



PLANNING COMMISSION AGENDA REPORT

MEETING DATE: JULY 8, 2013

ITEM NUMBER: PH 1

**SUBJECT: REVOCATION OF CONDITIONAL USE PERMIT PA-05-33 FOR A TATTOO PARLOR
2156 NEWPORT BOULEVARD, SUITE A**

DATE: JUNE 27, 2013

**FOR FURTHER INFORMATION CONTACT: MEL LEE, AICP (714) 754-5611
mel.lee@costamesaca.gov**

PROJECT DESCRIPTION

The City of Costa Mesa has initiated the revocation of Planning Application PA-05-33, a Conditional Use Permit for a tattoo parlor.

RECOMMENDATION

Revoke PA-05-33 by adoption of Planning Commission resolution.

BACKGROUND/ANALYSIS

Project Site/Environs

The property is located near the southeast corner of 22nd Street and Newport Boulevard, south of the Stater Bros. grocery store, and contains a two-story commercial building. The property is zoned C1 (Local Business District) and has a General Plan land use designation of Commercial Residential.

PA-05-33

- On September 26, 2005, the Planning Commission approved Conditional Use Permit PA-05-33 for a tattoo establishment (originally Pirate City Tattoo) in a 500 square foot suite in the first floor of the building in Suite A; the second floor (Suite B), is occupied by a massage establishment.
- On April 8, 2013, Conditional Use Permit PA-13-05 to relocate the current tattoo establishment (Blue Collar Tattoo) to 2204 Newport Boulevard was approved by the Planning Commission on a 4-1 vote (Commissioner McCarthy voting no). The relocation was completed in May 2013 and the establishment is in operation at the new location. As a result, staff is initiating the revocation of the above conditional use permit for the former location.

Basis for Revocation

Once approved, use permits “run with the land”; in this case, even though a tattoo establishment no longer operates at this property, a future tattoo establishment could be re-established without having to obtain approval of a new conditional use permit. 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, concerns were raised during the public hearing for PA-13-05 about the potential overconcentration of tattoo parlors in the immediate vicinity.

On June 12, 2013 staff sent a letter to Margit H. Braathen, the current owner of the property, advising her of the proposed revocation of the use permit. As of the date of this report, staff has not received any communications from the property owner.

GENERAL PLAN CONFORMITY

As noted earlier, concerns were raised during the public hearing for PA-13-05 about the potential overconcentration of tattoo parlors in the immediate vicinity; therefore, the revocation would be consistent with Objective LU-1F.1 of the General Plan Land Use Element, which encourages the protection of existing stabilized neighborhoods from the encroachment of incompatible or potentially disruptive land uses and/or activities.

ALTERNATIVES

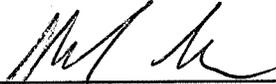
The Commission may take no action to revoke the use permit. If the use permit is not revoked, the approval for a tattoo use would continue to remain in place for the property. A tattoo parlor could be re-established without having to obtain approval of a new conditional use permit, provided that the operational characteristics, such as hours of operation, are similar.

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 is warranted due to the cessation of the tattoo use at this location and the potential for overconcentration of tattoo parlors in the immediate vicinity. If a similar use is proposed in the future, a new conditional use permit would be required. Therefore, staff recommends that the use permit be revoked.



MEL LEE, AICP
Senior Planner



CLAIRE FLYNN, AICP
Asst. Development Services Director

- Attachments: 1. Draft Planning Commission Resolution
 2. Staff Report, Location Map, and Plans for PA-05-33

- cc: Director of Economic & Development / Deputy CEO
 Sr. Deputy City Attorney
 Public Services Director
 City Engineer
 Transportation Services Manager
 Fire Protection Analyst
 Staff (4)

Margit H. Braathen
2013 Irvine Avenue
Costa Mesa, CA 92627

Blue Collar Tattoo
Attn: Jason Lewis
2204 Newport Boulevard
Costa Mesa, CA 92627

RESOLUTION NO. PC-13-

**A RESOLUTION OF THE PLANNING COMMISSION OF THE
CITY OF COSTA MESA REVOKING CONDITIONAL USE
PERMIT PA-05-33**

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

WHEREAS, on September 26, 2005, the Planning Commission approved
Conditional Use Permit PA-05-33 for a tattoo establishment in a 500 square foot suite in
the first floor of the building, located at 2156 Newport Boulevard, Suite A;

WHEREAS, the tattoo use ceased operation at this location in May, 2013 and
relocated to a new location at 2204 Newport Boulevard, under Conditional Use Permit
PA-13-05;

WHEREAS, due to concerns about the potential overconcentration of tattoo
parlors in the immediate vicinity, the City initiated revocation of Conditional Use Permit
PA-05-33;

WHEREAS, the property owner did not submit an objection to the revocation of
the use permit;

WHEREAS, a duly noticed public hearing was held by the Planning Commission
on July 8, 2013.

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
Permit PA-05-33 with respect to the property described above.

PASSED AND ADOPTED this 8th day of July, 2013.

Jim Fitzpatrick 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 July 8, 2013, by the following votes:

AYES: COMMISSIONERS
NOES: COMMISSIONERS
ABSENT: COMMISSIONERS
ABSTAIN: COMMISSIONERS

Secretary, Costa Mesa
Planning Commission

EXHIBIT A

- A. On September 26, 2005, the Planning Commission approved Conditional Use Permit PA-05-33 for a tattoo establishment in a 500 square foot suite in the first floor of 2156 Newport Boulevard, Suite A. On April 8, 2013, an application to relocate the establishment (Blue Collar Tattoo) to 2204 Newport Boulevard under PA-13-05 was approved by the Planning Commission. The relocation was completed in May 2013 and the establishment is in operation at the new location. Because concerns were raised during the public hearing for PA-13-05 of the overconcentration of tattoo parlors within the same vicinity, staff initiated the revocation of the conditional use permit at this location. Once approved, use permits “run with the land”; in this case, even though a tattoo establishment no longer operates at this property, a future tattoo establishment could be re-established without having to obtain approval of a new conditional use permit. 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, revocation was initiated due to the potential overconcentration of tattoo parlors in the immediate vicinity. On June 12, 2013 the current owner of the property was notified of the proposed revocation of the use permit. As of this date, staff has not received any communications from the property owner.

- 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.



PLANNING COMMISSION AGENDA REPORT

MEETING DATE: SEPTEMBER 26, 2005

III 11.
ITEM NUMBER:

SUBJECT: PLANNING APPLICATION PA-05-33
2156 NEWPORT BOULEVARD

DATE: SEPTEMBER 15, 2005

FOR FURTHER INFORMATION CONTACT: WENDY SHIH, ASSOCIATE PLANNER (714) 754-5136

PROJECT DESCRIPTION

The applicant is requesting approval of a conditional use permit to establish a tattoo parlor within an existing commercial building.

APPLICANT

The applicant is Jeff Mayes, representing the property owners, Steve and Lynn Schultz.

RECOMMENDATION

Approve by adoption of Planning Commission resolution, subject to conditions.



WENDY SHIH
Associate Planner



R. MICHAEL ROBINSON, AICP
Asst. Development Services Director

BACKGROUND

The subject property is located near the southeast corner of 22nd Street and Newport Boulevard, south of Stater Brothers grocery store. It is zoned C1 (Local Business District) with a General Plan designation of Commercial Residential, surrounded by the 55 Freeway across Newport Boulevard to the west, and commercially zoned and developed properties to the north and south. The property to the east is zoned R1 (Single-Family Residential). The property is also located within the Newport Boulevard Specific Plan (NBSP) area.

The applicant proposes to occupy an approximately 500 square-foot first floor suite to establish a tattoo and piercing shop within an existing two-story commercial building. Per Costa Mesa Municipal Code Section 13-30 (144), tattoo parlors require approval of a conditional use permit.

In 1997, City Council adopted Ordinance No. 97-16 (Title 8, Chapter VI of the Municipal Code) that established regulations for tattoo establishments (a copy of which is attached to this report). There are three tattoo establishments currently in operation in the City (2075 Newport Boulevard, 2981 Bristol Street, B-4, and 788 West 19th Street), all of which were approved by conditional use permits. In May 2005, the Planning Commission approved PA-05-12 to allow a tattoo parlor at 2428 Newport Boulevard, Units 5 and 6. The operation of the tattoo parlor at 2428 Newport Boulevard is pending completion of a condition of approval. The Police Department has not received any complaints about the existing tattoo establishments.

ANALYSIS

The proposed business will have a customer waiting area, two tattoo and piercing stations, a storage room, and bathroom. The suite is located at the front of the property, more than 100 feet away from residential property to the rear (east), and is separated by garages.

The applicant proposes to operate between noon and 10 p.m. daily. Since the property backs up to single-family residences, staff is recommending a condition of approval requiring the hours of operation for customer service be limited to the proposed hours. Staff is also recommending a condition that the tattooing or piercing of "specified anatomical areas" as described in Title 13, Chapter IX, Article 1 (Sexually Oriented Businesses) cannot be visible to the public. These conditions are consistent with the conditions of approval for the existing tattoo establishments.

The proposed business is in compliance with the NBSP because the plan allows a wide variety of retail and service establishments. Per Section 2.3 of the NBSP, the business will be subject to limitations on hours of operation, and adequate buffer from the adjacent residential property is already provided.

ALTERNATIVES

If the application is not approved, the use cannot be established on the property. Another use permitted by right in the C1 zone per the Zoning Code may be established.

CONCLUSION

Staff supports the proposed use given that the business location is more than 100 feet away from the residential property to the rear (east) and existing parking garages provide a physical separation. The operators of the tattoo business will be required to comply with all applicable City and County regulations, as well as conditions of approval, to minimize impacts to surrounding properties and uses.

Attachments : Draft Planning Commission Resolution
 Exhibit "A" - Draft Findings
 Exhibit "B" - Draft Conditions of Approval
 Applicant's Project Description and Justification
 Zoning/Location Map
 Plans
 Title 8 Excerpt

cc: Deputy City Manager - Dev. Svs.
 Senior Deputy City Attorney
 City Engineer
 Fire Protection Analyst
 Staff (4)
 File (2)

Steve and Lynn Schultz
 2156 Newport Blvd.
 Costa Mesa, CA 92627

Jeff Mayes
 31501 Marbeth Rd.
 Yucaipa, CA 92399

File: 092605PA0533	Date: 091405	Time: 1:45 p.m.
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RESOLUTION NO. PC-05-64

**A RESOLUTION OF THE PLANNING COMMISSION OF
THE CITY OF COSTA MESA APPROVING PLANNING
APPLICATION PA-05-33**

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

WHEREAS, an application was filed by Jeff Mayes, authorized agent for Steve and Lynn Schultz, with respect to the real property located at 2156 Newport Boulevard, requesting approval of a conditional use permit to establish a tattoo parlor within an existing commercial building; and

WHEREAS, a duly noticed public hearing was held by the Planning Commission on September 26, 2005;

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-05-33 with respect to the property described above.

BE IT FURTHER RESOLVED that the Costa Mesa Planning Commission does hereby find and determine that adoption of this resolution is expressly predicated upon the activity as described in the staff report for PA-05-33 and upon applicant's compliance with each and all of the conditions contained in Exhibit "B". Should any material change occur in the operation, or should the applicant fail to comply with the conditions of approval, then this resolution, and any recommendation for approval herein contained, shall be deemed null and void.

PASSED AND ADOPTED this 26th day of September, 2005.



Chair, Costa Mesa
Planning Commission

EXHIBIT "A"**FINDINGS**

- 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. The project is consistent with the General Plan and the Newport Boulevard Specific Plan.
 3. 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 use is substantially compatible with developments in the same general area. 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, the suite in which the business is proposed is located more than 100 feet away from the residential property to the rear (east) and separated by garages. As a result, there should be no impacts to the residential properties. Additionally, the operators of the business will be required to obtain Orange County Environmental Health Care Agency permits and approvals. 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.
- 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.
- D. 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**

- PIng.
1. The business shall be conducted, at all times, in a manner that will allow the quiet enjoyment of the surrounding neighborhood. The applicant and/or business owner shall institute whatever security and operational measures are necessary to comply with this requirement.
 2. This business shall be conducted in such a manner so that it does not permit the observation by customers or the public of the tattooing or piercing of "specific anatomical areas" as described in Title 13, Chapter IX, Article 1 (sexually oriented businesses).
 3. The conditional and minor conditional use permits herein approved shall be valid until revoked, but shall expire upon discontinuance of the activity authorized hereby for a period of 180 days or more. The conditional use permit may be referred to the Planning Commission for modification or revocation at any time if the conditions of approval have not been complied with, if the use is being operated in violation of applicable laws or ordinances, or if, in the opinion of the development services director or his designee, any of the findings upon which the approval was based are no longer applicable.
 4. 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.
 5. Hours of operation for customer service shall be limited to the hours between noon and 10 p.m. daily.

CODE REQUIREMENTS

The following list of federal, state and local laws applicable to the project has been compiled by staff for the applicant's reference. Any reference to "City" pertains to the City of Costa Mesa.

- | | | |
|--------------|----|--|
| Bus.
Lic. | 1. | A business license shall be obtained prior to the initiation of the business approved under this application. |
| Plng. | 2. | Approval of the planning application is valid for one (1) year and will expire at the end of that period unless building permits are obtained and/or business commences, or the applicant applies for and is granted an extension of time. |
| | 3. | Permits shall be obtained for all signs according to the provisions of the Costa Mesa Sign Ordinance. |
| | 4. | The business shall comply with all County of Orange Environmental Health Department regulations. |
| | 5. | The business shall comply with all applicable requirements of Section 8-136 through 8-155, Chapter VI, Title 8, of the Costa Mesa Municipal Code relating to tattoo establishments (see attached). |
| Bldg | 6. | Comply with the requirements of the Uniform Building Code as to design and construction and CCR Title 24 pertaining to "Disabled Access Regulations". |

PLANNING DIVISION - CITY OF COSTA MESA
DESCRIPTION/JUSTIFICATION

Application #: **PA-05-33**

Environmental Determination:

Address:

2156 NEWPORT BLVD, COSTA MESA

1. Fully describe your request:

BUSINESS LICENSE, FOR TATTOO PARLOR & PIERCING.

2. Justification

A. For a Conditional Use Permit or Minor Conditional Use Permit: Describe how the proposed use is substantially compatible with uses permitted in the same general area and how the proposed use would not be materially detrimental to other properties in the same area.

*BODY ART, IS A FORM OF ART IN IT FULLEST CONTENT,
AND ONLY OFFER TO PEOPLE OVER 18.*

B. For a Variance or Administrative Adjustment: Describe the property's special circumstances, including size, shape, topography, location or surroundings that deprive the property of privileges enjoyed by other properties in the vicinity under the identical zoning classification due to strict application of the Zoning Code.

3. This project is: (check where appropriate)

In a flood zone.

Subject to future street widening.

In the Redevelopment Area.

In a Specific Plan Area.

4. I have reviewed the HAZARDOUS WASTE AND SUBSTANCES SITES LIST published by the office of Planning and Research and reproduced on the rear of this page and have determined that the project:

Is not included in the publication indicated above.

Is included in the publication indicated above.

Signature

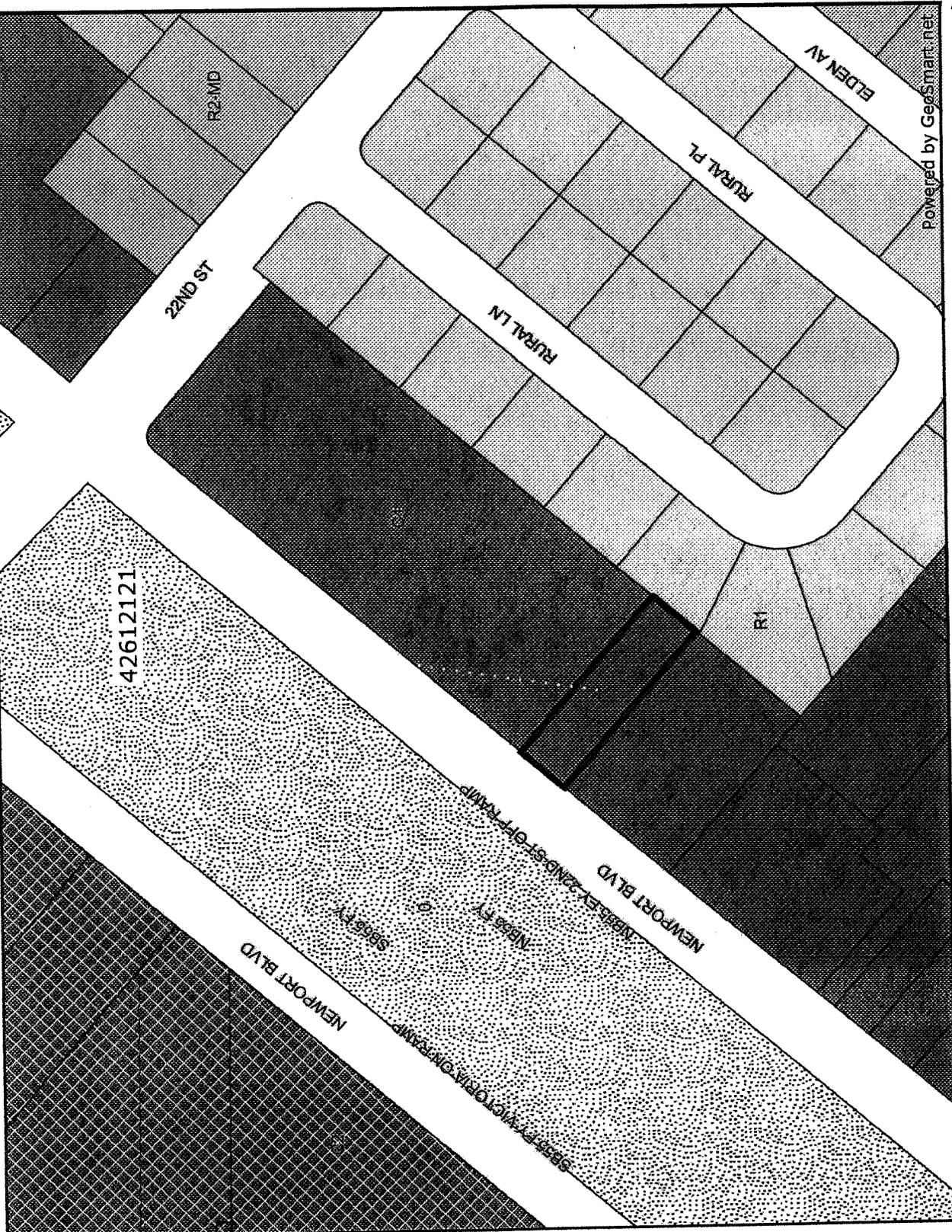
Date

March '96

ZONING/LOCATION MAP

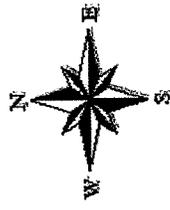
2156 Newport Boulevard

42612121



Legend

- Selected Features
 - Street Names
 - Parcel Lines
 - City Boundary
 - Zoning
- AP
 C1
 C1-S
 C2
 CL
 I&R
 I&R-S
 MG
 MP
 P
 PBC
 PBI
 PDR-HD
 PDR-LD
 PDR-MD
 PDR-NCM
 R1
 R2-HD
 R2-MD
 R3
 TC
 Parcels



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AERIAL PHOTOGRAPH

2156 Newport Boulevard

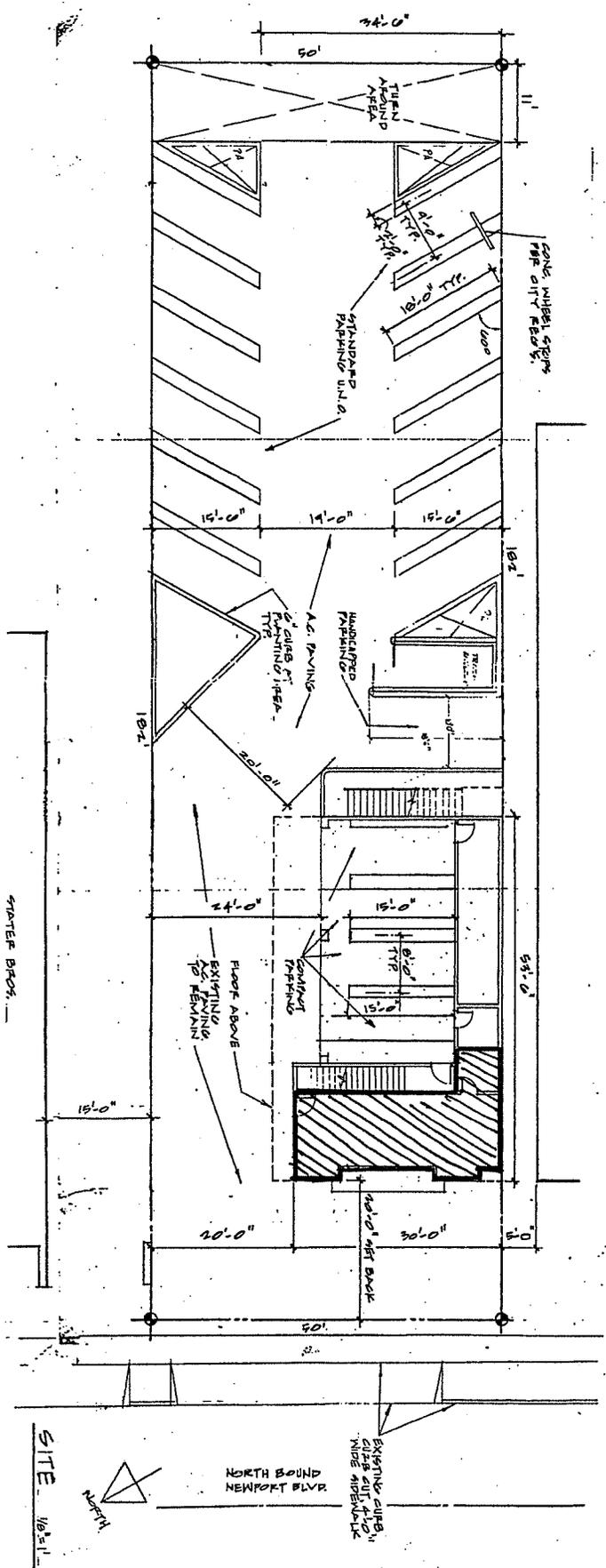


Legend

-  Selected Features
-  Street Names
-  Parcel Lines
-  City Boundary
-  Ortho Photography
-  Parcels



17



LOT AREA	9100 SQ. FT.
BUILDING AREA:	
FIRST FLOOR	542 SQ. FT.
SECOND FLOOR	1480 SQ. FT.
TOTAL	2022 SQ. FT.
PAVING:	
REQUIRED -	17 SPACES
PROVIDED -	12 "
STANDARD SPACES	4 "
CONTRACT	1 "
HANDICAPPED	16 SPACES
TOTAL	
OPEN SPACE:	
REQUIRED -	
16 PARKING SPACES	
X 29 SQ. FT. = 460	
PROVIDED	479 SQ. FT.
DRIVES & PAVING	6720 SQ. FT.
ASPHALT	
CONSTRUCTION TYPE: SIN	

A.I.M.T. SCHOOL BUILDING
 2190 NEWPORT BLVD.
 COSTA MESA, CA.

OWNER: DR. HUNGERFORD, PH. NO. (714) 442-0735

Date	
Drawn	
Scale	

18

drive way //

2156 New Port Blvd
Costa Mesa CA 92626

Private City Tattoo
(909) 888-0500 wk.
(909) 855-5850 cel -
(909) 794-1479 hm -
2156 New Port Blvd
Costa Mesa, CA

