



PLANNING COMMISSION AGENDA REPORT

VI.4

MEETING DATE: JANUARY 11, 2010

ITEM NUMBER:

SUBJECT: PLANNING APPLICATION PA-09-11
CONDITIONAL USE PERMIT FOR CONVENIENCE STORE, CAR WASH, AND MOTOR
VEHICLE SERVICE STATION WITH CONCURRENT BEER AND WINE SALES,
INCLUDING VARIANCES AND ADMINISTRATIVE ADJUSTMENTS FROM
DEVELOPMENT STANDARDS
3003 NEWPORT BOULEVARD

DATE: DECEMBER 31, 2009

FOR FURTHER INFORMATION CONTACT: WENDY SHIH, ASSOCIATE PLANNER (714) 754-5136
WSHIH@CI.COSTA-MESA.CA.US

PROJECT DESCRIPTION

The applicant requests approval of the following applications for the renovation of an existing gasoline service station:

1. Conditional use permit (CUP) to include the following requested components:
 - o 24-hour convenience store
 - o Automated car wash
 - o Motor vehicle service station with concurrent sales of alcoholic beverages (requiring a finding of Public Convenience or Necessity for the Alcoholic Beverage Control License)
2. Variances to deviate from rear and side setback requirements for a portion of the convenience store/car wash building and a fuel canopy.
3. Administrative adjustments to deviate from front and street side setback requirements for the new fuel canopies.

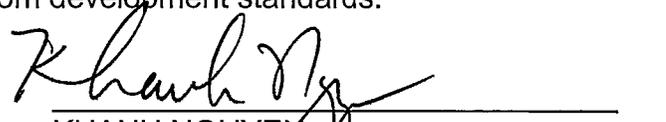
APPLICANT

The applicant is Iann Marr of MK Design, representing the property owner Bahman Bakhtar/Rahat LLC.

RECOMMENDATION

Approve the following, by adoption of PC resolution, subject to conditions:
A Conditional Use Permit including a 24-hour convenience store and an automated car wash but excluding the concurrent sale of alcoholic beverages and finding of Public Convenience or Necessity, as well as requested deviations from development standards.


WENDY SHIH
Associate Planner


KHANH NGUYEN
Acting Asst. Development Services Director

PLANNING APPLICATION SUMMARY

Location: 3003 Newport Boulevard Application: PA-09-11

Request: Conditional use permit for new convenience store, car wash, and concurrent sale of alcoholic beverages with motor vehicle fuel. Variances and administrative adjustments to deviate from front, side, and rear setback requirements for a new convenience store/car wash building and new fuel canopies.

SUBJECT PROPERTY:

Zone: C1
 General Plan: Neighborhood Commercial
 Lot Dimensions: Irregular
 Lot Area: 24,800 SF
 Existing Development: Gasoline station with an auto service building.

SURROUNDING PROPERTY:

North: R3- Multiple Family Residential
 South: R3- Multiple Family Residential (across Baker)
 East: 55 Freeway
 West: R3- Multiple Family Residential

DEVELOPMENT STANDARD COMPARISON

<u>Development Standard</u>	<u>Code Requirement</u>	<u>Proposed/Provided</u>
Lot Size:		
Lot Width	120 FT	Approximately 130 FT
Lot Area	12,000 SF	24,800 SF
Floor Area Ratio (High Traffic FAR):	.15 (3,720 SF) maximum	0.11 (2,659 SF)
Building Height:	2 stories/30 FT maximum	Storage Bldg: 10 FT Car Wash Building: 16 FT Conv. Store: 20 FT
Interior landscaping:	275 SF minimum	Approximately 2,200 SF ¹
Setbacks:		
Front (Baker Street)	20 FT	15 FT ³
Interior Side (residential)	20-32-40 FT ² and 35 FT ² for fuel canopy	13 FT ⁴ - 13 FT ⁴ - 23 FT ⁴ and 20 FT ⁴ for fuel canopy
Street Side (Newport Blvd.)	20 FT	12 FT ³
Rear (residential)	20-32-40 FT ² and 35 FT ² for fuel canopy	13 FT ⁴ - 12 FT ⁴ - 19 FT ⁴ and 40 FT for fuel canopy
Parking:		
Standard	10	10
Handicapped	1	1
TOTAL:	11	11

CEQA Status Exempt, Class 3
 Final Action Planning Commission

- 1 A total of 2,320 SF new landscaping is proposed for the site.
- 2 Required setbacks are two times the building heights (tiered).
- 3 Administrative adjustments requested for fuel canopy encroachments into required front and street side setbacks.
- 4 Variances requested to deviate from rear and interior side setback requirements for portions of the convenience store/car wash building and a fuel canopy.

BACKGROUND

Site Location

The property is located on the northwest corner of Baker Street and Newport Boulevard and contains an ARCO gasoline service station with auto repair service. The property is zoned C1 (Local Business District) and has a General Plan land use designation of Neighborhood Commercial. It is surrounded by apartment projects to the north, west, and across Baker Street to the south, and Newport Boulevard/55 Freeway to the east. A summary of development entitlements is provided as follows:

1968	Planning Commission approved Conditional Use Permit C-70-67 for the construction of a gasoline service station on the property.
1992	The service station was abandoned.
1996	Commission approved Conditional Use Permit PA-96-33 to allow re-establishment of a gasoline station with auto repair service on the property.

Project Description

The applicant requests approval of various applications to facilitate the renovation of the gasoline service station. The proposal includes the following:

- **CUP** with the following components:
 - **24-hour convenience store:** The proposal involves the conversion of the auto service building into a convenience store.
 - **Automated car wash:** The automated car wash is proposed to be open from 6:00AM to 11:00PM.
 - **Motor vehicle service station with concurrent sales of alcoholic beverages.** Code requires a CUP for concurrent sales of alcoholic beverages and motor vehicle fuel. Additionally, the State Department of Alcoholic Beverages (ABC) requires a finding of Public Convenience or Necessity for the beer and wine sales (Type 20 ABC) license.
- **Variances and administrative adjustments** for building setback deviations. Table A provides a summary of the requested deviations from setback standards for structures in the C1 zone abutting residentially-zoned properties.

Table A – Summary of Requested Deviations from Development Standards

Description	Setback	Code Requirement	Proposed Project
Administrative Adjustment: Fuel Canopy	<u>Front:</u> Baker Street	20 feet	15 feet
Administrative Adjustment: Fuel Canopy	<u>Street Side:</u> Newport Blvd.	20 feet	12 feet
Variances: a. Storage Bldg: 10-foot height b. Car Wash Building: 16-foot height c. Conv. Store: 20-foot height d. Fuel Canopy: 17 foot, 6 in. height	<u>Interior Side:</u> Setback required is two times the building height abutting residentially-zoned property	a. 20 feet b. 32 feet c. 40 feet d. 35 feet	a. 13 feet b. 13 feet c. 23 feet d. 20 feet
Variances: a. Storage Bldg: 10-foot height b. Car Wash Building: 16-foot height c. Conv. Store: 20-foot height d. Fuel Canopy: 17 foot, 6 in. height	<u>Rear Setback:</u> Setback required is two times the building height abutting residentially-zoned property	a. 20 feet b. 32 feet c. 40 feet d. 35 feet	a. 13 feet b. 12 feet c. 19 feet d. NA

Note: Existing development has nonconforming setbacks for the fuel canopy and auto service building.

ANALYSIS

Conditional Use Permit

Staff supports approval of the two components of the Conditional Use Permit request (i.e. convenience store and car wash) but recommends denial of the request for concurrent sales of motor vehicle fuel and alcoholic beverages and requisite PCN finding – as justified below:

- The project will not negatively impact residences on the adjoining property. The proposed uses complement the existing service station and are less intensive than the existing auto repair service use; therefore, impacts on adjoining residents are not anticipated. The property is separated from the closest apartment building by carports and a driveway, providing an approximately 100-foot distance between the car wash/convenience store building and apartment building.
- The project will provide an upgrade to the property. The proposed convenience store and car wash building exterior consists of different colored stucco, stone veneer, and roof treatments with corbel panel accent. Planters and lattice are also proposed around the building to further break up the building elevations. A new concrete block trash enclosure will be constructed to match the proposed building materials and color and the Healy tank (clean air separator which assists in controlling gasoline vapor emissions) enclosure

will be located behind the building and fully screened from view from off-site. The existing fuel islands and associated canopies will be updated with flat roofs and materials/colors to match the new building.

- Additional landscaped area to be provided. The property is currently nonconforming with regards to landscaping. It contains minimal landscaping along the interior property lines and an average 9-foot deep landscaping along Baker Street and Newport Boulevard (Code requires 20 feet along Baker and along Newport). The proposed plan shows reduced driveway widths for the westerly and northerly driveways for additional landscaping and approximately 2,200 square feet of interior landscaping improvements on the property for a net increase of approximately 2,320 square feet.
- Noise impacts from car wash facility have been considered. The car wash features key design features that would greatly reduce noise impacts:
 - The compressor shall be located below grade (the component generating the greatest amount of noise).
 - The carwash tunnel shall be constructed out of cmu block.
 - Sound blankets shall be installed within the roof envelope.
 - Carwash utility/storage room constructed out of cmu block. This will isolate roughly half of the motors and pumps that generate noise from the surrounding area thereby reduce surrounding noise levels.
 - The car wash features a "laser wash" system. This technology involves a moving gantry that travels along the parked car with the blowers at the exit. With regard to noise impacts, the advantage of this technology is that the compressors and pumps are located in the utility/storage room where the sound can be isolated. The remaining sound sources are generally as follows: felt rollers noise (the brush in contact with the car), water jets and the blowers. Flexible, baffled nozzles would also reduce noise impacts.

The City has not received any noise-related complaints from the tenants of the apartment complex regarding the existing auto repair activities. While the applicant is requesting that the car wash be open from 6:00AM to 11:00PM, a condition of approval requires the car wash hours to be 8:00AM to 8:00PM, seven days a week to ensure compatibility with the neighboring residential use during the early morning and late evening hours. This condition also requires that the car wash design features, as described above, be implemented for the car wash.

Recommended Denial of Concurrent Sales of Beer/Wine

Code requires approval of a Conditional Use Permit for a motor vehicle service station with concurrent sales of alcoholic beverages. Staff does not support approval of this component of the CUP request for the following reasons:

- Staff support of the Type 20 ABC license cannot be made due to overconcentration. A determination of public convenience or necessity (PCN) is required by the State Department of Alcoholic Beverage Control (ABC) for the sale of alcohol for off-site consumption because the census tract in which the property is located has an undue

concentration of off-sale licenses. Business and Professions Code Section 23958.4 defines "undue concentration" as being an area where there is high crime and/or the ratio of the number of ABC licenses to population within the census tract exceeds the countywide ratio. The census tract currently has 10 off-sale licenses; 4 are allowed.

The following chart lists the existing off-sale alcohol licenses within the same census tract. A census tract and an area map showing these sites are attached for reference.

Census Tract No. 639.080 (Bounded by 405, 73, and 55 Freeways)	
Type 20 – Off-sale Beer and Wine	
2995 Bristol Street	G&M Oil Co.
3001 Bristol Street	7-11
3033 Bristol Street	Alvand Market
3048 Bristol Street	Chevron
3067 Bristol Street	Circle K
675 Paularino Avenue	7-11
Type 21 – Off-sale General	
612 Baker Street	Qwik Korner Market
751 Baker Street	Sunshine Retailer
665 Paularino Avenue	Mitsuwa
2981 Bristol Street	Sir Charles Liquor
Total Off-sale Licenses	4 allowed; 10 existing

- The Police Department objects to the approval of beer and wine sales at this location. The Police Department has reviewed the application and feels that an additional off-sale license within close proximity to other such licenses could increase the calls for service in the area. Specific crimes of concern are grab-and-run and/or robbery, especially due to its location adjacent to the freeway.

If the Commission approves the CUP with beer and wine sales, conditions of approval (nos. 10 through 26) are included to regulate the operational characteristics to ensure minimal impact on surrounding uses.

A condition (no. 10) is also included requiring the transfer of an existing off-sale beer and wine license from within the City limits so that there is no overall increase of off-sale licenses within the City. If the business owner is unable to transfer an existing license, beer and wine sales could not occur at the property.

Variances and Administrative Adjustments

Staff supports approval of the variances and administrative adjustments for setback deviations for the following reasons:

- *Special circumstances applicable to the physical limitations of the property justify approval of setback deviations.* The lot is uniquely shaped and location of the existing fuel islands limit alternatives for a building addition. Approval of the deviations would not negatively impact the residents on the adjoining property because, as mentioned above, the property is separated from the closest apartment building by carports and a driveway, providing approximately 100-foot distance between the proposed car wash/convenience store and apartment building. Staff recommends a condition (no. 1) requiring landscape screening along both interior property lines to screen the car wash area and to soften the appearance of the service station from the adjoining property.
- *The locations of the existing fuel islands preclude compliance with street setback requirements.* The existing fuel island canopies do not comply with current setback requirements (see project description section of this report). The canopies also do not provide full coverage of vehicles or customers at the fuel dispensers. The applicant proposes to replace the canopies with a flat roof design that is approximately 14 feet wider than the existing canopies to allow full coverage of vehicles and customers. Although the canopies will be wider, they will not encroach further into the street setback areas than the existing canopies. Staff believes the replacement canopies will not create a visual impact from the streets because, unlike an enclosed building, the canopies will not substantially increase the mass and scale of the structures.

With exception of the requested setback deviations, the proposed construction meets all applicable commercial development standards. Specifically, the proposal will meet floor area ratio (FAR) limitation and parking requirements. Parking is calculated based on the Code requirement of four spaces per 1,000 square feet of enclosed building areas.

GENERAL PLAN CONFORMITY

The subject site is designated Neighborhood Commercial on the General Plan. The existing gasoline service station and proposed convenience store and car wash uses are consistent with the land use designation, which is intended to provide service needs of local residents. The proposed construction is also consistent with the General Plan in that it will not exceed the 0.15 FAR limit for high-traffic generating uses based on trip generation rates for the property.

Staff believes that a finding of public convenience or necessity cannot be made for the sale of beer and wine for off-site consumption because there are several other existing locations (service stations and convenience stores) in the vicinity with off-sale licenses that can serve the needs of nearby residential neighborhoods.

ALTERNATIVES

The Planning Commission may consider the following alternatives:

1. Approve the application without concurrent sales of beer and wine and the PCN finding. This action includes approval of 2 or the 3 components of the CUP request. This would allow the renovation of the service station as proposed (i.e. convenience store and car wash). However, the request for the motor vehicle service station with concurrent sales of beer and wine sales is denied. The resolution does not include a PCN finding.
2. Approve the application with concurrent sales of beer/wine and the required PCN finding. This action includes all 3 components of the CUP request. It would allow the renovation of the service station as proposed, including concurrent beer and wine sales, subject to conditions and Code requirements. The resolution includes the requisite PCN finding.
3. Deny the application. If Commission denies the application, the property may not be improved as proposed and no alcohol sales would be allowed. The existing service station may continue to operate as previously approved. A similar request may not be submitted within six months.

ENVIRONMENTAL DETERMINATION

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 under Section 15303 for New Construction. If the project is denied, it is exempt from the provisions of CEQA Section 15270(a) for Projects Which Are Disapproved.

CONCLUSION

The application includes a CUP request with three components: (1) convenience store, (2) car wash, and (3) motor vehicle service station with concurrent sale of alcoholic beverages. Staff recommends approval of 2 of the 3 components (convenience store and car wash only) due to overconcentration of off-sale ABC licenses. Staff recommends denial of the request for concurrent sales of alcoholic beverages and the PCN finding. In addition, staff proposes limited hours of operation for the car wash from 8AM to 8PM as a condition of approval.

- Attachments:
1. Draft Planning Commission Resolutions
 2. Applicant's Project Description and Justification
 3. Location/Aerial Map
 4. Census Tract Map
 5. Existing Off-sale Licenses Area Map
 6. Plans

Distribution: Acting Development Services Director
 Deputy City Attorney
 City Engineer
 Fire Protection Analyst
 Staff (4)
 File (2)

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Ben Bakhtar
Cal Coast Inc.
3003 Newport Boulevard
Costa Mesa, CA 92626

File: 011110PA0911	Date: 123009	Time: 10:00 a.m.
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RESOLUTION NO. PC-10-

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COSTA MESA APPROVING PLANNING APPLICATION PA-09-11 FOR A CONDITIONAL USE PERMIT (INCLUDING A CONVENIENCE STORE AND CAR WASH BUT EXCLUDING THE CONCURRENT SALE OF ALCOHOLIC BEVERAGES AND FINDING OF PUBLIC CONVENIENCE OR NECESSITY), AS WELL AS SPECIFIED VARIANCES AND ADMINISTRATIVE ADJUSTMENTS.

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

WHEREAS, an application was filed by Iann Marr of MK Design, authorized agent for property owner Bahman Bakhtar/Rahat LLC., with respect to the real property located at 3003 Newport Boulevard in the C1 zone, requesting approval of the following:

1. Conditional use permit (CUP) to include the following requested components:
 - a. 24-hour convenience store
 - b. Automated car wash
 - c. Motor vehicle service station with concurrent sales of alcoholic beverages (requiring a finding of Public Convenience or Necessity for the Alcoholic Beverage Control License)
2. Variances to deviate from rear and side setback requirements for a portion of the convenience store/car wash building and a fuel canopy.
3. Administrative adjustments to deviate from front and street side setback requirements for the new fuel canopies.

WHEREAS, the requested deviations from development standards are further described in Table A, Summary of Requested Deviations, in the Planning Commission staff report;

WHEREAS, a duly noticed public hearing was held by the Planning Commission on January 11, 2010, with all persons provided an opportunity to speak for and against the proposed project;

WHEREAS, the Planning Commission finds that justification for the approval of 2 of the 3 components of the CUP request can be made for the convenience store and the car wash, but not for a motor vehicle service station with concurrent sales of alcoholic beverages;

WHEREAS, with regard to the third component of the CUP request for concurrent sales of alcoholic beverages with motor vehicle fuel, the Planning Commission finds that a finding for Public Convenience or Necessity cannot be made;

BE IT RESOLVED that, based on the evidence in the record and the findings contained in Exhibit "A," and subject to the conditions of approval contained within Exhibit "B," the Planning Commission hereby **APPROVES** Planning Application PA-09-11 for the following: Conditional Use Permit including a convenience store and car wash but excluding the concurrent sale of alcoholic beverages with motor vehicle fuel and Finding of Public Convenience or Necessity for a State Alcoholic Beverage Control (ABC) License Type "20"; specified variances and administrative adjustments from development standards.

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-09-11 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 11th day of January 2010.

James Righeimer, Chair
Costa Mesa Planning Commission

EXHIBIT "A"

FINDINGS (for approval without beer and wine sales)

- A. The proposed project 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 project is consistent with the General Plan with the approval of the conditional use permits and setback deviations.
 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 construction and uses are substantially compatible with developments in the same general area. Granting the conditional use permit for the convenience store and an automated car wash tunnel 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 proposed uses complement the existing service station and are less intensive than the existing auto repair service use. The car wash features key design features that would greatly reduce noise impacts and ensure compatibility with the adjacent residential use. The project will provide an upgrade to the property without negatively impacting surrounding properties. Granting the conditional use permit will not allow a use, density or intensity which is not in accordance with the General Plan designation.
- C. The information presented complies with Costa Mesa Municipal Code Section 13-29(g)(1) in that special circumstances applicable to the property exist to justify approval of the setback deviations (variances and administrative adjustments) for the convenience store/car wash building and for the new fuel island canopy along Baker Street. Specifically, the lot is uniquely shaped and the locations of the existing fuel dispensing islands limit alternatives for building addition and preclude compliance with street setback requirements for the fuel island canopies. The property is separated from the closest apartment building by carports and driveway, providing an approximately 100-foot distance/buffer to the residents. The new canopies will not encroach further into the street setback areas than the existing canopies and will not create a visual impact. Approval of the deviations would not constitute a grant of special privileges inconsistent with the limitation upon other properties in the vicinity and zone in which the property is situated.
- 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 under Section 15303 for New Construction.

E. 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**(For approval without beer and wine sales)**

- Plng. 1. Provide landscape screening along both interior property lines. This condition shall be completed under the direction of the Planning Division.
2. Exterior elevations with sample color/materials board shall be submitted to the Planning Division as part of the plan check submittal package.
3. No exterior roof access ladders, roof drain scuppers, or roof drain downspouts shall be permitted.
4. Show method of screening for all ground-mounted equipment (backflow prevention devices, Fire Department connections, electrical transformers, etc.). Ground-mounted equipment shall not be located in any landscaped setback visible from the street, except when required by applicable uniform codes, and shall be screened from view, under the direction of Planning Staff.
5. All rooftop mechanical equipment shall be screened under the direction of the Planning staff.
6. Demolition permits for existing structures shall be obtained and all work and inspections completed prior to final building inspections. Applicant is notified that written notice to the Air Quality Management District may be required ten (10) days prior to demolition.
7. All construction-related activity shall be limited to between the hours of 7 a.m. and 8 p.m., Monday through Friday, and 8 a.m. to 6 p.m. Saturday. Construction is prohibited on Sundays 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.
8. Every 2 hours, from 4:00 p.m. to closing, the applicant shall patrol the area over which the applicant has control in an effort to prevent the loitering of persons about the premises. The applicant shall make reasonable efforts to prevent loitering during other hours the business is open.
9. Applicant shall secure the premises with appropriate security lighting and employee scrutiny of adjacent areas under which applicant has control, to prevent trash, graffiti and littering. Any lighting under the control of the 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. The business shall institute whatever security measures are necessary for the business.
10. Except as permitted by the City of Costa Mesa Municipal Code for temporary window signs, windows shall not be blocked or obscured.
11. The applicant shall maintain free of litter all areas of the premises under which applicant has control.
12. Any graffiti painted or marked upon the premises shall be removed or painted over within 48 hours of being applied.
13. The business shall be conducted, at all times, in a manner that will allow the quiet enjoyment of the surrounding neighborhood. The car wash hours of operation shall be limited to 8:00AM to 8:00PM, seven days a week. In

addition, the car wash design features (including all noise attenuation measures) and laser wash system technology shall be implemented as described in the Planning Commission staff report, to the satisfaction of the Development Services Director.

14. The conditions of approval and ordinance or code provisions and special district requirements of Planning Application PA-09-11 shall be blueprinted on the face of the site plan as part of the plan check submittal package.
15. The applicant shall contact the Planning Division to arrange for a Planning inspection of the site prior to the release of occupancy/utilities. This inspection is to confirm that the conditions of approval and code requirements have been satisfied.
16. A copy of the conditions of approval 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.
- Eng. 17. 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.

RESOLUTION NO. PC-10-

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COSTA MESA APPROVING PLANNING APPLICATION PA-09-11 FOR A CONDITIONAL USE PERMIT (INCLUDING A CONVENIENCE STORE, CAR WASH, AND CONCURRENT SALE OF ALCOHOLIC BEVERAGES AND FINDING OF PUBLIC CONVENIENCE OR NECESSITY), AS WELL AS SPECIFIED VARIANCES AND ADMINISTRATIVE ADJUSTMENTS.

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

WHEREAS, an application was filed by Iann Marr of MK Design, authorized agent for property owner Bahman Bakhtar/Rahat LLC., with respect to the real property located at 3003 Newport Boulevard, requesting approval of the following applications for an existing gasoline service station in the C1 zone:

1. Conditional use permit (CUP) to include the following requested components:
 - a. 24-hour convenience store
 - b. Automated car wash
 - c. Motor vehicle service station with concurrent sales of alcoholic beverages (requiring a finding of Public Convenience or Necessity for the Alcoholic Beverage Control License)
2. Variances to deviate from rear and side setback requirements for a portion of the convenience store/car wash building and a fuel canopy.
3. Administrative adjustments to deviate from front and street side setback requirements for the new fuel canopies.

WHEREAS, the requested deviations from development standards are further described in Table A, Summary of Requested Deviations, in the Planning Commission staff report.

WHEREAS, a duly noticed public hearing was held by the Planning Commission on January 11, 2010, with all persons provided an opportunity to speak for and against the proposed project.

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-09-11 and makes a finding of public convenience or necessity for beer and wine sales (type 20 ABC license) with respect to the property described above. This also includes approval of requested deviations from specified development standards.

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-09-11 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 11th day of January 2010.

James Righeimer, Chair
Costa Mesa Planning Commission

EXHIBIT "A"

FINDINGS (for approval with beer and wine sales)

- A. The proposed project complies with Costa Mesa Municipal Code Section 13-29(e) because:
5. The proposed use is compatible and harmonious with uses on surrounding properties.
 6. 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.
 7. The project is consistent with the General Plan with the approval of the conditional use permits and setback deviations.
 8. 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 construction and uses are substantially compatible with developments in the same general area. Granting the conditional use permit for the convenience store and an automated car wash tunnel 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 proposed uses complement the existing service station and are less intensive than the existing auto repair service use. The car wash features key design features that would greatly reduce noise impacts and ensure compatibility with the adjacent residential use. The project will provide an upgrade to the property without negatively impacting surrounding properties. Granting the conditional use permit will not allow a use, density or intensity which is not in accordance with the General Plan designation.
- C. The information presented complies with Costa Mesa Municipal Code Section 13-29(g)(1) in that special circumstances applicable to the property exist to justify approval of the setback deviations (variances and administrative adjustments) for the convenience store/car wash building and for the new fuel island canopy along Baker Street. Specifically, the lot is uniquely shaped and the locations of the existing fuel dispensing islands limit alternatives for building addition and preclude compliance with street setback requirements for the fuel island canopies. The property is separated from the closest apartment building by carports and driveway, providing an approximately 100-foot distance/buffer to the residents. The new canopies will not encroach further into the street setback areas than the existing canopies and will not create a visual impact. Approval of the deviations would not constitute a grant of special privileges inconsistent with the limitation upon other properties in the vicinity and zone in which the property is situated.
- 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 under Section 15303 for New Construction.

- E. 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**(For approval with beer and wine sales)**

- Plng.
1. Provide landscape screening along both interior property lines. This condition shall be completed under the direction of the Planning Division.
 2. Exterior elevations with sample color/materials board shall be submitted to the Planning Division as part of the plan check submittal package.
 3. No exterior roof access ladders, roof drain scuppers, or roof drain downspouts shall be permitted.
 4. Show method of screening for all ground-mounted equipment (backflow prevention devices, Fire Department connections, electrical transformers, etc.). Ground-mounted equipment shall not be located in any landscaped setback visible from the street, except when required by applicable uniform codes, and shall be screened from view, under the direction of Planning Staff.
 5. All rooftop mechanical equipment shall be screened under the direction of the Planning staff.
 6. Demolition permits for existing structures shall be obtained and all work and inspections completed prior to final building inspections. Applicant is notified that written notice to the Air Quality Management District may be required ten (10) days prior to demolition.
 7. All construction-related activity shall be limited to between the hours of 7 a.m. and 8 p.m., Monday through Friday, and 8 a.m. to 6 p.m. Saturday. Construction is prohibited on Sundays 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.
 8. Applicant shall secure the premises with appropriate security lighting and employee scrutiny of adjacent areas under which applicant has control, to prevent trash, graffiti and littering. Any lighting under the control of the 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. The business shall institute whatever security measures are necessary for the business.
 9. The business shall be conducted, at all times, in a manner that will allow the quiet enjoyment of the surrounding neighborhood. The car wash hours of operation shall be limited to 8:00AM to 8:00PM, seven days a week. In addition, the car wash design features (including all noise attenuation measures) and laser wash system technology shall be implemented as described in the Planning Commission staff report, to the satisfaction of the Development Services Director.
 10. Prior to alcohol sales at this location, the applicant shall purchase and transfer an existing Alcoholic Beverage Control license from a location within the City limits.
 11. Alcoholic beverage sales shall be limited to only beer and wine.

12. Alcoholic beverage sales from drive through or walk-up service windows shall be prohibited.
13. 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.
14. Wine shall not be sold in bottles or containers smaller than 750 milliliters.
15. Wine, beer and other distilled spirit shall be sold in the factory manufactured packages for retail sales. Factory multiple-packed bottles or cans shall not be unpackaged to be sold individually. This restriction is not intended to prohibit the sale of beverages in a single container packaged by the manufacturer for individual sale.
16. Beer or wine shall not be displayed or sold from an ice tub or any other type of portable refrigerated unit.
17. Applicant shall post signs inside and outside the premises prohibiting the on-site consumption of alcoholic beverages and loitering.
18. Applicant shall post signs inside and outside the premises in compliance with the City of Costa Mesa Municipal Code notifying the public with regard to the prohibition of open containers of alcohol beverages.
19. Every 2 hours, from 4:00 p.m. to closing, the applicant shall patrol the area over which the applicant has control in an effort to prevent the loitering of persons about the premises. The applicant shall make reasonable efforts to prevent loitering during other hours the business is open.
20. The business shall be conducted, at all times, in a manner that will allow the quiet enjoyment of the surrounding neighborhood. The business shall institute whatever security measures are necessary to comply with this requirement.
21. Applicant shall secure the premises with appropriate security lighting and employee scrutiny of adjacent areas under which applicant has control, to prevent trash, graffiti and littering. Any lighting under the control of the 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.
22. Except as permitted by the City of Costa Mesa Municipal Code for temporary window signs, windows shall not be blocked or obscured.
23. Exterior advertising shall comply with the City's sign regulations, and exterior advertisements shall be prohibited which indicate the availability of alcoholic beverages. Interior displays of alcoholic beverages or signs which are clearly visible from the exterior at the closest public street or sidewalk, shall constitute a violation of this condition.
24. The applicant shall maintain free of litter all areas of the premises under which applicant has control.
25. Any graffiti painted or marked upon the premises shall be removed or painted over within 48 hours of being applied.
26. All sales and service staff (within 90 days of hire) shall complete Responsible Beverage Service (RBS) training with a provider approved by the California Department of Alcoholic Beverage Control. A copy of the training certificates shall be kept on premises and presented to any authorized City official upon request.

27. The conditions of approval and ordinance or code provisions and special district requirements of Planning Application PA-09-11 shall be blueprinted on the face of the site plan as part of the plan check submittal package.
28. The applicant shall contact the Planning Division to arrange for a Planning inspection of the site prior to the release of occupancy/utilities. This inspection is to confirm that the conditions of approval and code requirements have been satisfied.
29. A copy of the conditions of approval 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.
- Eng. 30. 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.

RESOLUTION NO. PC-10-

A RESOLUTION OF THE PLANNING COMMISSION OF
THE CITY OF COSTA MESA DENYING PLANNING
APPLICATION PA-09-11

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

WHEREAS, an application was filed by Iann Marr of MK Design, authorized agent for property owner Bahman Bakhtar/Rahat LLC., with respect to the real property located at 3003 Newport Boulevard, requesting approval of the following applications for an existing gasoline service station in the C1 zone:

1. Conditional use permit (CUP) to include the following requested components:
 - d. 24-hour convenience store
 - e. Automated car wash
 - f. Motor vehicle service station with concurrent sales of alcoholic beverages (requiring a finding of Public Convenience or Necessity for the Alcoholic Beverage Control License)
2. Variances to deviate from rear and side setback requirements for a portion of the convenience store/car wash building and a fuel canopy.
3. Administrative adjustments to deviate from front and street side setback requirements for the new fuel canopies.

WHEREAS, the requested deviations from development standards are further described in Table A, Summary of Requested Deviations, in the Planning Commission staff report.

WHEREAS, a duly noticed public hearing was held by the Planning Commission on January 11, 2010, with all persons provided an opportunity to speak for and 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 **DENIES** Planning Application PA-09-11 with respect to the property described above.

PASSED AND ADOPTED this 11th day of January 2010.

James Righeimer, Chair
Costa Mesa Planning Commission

EXHIBIT "A"

FINDINGS (for denial)

- A. The proposed project does not comply with Costa Mesa Municipal Code Section 13-29 (e) because:
- a. The proposed use is not compatible and harmonious with uses both on site and those on surrounding properties.
 - b. The project is not consistent with the General Plan.
- B. The information presented does not comply with Costa Mesa Municipal Code Section 13-29(g)(2) because 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. Granting the conditional use permit will allow a use, density, or intensity which is not in accordance with the General Plan designation for the property.
- C. The information presented does not comply with Costa Mesa Municipal Code Section 13-29(g)(1) in that special circumstances applicable to the property do not exist to justify approval of the setback deviations (variances and administrative adjustments). Approval of the deviations would constitute a grant of special privileges inconsistent with the limitation upon other properties in the vicinity and zone in which the property is situated.
- D. The Costa Mesa Planning Commission has denied PA-09-11. 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.



OCT 27 2009

August 21, 2009

App: PA-09-11

ATTACHMENT 2

RAHAT LLC,
BAHMAN BAKHTAR, owner / principal
3003 Newport Blvd.
Costa Mesa, CA 92626

Setbacks Variance

Dear Planning Commission & the city of Costa Mesa,

Mr. BAHMAN BAKHTAR, owner / principal of RAHAT LLC, would like to thank the city of Costa Mesa planners & the planning commission the opportunity to express our reasons for the possible variance request for the allowance for the current setback requirement for the canopy on Baker St. side, and the setback requirement we do not meet for the proposed carwash and carwash storage at the north west corner of the property of the Arco gas station with a proposed full convenience store at 3003 Newport Blvd., Costa Mesa. The reason for the request is to help with the owners' financial hardships and the adverse affects for the function of the canopy, since the length of the overhang is inadequate to give cover to the customers at the fueling dispensers. The set back would only give overhead coverage of only about 5.5 feet at the Baker St. side of the canopy (1). By investing, Rahat LLC hopes to improve the financial situation of the station while improving the aesthetics of the site, and providing service to the community.

First, the approval would aid in the community as a whole for economic reasons. The community will, also, benefit from the competitive gas prices offered by stations with self-operated carwash and convenience store. In reality, when gas prices go up the local station owners do not make more money, they, actually, lose money. It is the corporations (the brand co.'s) that make the money. This was the reason; a lot of stations were closing when gas prices rose to around \$4.00 a gallon. The stations could lower their gas prices, even if most of the owners do not make a profit on gas; they lowered their gas prices to attract people to their convenience store and carwash. In addition the rate for self-operated carwash is very inexpensive compared to standard washes, which could serve the surrounding multi-housing complexes. The site is unique, the residential property, multi-housing complex surrounding the site, the adjacent property, has carports between the site property and the actual building residences. The distance on the west-north side to the property to the actual residence building is about 75', and on the north-east side of the property, it is about 175' to the actual residence. We believe that the far distance to the actual residences would not adversely affect the adjacent residential property, and this could be a special case for the setback, since the distance is so vast, compare to a typical adjacent residential property. Also, we have been working with Minoo, city planner, before we submitted to work out the best chances for the variance for the setback Costa Mesa might accept.



MK DESIGN

The landscape requirement for the planters between the driveways at could not be met for the hardship and adverse function of the lane for the fuel dispensers nearest to the street sides. The existing fuel lanes nearest to both Baker and New Port is primarily is used by his diesel customers for delivery trucks, which needs about 15' of width, which is currently what is existing, for safe turning and fueling. The delivery vehicles, diesel clients, make about 25 to 30 % of the profit of the station. Increasing the planter would cause the planter to be to narrow of a lane for delivery type of vehicles. However, we did shorten the driveways at the north-east and south-west corner of the property for additional landscapes, as requested.

We feel this new type of stations do serve the community: economically, gas prices and jobs, and responsibly, a safe one stop destination that conserves energy. We sincerely hope that the planning commission carefully considers our arguments in this letter for a possible approval the conditions mentioned above. In addition, we are willing to accept any suggested conditions from the city council or planning commission, if we are granted our request.

Economic reasons, conserve energy, and safety.

- *Security
- *family oriented
- *save energy and convenience at the same time
- *competitive financial growth opportunities for the owners against stations with lower prices and convenience stores from neighboring cities.
- *competitive fuel prices
- *job opportunities
- *aesthetically pleasing

Thank you,
Ken Kang, Representative
MK Design
2021 W. Commonwealth Ave.
Fullerton, CA 92833

2021 W. Commonwealth Ave. * Fullerton, CA 92833
Office / Fax (714) 879-0356

27



AUG 24 2009

August 21, 2009

App: PA-09-11

RAHAT LLC,
BAHMAN BAKHTAR, owner / principal
3003 Newport Blvd.
Costa Mesa, CA 92626

Beer & Wine

Dear Planning Commission & the city of Costa Mesa,

Mr. BAHMAN BAKHTAR, owner / principal of RAHAT LLC, would like to thank the city of Costa Mesa planners & the planning commission the opportunity to express our reasons for the request for a beer and wine license at the of Arco gas station with a proposed full convenience store at 3003 Newport Blvd., Costa Mesa. The reason for the request is to help with the owners' financial hardships, the increasing gas prices and economy is a real threat to the failure of the business. By investing, Rahat LLC hopes to improve the financial situation of the station while improving the aesthetics of the site, and providing service and safety to the community with the new type of fueling stations of the future.

First, the approval would aid in the community as a whole for economic reasons and safety. With the concerns of the typical image we perceive with the idea of granting the beer and wine for gas stations in mind, the undesired image all of us do not want to see is an old gas station that is selling beer and wine, and the place becomes a possible area for undesirables and the negative affect it might have on the community. However, the conditions we suggested, we believe, will give a different result. The type of fueling stations that offers security, certain decent size for a family oriented convenience store, and fair competitive prices for fuel, since the owners could offer better gas prices because of the profits from the store, especially with a beer and wine license.

The station could be a good model of security and family oriented convenience store. The station will have at least 16 security cameras and is brightly lit, extra illumination from the canopies. Criminal types do not like to go to public places where their faces are frequently on cameras and brightly lit at night. Furthermore, the attendants do not only pay attention to the interior area like liquor stores, restaurants, or even typical convenience stores like 7-Elevens, since the gas station attendants, also, have to pay close attention to the outside because of the fuel dispensers. The convenience stores that we are proposing are more family oriented designed. The products in the stores are not just packaged junk food, there are fresh salads and sandwiches and other food products that are daily fresh. The community will, also, benefit from the competitive gas prices offered by stations with the type of convenience stores we are describing. In reality, when gas prices go up the local station owners do not make more money, they, actually, lose money. It is the corporations (the brand co.'s) that make the money. This was the reason; a lot of stations were



closing when gas prices rose to around \$4.00 a gallon. The stations that had convenience stores, especially, with a beer and wine license made profit through their stores but not by their gas sales. The stations lowered their gas prices, even though most of the owners did not make a profit on gas, they lowered their gas prices to attract people to their convenience stores. The owners, also, want to buy and use technology that scans California drivers and identification cards to show, age and information about the true card holder for purchases of beer and wine.

Stations like these, we feel, are the standards for the future. We save energy and help create less traffic. For instance, a person may, before work, fill their gas tank and get breakfast and coffee at one destination. A person after work may fill the tank, get some dinner and beer or wine for enjoyment at home. We feel this saves fuel and reduces traffic, and it is very convenient for the people of the community who use these stations. A certain size and reasonable amount of aesthetics for convenient stores, security cameras from 16-36 cameras and brightly lit for security, family oriented, healthy and mixed type of foods, beer and wine packaged, only, no single cans or bottles, and a set time for the sale of beer and wine with a time limit of sales, the cooler doors for beer and wine are to be locked at this time. In addition to constant monitoring of the attendants inside and outside of the premise, Identification scanners for false identification cards to further sway minors from attempting purchase of alcohol from these types of stations.

We feel this new type of stations do serve the community: economically, gas prices and jobs, and responsibly, a safe one stop destination that conserves energy. We sincerely hope that the planning commission carefully considers our arguments in this letter for a possible approval for the allowance of beer & wine to this gas station that meet the conditions mentioned above and by the city, the police department, the fire department, and any other conditions and governing regulations. In addition to the conditions, we are willing to accept further conditions from the city council or planning commission.

Economic reasons, conserve energy, and safety.

*Security

*family oriented

*save energy and convenience at the same time

*competitive financial growth opportunities for the owners against stations with lower prices and convenience stores from neighboring cities.

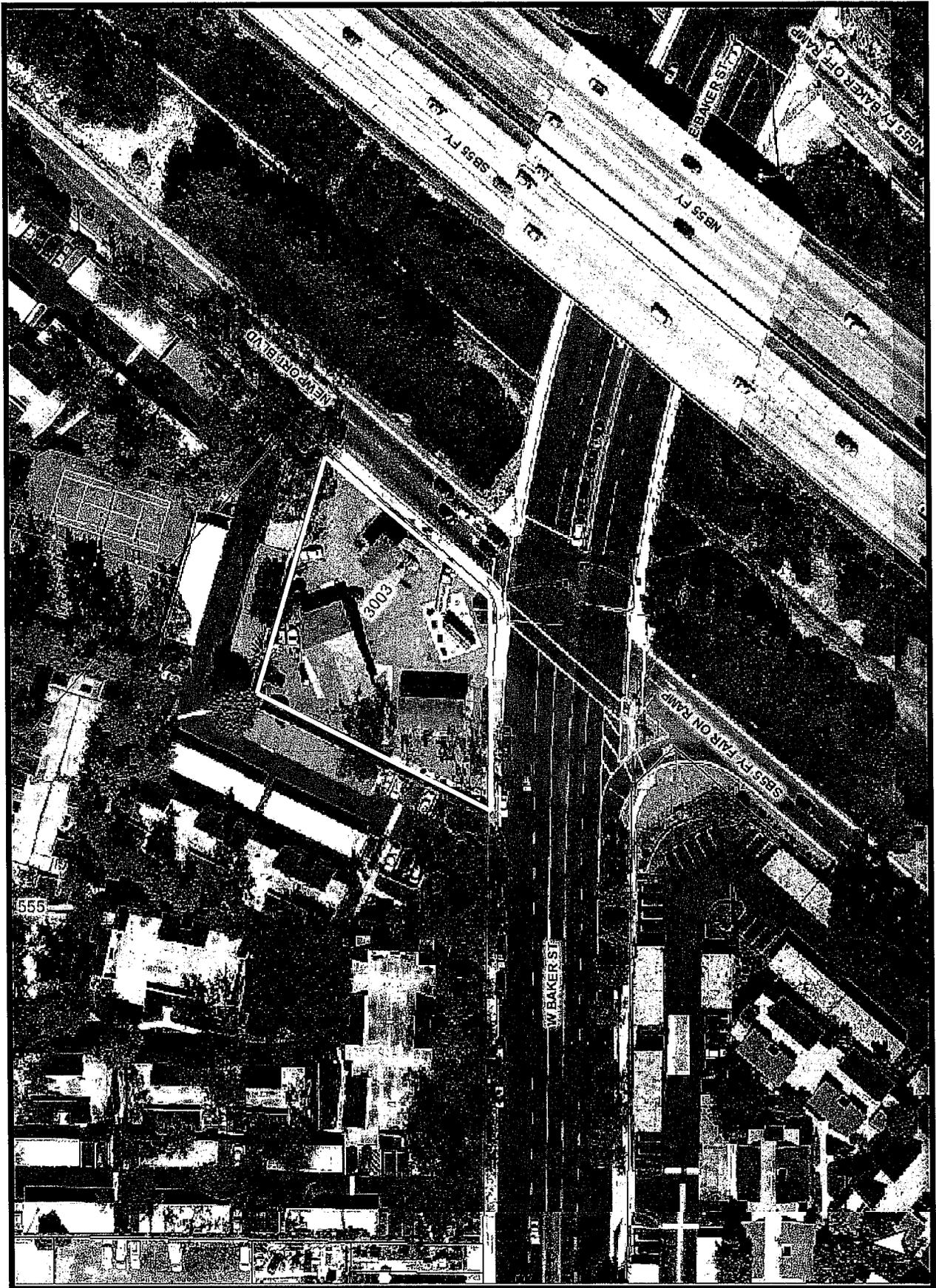
*competitive fuel prices

*job opportunities

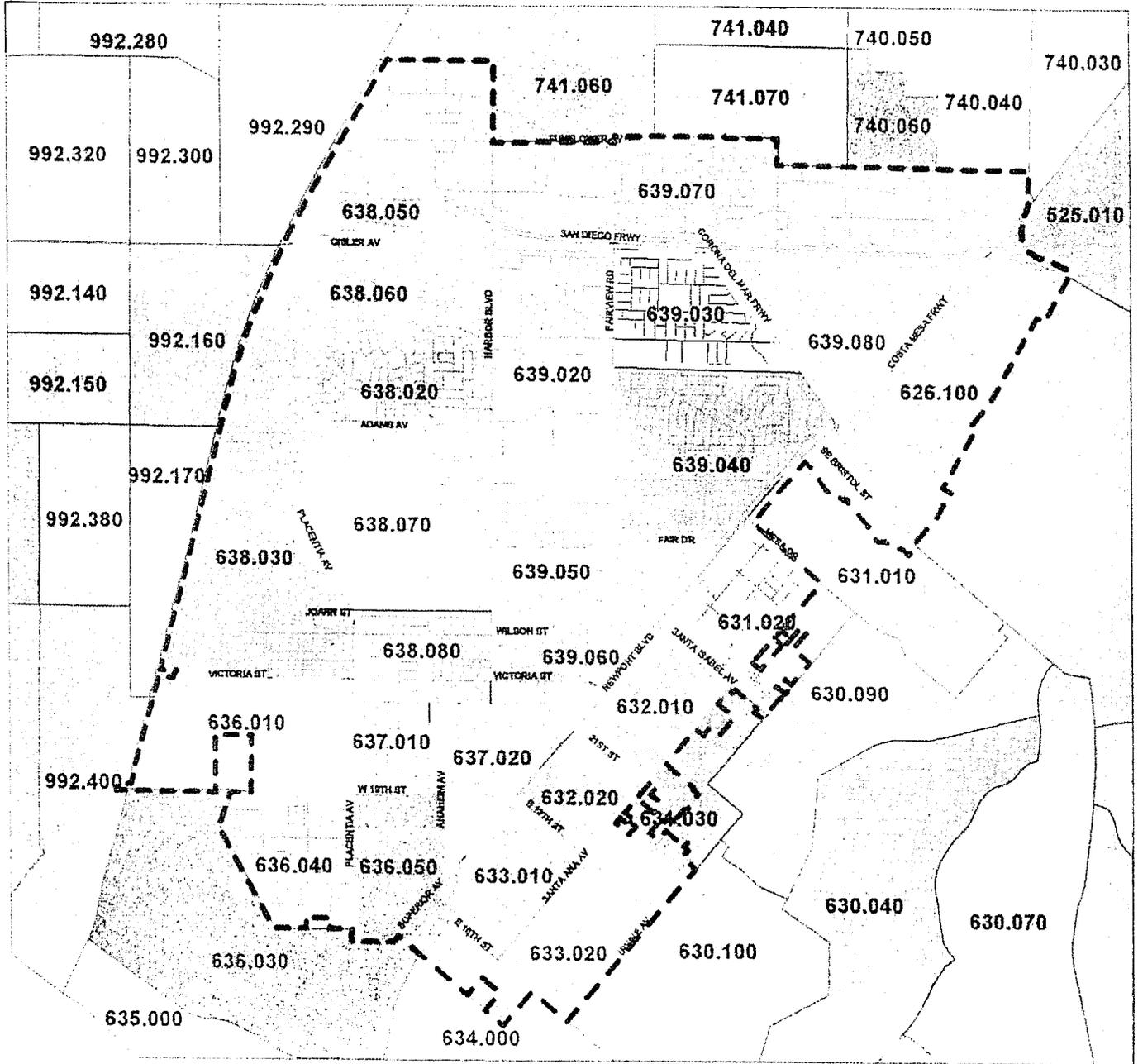
*aesthetically pleasing

Thank you,
Ken Kang, Representative
MK Design
2021 W. Commonwealth Ave.
Fullerton, CA 92833

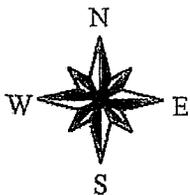
LOCATION/AERIAL MAP



Census Tracts Map



2002 U.S. CENSUS



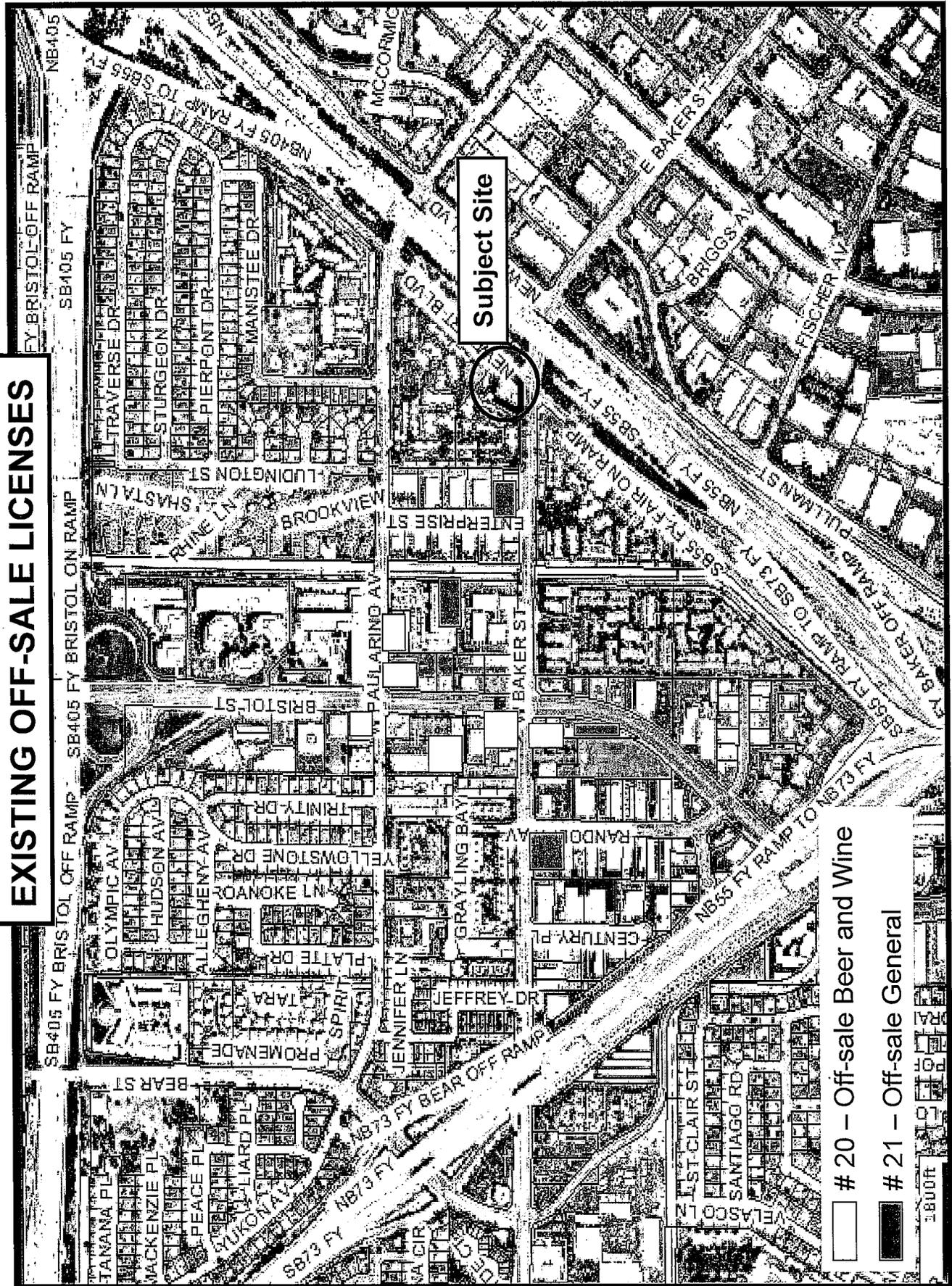
3000 0 3000 6000 Feet

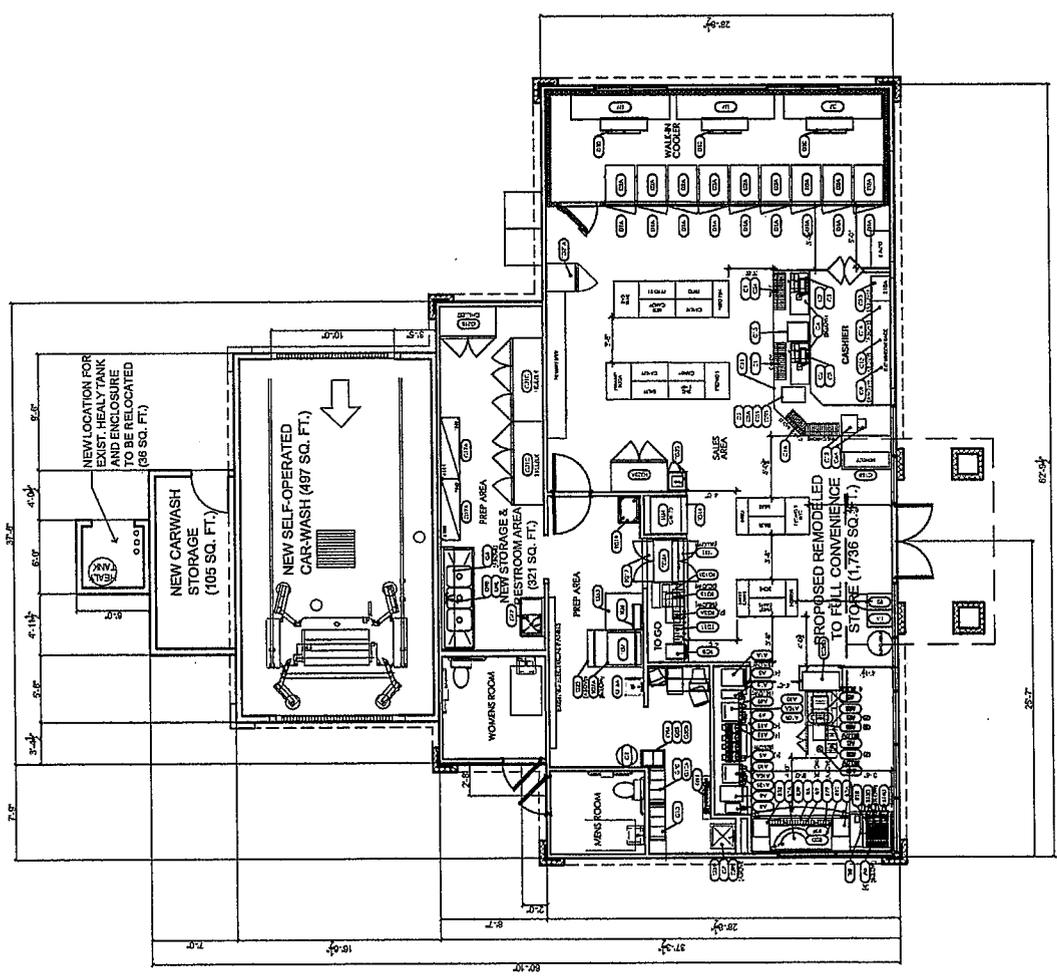
LEGEND

- City Streets
- - - City Boundary Line

Updated: January 2002

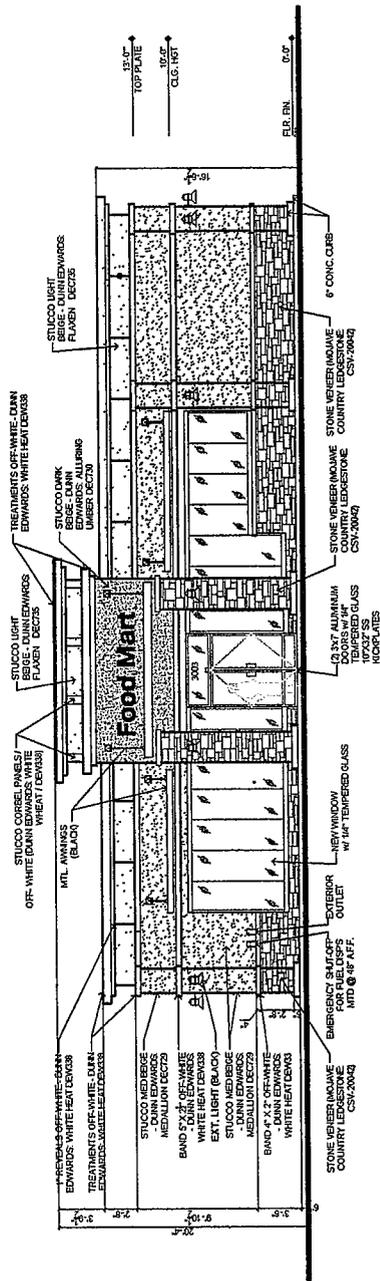
EXISTING OFF-SALE LICENSES





NEW MINI-MART / CARWASH FLOOR PLAN
 SCALE: 1/4" = 1'-0"

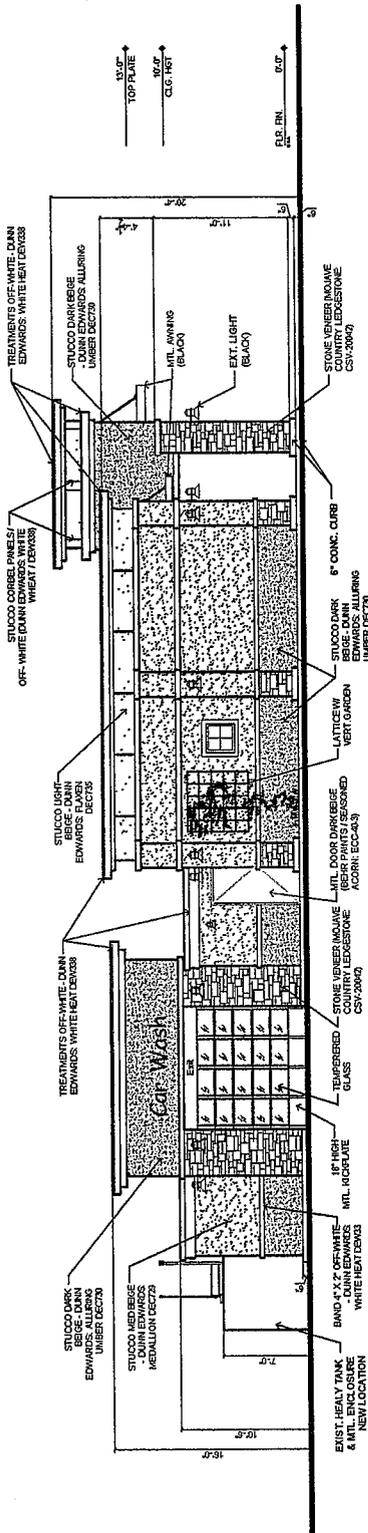




FRONT ELEVATION

1

SCALE: 1/4" = 1'-0"

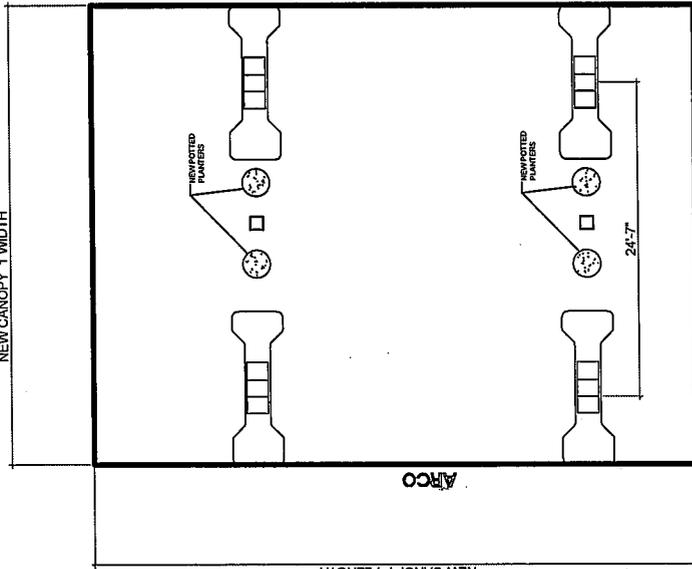


LEFT ELEVATION

2

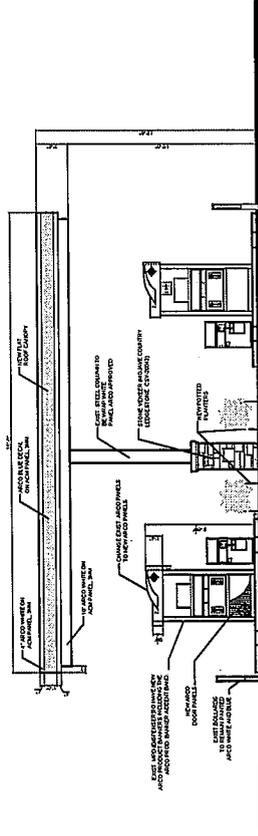
SCALE: 1/4" = 1'-0"

36'-0"
NEW CANOPY 1 WIDTH

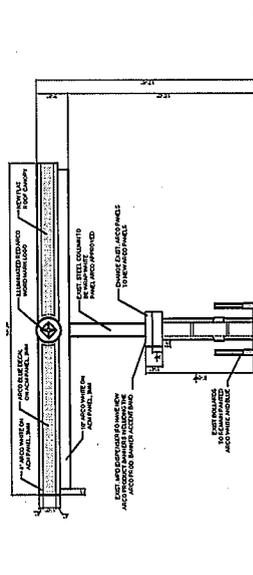


47'-7"
NEW CANOPY 1 LENGTH

BAKER ST.



SOUTH-EAST ELEVATION (WESTERLY FRONTAGE RD.) CANOPY 2
SCALE: 1/4" = 1'-0"



SOUTH-WEST ELEVATION CANOPY 2
SCALE: 1/4" = 1'-0"

CONSTRUCTION NOTES

1. STRUCTURAL STEEL FABRICATION SHALL BE DONE IN ACCORDANCE WITH THE AISC CODE OF STANDARD PRACTICE FOR STEEL BUILDING AND BRIDGES.
2. CONCRETE MATERIAL AND WORK SHALL CONFORM TO THE ACI SPECIFICATIONS FOR THE DESIGN AND PLACEMENT OF CONCRETE.
3. ALL STEEL SHALL BE SET ON THE FOOTINGS UNTIL THE CONCRETE HAS CURED FOR A MINIMUM OF THREE (3) DAYS.
4. ANCHOR BOLTS SHALL BE PROVIDED BY THE GENERAL CONTRACTOR. INSTALLATION SHALL BE IN ACCORDANCE WITH THE AISC CODE OF STANDARD PRACTICE, SECTION 7.5.
5. THE GENERAL CONTRACTOR SHALL VERIFY ALL DIMENSIONS AND CONDITIONS ON THE JOB SITE PRIOR TO STARTING OF WORK. ANY DISCREPANCY ON PLANS OR EXISTING MATERIAL DEFICIENCIES SHALL BE BROUGHT TO THE ATTENTION OF THE ENGINEER.
6. RECORD DRAWINGS SHALL BE OF SAME ELEVATION WITH EACH OTHER.
7. FABRICATION, ERECTION AND PAINTING OF STRUCTURAL STEEL SHALL CONFORM TO IBC CODE STANDARD 702.2.
8. STEEL CONTRACTOR TO REMOVE ALL LEFT OVER SHEET METALS, FLASHES, FLASHING, GUTTERS, SCREWS, ETC. AND LEAVE PREMISES CLEAN AND FREE OF ANY TRASH OR DEBRIS DUE TO THIS WORK.

FOR INFORMATIONAL PURPOSES ONLY
CANOPY BY OTHERS

