PLANNING COMMISSION AGENDA REPORT

MEETING DATE: MARCH 12, 2012 **ITEM NUMBER:**

SUBJECT: **REVOCATION OF CONDITIONAL USE PERMITS PA-85-31 AND ZE-83-45 FOR MEDICAL USE AND SHARED PARKING AT 1520 NUTMEG PLACE**

DATE: **JANUARY 26, 2012**

FROM: **PLANNING DIVISION/DEVELOPMENT SERVICES DEPARTMENT**

PRESENTATION BY: **MINOO ASHABI, SENIOR PLANNER**

FOR FURTHER INFORMATION CONTACT: **MINOO ASHABI, AIA (714) 754-5610**
minoo.ashabi@costamesaca.gov

PROJECT DESCRIPTION

The City of Costa Mesa has initiated the revocation of the following Conditional Use Permits due to change in configuration of parcels and parking spaces:

- PA-85-31 - Conditional Use Permit to deviate from the shared parking requirements approved on March 11, 1985 for 1,443 SF dental office.
- ZE-83-45 - Conditional Use Permit for off-site parking approved on March 28, 1983 authorizing 1,500 SF of medical office.

The development of the two-story 27,000 SF office building at 1520 Nutmeg Place was authorized by approval of ZE-81-06 including a conditional use permit for off-site parking, small parking spaces and building height in excess of 30 feet. The new parking configuration will revise the number of off-site parking spaces from 46 spaces to 146 fully contained within Parcel A (Attachment 2).

RECOMMENDATION

Revoke PA-85-31 and ZE-83-45 by adoption of Planning Commission resolution.

BACKGROUND

Project Site/Environs

The project site originally contained a 27,000 SF two-story office building and 58 parking spaces. The building is under a lease agreement with the property owners. In 1981, with approval of ZE-81-06 and the office property owner was authorized to use 46 of the parking spaces on the adjacent property (formerly developed with Lazy Boy furniture) (Attachment 2). The new parcel configuration provides for 46 parking spaces on the office building site and 100 parking spaces on the adjacent parking lot (Refer to Parcel A of Lot Line Adjustment – Attachment 4).

Planning Application PA-85-31

A variance approved by the Planning Commission on March 11, 1985, to allow reciprocal parking with the adjacent property in conjunction with a 1,433 square-foot dental office in the office building located at 1520 Nutmeg Place. Nine spaces were required (6/1000 SF) and six provided (4/1000 SF) (Attachment 2)

Zoning Application ZE-83-45

A variance approved by the Planning Commission on March 28, 1983 to allow establishment of a 1,500 square-foot doctor's office in an existing office building. Nine spaces were required (6/1000 SF) and six provided (4/1000 SF) (Attachment 2)

ANALYSIS

The former Lazy Boy furniture store was vacant for many years and the parking on the adjacent parcel was used by the office use patrons. In 2011, a new master plan for the properties north of Nutmeg Place was approved including development of Sonic Burger, Taco Bell and Auto Zone. Each of the developments provides adequate on-site parking in accordance with the parking requirements. The following recent entitlements affect the lot and parking configuration for the parking lot adjacent to the medical building:

- Lot Line Adjustment (LL-11-01) – approved three new parcels for development of Taco Bell, and a new parking lot for 1520 Nutmeg building (recorded on 10/07/2011). The lot line adjustment was intended to provide for on-site parking for each parcel without reciprocal parking (Attachment 3). The lot line adjustment requires recordation of a land use restriction on all parcels for reciprocal access, utilities and drainage.
- ZA-11-017 – a minor conditional use permit for development of drive-through Taco Bell at 3115 Harbor Blvd with on-site parking.
- DR-11-07 – a development review for development of at 3105 Harbor Blvd. with on-site parking.

As indicated by the building owner in 2011, the ground floor of the office building (13,500 SF) is currently occupied by medical uses specifically by a dentist (2317 SF) and Southland Spine, a medical group (11,183 SF). The second floor of the building is

currently occupied by Comprehensive Health and Rehab, Inc., a management company, for non-medical uses only. The building owner intends to maximize the medical uses with the total available 146 stalls (46 on-site and 100 off-site on the adjacent parcel). Medical uses require a parking ratio of 6 spaces per 1000 square feet of gross office space. Adequate parking is provided for the existing tenant mix.

Revocation

Once approved, use permits "run with the land." In this case, with subsequent approvals and lot line adjustment; the previous entitlements are no longer applicable because:

- Off-site parking as authorized by PA-85-31 is no longer occurring. The new parcel and parking configuration has modified the location and number of parking spaces available to the office building.
- The required parking supply for the 1520 Nutmeg building is met based on existing tenant mix. The new parking configuration includes 146 parking spaces for the office building.

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. The revocation will clarify the location and number of parking spaces available for the medical building.

The property owner has agreed to this revocation and their letter of approval is included as Attachment 3.

ALTERNATIVES

Because these conditional use permits are no longer applicable, there are no other viable alternatives that would comply with Code.

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

The new lot and parking configuration has rendered these previous conditional use permits inapplicable. Therefore, staff recommends that the use permits be revoked.

MINOO ASHABI, AIA
Senior Planner

CLAIRE FLYNN, AICP
Acting Asst. Development Services Director

Attachments:
1. Draft Planning Commission Resolution
2. Previous Entitlements
3. Submitted Letter

4. Lot Line Adjustment and Reference Site Plan
5. Location Map

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

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RESOLUTION NO. PC-12-

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COSTA MESA REVOKING CONDITIONAL USE PERMITS PA-85-31 AND ZE-83-45 AT 1520 NUTMEG PLACE.

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

WHEREAS, on March 11, 1985, the Planning Commission approved conditional use permit PA-85-31 to deviate from the shared parking requirements at 1520 Nutmeg Place;

WHEREAS, on March 28, 1983, the Planning Commission approved conditional use permit ZE-83-45 for off-site parking;

WHEREAS, a lot line adjustment (LL-11-01) recorded on October 7, 2011, reconfigured three parcels for retail development at 3115 Harbor Boulevard (Taco Bell) and 3105 Harbor Boulevard and a parking lot affecting additional parking for 1520 Nutmeg Place;

WHEREAS, the City initiated revocation of Conditional Use Permits PA-85-31 and ZE-83-45;

WHEREAS, the property owner agreed to the revocation process with a written letter dated December 14, 2011;

WHEREAS, a duly noticed public hearing was held by the Planning Commission on March 12, 2012 where the Planning Commission found that the shared parking and off-site parking arrangement for the 1520 Nutmeg building were no longer applicable given the new configuration of the lot lines.

WHEREAS, the proposed uses at 3115 and 3105 Harbor Boulevard shall not require off-site parking;

WHEREAS, the off-site parking lot containing 100 parking spaces is proposed for the exclusive use of the tenants/customers of 1520 Nutmeg Place;

BE IT RESOLVED that, based on the evidence in the record and the findings contained in Exhibit "A", the Planning Commission hereby **REVOKES** Conditional Use Permits PA-85-31 and ZE-83-45 with respect to the property described above.

PASSED AND ADOPTED this 12th day of March, 2012.

Colin McCarthy, Chair
Costa Mesa Planning Commission

STATE OF CALIFORNIA)
)ss
COUNTY OF ORANGE)

I, Claire Flynn, 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 March 12, 2012, by the following votes:

AYES: COMMISSIONERS

NOES: COMMISSIONERS

ABSENT: COMMISSIONERS

ABSTAIN: COMMISSIONERS

_____
Secretary, Costa Mesa
Planning Commission

EXHIBIT "A"

A. Revocation was initiated because Lot Line Adjustment LL-11-01 (recorded on 10/07/2011) reconfigured the parking and lot lines related to three parcels to be developed by Taco Bell, and a parking lot. The shared parking agreement for use of parking on these parcels for the benefit of the office building at 1520 Nutmeg Place is no longer effective. The new parcels include a separate parcel (Parcel 1, LL-11-01) containing 146 parking spaces for the use of the two-story office building at 1520 Nutmeg Place. The revocation nulls and voids any shared parking arrangement. A land use restriction required with previous entitlement (LL-11-01) restricts use of Parcel 1 to a parking lot and will ensure that parking is available for office/medical uses based on the available parking and parking ratios per zoning code (4/1000 SF for office use and 6/1000 SF for medical use).

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.

ATTACHMENT 2

PLANNING DIVISION
STAFF REPORT

AGENDA NO. 9g

SITE LOCATION 1520 Nutmeg Place

APPLICATION NO. PA-85-31

A.P # 139-551-12

MANDATORY ACTION DATE March 1, 1986

APPLICANT Mesa Verde Building A Partnership (Owner of Record)

AUTHORIZED AGENT

ADDRESS 1520 Nutmeg Place

Costa Mesa, CA. 92626

ADDRESS

Applicant is reminded that all ordinances and regulations governing the use of the land or buildings to which this application pertains must be complied with whether specified herein or not.

PREPARED BY WB:alm

REQUEST:

A Variance from parking requirements or a Conditional Use Permit for reciprocal parking in conjunction with the establishment of a dental office in an existing commercial building.

FINAL COMMISSION ACTION: March 11, 1985

PLANNING ACTION PA-85-31 - Variance approved, based on the finding that the existing conditions, i.e. unused parking spaces, are unique and meet the intent of the Government Code section that requires a site hardship and that approving the Variance avoids the granting of a special privilege to the applicant, and subject to the conditions contained in the Planning Division Staff Report with Condition No. 3 deleted.

(4-1, Mr. Clarke voting no)

APPLICANT NOTIFIED be DATE 3/14/85

CITY OF COSTA MESA, 77 FAIR DRIVE, COSTA MESA, CA 92626 (714) 754-5245

CMF 0360-30, rev. 1/82

I. DESCRIPTION

A. Subject Property

1. Location - 1520 Nutmeg Place
2. General Plan Designation - General Commercial
3. Zone - C1-CP
4. Present development - Existing 27,000 sq.ft. office building
5. Lot dimensions - Approximately 167' x 265' (1 acre)
6. CEQA - Exempt: Class 3, Conversion of Small Structures

B. Surrounding Property

1. North, East - C1-CP, Commercial
2. South - C1, Commercial
3. West - R3-CP, Apartments

C. Request

Variance from parking requirements or a Conditional Use Permit for reciprocal parking in conjunction with the establishment of a dental office in an existing commercial building.

D. Background

On January 12, 1981, Planning Commission approved Zone Exception Permit ZE-81-06, a Conditional Use Permit for off-site parking, small car parking, and building height in excess of 30' in conjunction with construction of an approximately 27,000 sq.ft. office building.

On February 7, 1985, City Council accepted the recorded off-site parking agreement and a "Grant of Non-Exclusive Easement" as satisfying Condition of Approval No. 2 of ZE-81-06.

On March 28, 1985, Planning Commission approved ZE-83-45, a 3 parking space Variance to allow the establishment of a doctor's office (chiropractor) in the building.

II. PROJECT DESCRIPTION

Applicant proposes to establish a dental office in a 1,443 sq.ft. suite of the existing building. Either a Variance from required parking spaces or a Conditional Use Permit for reciprocal parking is required as the number of parking spaces required by Code cannot be provided. Staff will be processing this as a Variance from parking as it appears that this use would generate little or limited reciprocal traffic between this use and others in the building.

III. PLANNING STAFF ANALYSIS

A. Parking for the 1,443 sq.ft. doctor's office is as follows:

Required	Provided
9 spaces	6 spaces

Staff notes a conflict between the area of the dental office discussed in the applicant's project description (1443 sq.ft.) and the area indicated on the submitted site plan (1257 sq.ft.) Although the required parking would be reduced to 8 spaces with the lower area, the 3-space difference between required and provided spaces would remain.

B. Total available parking for the 27,000 sq.ft. office building is 108 spaces; 62 spaces are available on-site and 46 spaces are available off-site, on the adjoining RB furniture lot, as a result of a recorded off-site parking agreement. The maximum number of compact spaces is provided. The requested dental offices would cause the parking requirement to increase to 111 spaces.

C. Hours of operation are proposed as follows:

Monday	9:30 a.m. - 7:30 p.m.
Tuesday	8:00 a.m. - 7:30 p.m.
Wednesday	9:30 a.m. - 4:00 p.m.
Thursday	8:30 a.m. - 4:00 p.m.
Friday	7:30 a.m. - 12:30 p.m.
Saturday	9:00 a.m. - 2:00 p.m.

Although 2 dentists operate this business, they work on different days so that no more than one dentist will be in the office at one time. Additionally, the dentists have a maximum of 2 assistants in the office at a time except on Tuesdays when 3 assistants are present. 4-5 chairs are proposed but are not filled at all times; generally, 1-2 chairs at a time are empty.

D. Although the hours of operation and the anticipated occupancy of the dental office do indicate that some off-set or overlapping parking will occur, the largest portion of office hours will occur at the same time as the majority of the other office uses. Staff suggests that the degree of overlap or off-set hours are not sufficient to warrant approval of the request.

E. Previously, additional off-site parking spaces were obtained under ZE-81-06 in order to meet parking requirements. The RB Furniture site has 53 spaces remaining outside of those committed to the off-site parking agreement. As the furniture store only requires 38 spaces, an additional 15 spaces are available for allocation to the office use. However, the applicant has indicated that the off-site parking agreement cannot be modified to add three parking spaces without considerable time and expense and that he is not willing to pursue this alternative because of these constraints.

F. Staff inspected the site and found 3 empty spaces of the 62 on the office property (2 of which were handicapped) and 47 vacant spaces of the 99 spaces on the RB Furniture lot. Spot checks at different times support these general findings. However, Staff suggests that although it appears that more than adequate parking exists for the two buildings at this time, changes in tenants or employee changes within existing tenants could generate a greater demand on parking. It should also be noted that the office building is not fully occupied since the dentist has not occupied the proposed suite.

G. Code requires a finding of site hardship due to size, shape, area or location of a lot or exceptional circumstances to justify approval of a Variance. Staff cannot make such findings.

CONDITIONS OF APPROVAL

Plng. 1. No more than six parking spaces shall be allocated to the proposed business.

2. No more than one dentist shall be on duty at any one time, with a maximum of 3 assistants.

3. Approval shall be for a period of one (1) year. Prior to expiration, applicant may request renewal, subject to reevaluation at that time. The Development Services Director may extend the Planning Action for a period not to exceed two (2) years if all conditions of approval have been satisfied, no complaints have been received, and the site inspection reveals compliance with applicable Ordinance requirements. Thereafter, the Development Services Director may extend the permit for successive two (2) year periods under the same terms.

Fire 4. Provide address numerals which conform to Fire Department Standards with respect to size (12") and location.

THE REQUIREMENT OF THE FOLLOWING SPECIAL DISTRICT IS HEREBY FORWARDED TO THE APPLICANT:

Sani. 5. Applicant to pay all applicable Sanitary District fixture fee charges.

PLANNING DIVISION
STAFF REPORT

AGENDA NO. 7j

SITE LOCATION 1520 Nutmeg Place

APPLICATION NO. ZE-83-45

AP # 139-551-12

MANDATORY ACTION DATE March 2, 1984

APPLICANT George L. Graziadio, et al
(Owner of Record)

AUTHORIZED AGENT Stevan R. Cavillo

ADDRESS 695 Town Center Drive, #301
Costa Mesa, CA 92626

ADDRESS 695 Town Center Drive, #301
Costa Mesa, CA 92626

Applicant is reminded that all ordinances and regulations governing the use of the land or building(s) to which this application pertains must be complied with whether specified herein or not.

PREPARED BY KL:hwm

REQUEST:

Variance from parking to allow establishment of a doctor's office in an existing commercial building.

FINAL COMMISSION ACTION: March 28, 1983

Zone Exception Permit ZE-83-45 - Approved, based on findings that the total site has more than adequate parking to meet the needs of the office building and furniture store; recorded documents do exist and a reciprocal parking agreement will go into effect at a given point in time; and the technicality of the existing parking variance being 3% is insignificant inasmuch as the doctor's use should not create any parking hardship on this site. Approval was subject to the conditions contained in the Planning Division Staff Report, with an added condition to read:

5. Approval shall be for a period of one (1) year. Prior to expiration, applicant may request renewal, subject to reevaluation at that time. The Development Services Director may extend the Zone Exception Permit for a period not to exceed two (2) years, if all conditions of approval have been satisfied, no complaints have been received, and site inspection reveals compliance with applicable Ordinance requirements. Thereafter, the Development Services Director may extend the permit for successive two-year periods under the same terms. (4-0, Mr. Sloate absent)

APPLICANT NOTIFIED ES DATE 3/30/83

CITY OF COSTA MESA, 77 FAIR DRIVE, COSTA MESA, CA 92626 (714) 754-5245

costa mesa

CMF 0360-30, rev. 1/82

I. DESCRIPTION

A. Subject Property
1. Location - 1520 Nutmeg Place
2. General Plan Designation - General Commercial
3. Zone - C1-CP
4. Present Development - Existing 27,000-sq.ft. office building
5. Lot Dimensions - Approximately 167' x 265' (1.01 acres)
6. CEQA - Exempt: Class 3, Conversion of Small Structures
7. Background -

On January 12, 1981, a Conditional Use Permit was approved for off-site parking, small car parking, and building height in excess of 30' in conjunction with construction of a 27,000 sq.ft. office building. Subsequently, the recorded off-site parking agreement was approved by City Council on February 7, 1983.

B. Surrounding Property
1. North, East - C1-CP, commercial
2. South - C1, commercial
3. West - R3-CP, apartments

II. REQUEST AND ANALYSIS

A. Request is for a variance from parking to allow establishment of a doctor's office in an existing commercial building.

B. Parking for the ~~15,000~~ 1,520 sq.ft. doctor's office is as follows:

Required	Provided
9 spaces	6 spaces

C. Total available parking for the 27,000-sq.ft. office building is 108 spaces; 62 spaces are available on-site and 46 spaces are available off-site as a result of a recorded off-site parking agreement. The maximum number of compact spaces is provided.

D. Hours of operation for the proposed chiropractic business will be 9:00 a.m. to 1:00 p.m. and 3:00 p.m. to 7:00 p.m. Thus, office hours for the proposed business are somewhat "off-set" from regular 8:00 a.m. to 5:00 p.m. office hours, although hours of operation are the same for the majority of the day.

E. Previously, additional off-site parking spaces were obtained in order to meet parking requirements. The applicant has indicated that the off-site parking agreement cannot be modified to add three parking spaces.

III. PLANNING STAFF FINDINGS

A. Inadequate parking exists on subject site to accommodate the proposed use.

B. Operating hours of the proposed business are not adequately off-set from regular office hours to warrant approval of the requested variance.

C. No site hardship or other extraordinary circumstances exists to justify the requested variance.

D. Approval of the requested parking variance could constitute a grant of special privilege.

IV. PLANNING STAFF RECOMMENDATION

Deny

V. CONDITIONS, IF APPROVED

Shall meet all the requirements of the various City departments, copy attached hereto.

CONDITIONS OF APPROVAL

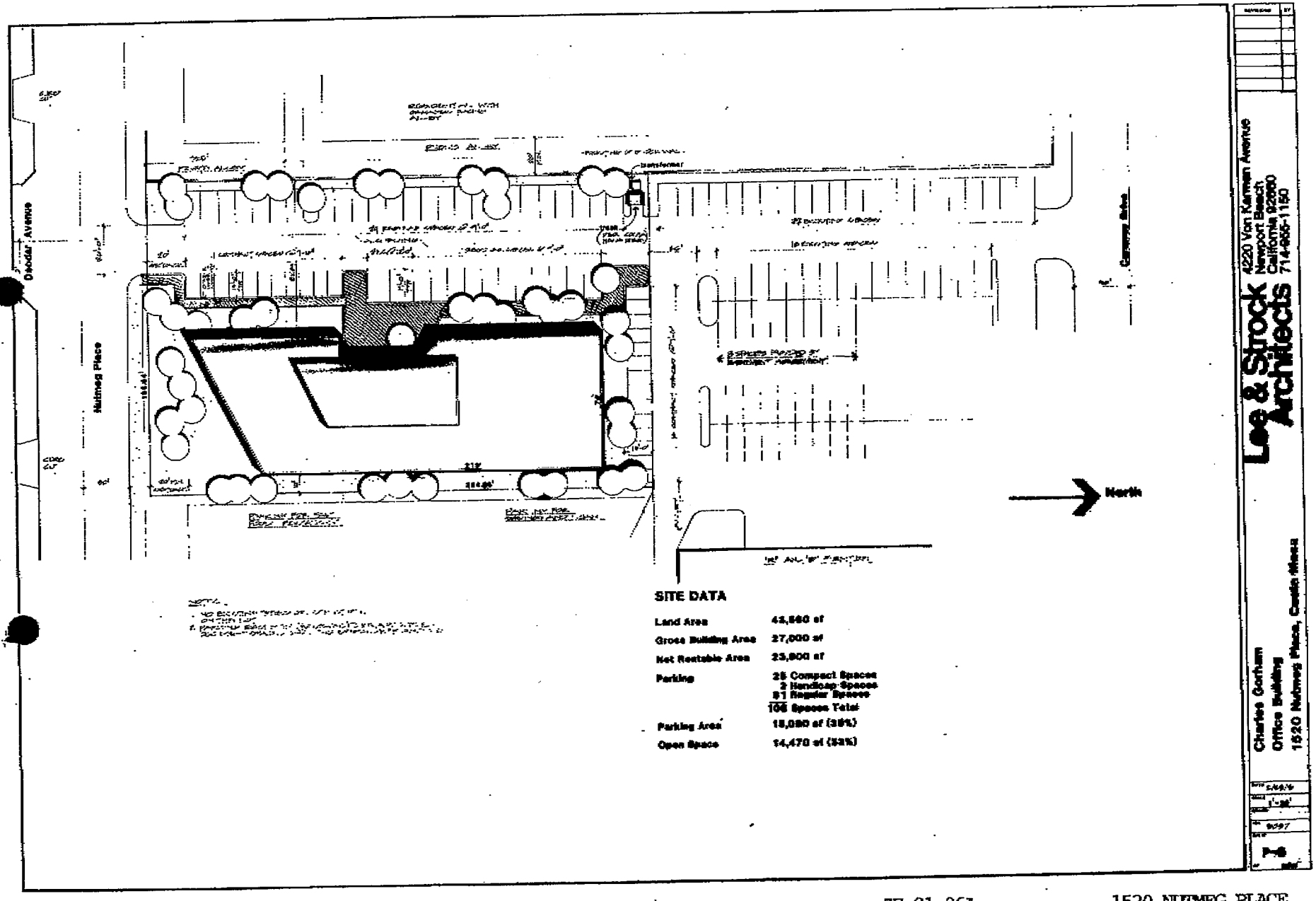
Plng. 1. Hours of operation shall be 9:00 a.m. to 1:00 p.m. and 3:00 p.m. to 7:00 p.m.
2. No more than six parking spaces shall be allocated to the proposed business.
3. No more than one chiropractor shall be on duty at any one time.

THE REQUIREMENT OF THE FOLLOWING SPECIAL DISTRICT IS HEREBY FORWARDED TO THE APPLICANT:

4. Applicant to pay all current Sanitary District sewer connection charges.

PCA: 3/28/83 - Approved, with the following added condition:

5. Approval shall be for a period of one (1) year. Prior to expiration, applicant may request renewal, subject to reevaluation at that time. The Development Services Director may extend the Zone Exception Permit for a period not to exceed two (2) years, if all conditions of approval have been satisfied, no complaints have been received, and site inspection reveals compliance with applicable Ordinance requirements. Thereafter, the Development Services Director may extend the permit for successive two-year periods under the same terms. (4-0, Mr. Sloate absent)



ZE-81-06A 1520 NUTMEG PLACE

ZE-83-45 Graziadio et al/Calvillo

COMMERCE REALTY
License # 0159327

Via First Class Mail & Email MINOO.ASHABI@costamesaca.gov

December 14, 2011

Mino Ashabi, AIA
Senior Planner
City of Costa Mesa
77 Fair Drive
Costa Mesa, CA 92628

RE: Zoning Application ZA-11-17 (Taco Bell)
Revocation of Conditional Use Permits – 1520 Nutmeg Place
(PA-85-31 & ZE-83-45)

Dear Minoo:

As a follow up to your request, and in accordance with the requirements set forth in Zoning Application (ZA-11-17 / Taco Bell at 3115 Harbor Blvd), please accept this letter as the property owner's, Harbor Mesa LLC, support of revocation of PA-85-31 and ZE-83-45, and hold harmless entry for the public notice signs that will be installed on the Premises.

If further assistance is required, please contact me or Todd Leger at (310) 373-2797

Thank you.

Sincerely,

William R. Lang
President of Manager for Harbor Mesa LLC

149 Palos Verdes Boulevard • Suite E • Redondo Beach, CA 90277 • 310.373.2797 **Telephone** 310.373.4719 **Fax**

COSTA MESA
EXHIBIT "B"
LOT LINE ADJUSTMENT
LL 0000-000
Map

Owners	Existing Parcels AP Number	Proposed Parcels Reference Number
W.R. LANG, AGENT	139-551-15 139-551-16 139-551-21	1, 2 & 3

NET PARCEL AREA

LOT 1
35,169 SQ. FT.
0.807 AC.
LOT 2
27,462 SQ. FT.
0.630 AC.
LOT 3
26,322 SQ. FT.
0.604 AC.

CURVE DATA

A
Δ=23°33'23"
R=50.00'
L=20.56'

B
Δ=69°17'22"
R=70.00'
L=84.65'

C
Δ=15°37'01"
R=70.00'
L=19.08'

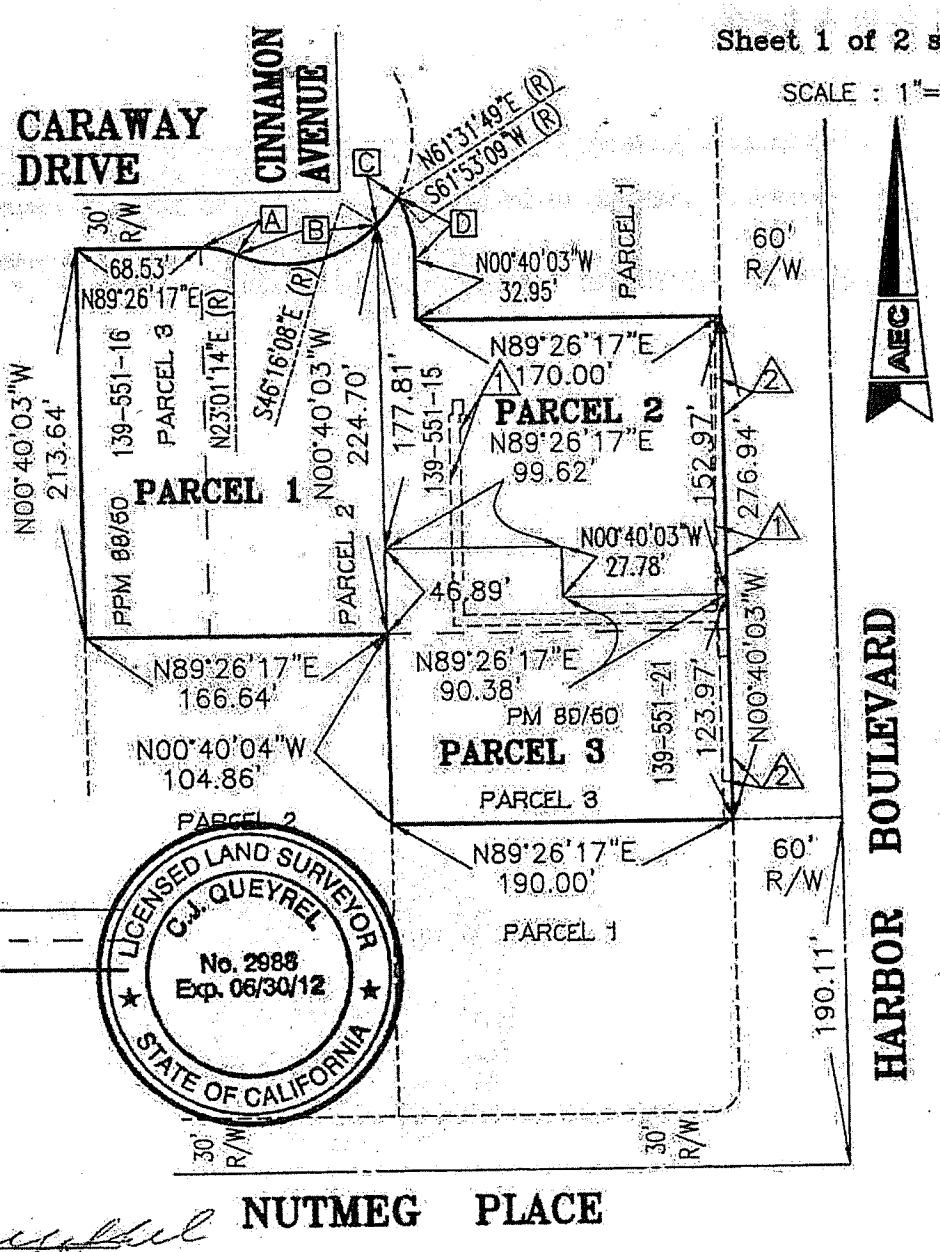
D
Δ=27°48'08"
R=75.00'
L=36.39'

LEGEND

PROPERTY LINE-NEW
PROPERTY LINE-REMOVE
PROPERTY LINE-REMAIN

Sheet 1 of 2 sheet

SCALE : 1"=100'

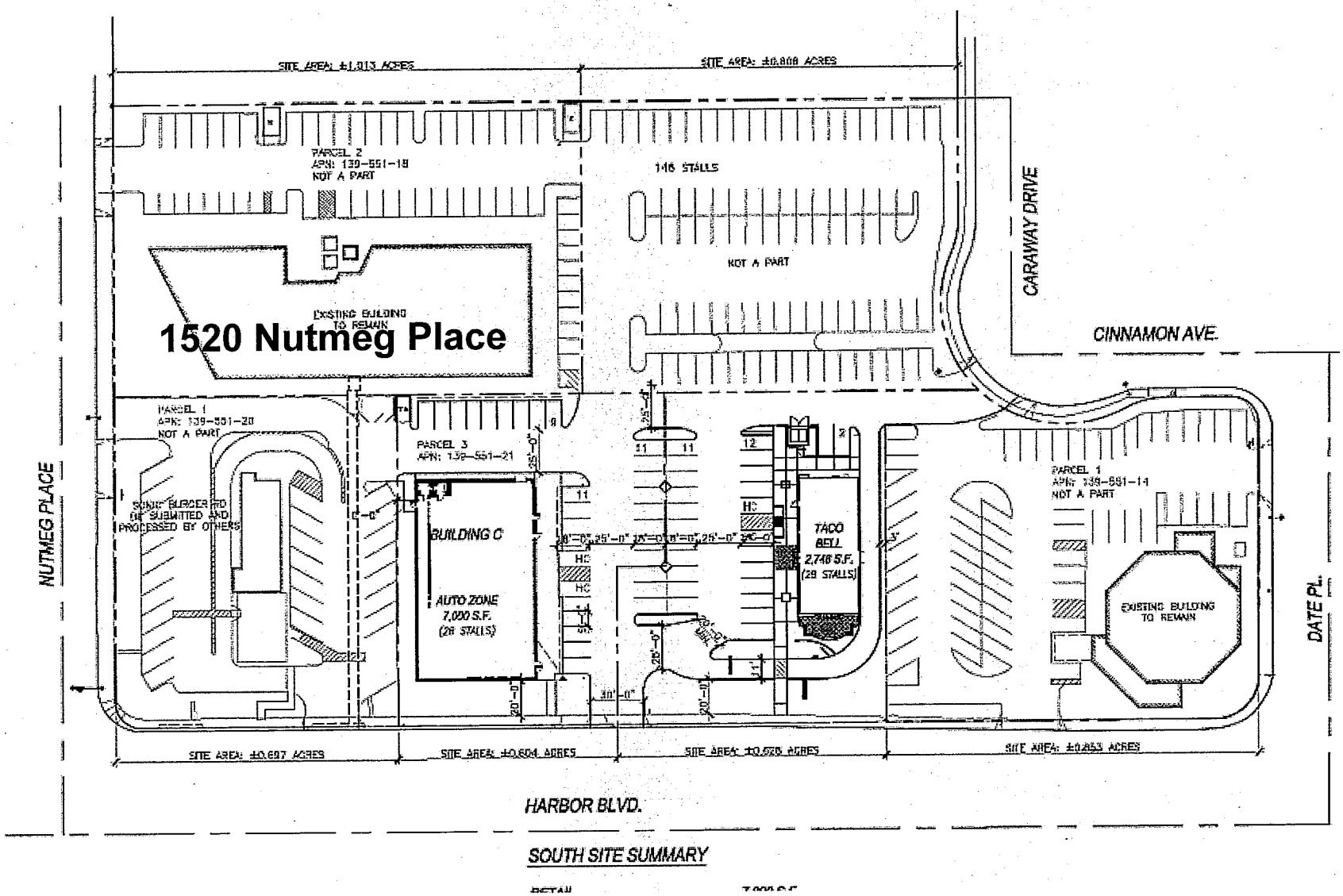


LICENSED LAND SURVEYOR
C.J. QUEYREL
No. 2988
Exp. 06/30/12
STATE OF CALIFORNIA

THIS MAP HAS BEEN PREPARED BY ME OR UNDER MY DIRECTION

C.J. QUEYREL, LS 2988
MY REGISTRATION EXPIRES: 6/30/12

AEC 10-027

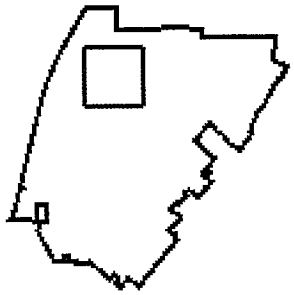


SOUTH SITE SUMMARY

REFERENCE SITE PLAN

ATTACHMENT 5

Overview Map



Legend

Address Medium
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Roads
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Freeway
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Newport BLVD (cont)
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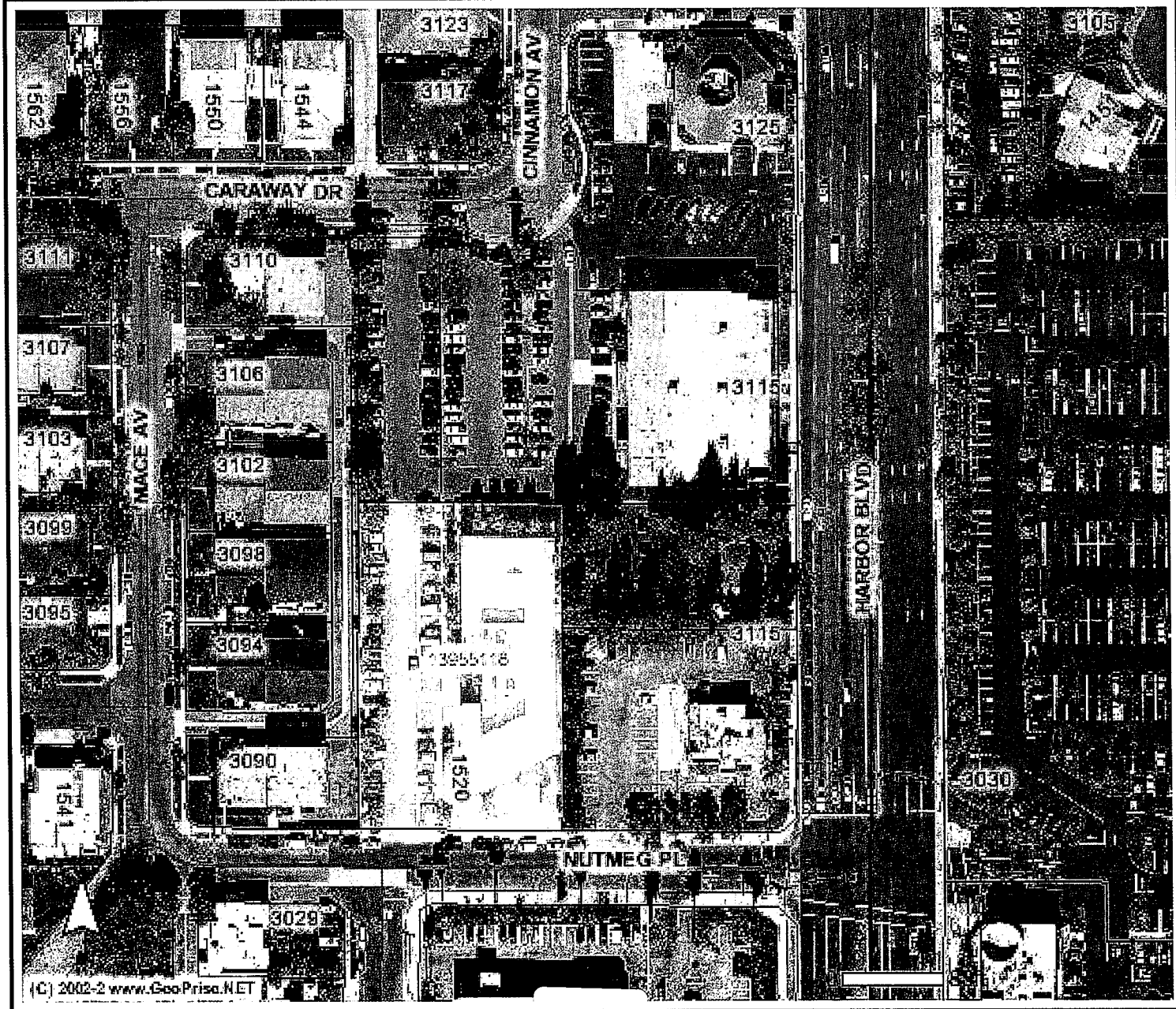
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