PLANNING COMMISSION AGENDA REPORT

VII.4

MEETING DATE: NOVEMBER 15, 2010 ITEM NUMBER:

SUBJECT: PLANNING APPLICATION PA-10-28 FOR A CONDITIONAL USE PERMIT FOR A SPECIALIZED PHYSICAL THERAPY AND RESEARCH FACILITY
3188 AIRWAY AVENUE, UNIT E

DATE: NOVEMBER 4, 2010

FOR FURTHER INFORMATION CONTACT: REBECCA ROBBINS, ASSISTANT PLANNER
(714) 754-5609 (rrobbins@ci.costa-mesa.ca.us)

DESCRIPTION

The applicant is requesting approval of a conditional use permit to allow a specialized physical therapy and research facility for victims of spinal cord injuries.

APPLICANT

Daniel Curtis is the authorized agent for Berg Investments LLC, the property owner.

RECOMMENDATION

Approve PA-10-28 by adoption of Planning Commission resolution, subject to conditions.

REBECCA ROBBINS
Assistant Planner

KHANH NGUYEN
Acting Asst. Development Svs. Director

BACKGROUND

Project Site

The project site is zoned MP (Industrial Park) and has an Industrial Park General Plan land use designation. The proposed 4,150 square foot lease area is located in a condominium complex within the Koll Irvine Center. The property is surrounded by John Wayne Airport to the east and industrially zoned and developed properties to the north, south, and west (Attachment 3).

Project Description

The applicant is requesting approval of a conditional use permit to allow a highly specialized treatment/research facility for victims of spinal cord injuries.

1. Provide a supervised adaptive physical therapy program to a select client group.
2. Conduct laser therapy research on spinal cord injuries.

The applicant indicated that there are no facilities in Orange County that provide an adaptive PE program for spinal cord injuries.

In addition, this facility will offer Class 4-Laser Therapy (nerve regeneration of severed nerves with Laser Therapy) and Adaptive PE Simulation (differentiating instruction so the physical activity is as appropriate for the person).

The proposed physical therapy involves the following:

- Six to ten spinal cord injury clients per day, by appointment only.
- One to two therapists per patients.
- One doctor supervising.

The mission of the facility is to provide therapy and study incomplete spinal injury for the purpose of recovery. The proposed use does not involve surgical procedures or overnight stays. The staff will include chiropractors, physical therapists, and a kinesiologist specialized in spinal rehabilitation. The space provides an open floor plan and a minimum 10-foot high ceiling as needed for the rehabilitation equipment. The equipment (examples shown in Attachment 2) to be used at the facility includes mat tables, treadmills, parallel bars and similar equipment as used by Project Walk in San Diego such as an electronically controlled pneumatic body weight support system and the FES (Functional Electrical Stimulation) Bike.

CUP Requirement

The Zoning Code prohibits medical offices in the MP zone. While the proposal provides a medical-related function, staff believes the proposed use is distinct from a medical office and could therefore be allowed subject to the approval of a conditional use permit.

The proposal does not include a general medical practitioner(s) receiving multiple patient appointments per hour, walk-in appointments for urgent care, or surgeries. In this case, a minimal number of patients per day (ranging from 6 to 10 patients) will be treated during the course of 1 to 3 hours. Patients will be scheduled on a no-wait basis.

Given the unique operational characteristics and focus on clinical research, staff believes that this type of use is not substantially similar to the uses listed in the Land Use Matrix. Section 13-30(d) of the Zoning Code indicates that, if no substantial similarity exists, the proposed use shall require approval of a CUP prior to the establishment of the use.

ANALYSIS

Justifications for Approval of Conditional Use Permit

Following are justifications for the approval of the PA-10-28:

- *The proposed use is compatible with uses in the same general area.* The surrounding uses within the Koll Irvine Center include central administrative offices, contractor offices, a nationwide notary service and an interior design company. In the general area along Airway Avenue, there are bioengineering companies and biomedical research laboratories which also conduct scientific research.

  Ziccardi Designs, Inc. is a design studio located adjacent to the proposed lease area. Since the proposed use involves physical rehabilitation and research, Building Division staff indicated that the proposed use would be compatible in terms of building code requirements/type of occupancy with the adjacent business.

  Staff believes the use would complement the existing offices uses and research/development laboratories in this area.

- *No adverse parking and daily operational impacts to abutting properties are anticipated.* The property is surrounded by industrial office uses. Since the use involves a limited number of patients (six to ten) visiting throughout the day, the use should not exceed the 12 parking spaces allotted for the suite based on the industrial parking requirement (3 parking spaces per 1,000 square feet). Condition of approval no. 2 limits the number of patients per day to a maximum of ten and to be seen by appointment only. Therefore, parking impacts to the surrounding properties are not anticipated.

- *Traffic impacts are consistent with the industrial land use.* The preliminary analysis completed by the Transportation Division indicates that the proposed activity would be consistent with the Industrial Park land use designation for the property. The proposed project is considered a moderate traffic generator involving 38 average daily trips (9 trips per 1,000 square feet) for the 4,150 square-foot suite. By comparison, a medical office is projected to generate 157 average daily trips for this suite size (38 trips per 1,000 square feet). Therefore, the proposed use would have significantly lower traffic generation compared to a medical use (119 less average daily traffic trips).

ENVIRONMENTAL DETERMINATION

If the request is approved, it would be exempt from the provisions of the California Environmental Quality Act under Section 15301, for Existing Facilities. If the request is denied, it is exempt from the provisions of the California Environmental Quality Act (CEQA) Section 15270(a) for projects which are disapproved.

GENERAL PLAN CONFORMITY

The property has a General Plan Designation of Industrial Park. The General Plan permits a variety of industrial, compatible office, and support commercial uses within the Industrial Park land use designation. Based on the limited number of clients seen per day, staff believes the use is consistent with the General Plan and compatible with the neighboring offices. Therefore, the use conforms with the General Plan.

ALTERNATIVES

The Planning Commission has the following alternatives:

1. *Approve Conditional Use Permit PA-10-28*. This action allows the specialized facility for spinal cord injuries, subject to the recommended conditions of approval.

2. *Deny PA-10-28*. If the project were denied, the applicant could not submit substantially the same type of application for six months.

CONCLUSION

Staff supports the request because the specialized treatment and research facility for spinal cord injuries would be compatible with the office uses in the surrounding area. Due to the scale and operating characteristics of the facility, staff believes that the anticipated trip generation is minimal and adequate parking would be provided on-site.

Attachments:
1. Draft Planning Commission Resolutions and Exhibits
2. Applicant Letter of Project Description and Equipment Examples
3. Location Map and Zoning Map
4. Site Photos
5. Site and Floor Plan

cc: Development Services Director
Deputy City Attorney
City Engineer
Transportation Svs. Manager
Fire Protection Analyst
Staff (4)
File (2)

Dan Curtis
3187 Airway Avenue, Suite F
Costa Mesa, CA 92626

Berg Investments, LLC
PO Box 3289
Big Bear Lake, CA 92315

Koll/Irvine Community Association
c/o David Hasan, Pacific West Asset Management Corp.
PO Box 19068
Irvine, CA 92623

File: 111510PA1028	Date: 110410	Time: 9:30 a.m.

ATTACHMENT 1

RESOLUTION NO. PC-10-

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COSTA MESA APPROVING PLANNING APPLICATION PA-10-28

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

WHEREAS, an application was filed by Daniel Curtis, authorized agent for Berg Investments LLC, owner of real property located at 3188 Airway Avenue, Unit E, for Planning Application PA-10-28 for a conditional use permit to allow a specialized physical therapy and research facility for victims of spinal cord injuries;

WHEREAS, a duly noticed public hearing held by the Planning Commission on November 15, 2010 with all persons having the opportunity to speak and be heard for and against the proposal;

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-10-28.

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-10-28 and upon applicant's compliance with each and all of the conditions 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 15th day of November, 2010.

James Righeimer, Chair,
Costa Mesa Planning Commission

STATE OF CALIFORNIA)
)ss
COUNTY OF ORANGE)

I, Khanh Nguyen, 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 November 15, 2010 by the following votes:

AYES: COMMISSIONERS

NOES: COMMISSIONERS

ABSENT: COMMISSIONERS

ABSTAIN: COMMISSIONERS

_____
Secretary, Costa Mesa
Planning Commission

EXHIBIT "A"

FINDINGS (PA-10-28 APPROVAL)

A. The proposed development and use comply with Costa Mesa Municipal Code Section 13-29(e) because:

1. The proposed use is compatible and harmonious with uses both on site as well as those on surrounding properties.
2. Safety and compatibility of the design of the buildings, parking areas, landscaping, and other site features including functional aspects of the site development such as automobile and pedestrian circulation have been considered.
3. The use is consistent with the General Plan and Zoning designations for the property.
4. The zoning 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) as follows:

(a) The proposed use is a highly specialized physical therapy and research facility for victims of spinal cord injuries. The proposed facility will operate similar to the offices uses in the Koll Irvine Center complex and is considered to complement other bioengineering and biomedical research facilities in the surrounding area. Given the scale and unique operating characteristics of the proposed facility, it is considered compatible with the existing industrial office context.

(b) Granting the conditional use permit will not be detrimental to the health, safety and general welfare of the public or other properties or improvements within the immediate vicinity. Specifically, because the use involves relatively limited activities (a maximum of ten clients per day, by appointment only), parking or daily operational impacts to surrounding properties are not anticipated.

(c) Granting the conditional use permit will not allow a use, density or intensity which is not in accordance with the General Plan designation for the property. The scale and intensity of this specialized physical therapy facility is considered consistent with the Industrial Park General Plan designation.

C. The project has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines, and the City environmental procedures, and has been found to be exempt from CEQA under Section 15301 for Existing Facilities.

D. The project, as conditioned, is consistent with Chapter XII, Article 3, Transportation System Management of Title 13 of the Municipal Code in that the project's traffic impacts will be mitigated.

EXHIBIT "B"

CONDITIONS OF APPROVAL:

Plng.

1. The use shall be limited to the type of operation as described in the staff report. Any change in the operational characteristics including, but not limited to, the hours of operation and additional services provided, shall require review by the Planning Division and may require an amendment to the conditional use permit, subject to either Zoning Administrator or Planning Commission approval, depending on the nature of the proposed change. The applicant is reminded that Code allows the Planning Commission to modify or revoke any planning application based on findings related to public nuisance and/or noncompliance with conditions of approval [Title 13, Section 13-29(o)].
2. Patients shall be limited to a maximum of ten patients per day and by appointment only.
3. There shall be no medical procedures (i.e. surgeries) conducted at this facility.
4. The business shall be conducted at all times in a manner that will be compatible with immediately surrounding businesses. With regard to any potential noise issues related to the operation of the rehabilitation equipment, the business owner shall implement any necessary noise mitigation measures (i.e. additional wall insulation) to ensure that the day-to-day operations are compatible with adjacent businesses.
5. If parking shortages or other parking-related problems arise, the applicant shall institute whatever operational measures are necessary to minimize or eliminate the problem, including, but not limited to, reduction of number of clients per day or modification to the hours of operation.
6. The conditions of approval and Code requirements for Planning Application PA-10-28 shall be blueprinted on the face of the site plan as part of the plan check submittal package.
7. The applicant shall contact the Planning Division to arrange 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.
8. A copy of the conditions of approval for the conditional use permit must be kept on premises and presented to any authorized City official upon request. New business/property owners shall be notified of conditions of approval upon transfer of business or ownership of land.

RESOLUTION NO. PC-10-

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COSTA MESA DENYING PLANNING APPLICATION PA-10-28

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

WHEREAS, an application was filed by Daniel Curtis, authorized agent for Berg Investments LLC, owner of real property located at 3188 Airway Avenue, Unit E, for Planning Application PA-10-28 for a conditional use permit to allow a specialized physical therapy and research facility for victims of spinal cord injuries with a maximum of ten clients per day, by appointment only;

WHEREAS, a duly noticed public hearing held by the Planning Commission on November 15, 2010 with all persons having the opportunity to speak and be heard for and against the proposal;

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-10-28.

PASSED AND ADOPTED this 15th day of November, 2010.

_____

James Righeimer, Chair,
Costa Mesa Planning Commission

STATE OF CALIFORNIA)
)ss
COUNTY OF ORANGE)

I, Khanh Nguyen, 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 November 15, 2010, by the following votes:

AYES: COMMISSIONERS

NOES: COMMISSIONERS

ABSENT: COMMISSIONERS

ABSTAIN: COMMISSIONERS

_____

Secretary, Costa Mesa
Planning Commission

EXHIBIT "A"

FINDINGS (PA-10-28 DENIAL)

A. The proposed specialized physical therapy facility does not comply with Costa Mesa Municipal Code Section 13-29(e) because:
   1. A compatible and harmonious relationship does not exist between the proposed use and uses on surrounding properties.
   2. The proposed project does not comply with the performance standards as prescribed in the Zoning Code.
   3. The proposed project is not consistent with the General Plan, Zoning Code, or Urban Plan.

B. Pursuant to Section 13-29(g)(5) of the Municipal Code, the proposed does not meet the broader goals of the General Plan and the Zoning Code by exhibiting excellence in design, site planning, integration of uses and structures, and protection of the integrity of neighboring development.

C. The Costa Mesa Planning Commission has denied Planning Application PA-10-28. 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.

Conditional Use Permit (CUP)

ATTACHMENT 2

The purpose of this application for a Conditional Use Permit is to provide a supervised, functional facility for victims of spinal cord injury (SCI). At present time, there are no facilities in Orange County that provide a supervised adaptive PE program. In addition, our facility will offer Class 4-Laser Therapy research. Our staff will include doctors of chiropractic, physical therapists and kinesiologist specialized in spinal rehabilitation.

Presently, numerous SCI Orange County residents travel 1-2 hours a day, 2-5 times per week to receive treatment. Some SCI patients rent extended residences in either Los Angeles or San Diego to be close to a treatment facility. These travel/housing expenses add additional costs to an already burdened family. For these families, our facility can be relieving some of these burdens by having a more convenient location. Hence, we are privately funded. We are looking for a great location with easy access, cost effective and central for Orange County residents.

1. Location: 3188 Airway Ave. Building E. Costa Mesa, CA 92626.

2. Lessee: TLF Foundation, a non-profit Foundation for Humanity.

3. **Mission:**

   Our mission is to investigate Class 4 Laser and adaptive PE stimulation on incomplete spinal injury for the purpose of recovery.

4. **Vision:**

   When we look into the eyes of a patient with a spinal cord injury, we see their desire to improve their quality of life. Our unique care program helps patients regain their independence and reach their maximum potential, while alleviating many worries for their families. An important part of our vision is to provide a cost effective center that will be funded by private funding, for those who are victims of spinal cord injury (SCI); and, provide care for patients that do not have the means to afford this kind of care.

5. **Purpose:**

   Presently, there are not research projects being conducted for this particular disability in this area. Centers such as Project Walk and Walk Again are set-up in San Diego and Los Angeles respectively.

   Preliminary studies show nerve regeneration of severed nerves being regenerated with Laser in rats. Optic nerve regeneration is being performed with Laser in patients.

6. **The need:**

A. Space is needed that provides open area. Available medical buildings, in the area, are confined to closed rooms and do not provide amble open space for large equipment and mobility of therapist and spinal injured patient.

1. Ceiling Height of 10 feet for rehab area (adaptive physical rehabilitation equipment picture)

2. Rent requirements

3. Meets parking requirements (attached)

4. Other property with area in similar health related business:

Health Dynamics, colon DR

5. Daily visit:

Each patient for 1to 3 hours, 3 to 5 times per week

1 to 2 therapists per patient and a Doctor supervising therapy

6 to 10 SCI patients per day

Patients will be scheduled on a no-wait basis.

Scientific rational:

University studies: "breakthrough for research on nerve regeneration, a team of UCSC and Stanford scientists has reported using femtosecond laser pulses to precisely cut individual axons of nerves in the roundworm Caenorhabditis elegans, one of the most versatile and widely used experimental organisms for genetic and biomedical research."

"The nerves severed by this precision technique have re-grown within 24 hours, often with complete recovery of function".

"The project was a collaboration between applied physics researchers at Stanford University led by Adela Ben-Yakar and biologists at UCSC led by Yishi Jin and Andrew Chisholm."

"The team's findings give researchers an experimental system in which they will be able to investigate in great detail the genetic and molecular factors that control whether or not damaged nerves can re-grow, said Chisholm, an associate professor of molecular, cell, and developmental biology."**Nerve Regeneration in C. elegans after Femtosecond Laser Nano-Surgery**

Mehmet Yanik, Hulusi Cinar, Hediye Cinar, Andrew Chisholm, Yishi Jin, Adela Ben-Yakar

What is Adapted Physical Education

The National Consortium for Physical Education and Recreation for Individuals with Disabilities (NCPERID) defines adapted physical education as the following:

Adapted physical education (APE) is physical education which may be adapted or modified to address the individualized needs of children and youth who have gross motor developmental delays. This service should include the following:

- Assessment and instruction by qualified personnel means that professionals are prepared to gather assessment date and provide physical education instruction for children and youth with disabilities and developmental delays.

- Accurate assessment data, including diagnostic and curriculum-based data collected by qualified personnel.

- Individualized Education Program (IEP) Goals and Objectives / Benchmarks are measurable and objective statements written by the physical education instructor. The goals and objectives are reflective of the physical education instructional content and monitored/evaluated according to district policy, to ensure that goals and objectives are being met in a timely manner.

- Instruction in a Least Restricted Environment (LRE) refers to adapting or modifying the physical education curriculum and/or instruction to address the individualized abilities of each child. Adaptations are made to ensure that each student will experience success in a safe environment. Placement is outlined in the IEP and may include one or more of the following options:

- The general physical education setting
- The general physical education setting with a teaching assistant or peers
- A separate class setting with peers
- A separate class setting with assistants
- A one-to-one setting between students and the instructor

For all practical purposes, Adapted Physical Education IS developmentally appropriate physical education at its finest. It involves differentiating instruction so the physical activity is as appropriate for the person with a disability as it is for a person without a disability. The emphasis of adapted physical education is to facilitate participation of students with disabilities with typically developing peers in age-appropriate activities.

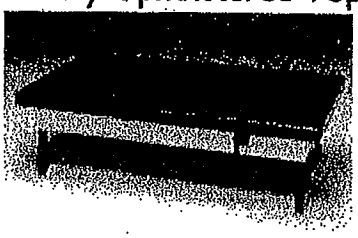
The APE teacher is a direct service provider, as contrasted with physical or occupational therapists. These therapies are considered related services and are provided to the child with disabilities only if he/she needs them to benefit from instruction. Special physical education (APE) is a federally mandated component of special education services [U.S.C.A. 1402 (25)] and ensures that physical education is provided to the student with a disability as part of the child's special education services. Change the word "adapted" to "differentiated" and you have the idea of Adapted Physical Education. It is GOOD teaching which differentiates the curriculum, task, equipment, and/or environment as appropriate for each child, so ALL students can successfully learn and participate in physical education.

EQUIPMENT EXAMPLES

1. Standing carriage easy stand:
   EasyStand Evolv Adult Standing Frame

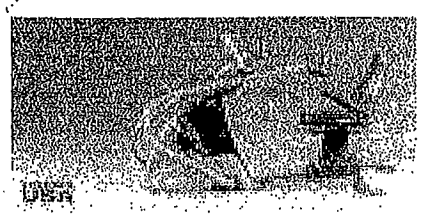
2. Mat tables:

Bailey Upholstered Top Table



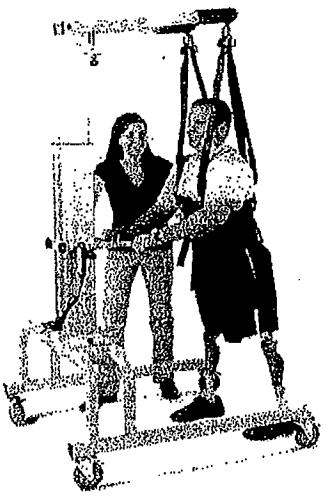
3. Ultrasound /combo

4. Nustep recumbent bike



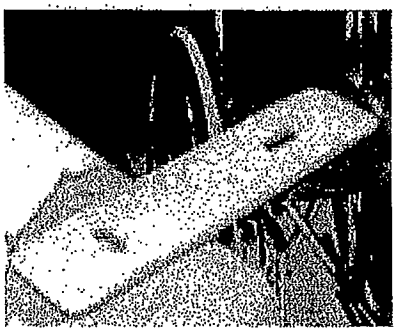
5. Treadmills

6. LiteGait I-360E treadmill and harness system



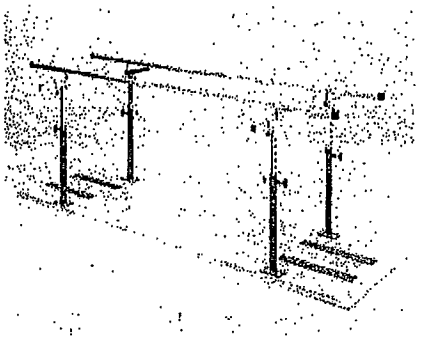
7. Transfer boards

Hausmann Transfer Board x2



Class 4 lasers

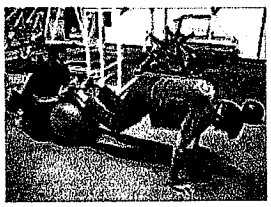
8. Parallel bars



9. FES Bike

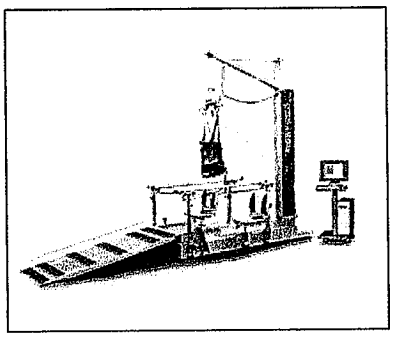
PA-10-28 3188-E AIRWAY

PROJECT WALK®
SPINAL CORD INJURY RECOVERY



Project Walk Equipment

Robomedica®



Robomedica®, Inc.'s electronically controlled pneumatic body weight support system allows modulation of the ground reaction forces and permits more normal center of mass movement during body weight supported stepping. Research done over the past twenty years indicates that normal neuromuscular activity and sensory input to the central nervous system is important in retraining stepping after neurologic injuries. Robomedica, Inc.'s system is the only system that:

- Controls the ground reaction force
- Permits more normal center of mass movement during training
- Quantifies body weight support levels in real time througout the step cycle

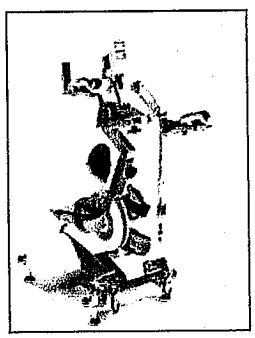
Passive Gait Trainer #1

Passive Gait Trainer #1 at Project Walk® was created by the Project Walk staff in conjunction with their clients and is ideal for T-level injuries or taller clients who have a long stride length. This gait trainer performs nearly the same job as the Robomedica but without the same ability to adjust the amount of weight the client loads into their feet. The passive gait trainer produces a movement that mimics the natural gait pattern in an upright position and is a necessity for the numerous repetitions the body needs while progressing through the phases of recovery.

Passive Gait Trainer #2

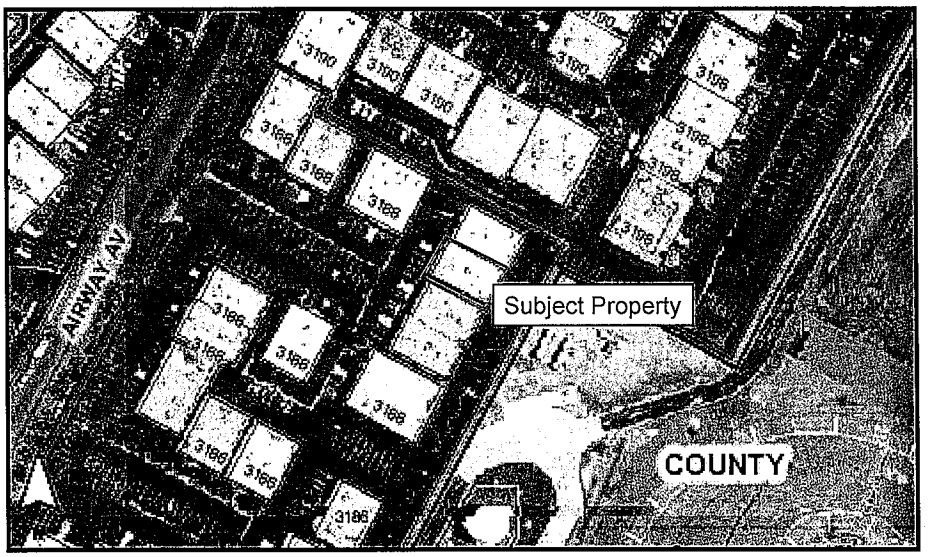
Passive Gait Trainer #2 at Project Walk® is ideal for C-level injuries becasue it assists with the arm swing that should take place while the client works on their gait. These set up for mechanis of this gait trainer produces the movement in the lower extremeties as Passive Gait Trainer #1 which mimics the natural gait pattern in an upright position.

FES Bike & Arm Cycle

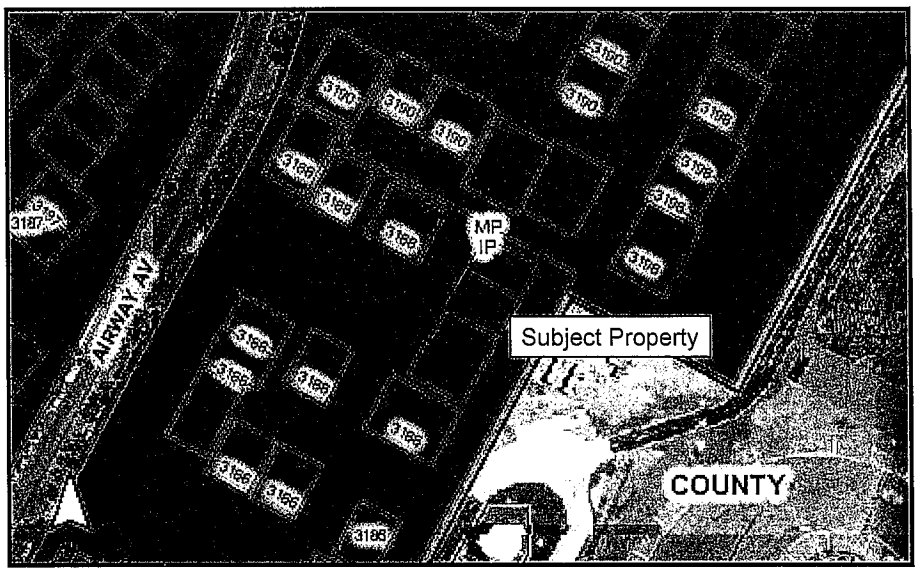


Functional Electrical Stimulation is a method of applying low level electrical currents to the body to restore or improve function. FES applied near the muscle or nerve can substitute artificial electrical signals for the missing normal motor signals. The artificial impulses make the muscle contract. In the case of the FES Bike, FES is used to stimulate patterned movement of the legs (cycling). This has been shown to do the following:

LOCATION MAP

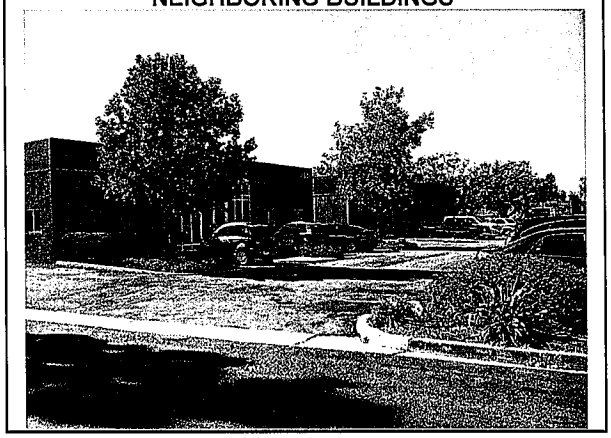


ZONING MAP

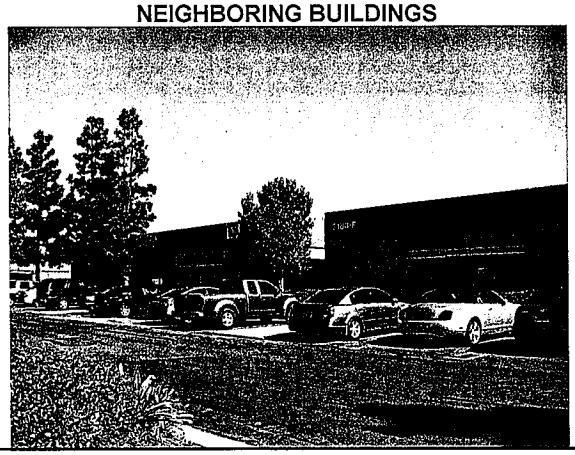


3188 AIRWAY AVENUE, UNIT E

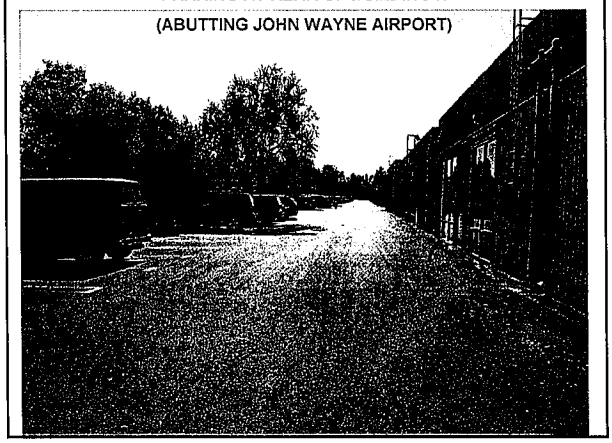
NEIGHBORING BUILDINGS



NEIGHBORING BUILDINGS

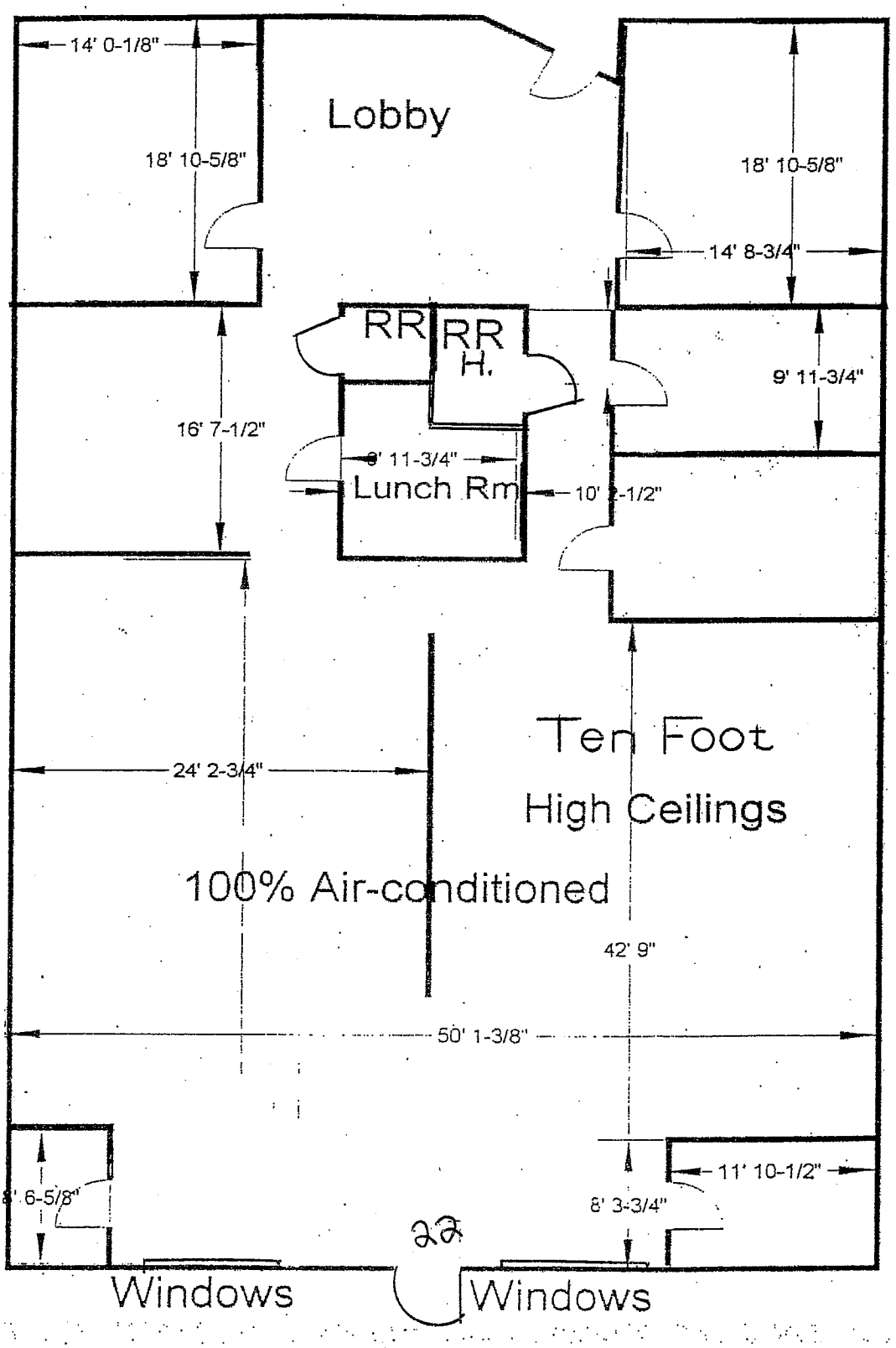


PARKING AT REAR OF BUILDING E
(ABUTTING JOHN WAYNE AIRPORT)

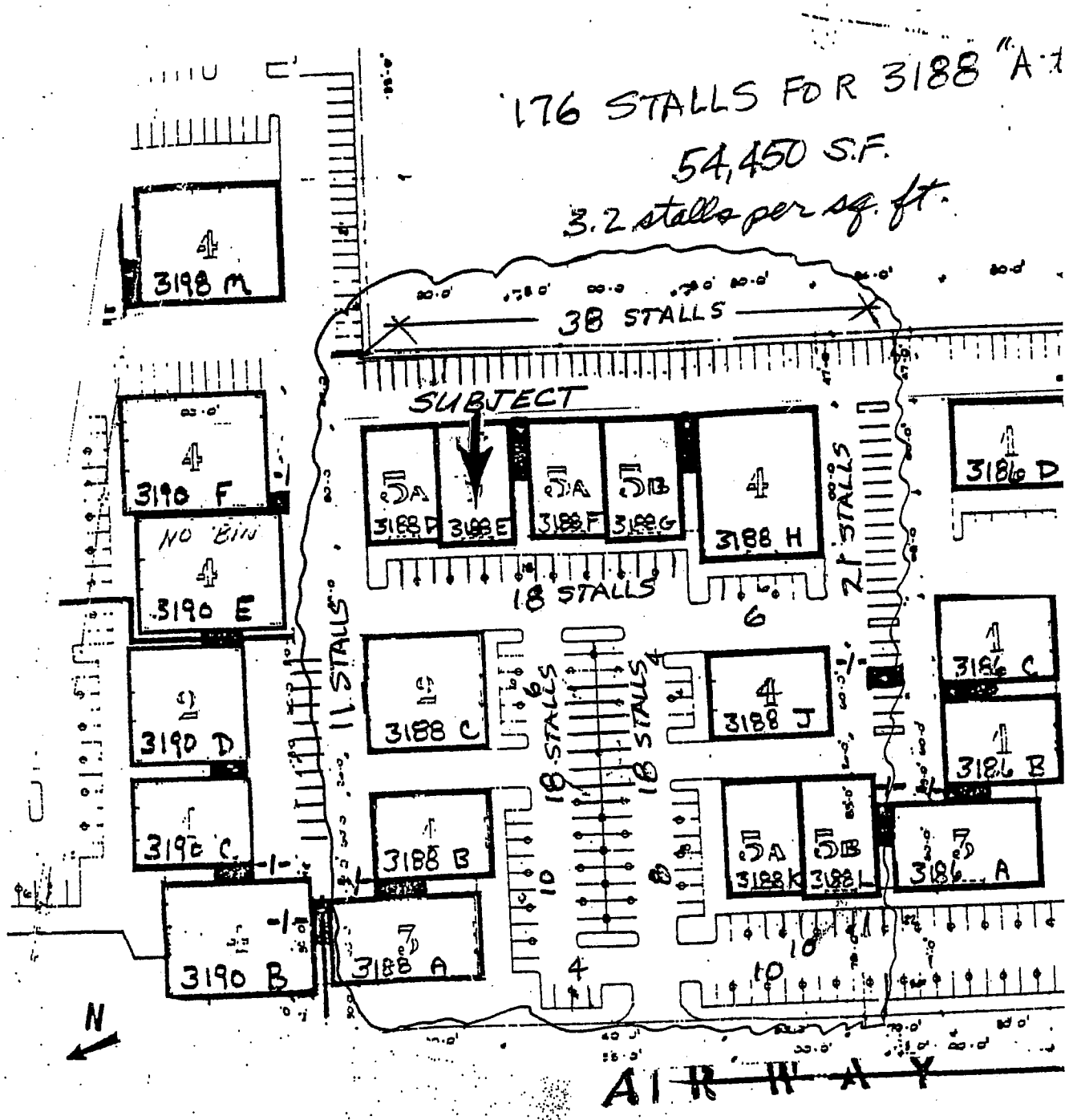


ATTACHMENT 5

3188 E Airway Ave. Costa Mesa
4,150 Sq. Ft.



PA-10-28
File


176 STALLS FOR 3188 "A"
54,450 S.F.
3.2 stalls per sq. ft.
38 STALLS
SUBJECT
3198 M
3190 F
NO BIN
3190 E
3190 D
3190 C
3190 B
3188 P
3188 E
3188 F
3188 G
3188 H
3188 C
3188 B
3188 A
3188 J
3188 K
3188 L
3186 D
3186 C
3186 B
3186 A
11 STALLS
18 STALLS
21 STALLS
10
6
4
N
AIRWAY