2.

Failure to Provide Acceptable Plans

Staff reviewed plans submitted on June 25th for the July 13th Planning Commission meeting. The plans showed a single screen wall for the beverage coolers instead of a well-integrated enclosure area around the existing kiosk and staff believed the plans to be deficient in detail (Attachment 3). No new information has been received since the July 13th Planning Commission meeting. Staff believes the applicant has still failed to provide acceptable conceptual plans although additional time had been granted to produce there drawings.

GENERAL PLAN CONSISTENCY

Without proper screening of the beverage dispensers, staff believes the request is inconsistent with General Plan Goal LU-2 which requires development to "*maintain an aesthetically pleasing and functional environment*" with minimal impacts to existing resources.

ALTERNATIVES

The Planning Commission alternatives stated in the July 13th report are reiterated below:

1. *Uphold the Zoning Administrator's denial of the minor conditional use permit (with any modifications to the denial findings and/or requirements).* This would require coolers outside the kiosk to be completely removed from the site.

2. *Reverse the Zoning Administrator's denial of the minor conditional use permit.* Coolers outside the kiosk would be permitted to remain provided that they are completely screened from off-site views and contained inside a newly-constructed and fully-integrated enclosure area. All obstructions to the handicapped parking space are required to be removed. Conditions of approval provide guidance for an appropriate method to screen the beverage dispensers. (Note: Attached draft resolution for approval was modified from the June 8th staff report to reflect the revised proposal.)

CONCLUSION

Staff believes the applicant has failed to provide acceptable conceptual drawings and has also failed to comply with Planning Commission's directive to remove the beverage dispensers while the appeal application is pending. Two Planning Commission resolutions are provided should Planning Commission decide to uphold the Zoning Administrator's denial of the minor conditional use permit or reverse the Zoning Administrator's decision, subject to conditions.

Attachments:
1. Draft Planning Commission Resolutions
2. Location Map, Site Photos
3. Concept Plans Submitted in June 2009
4. Meeting Minutes and Planning Commission Staff Report dated July 13, 2009

cc:
Acting Development Svs. Director
Senior Deputy City Attorney
City Engineer
Fire Protection Analyst
Staff (4)
File (2)

David Cabrinha
15525 Starview
Lake Elsinore, CA 92503

Shahram Rahimian
20 Stillwater
Newport Coast, CA 92657

ATTACHMENT 1

RESOLUTION NO. PC-09-

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COSTA MESA TO UPHOLD THE ZONING ADMINISTRATOR'S DECISION AND DENY ZONING APPLICATION ZA-09-16

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

WHEREAS, an application was filed by David Cabrinha authorized agent for property owner Shahram Rahimian, requesting a minor conditional use permit four beverage dispensers outside the cashier's booth at the Costa Mesa Oil Company Gas Station at 2281 Newport Boulevard in a C2 zone;

WHEREAS, the Zoning Administrator denied Zoning Application ZA-09-16 on May 7, 2009;

WHEREAS, David Cabrinha submitted an appeal of the Zoning Administrator's denial of ZA-09-16 on May 14, 2009;

WHEREAS, the applicant submitted a revised proposal involving a single screen wall around the coolers;

WHEREAS, duly noticed public hearings were held by the Planning Commission on June 8, 2009, July 13, 2009, and September 14, 2009 with all persons given the opportunity to speak for or against the proposed project;

BE IT RESOLVED that, based on the evidence in the record and the findings contained in Exhibit "A", the Planning Commission hereby **UPHOLDS THE ZONING ADMINISTRATOR'S DECISION AND DENIES** Zoning Application ZA-09-16 with respect to the property described above.

PASSED AND ADOPTED this 14th day of September, 2009.

James Righeimer, Chair
Costa Mesa Planning Commission

STATE OF CALIFORNIA)
)ss
COUNTY OF ORANGE)

I, Claire Flynn, Assistant 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 September 14, 2009, by the following votes:

AYES: COMMISSIONERS

NOES: COMMISSIONERS

ABSENT: COMMISSIONERS

ABSTAIN: COMMISSIONERS

_____

Assistant Secretary, Costa Mesa
Planning Commission

EXHIBIT "A"

FINDINGS FOR DENIAL

1. The information presented does not comply with Section 13-29(g)(2) of the Costa Mesa Municipal Code in that:

   a. The proposal for outdoor dispensers is not compatible with developments in the same general area. Beverage dispensers in this quantity are typically contained in a building and not visible from off-site. An adjunct screen wall is proposed instead of a fully-integrated, well-designed enclosure area that would complement the existing kiosk.

   b. Granting the minor 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 in that the coolers encroach into drive aisles, vehicle back-up, and create interference with the onsite circulation.

   c. Granting the minor conditional use permit will allow a use, density or intensity which is not in accordance with General Plan Goal LU-2 which requires development to "maintain an aesthetically pleasing and functional environment" with minimal impacts to existing resources.

2. The information presented does not comply with Section 13-29(e) of the Costa Mesa Municipal Code in that:

   a. The outdoor placement of coolers is not compatible and harmonious with uses on-site or on surrounding properties.

   b. Safety and compatibility of the location of the coolers, parking areas, landscaping, and other site features including functional aspects of the site development such as automobile and pedestrian circulation have been considered.

   c. The zoning application would establish a precedent for future development.

3. The Costa Mesa Planning Commission has denied ZA-09-16. Pursuant to Public Resources Code Section 21080(b)(5) and CEQA Guidelines Section 15270(a), CEQA does not apply to this project because it has been rejected and will not be carried out.

4. The project is exempt from Chapter XII, Article 3 Transportation System Management, of Title 13 of the Costa Mesa Municipal Code.

RESOLUTION NO. PC-09-

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COSTA MESA TO REVERSE THE ZONING ADMINISTRATOR'S DECISION AND APPROVE ZONING APPLICATION ZA-09-16

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

WHEREAS, an application was filed by David Cabrinha authorized agent for property owner Shahram Rahimian, requesting a minor conditional use permit four beverage dispensers and miscellaneous items outside the cashier's booth at the Costa Mesa Oil Company Gas Station located at 2281 Newport Boulevard in a C2 zone;

WHEREAS, the Zoning Administrator denied Zoning Application ZA-09-16 on May 7, 2009;

WHEREAS, David Cabrinha submitted an appeal of the Zoning Administrator's denial of ZA-09-16 on May 14, 2009;

WHEREAS, the proposal for outdoor beverage dispensers was updated to include relocation of the dispensers to one side of the kiosk behind a proposed screen wall;

WHEREAS, duly noticed public hearings were held by the Planning Commission on June 8, 2009, July 13, 2009, and September 14, 2009 with all persons given the opportunity to speak for or against the proposed project;

WHEREAS, the Planning Commission considered the modifications to the proposal with respect to addressing the Zoning Administrator's original concerns regarding the lack of screening and handicapped parking obstruction;

BE IT RESOLVED that, based on the evidence in the record and the findings contained in Exhibit "A", the Planning Commission hereby **REVERSES THE ZONING ADMINISTRATOR'S DECISION AND APPROVES** Zoning Application ZA-09-16, as modified by the applicant, with respect to the property described above.

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 modified proposal as described in the Staff Report for Zoning Application ZA-09-16 and upon applicant's compliance with each and all of the conditions contained in Exhibit

"B", as well as with compliance of all applicable federal, state, and local laws. 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 14th day of September, 2009.

James Righeimer, Chair
Costa Mesa Planning Commission

EXHIBIT "A"

FINDINGS FOR APPROVAL

1. The information presented complies with Section 13-29(g)(2) of the Costa Mesa Municipal Code in that:

   a. The proposal for beverage dispensers behind a screen wall is integrated into the existing kiosk in color, materials, and design and is compatible with developments in the same general area.

   b. Granting the minor 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.

   c. Granting the minor conditional use permit will allow a use, density or intensity which is in accordance with General Plan Goal LU-2, which requires development to "maintain an aesthetically pleasing and functional environment" with minimal impacts to existing resources.

2. The information presented complies with Section 13-29(e) of the Costa Mesa Municipal Code in that:

   a. The outdoor placement of coolers is compatible and harmonious with uses on-site or on surrounding properties.

   b. Safety and compatibility of the location of the coolers, parking areas, landscaping, and other site features including functional aspects of the site development such as automobile and pedestrian circulation have been considered.

   c. The zoning application is for a project-specific case and does not establish a precedent for future development.

3. 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 15311 for Accessory Structures to existing commercial facilities.

4. 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 (If approved)

Plng. 1. All dispensers and outdoor display of retail goods shall not obstruct any required drive aisle widths, back-up distance, and handicapped parking space. All obstructions to required on-site parking and vehicle circulation shall be immediately removed. The applicant shall submit proof to the Planning Division, within **5 days** from the date of this approval, that obstructions to parking and vehicle circulation are removed in accordance with the requirements of the Building Safety Division and the Transportation Division.

2. With respect to the proposed screening for the outdoor dispensers, all new walls and roof areas will be integrated to the existing kiosk for the purpose of complete screening from off-site views. Specifically, the permanent wing wall extensions of the kiosk will be constructed to fully screen the front and back side of the dispensers. The roof of the kiosk will also be refurbished and extended to cover the top of the dispensers. All new construction will be consistent with the existing kiosk in color, building materials, and integrated design to the satisfaction of the Zoning Administrator.

3. The landscape planter area shall be expanded behind the new wall(s) and planted with live plant materials. The propane tanks and trash receptacle and enclosure that are currently located in this area shall be relocated elsewhere on the property, to the satisfaction of the Zoning Administrator.

4. The applicant shall remit construction plans for building plan check to the Development Services Department within **30 days** from the date of this approval. Timely progress towards obtaining the building permits and ultimately constructing the enclosure area shall be made to the satisfaction of the Zoning Administrator. If progress towards the implementation of the proposed project lapses, the Zoning Administrator shall require the removal of all outdoor beverage dispensers until such time the construction of the enclosure area is completed.

5. A copy of the conditions of approval for the minor conditional use permit must be kept on the premises and presented to any authorized City official upon request. New business/property owners shall be notified of the conditions of approval upon transfer of business or ownership of land.

CODE REQUIREMENTS (if approved)

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 application is valid for thirty (30) days from the effective date of this approval and will expire at the end of that period unless applicant contacts the Planning Division to arrange for Planning inspection of the site to verify compliance with the requirements of the Building Safety Division and the Transportation Division. If the applicant is unable to obtain final planning approval within the thirty-day time period, the applicant may request an extension of time. The Planning Division must receive a written request for the time extension prior to the expiration of the zoning application.

2. Once the use is legally established, the zoning application herein approved shall be valid until revoked. The Development Services Director or his designee may refer the zoning application to the Planning Commission for modification or revocation at any time if, in his opinion, any of the following circumstances exist: 1) the use is being operated in violation of the conditions of approval; 2) the use is being operated in violation of applicable laws or ordinances or 3) one or more of the findings upon which the approval was based are no longer applicable.

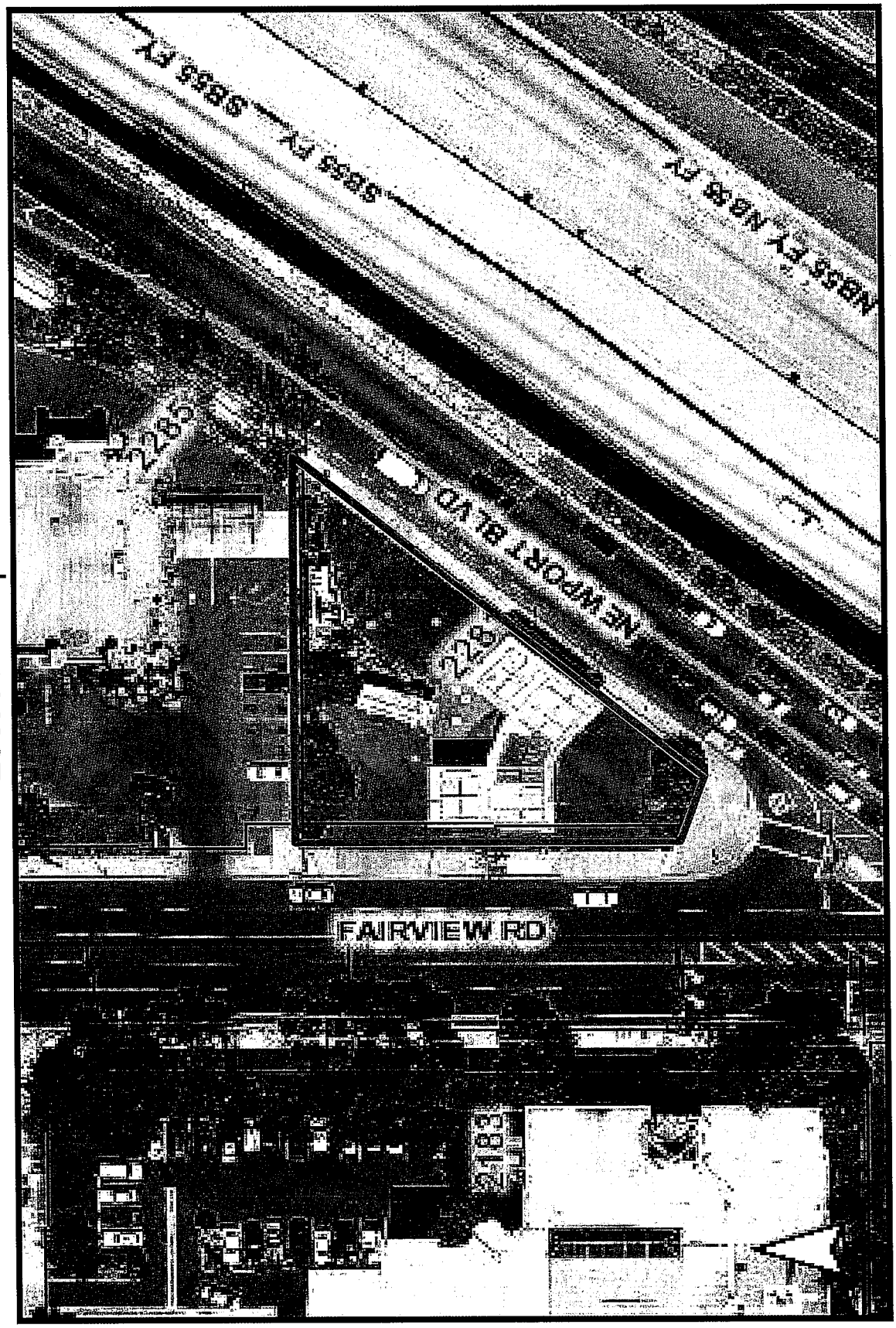
3. Street address shall be visible from the public street and shall be displayed on the freestanding sign. If there is no freestanding sign, the street address may be displayed on the fascia adjacent to the main entrance or on another prominent location. Numerals shall be a minimum twelve (12) inches in height with not less than three-fourth-inch stroke and shall contrast sharply with the background.

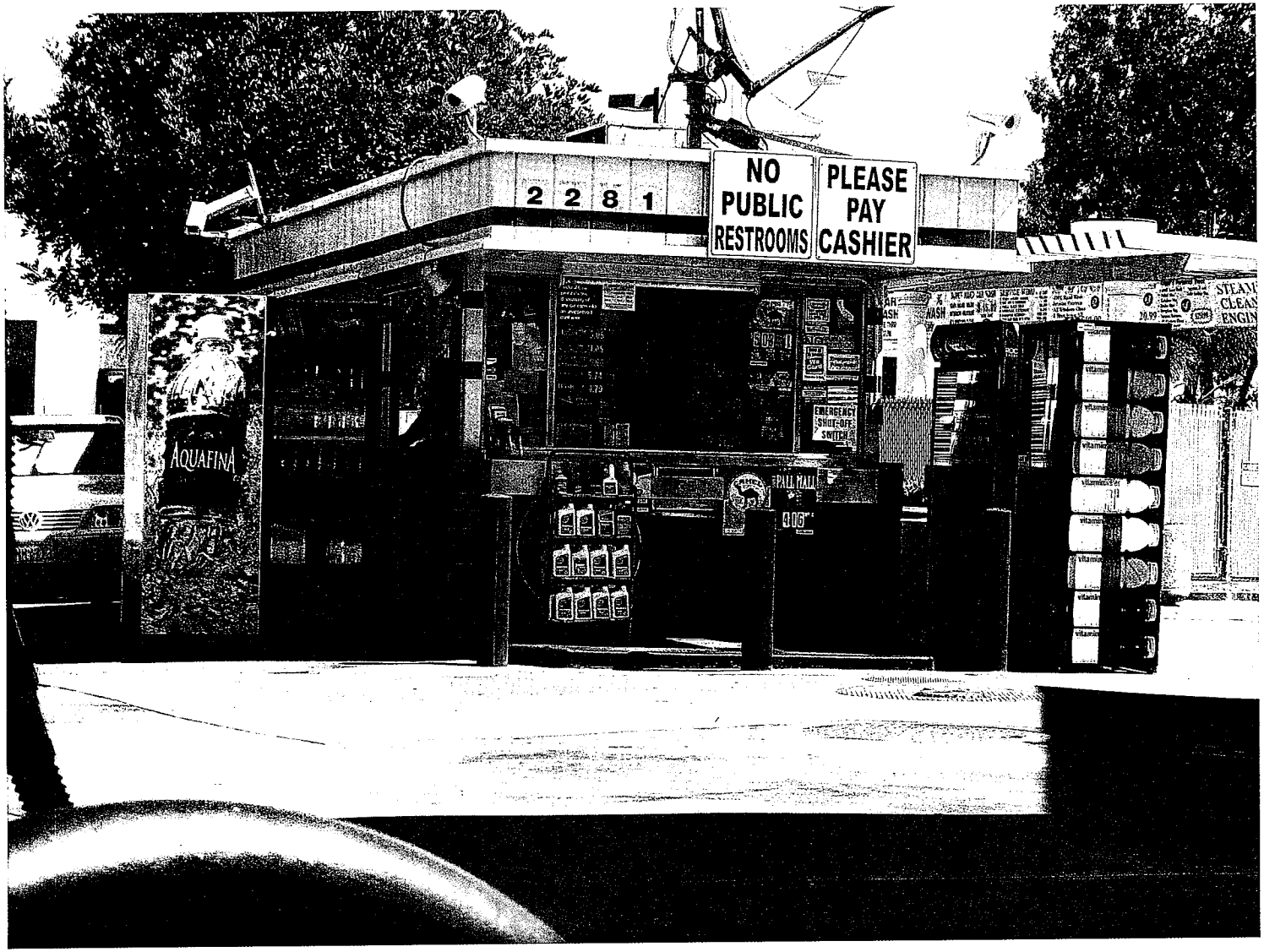
4. Parking stalls shall be double-striped in accordance with City standards.

Bldg. 5. Comply with the requirements of the 2007 California Building Code.

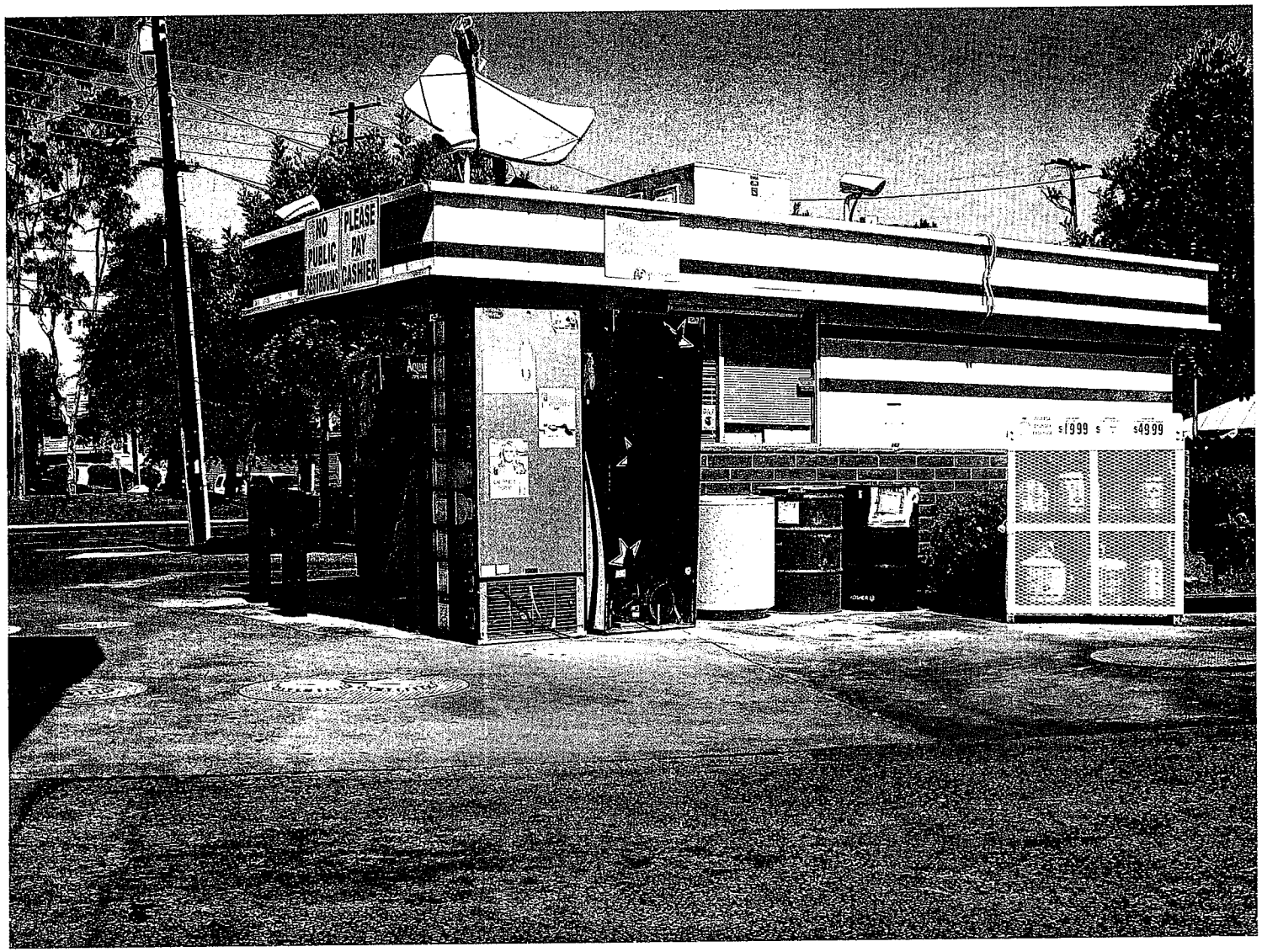
ATTACHMENT 2

Location Map



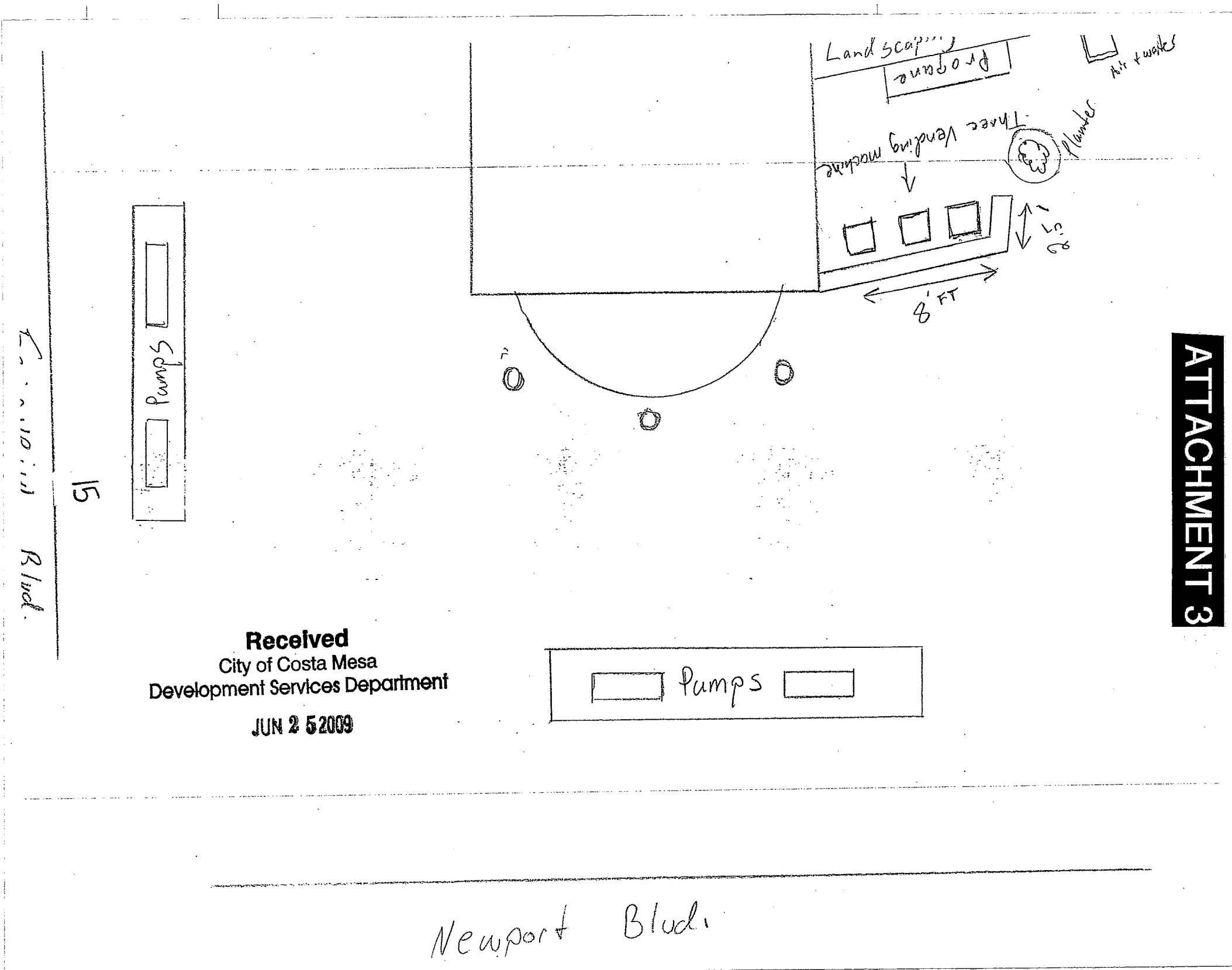


2281 Newport
8/27/09 @ 1047AM
By Code Enforcement Officer F.GAMBOA



14

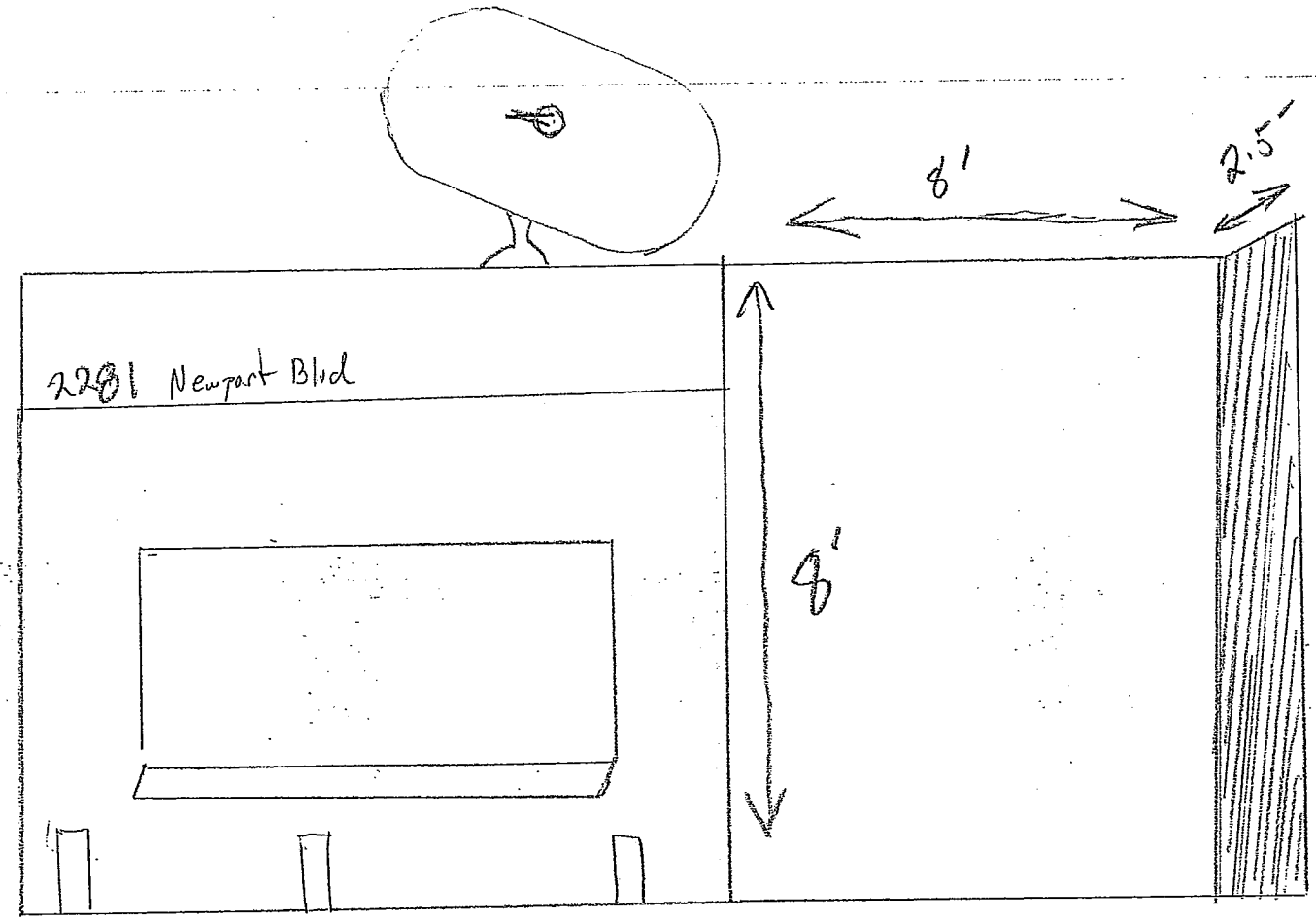
2281 Newport
8/27/09 @ 1047AM
By Code Enforcement Officer F.GAMBOA



ATTACHMENT 3

Received
City of Costa Mesa
Development Services Department
JUN 25 2009

Newport Blvd.



8' wall built on
~~east~~ ~~West~~ side of Booth
to hide 3 Vending
machines

Absent: None.

2. **Regular Planning Commission meetings scheduled for once a month.**

MOTION: Approve by adoption of Planning Commission Resolution PC-09-33.
Moved by Commissioner Sam Clark, seconded by Vice Chair James Fisler.

The motion carried by the following roll call vote:
Ayes: Chair James Righeimer, Vice Chair James Fisler, Commissioner Sam Clark, Commissioner Colin McCarthy, and Commissioner Stephen Mensinger
Noes: None.
Absent: None.

VI. PUBLIC HEARINGS:

1. **From the meeting of June 8, 2009, Appeal of Zoning Administrator's denial of Zoning Application ZA-09-16, for David Cabrinah, authorized agent for Shahram Rahimian, for a minor conditional use permit to legalize four beverage dispensers and other miscellaneous items outside the cashier booth at the Costa Mesa Oil Company Gas Station, located at 2281 Newport Boulevard, in a C2 zone. Environmental determination: exempt.**

Assistant Planner Rebecca Robbins reviewed the information in the staff report and responded to questions from the Commission regarding the inadequacy of the drawing.

The Chair confirmed with the other Commissioners that there were no ex parte communications with the applicant.

Kambiz Ebrahim, employee of the property owner and speaking on behalf of the applicant David Cabrinah, came to the podium. A discussion ensued between the Chair, Deputy City Attorney Ivy Tsai, and Assistant Planning Commission Secretary Claire Flynn concerning if Mr. Ebrahim could speak for Mr. Cabrinah since the City received no letter or phone call from Mr. Cabrinah prior to this meeting. Ms. Tsai stated that

Mr. Ebrahim could speak, but no agreement can be made with regard to conditions of approval.

Mr. Ebrahim asked for an extension of time on this item and agreed to contact the contractor and provide a different type of drawing. He also replied to Commissioner Mensinger that he was willing to remove the beverage dispensers, but asked for time to redesign the drawing.

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

Commissioner McCarthy noted that he had some big concerns regarding the applicant not being in compliance and the time factor involved.

Ms. Robbins explained to Vice Chair Fisler that a continuance of this item could be made subject to a condition requiring removal of the four outdoor beverage dispensers within five days.

The Chair voiced a concern that this item has already been continued once to tonight's meeting.

Assistant Planning Commission Secretary Claire Flynn explained that if the Zoning Administrator's denial is upheld, the applicant must wait six months before resubmitting a minor conditional use permit.

Commissioner Clark stated he did not want the applicant to pay again for resubmittal of the permit and suggested that the applicant remove the beverage dispensers. He proceeded to make a motion.

MOTION: Continue to the Planning Commission meeting of September 14, 2009 to allow the applicant time to prepare proper plans, subject to the condition that the four outdoor beverage dispensers are removed from the property within five days.
Moved by Commissioner Sam Clark, seconded by Vice Chair James Fisler.

During discussion on the motion, Vice Chair Fisler suggested adding a condition to the motion for removal of the beverage dispensers within five days. Commissioner Clark agreed.

The Chair and Ms. Flynn discussed allowing the applicant enough time to submit plans by changing the continuance date to September 14, 2009 instead of August 10, 2009. The maker and seconder of the motion agreed.

Commissioner McCarthy stated there was no positive momentum relating to this item and it was a continued waste of staff time.

Commissioner Clark said he was giving the applicant the benefit of the doubt and noted he wants to make sure he is in compliance.

Vice Chair Fisler reiterated that the applicant has five days to remove the beverage dispensers.

Commissioner Mensinger stated he shares Commissioner McCarthy's concerns.

The Chair, Ms. Tsai, and Ms. Robbins discussed requiring the applicant to be in compliance and requesting a continuance.

Commissioner McCarthy commented that with this motion, the applicant is mandated to comply with what was already required. He also pointed out that the applicant did not attend this public hearing and therefore does not support the motion.

Ms. Robbins explained to Commissioner Mensinger that if the application is denied, the applicant still needs to bring the site into compliance. Commissioner Mensinger agreed with Commissioner McCarthy.

Vice Chair Fisler suggested a substitute motion be made or call for the question. The Chair proceeded to call for the question.

The motion carried by the following roll call vote:
Ayes: Chair James Righeimer, Vice Chair James Fisler, and

Commissioner Sam Clark
Noes: Commissioner Colin McCarthy, and Commissioner Stephen Mensinger
Absent: None.

2. **Extension of time for Planning Application PA-07-19, for Waterpointe Development, authorized agent for Richard and John Dick, for a Design Review for a 7-unit, two-story, single-family detached, small-lot residential common-interest development including: (a) administrative adjustment from the front setback requirement (20 ft. required; 13 ft. proposed); (b) minor modification from 2nd floor rear setback (20 ft. required; 16 ft. proposed) and minor modification for 8-foot tall block wall along front property line (6 ft. allowed; 8 ft. proposed); and (c) deviation from Residential Design Guidelines for second-to-first floor ratio (80% maximum recommended; 92% proposed) and second floor left side setback (10 ft. average recommended; 5 ft. average proposed); located at 351 W. Bay Street, in an R2-MD zone. Environmental Determination: exempt.**

Senior Planner Minoo Ashabi reviewed the information in the staff report, and there were no questions of staff.

The Chair confirmed with the other Commissioners that there were no ex parte communications with the applicant.

Garrett Calacci of Waterpointe Development, authorized agent for the property owners, said the intent is to start construction on this project at the end of September. Mr. Calacci agreed to all the conditions of approval.

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

MOTION: Approve a time extension to January 2, 2011 for Planning Application PA-07-19, by adoption of Planning Commission Resolution PC-09-28, based on the evidence in the record.
Moved by Vice Chair James Fisler, seconded by Commissioner Sam Clark.

PLANNING COMMISSION AGENDA REPORT

VI.1

MEETING DATE: JULY 13, 2009 ITEM NUMBER:

SUBJECT: REVIEW OF ZONING APPLICATION ZA-09-16
A MINOR CONDITIONAL USE PERMIT FOR OUTDOOR DISPENSERS AT 2281 NEWPORT BOULEVARD

DATE: JULY 2, 2009

FOR FURTHER INFORMATION CONTACT: REBECCA ROBBINS, ASSISTANT PLANNER
714-754-5609

PROJECT DESCRIPTION

Appeal of the Zoning Administrator's denial of Zoning Application ZA-09-16, a minor conditional use permit to legalize four beverage dispensers outside the cashier kiosk at the Costa Mesa Oil Company Gas Station.

APPLICANT

David Cabrinha is representing the property owner, Shahram Rahimian.

RECOMMENDATION

Uphold, reverse, or modify the Zoning Administrator's decision.

REBECCA ROBBINS
Assistant Planner

KHANH NGUYEN
Acting Asst. Development Services Director

BACKGROUND

Original Proposal

The original proposal involves four beverage dispensers located on the west and east sides of an existing kiosk at the Costa Mesa Oil Company Gas Station at 2281 Newport Boulevard. The outdoor display of these dispensers without a use permit and the obstruction to handicapped parking area are considered Code violations.

Revised Proposal

On June 8, 2009 the applicant requested a continuance to allow time to produce conceptual plans for a new enclosure area for screening purposes to address the Zoning Administrator's concerns. The revised proposal involves relocation of the beverage dispensers to one side of the kiosk and construction of a single screen wall around the coolers. The plans do not feature a new enclosure area that is integrated with the existing kiosk in terms of roofing, color, material, and design.

The Planning Commission staff report can be reviewed on the City's website at: http://www.ci.costa-mesa.ca.us/council/planning/2009-06-08/060809ZA0916AppealNotice.pdf.

ANALYSIS

This report analyzes the inadequacy of recently submitted plans for screening the outdoor beverage dispensers.

The Zoning Administrator denied the request for a Minor CUP to locate beverage dispensers outside the cashier kiosk due to the negative appearance of the assorted coolers (unscreened and visible from the streets) and obstruction of a handicapped parking space/drive aisle.

After the appeal was submitted, the applicant offered to revise the proposal. As indicated in the June 8th report, staff would only support a modified plan if the design could be well executed and could address aesthetic concerns. Specifically, the plans would need to show a well-designed, roofed enclosure area around the kiosk, as well as upgrades to the existing kiosk and landscaping.

Staff reviewed the recently submitted plans for a single screen wall for the beverage coolers (Attachment 3) and believes these plans to be deficient in detail for the following reasons:

1. *Plans fail to show a well-integrated enclosure area around the existing kiosk.* The applicant proposes a single screen wall **and not** a semi-enclosed enclosure area that would be well integrated in terms of compatible design, color, and materials with the kiosk. Along with the outdoor beverage coolers, the proposed wall extension would not complement the kiosk and would result in a negative appearance.

2. *Plans fail to show a redesigned roof to cover the top of the beverage dispensers.* The June 8th staff report indicated that the existing kiosk roof should be redesigned to cover the top of the dispensers. Given that only a single wall is proposed, the plans do not show any new roof extension or redesign of the existing kiosk roof to appropriately connect the proposed screen wall with the kiosk.

3. *Plans fail to show adequate screening of the beverage coolers from the public right-of-way*. The plans are not shown to scale; however, it appears that the coolers could still be visible from off-site.

4. *Plans fail to show a new landscaped area around the proposed wall*. Pursuant to staff's recommendation, the plans do not include an expanded landscaped area adjacent to the proposed screen wall. The new landscaping was to improve the appearance of any newly constructed extension to the kiosk and thereby upgrade the overall appearance of the property.

The central purpose of the continuance request was to allow more time to develop conceptual plans showing appropriate screening of the outdoor dispensers and an overall upgrade of the property (i.e. improvements to the kiosk and landscaping). The revised plans do not meet these objectives.

The Zoning Administrator's concerns involved the negative appearance of outdoor beverage coolers, but staff believes the applicant's recent submittal does not adequately address the aesthetic concerns. An adjunct screen wall is proposed instead of a fully-integrated, well-designed, roofed enclosure that would complement the kiosk.

GENERAL PLAN CONSISTENCY

Without proper screening of the beverage dispensers, staff believes the request is inconsistent with General Plan Goal LU-2 which requires development to "*maintain an aesthetically pleasing and functional environment*" with minimal impacts to existing resources.

ALTERNATIVES

The Planning Commission may consider the following alternatives:

1. *Uphold the Zoning Administrator's denial of the minor conditional use permit (with any modifications to the denial findings and/or requirements).* This would require coolers outside the kiosk to be completely removed from the site.

2. *Reverse the Zoning Administrator's denial of the minor conditional use permit.* Coolers outside the kiosk would be permitted to remain provided that they are completely screened from off-site views and contained inside a newly-constructed and fully-integrated enclosure area. All obstructions to the handicapped parking space are required to be removed. Conditions of approval provide guidance for an appropriate method to screen the beverage dispensers. (Note: Attached draft resolution for approval was modified from the June 8th staff report to reflect the revised proposal.)

CONCLUSION

The Zoning Administrator previously determined that this proposed activity is incompatible with surrounding properties and inconsistent with the General Plan. Code requires that all uses be conducted underroof unless a Minor CUP is approved. The Minor CUP process for outdoor display/storage is to ensure that items are appropriately screened from public view and do not detract from the appearance of a viable business community. While the continuance of this item from the June 8th meeting allowed the applicant additional time to

produce concept plans, staff believes these plans do not comply with the intent of the Zoning Code. An adjunct screen wall is proposed instead of well-integrated enclosure area designed to complement the existing kiosk in terms of roofing, color, material, and design.

Attachments:
1. ~~Draft Planning Commission Resolutions~~
2. ~~Location Map & Site Photos~~
3. ~~Plans~~

cc:
Acting Development Svs. Director
Senior Deputy City Attorney
City Engineer
Fire Protection Analyst
Staff (4)
File (2)

David Cabrinha
15525 Starview
Lake Elsinore, CA 92503

Shahram Rahimian
20 Stillwater
Newport Coast, CA 92657

File: 071309ZA0916Appeal	Date: 070209	Time: 4:30 p.m.