



PLANNING COMMISSION AGENDA REPORT

VII.5

MEETING DATE: JULY 11, 2011

ITEM NUMBER:

**SUBJECT: REVOCATION OF MINOR CONDITIONAL USE PERMITS ZE-76-109 (PRESCHOOL AND NURSERY) AND ZE-99-70 (K-3 PRIMARY SCHOOL)
2070 MAPLE AVENUE**

DATE: JUNE 30, 2011

**FOR FURTHER INFORMATION CONTACT: MEL LEE, AICP, SENIOR PLANNER
(714) 754-5611 mlee@ci.costa-mesa.ca.us**

PROJECT DESCRIPTION

The City of Costa Mesa has initiated the revocation of the following Minor Conditional Use Permits (formerly known as Zone Exception Permits, or ZE's) due to discontinuance of these uses:

- ZE-99-70 for a preschool and day nursery for a maximum of 24 children, ages 2-6; and
- ZE-76-109 to upgrade the nursery to a K-3 primary school with a maximum of 46 children, known as South Coast Children's Center.

RECOMMENDATION

Revoke ZE-99-70 and ZE-76-109 by adoption of Planning Commission resolution.

BACKGROUND/ANALYSIS

Site Location and History

The property is located on the east side of Maple Avenue, midblock between Knowell Place and West Bay Street. The property is zoned R2-HD and contains a one-story structure currently used as a residence. Surrounding properties in the area contain various multiple-family residences.

On December 28, 1970, Planning Commission approved Zone Exception Permit ZE-99-70 for a preschool and day nursery for a maximum of 24 children, ages 2-6. As part of that approval, the existing single family residence that existed on the property was demolished and a new 1,300 square foot, one-story building was built and 6 open parking spaces were provided at the front of the building.

On June 28, 1976, Planning Commission approved Zone Exception Permit ZE-76-109 to upgrade the previously approved nursery to a K-3 primary school with a maximum of 46 children, known as South Coast Children's Center.

According to City records, the business license for South Coast Children's Center was terminated in August 2006. According to the County of Orange Community Care Licensing, the facility terminated its Community Care license the same year.

The building is currently used as a residence, which conforms to the R2-HD zone; however, the structure is legal nonconforming because no garage or covered parking is provided.

Revocation

Once approved, use permits "run with the land"; in other words, a similar use can establish on the property without having to obtain approval of a new use permit if no modifications to the use are proposed. Code Section 13-29(o) allows the Planning Commission to modify or revoke any planning application if it is found to be a public nuisance or not in compliance with the conditions of approval.

In this case, however, staff has initiated the revocation because the uses approved under ZE-76-109 and ZE-90-70 no longer operates at the site. These uses were approved in the seventies with no significant amendments since that time. The uses have been discontinued for more than 5 years.

Under today's Code (Section 13-30), approval of either a day care facility for more than 15 children or a primary K-3 school requires approval of a conditional use permit in the R2-HD zone. As a result, a similar use cannot establish on the property without having to obtain approval of a new conditional use permit, which requires a public hearing before the Planning Commission.

On June 22, 2011 staff sent a letter to the property owner advising of the proposed revocation of the use permits. As of the date of this report, staff has not received any objections from the property owner.

GENERAL PLAN CONFORMITY

The existing use of the property for residential purposes is consistent with the Multiple Family Residential Land Use Designation for the property and is compatible with the surrounding residential neighborhood and uses.

ALTERNATIVES

The Commission may take no action to revoke the use permits. If the use permits are not revoked, they would continue to remain in place for the property. A similar use can establish on the property without having to obtain approval of a new conditional use permit or public hearing before the Planning Commission.

ENVIRONMENTAL DETERMINATION

The revocation is exempt from the provisions of the California Environmental Quality Act (CEQA), under Section 15321 for Enforcement Actions by Regulatory Agencies.

CONCLUSION

Revocation of the existing land use entitlements will require that, if a similar use is proposed, a new conditional use permit would be required. The existing residential use is consistent with the zoning of the property. Therefore, staff recommends that the use permits be revoked.



MEL LEE, AICP
Senior Planner



CLAIRE FLYNN, AICP
Acting Asst. Development Services Director

- Attachments:
1. Draft Planning Commission Resolution
 2. Staff Reports and Plot Plan
 3. Location Map

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

RESOLUTION NO. PC-11

**A RESOLUTION OF THE PLANNING COMMISSION OF THE
CITY OF COSTA MESA REVOKING ZONE EXCEPTION
PERMITS ZE-76-109 AND ZE-90-70**

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

WHEREAS, on December 28, 1970, Planning Commission approved Zone Exception Permit ZE-99-70 for a preschool and day nursery for a maximum of 24 children, ages 2-6, at 2070 Maple Avenue;

WHEREAS, on June 28, 1976, Planning Commission approved Zone Exception Permit ZE-76-109 to upgrade the previously approved nursery to a K-3 primary school with a maximum of 46 children, known as South Coast Children's Center at the same address;

WHEREAS, according to City and County records, the licenses for South Coast Children's Center were terminated in August 2006 and the use was discontinued on the property the same year;

WHEREAS, staff initiated revocation of Zone Exception permits ZE-76-109 and ZE-99-70;

WHEREAS, a duly noticed public hearing was held by the Planning Commission on July 11, 2011.

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 **REVOKES** Zone Exception permits ZE-76-109 and ZE-99-70 with respect to the property described above.

PASSED AND ADOPTED this 11th day of July, 2011.

Colin McCarthy, Chair
Costa Mesa Planning Commission

EXHIBIT "A"

- A. Revocation was initiated because the use approved under Zone Exception permits ZE-76-109 and ZE-99-70 no longer operate at the property and have been discontinued for greater than 5 years. Because use permits continues to be in effect regardless if the use is abandoned (i.e., "runs with the land"), a similar use could be established on the property without any updated conditions of approval to minimize impacts to surrounding properties. Under current Zoning Code regulations, approval of either a day care facility for more than 15 children or a primary K-3 school requires approval of a conditional use permit in the R2-HD zone. As a result, a similar use cannot establish on the property without having to obtain approval of a new conditional use permit, which requires a public hearing before the Planning Commission.

- B. 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 15321 for Enforcement Actions by Regulatory Agencies.

- C. The project is exempt from Chapter IX, Article 11, Transportation System Management, of Title 13 of the Costa Mesa Municipal Code.



City of Costa Mesa

POST OFFICE BOX 1200
COSTA MESA, CALIFORNIA 92626

ZONE EXCEPTION PERMIT

Zone Exception Permit not transferable and null and void at expiration of specified time period.

| | | | | | | | |
|-------------------|---|---------------|------------------|----------------------|------------------|------------------------------------|---|
| APPLICANT | LOGAN Last Name | ROSE First | C. AND Middle | No. ZE- | 99-70, Corrected | Per Section 9299.3 (1) (2) (3) (4) | |
| ADDRESS | 1615 W. Balboa, Newport Beach, CA 92660 | | | FEE: A | : | 8 | |
| | Number | Street | City | State - Zip Code | C | : | D |
| Telephone No. | 673-7412 | | | TOTAL FEE | NONE | | |
| | Business | Home | | Planning Area Codes: | | | |
| Legal Description | Portion, Lot 20, Fairview Farms | | | Check List | Yes | No | |
| AP No. | 115-292-72 | | | Zone: | R2 | | |
| Location | 2070 Maple Street, Costa Mesa, Calif. | | | | | | |

REQUEST: Permission to construct and operate a Pre-School and Day Nursery for a maximum of Twenty-four (24) children, ages 2-6, 5 days per week from 7:00 A.M. to 5:30 P.M.

- Reason for Zone Exception: This is not a listed permitted use in R2, therefore a Zone Exception Permit is required.
- Exceptional Circumstances as defined by applicant: There is a need for this type of care and they are permitted in residential zones with a Zone Exception Permit. We have an ideal setting for this use -- a large lot 75' x 179.48' very well landscaped.

Mrs. William J. Callahan
Signature of Property Owner

Rose C. Logan
Signature of Applicant/Authorized Agent

DO NOT WRITE BELOW THESE LINES

COMMISSION FINDINGS: Meeting of: December 28, 1970 Recommendation: Approval
Vote: 5 - 0 vote

- Exceptional or extraordinary circumstances are as follows:
Subject property is located in an area undergoing change. The existing deteriorate structure will be removed and a new modern residential appearing structure built for this use.
- This Commission finds that the request is substantially compatible with uses in the general area and will not be materially detrimental to other properties within this general area. These are:
Past history in this community shows that pre-school nursery uses blend compatibly with residential living, particularly in those areas transitioning to higher uses.
- The Commission finds that the granting of this Zone Exception will not be materially detrimental to the Health, Safety and General Welfare:
The structure will be built in compliance with state and local codes relating to this use. The finished product will closely resemble a residential unit. In comparison to potential (8) residential units, the daytime child care center would not have an impact as great.

SPECIAL REQUIREMENTS:

- Shall meet all the requirements of the various City Departments, copy of which are attached hereto.

Ann H. Morris
Secretary, Planning Commission

CITY COUNCIL ACTION: Meeting of January 4, 1971

Action: Approved - Subject to conditions.

REPORT OF THE PLANNING STAFF

This is NOT official Commission Action

ZONE EXCEPTION PERMIT NO. ZE-99-70, Corrected AGENDA NO. 5-6
 REZONE PETITION NO. _____ ZONE R2
 OTHER _____ PREPARED BY BC
 NAME: Rose C. Logan and Kathleen Callahan LOCATION 2070 Maple Street, C.M.

REQUEST: Permission to construct and operate a Pre-School and Day Nursery for a maximum of twenty-four (24) children, ages 2-6, 5 days per week from 7:00 A.M. to 5:30 P.M.



I. Area Analysis

Property being considered is situated in an area made up of predominately older wood-frame dwelling units dating back to the early 40's. The parcel is located on the easterly side of Maple Avenue, south of Hamilton Street at the extension of Knowell Place. Numerous density variances have been granted in the general area of Charle Street westerly to Pomona Avenue indicating that a rephasing of development is in order.

Previous Request

The original Zone Exception request proposed refurbishing the existing wood-frame residential structure and attached garage. However, after evaluation by various city departments it became evident to the applicants that salvaging the existing was not feasible. Consequently, this application considers all existing structures removed.

Analysis of Request

Plans show the construction of a 1316.5 sq. ft. (gross area) stucco finish childrens day care facility, set back 50.00 ft. from front property line (80 ft. from center-line of street). At the suggestion of staff, applicants have provided 6 open 10' x 20' parking spaces in front served by a central turning aisle driveway combination. An unusual amount of open play (recreation) area will exist as a result of the 76 ft. rear and 42'6" side yard setbacks. This amounts to approximately 7990 sq. ft. or 59.3% of the 13,460 sq. ft. parcel.

The proposed structure consists of two individual 460 sq. ft. play rooms, kitchen, office, childrens bathroom, staff bathroom and incidental storage. Applicants fully understand that the maximum number of children at any one time shall not exceed 24, even though the Fire Department occupancy rating will be considerably higher.

Operation of the day care center will be self contained on subject property. Parents are responsible for transporting children to and from the pre-school and day nursery.

II. Staff Recommendation:

Approval

III. Reasons for Recommendation:

1. Subject property is located in an area undergoing change. The existing deteriorate structure will be removed and a new modern residential appearing structure built for this use.

SEE PAGE TWO

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2. Past history in this community shows that pre-school nursery uses blend compatibly with residential living, particularly in those areas transitioning to higher usage.
3. The structure will be built in compliance with state and local codes relating to this use. The finished product will closely resemble a residential unit.
4. In comparison to potential (8) residential units, the daytime child care center would not have an impact as great.

IV. Special Requirements:

1. Shall meet all the requirements of the various City Departments, copy of which are attached hereto.

Commission Action - meeting of December 28, 1970

Recommended for approval (5-0) based on the findings and subject to the 11 conditions under III and IV above with the following added Condition No. 12: That a 6' high block wall fence be installed along both sides and rear of the property at the applicant's expense.

ZE-93-70, Amended
Logan and Callahan

SPECIAL REQUIREMENTS

1. Construction of concrete residential sidewalks (4' wide) per City of Costa Mesa Standard Plans, at applicant's expense.
2. Construction of P.C.C. drive approach per City of Costa Mesa Standard Plans, at applicant's expense. Size and location to be determined by the Traffic Engineer.
3. Obtain public works permits for Items 1 and 2 above, prior to issuance of building permit.
4. Tree planting is required in the parkway as specified by the Street Superintendent. Applicant purchases trees and the City plants said trees.
5. All utility services (Edison and Telephone) shall be installed underground.
6. No signs will be allowed because of the residential character which should be pursued.
7. Prior to issuance of building permits, detailed landscape plans shall be submitted specifying necessary information. Irrigation facilities must be indicated, all of which will be reviewed by the Plan Review Committee, subject to their approval.
8. A trash enclosure area, screened from view of the public, will be required as directed by the Planning Department. Specific size and location shall be determined at time of permit issuance.
9. All conditions listed herein shall be completed prior to occupancy and utility release, unless otherwise arranged between City and applicant.
10. This use and building structure shall comply to all requirements of the Uniform Fire Code and Title 19, Calif. Administrative Code. Applicant is hereby advised that submitted floor plans indicate improper EXIT requirements.
11. Occupancy will be withheld until approvals have been obtained from the Department of Social Welfare and State Fire Marshal's office.

Planning Commission Meeting of December 28, 1970 - Condition No. 12 was added as follows: That a 6' high block wall fence be installed along both sides and rear of the property at the applicant's expense.



SIGNATURES ONLY

PAID 00 377 #***25.00

City of Costa Mesa

POST OFFICE BOX 1200
COSTA MESA, CALIFORNIA 92626

ZONE EXCEPTION PERMIT

Zone Exception Permit not transferable and null and void at expiration of specified time period.

| | | | | | |
|-------------------|---|--------|--------|----------------------|-------------------------------------|
| APPLICANT | Rubalcava | Minnie | M | No. ZE- | 76-109 |
| | Last Name | First | Middle | | Per Section 92299.3 (1) (2) (3) (4) |
| ADDRESS | 1061 Laguna Ave., Los Angeles, CA 90026 | | | FEE: A | \$25 ; B ; C ; D |
| | Number | Street | City | State - Zip Code | |
| Telephone No. | (213) 413-2000 | | | 628-1639 | |
| | Business | | | Home | |
| Legal Description | portion of Lot 20 Fairview Farms | | | TOTAL FEE | \$25 |
| AP No. | 115-292-72 | | | Planning Area Codes: | |
| Location | 2070 Maple Street, Costa Mesa, CA. | | | Check List | Yes No |
| | | | | Zone: | R2 |

REQUEST: Conditional Use Permit to change existing nursery school to primary school, (K-3), and to increase enrollment to 46 children. (Exemption Declaration has been filed).

- Reason for Zone Exception: Schools are a conditional use in residential zones.
- Exceptional Circumstances as defined by applicant:

Minnie M. Rubalcava
Signature of Property Owner

Minnie M. Rubalcava
Signature of Applicant/Authorized Agent

DO NOT WRITE BELOW THESE LINES

COMMISSION FINDINGS: Meeting of: June 28, 1976 Recommendation: Approval
 Votes: 5-0

- Exceptional or extraordinary circumstances are as follows: Proposed use is substantially the same as the previous use, and should not cause any detrimental effects on the adjacent properties.
- This Commission finds that the request is substantially compatible with uses in the general area and will not be materially detrimental to other properties within this general area. These are:
- The Commission finds that the granting of this Zone Exception will not be materially detrimental to the Health, Safety and General Welfare:

SPECIAL REQUIREMENTS:

None

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Charles W. Roberts

PLANNING DEPARTMENT STAFF REPORT

(This is NOT Official Commission Action)

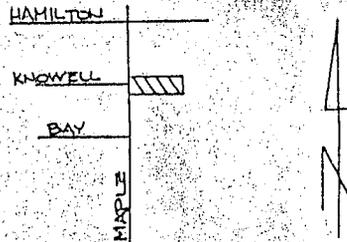
APPLICATION NO. ZE-76-109 AGENDA NO. _____
 TYPE: Conditional Use Permit FIELD INSPECTION DATE: 6/16/76
 SITE LOCATION: 2070 Maple Street DATE PREPARED/BY: PLG:cp 6/21/76
 CLASSIFICATION COMMISSION MEETING OF: June 28, 1976
 ZONE: R2 GENERAL PLAN: High Density Residential CEQA FINDINGS: Exemp. Dec.

NAME OF APPLICANT: Minnie M. Rubalcava

ADDRESS: 1061 Laguna Ave., Los Angeles
CA 90026

ACTION REQUEST:

Conditional Use Permit to change existing nursery school to primary school, (K-3), and to increase enrollment to 46 children.



I. Evaluation

1. The previous use on subject property was a pre-school and day nursery for 24 children, ages 2-6. Use was operated 5 days per week, from 7 a.m. to 5:30 p.m. (ZE-99-70, corrected, approved 1-4-71)
2. Existing structure was constructed specifically for this type of use. Six parking spaces were provided in front of the building with a large playground area to the side and rear of the building.
3. The applicant has informed the Planning Department that there will be a total of three employees for the school.
4. Based on the number of employees, at least three parking spaces would be available for dropping children off for school.
5. A block wall around the playground area was a requirement of the previous Zone Exception Permit. This wall was never constructed.

II. Findings of the Planning Staff

1. Proposed use is substantially the same as the previous use, and should not cause any detrimental effects on the adjacent properties.

III. Planning Staff Recommendation

Approval with conditions.

IV. Conditions if approved

1. A block wall shall be constructed along both sides and rear property lines.

V. Commission Action - Meeting of June 28, 1976

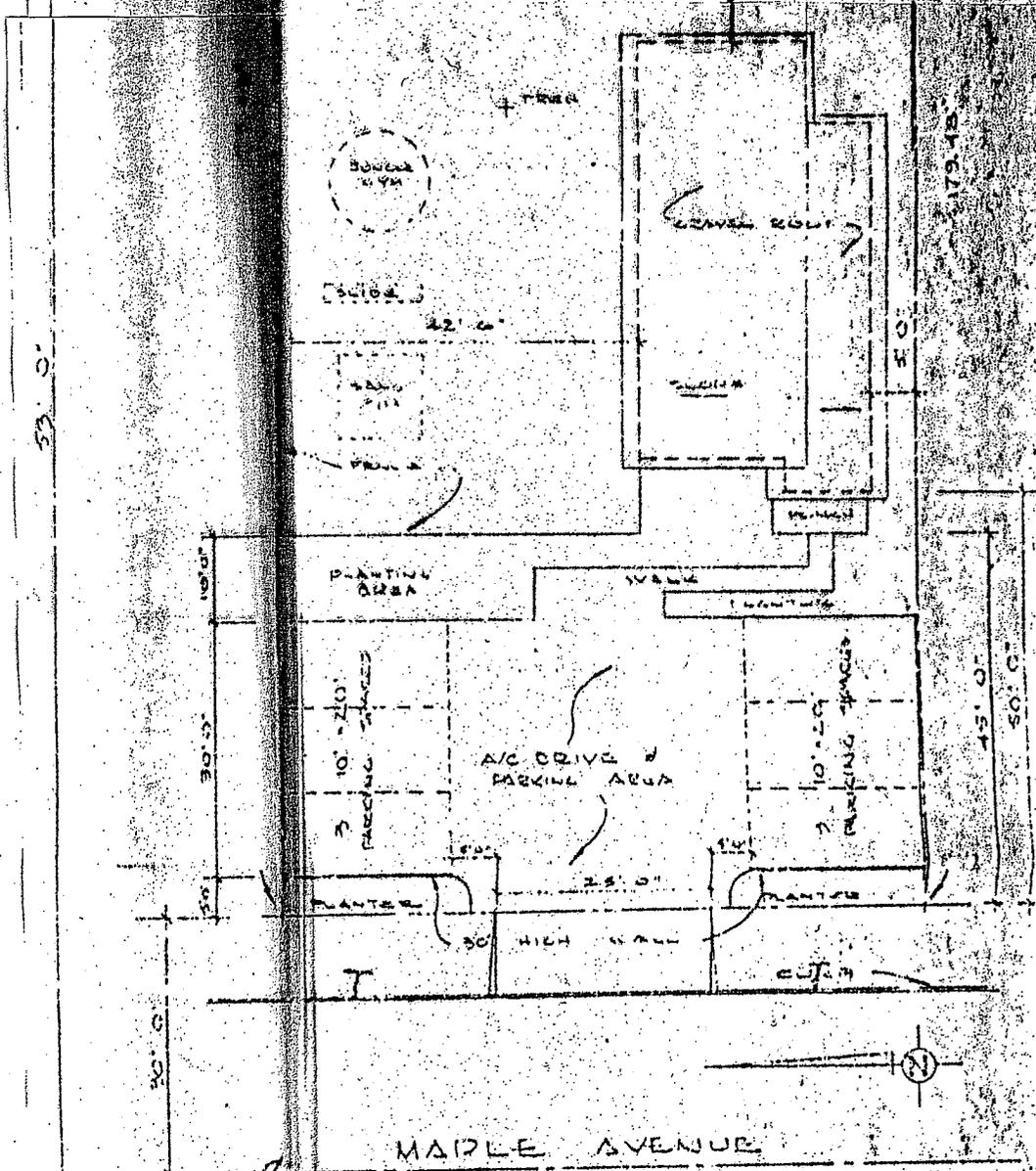
Recommended for Approval (5-0) based on the findings in II above, with the deletion of the one condition in IV above.

This Document has been reviewed by:

Current Planning PLG
 Advance Planning PLG
 Planning Director _____

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 City of Costa Mesa
 77 Fair Drive
 (714) 556-5245





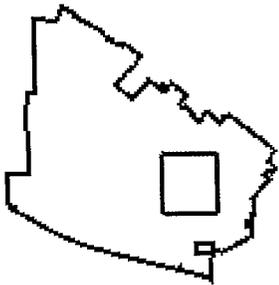
LEGAL DESCRIPTION: POR LOT 20, FAIRVIEW PLANNED TRACT
 JOB ADDRESS: 2070 MAPLE AVENUE, COSTA MESA

PILOT FLOOR PLAN
 SCALE: 1/8" = 1'-0"

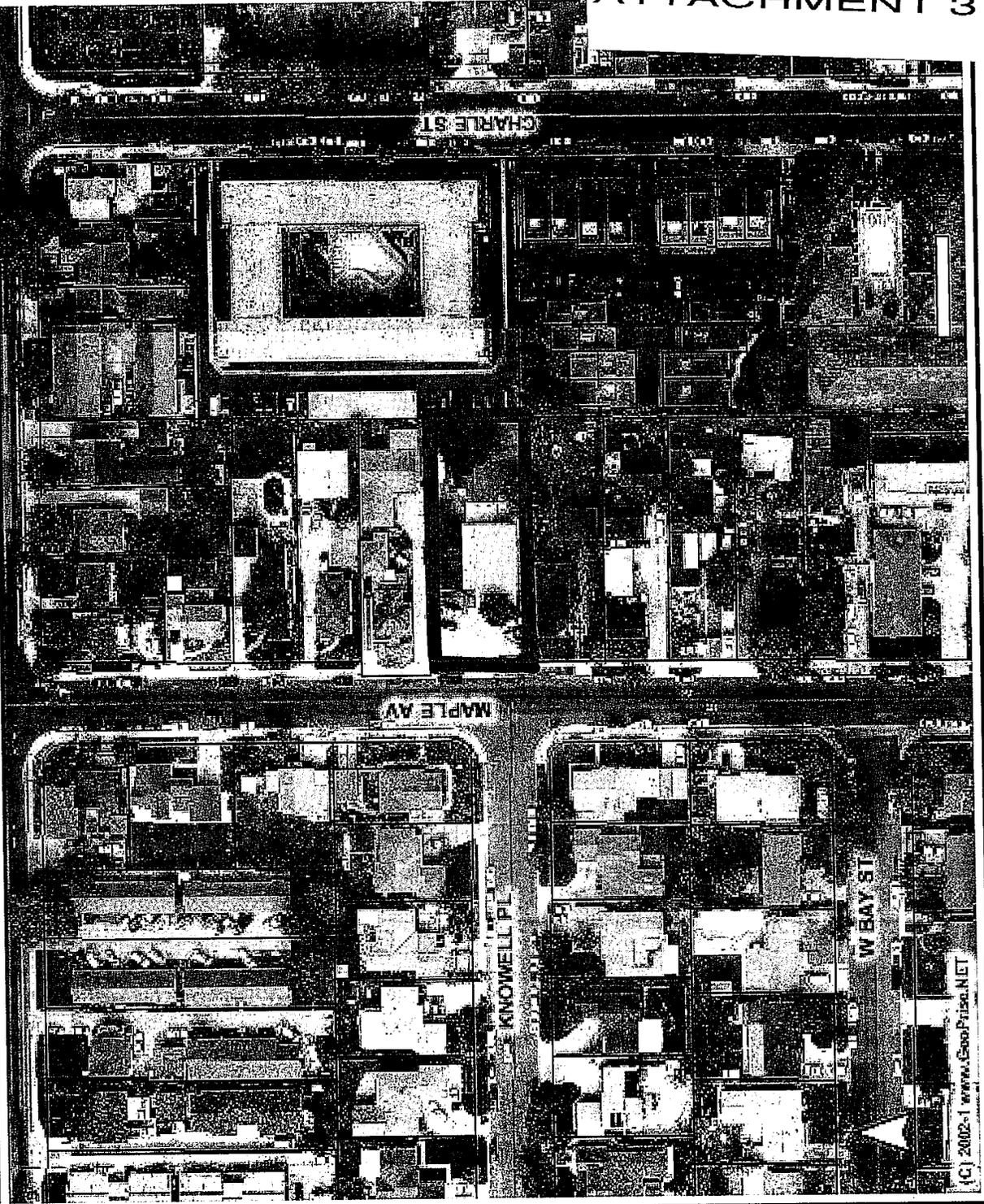
City of Costa Mesa

CITY OF COSTA MESA - [Created: 6/22/2011 8:33:07 AM] [Scale: 147.26] [Page: 8.5 x 11 / Landscape]

Overview Map



Map Display



Legend

- Freeway
- Roads
- Collector Freeway
- Major
- Nonpoint BLVD Primary
- SECONDARY Hydrology
- Channels
- Street Names
- Street Centerlines
- Parcel Lines
- City Boundary
- Water Ways