



# **PLANNING COMMISSION AGENDA REPORT**

MEETING DATE: AUGUST 11, 2014

ITEM NUMBER: PH-3

**SUBJECT:** PLANNING APPLICATION PA-14-24 CONDITIONAL USE PERMIT FOR A SMOG CHECK STATION LOCATED WITHIN 200 FEET OF RESIDENTIAL PROPERTY AT 1370 LOGAN AVENUE, UNIT #F

**DATE:** AUGUST 31, 2014

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

**PRESENTATION BY:** ANTONIO GARDEA, SENIOR PLANNER

**FOR FURTHER INFORMATION CONTACT:** ANTONIO GARDEA (714) 754-5692  
antonio.gardea@costamesaca.gov

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## **PROJECT DESCRIPTION**

The applicant is requesting a Conditional Use Permit to allow the establishment of a smog check station, for diagnosis operations only, no automobile repairs will be performed, within an existing industrial building that is located within 200 feet of a residential zone.

## **APPLICANT**

Abbaas Malik is the authorized agent for the property owner, WKR Enterprises, Inc.

## **RECOMMENDATION**

1. Find that the project is exempt from further CEQA review per section 15301 – Existing Facilities; and
2. Approve by adoption of Planning Commission resolution, subject to conditions of approval.

## **BACKGROUND**

### ***Project Site/Environs***

The property is located on the north side of Logan Avenue between College Avenue and McClintock Way. The property is zoned MG (General Industrial District) and has a General Plan land use designation of Light Industry. The property is bounded by industrially-zoned property to the east, west and south and a multiple-family, residentially-zoned property to the north.

The site is approximately 38,000 square feet and developed with an industrial building approximately 14,000 square feet in area. The building is divided into eleven, 1,200 square foot tenant spaces and the units are occupied by a variety of industrial uses, including three other automotive repair uses.

The applicant is requesting approval of a conditional use permit to occupy unit F for use as a smog check station. According to the applicant's letter, the business will only conduct smog testing and no auto repairs will be performed on site.

## **ANALYSIS**

A conditional use permit is required because the property is located within 200 feet of the residentially zoned properties to the north. Section 13-54 of the Zoning Code imposes additional property development standards on service and repair of motor vehicles and boats use that are within 200 feet of residentially zoned properties. The automobile service and repair operations are subject to the following standards:

- (1) All operations shall be conducted within an enclosed building.
- (2) All areas or structures in which such operations are conducted shall be so located or treated as to prevent annoyance or a detriment to any other existing on-site uses and surrounding properties.
- (3) All activities shall be confined to 7:00 a.m. to 7:00 p.m. when located within 200 feet of residentially zoned property measured from lot line to lot line.
- (4) No damaged or inoperable boats or vehicles shall be stored for purposes other than repair.

The smog check station will operate in compliance with the above standards. Operations are conducted within the building and the equipment necessary for the smog testing will be housed within the tenant space. The hours of operation are from 8:00 a.m. to 5:30 p.m. Monday through Friday and 8:00 a.m. to 4:00 p.m. on Saturday. No inoperative vehicles would be kept on site. The applicant indicates that only one vehicle would be tested at a time on an appointment only basis. The applicant also states that vehicles manufactured after 2000 will not be required to use the 'dyno' machine. A 'DAD' machine would simply need to be connected to the vehicle's on-board computer for testing. The business only requires one, licensed smog technician.

The properties in this stretch of Logan Avenue are industrially zoned and there are a number of automotive repair businesses in the area. A survey of business licenses in the vicinity indicates that, besides the proposed auto service use, there are eight other existing automobile repair uses on the 1300 block of Logan Avenue.

**ENVIRONMENTAL DETERMINATION**

If approved, the project would be exempt from the provisions of the California Environmental Quality Act under Section 15301 for Existing Facilities. The new smog check station will be located within an existing tenant space.

**CONCLUSION**

The proposed use, with the recommended conditions of approval, will be consistent with the City's Zoning Code and General Plan. The proposed project, as conditioned, will minimize any adverse impacts to surrounding properties. Therefore, staff supports the applicant's request.

**ALTERNATIVES**

The Planning Commission has the following alternatives:

- 1. Continue the project to a later Planning Commission meeting to allow time for further analysis or project revisions.
- 2. Direct staff to prepare a Resolution for denial of the project.

  
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 ANTONIO GARDEA  
 Senior Planner

  
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 JERRY GUARRACINO, AICP  
 Interim Asst. Development Services Director

- Attachments:
- 1. Draft Planning Commission Resolution
  - 2. Applicant's Letter
  - 3. Location Map
  - 4. Plans

cc: Director of Economic & Development Services/Deputy CEO  
Senior Deputy City Attorney  
Public Services Director  
City Engineer  
Transportation Services Manager  
Fire Protection Analyst  
Staff (6)  
File (2)

Abbaas Malik  
P.O. Box 18710  
Irvine, CA 92623

WKR Enterprises, Inc.  
P.O. Box 4280  
Costa Mesa, CA 92628

RESOLUTION NO. PC-14-\_\_\_

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COSTA MESA APPROVING A CONDITIONAL USE PERMIT, PA-14-24 TO ALLOW A SMOG CHECK STATION LOCATED AT 1370 LOGAN AVENUE UNIT #F.**

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

WHEREAS, an application was filed by Abbaas Malik, the authorized agent for the property owner, WKR Enterprises, Inc; for the property located at 1370 Logan Avenue Unit #F for Conditional Use Permit PA-14-24 to establish a smog check station, with no automotive repair;

WHEREAS, a duly noticed public hearing was held by the Planning Commission on August 11, 2014, with all persons having the opportunity to speak for and against the proposed project.

THEREFORE BE IT RESOLVED that, based on the evidence in the record and the findings contained in Exhibit A, the Planning Commission hereby **APPROVES** PA-14-24 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-14-24 and upon applicant's compliance with each and all of the conditions contained in Exhibit B as well as with compliance of all applicable federal, state, and local laws. Any approval granted by this resolution shall be subject to review, modification or revocation if there is a material change that occurs in the operation, or if the applicant fails to comply with any of the conditions of approval.

**PASSED AND ADOPTED this 11<sup>th</sup> day of August, 2014**

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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 August 11, 2014, by the following votes:

AYES:           COMMISSIONERS

NOES:           COMMISSIONERS

ABSENT:        COMMISSIONERS

ABSTAIN:       COMMISSIONERS

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Secretary, Costa Mesa  
Planning Commission

## EXHIBIT A

### FINDINGS

- A. The information presented substantially complies with Costa Mesa Municipal Code Section 13-29(g)(2) with regard to the conditional use permit because:

**Required Finding:** The proposed development or use is substantially compatible with developments in the same general area and would not be materially detrimental to other properties within the area.

**Response:** The proposed smog check station is compatible with the existing automobile repair and industrial uses along Logan Avenue. The use will operate completely within the building and is not visible from the adjacent residential properties. No noise, odors, or fumes are anticipated to affect the adjacent property. The proposed use would not have adverse or negative effects any of the surrounding properties.

**Required Finding:** Granting the conditional use permit or minor conditional use permit will not be materially detrimental to the health, safety and general welfare of the public or otherwise injurious to property or improvements within the immediate neighborhood.

**Response:** The smog check station has conditions of approval requiring the use to take place completely within the existing tenant space and will not be visible from the surrounding streets. The use will not be injurious to surrounding properties.

**Required Finding:** Granting the conditional use permit will not allow a use, density or intensity which is not in accordance with the general plan designation and any applicable specific plan for the property.

**Response:** The proposed smog check station complies with the intent of the Zoning Code and the General Plan capacity in terms of Floor Area Ratio and trip generation, as conditioned, to ensure compatibility with the surrounding neighborhood.

- B. **Required Finding:** The project development or use is substantially in compliance with Costa Mesa Municipal Code Section 13-54. (b) as it pertains to service and repair of motor vehicles within 200 feet of residentially zoned properties.

**Response:** The smog check station complies with Section 13-54 of the Zoning Code, the additional development standards for repair of motor vehicles within 200 feet of residentially zoned property. The proposed smog check station activities will take place completely within an enclosed building in an existing tenant space. The hours of operation are limited to 7:00 a.m. to

5:30 p.m. on weekdays and 8:00 a.m. to 4:30 p.m. on Saturday. No damaged or inoperable vehicles will be stored on site.

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

- Plng.
1. The use shall be limited to the type of operation as described in the staff report and the applicant's letters of description. 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. The conditional use permit 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
  3. 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.
  4. All materials, supplies, and necessary equipment shall be stored inside the tenant space
  5. The hours of operation for the smog check station) shall be limited to 8:00 a.m. to 5:30 p.m. on weekdays and 8:00 a.m. to 4:30 p.m. on Saturday.
  6. No damaged or inoperable vehicles shall be stored for purposes other than repair.
  7. 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.
  8. The applicant shall defend, indemnify, and hold harmless the City, its elected and appointed officials, agents, officers and employees from any claim, action, or proceeding (collectively referred to as

"proceeding") brought against the City, its elected and appointed officials, agents, officers or employees arising out of, or which are in any way related to, the applicant's project, or any approvals granted by City related to the applicant's project. The indemnification shall include, but not be limited to, damages, fees and/or costs awarded against the City, if any, and cost of suit, attorney's fees, and other costs, liabilities and expenses incurred in connection with such proceeding whether incurred by the applicant, the City and/or the parties initiating or bringing such proceeding. This indemnity provision shall include the applicant's obligation to indemnify the City for all the City's costs, fees, and damages that the City incurs in enforcing the indemnification provisions set forth in this section. City shall have the right to choose its own legal counsel to represent the City's interests, and applicant shall indemnify City for all such costs incurred by City.

9. The project is subject to compliance with all applicable Federal, State, and local laws. A copy of the applicable Costa Mesa Municipal Code requirements has been forwarded to the Applicant and, where applicable, the Authorized Agent, for reference.

#### **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.

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|--------------|----|---|
| Plng.        | 1. | Approval of the zoning application is valid for one (1) year from the effective date of this approval and will expire at the end of that period unless applicant establishes the use by obtaining a business license and legally establishes the business. If the applicant is unable to establish the use within the one-year time period, the applicant may request an extension of time. The Planning Division must receive a written request for the time extension prior to the expiration of the planning application.  |
|              | 2. | Parking stalls shall be double-striped in accordance with City standards.   |
| Bus.<br>Lic. | 3. | All contractors and subcontractors must have valid business licenses to do business in the City of Costa Mesa. Final inspections, final occupancy and utility releases will not be granted until all such licenses have been obtained.  |
| Bldg.        | 4. | Comply with the requirements of the 2013 California Building Code, 2013 California Electrical Code, 2013 California Mechanical Code , 2013 California Plumbing Code, 2013 California Green Building Standards Code, and 2013 California Energy Code (or the applicable adopted California Building Code, California Electrical Code, California Mechanical Code, California Plumbing Code, California Green Building Standards and California Energy Code at the time of plan submittal) and California Code of Regulations also known as the California Building Standards |

Code, as amended by the City of Costa Mesa. Areas of alteration and additions shall comply with 2013 California Green Building Standards Code Section 5.303.2.

**SPECIAL DISTRICT REQUIREMENTS**

The requirement of the following special districts are hereby forwarded to the applicant:

- AQMD 1. Applicant shall contact the Air Quality Management District 800.288.7664 for potential additional conditions of development or for additional permits required by the District.

### Project Description

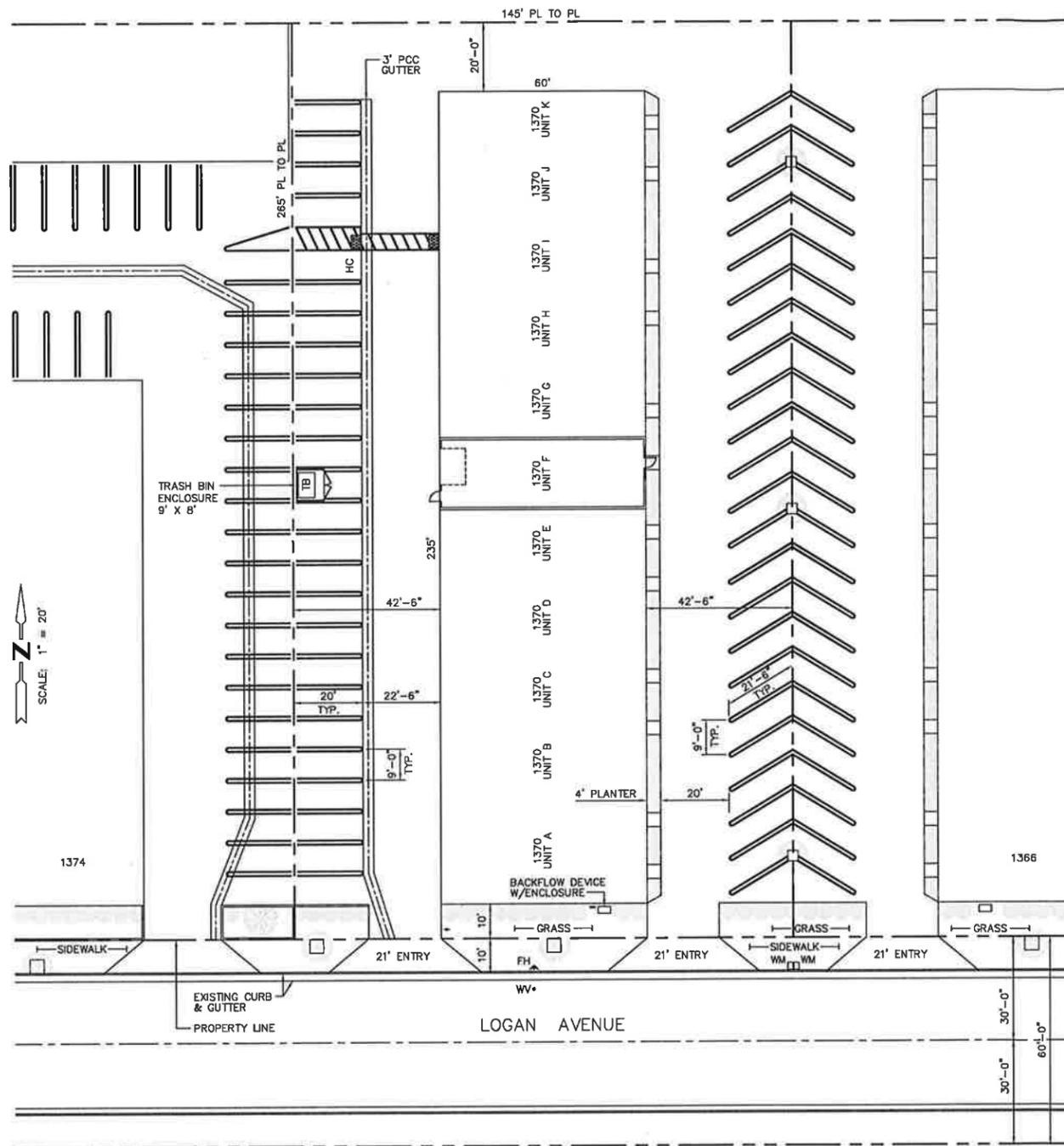
The business will be a smog check test only station. There will be no auto repairs. The business will be conducting smog checks on vehicles at 1370 Logan Avenue Suite F, Costa Mesa 92626. The unit is 1,200 sq. ft.

The hours of operation will be from Mondays to Fridays, 8 a.m. to 5.30 p.m. and Saturdays, 8 a.m. to 4 p.m. The business requires only one employee, a licensed smog technician. Customer vehicles are tested one at a time on an appointment only basis. Vehicles will be tested on a smog machine dyno.

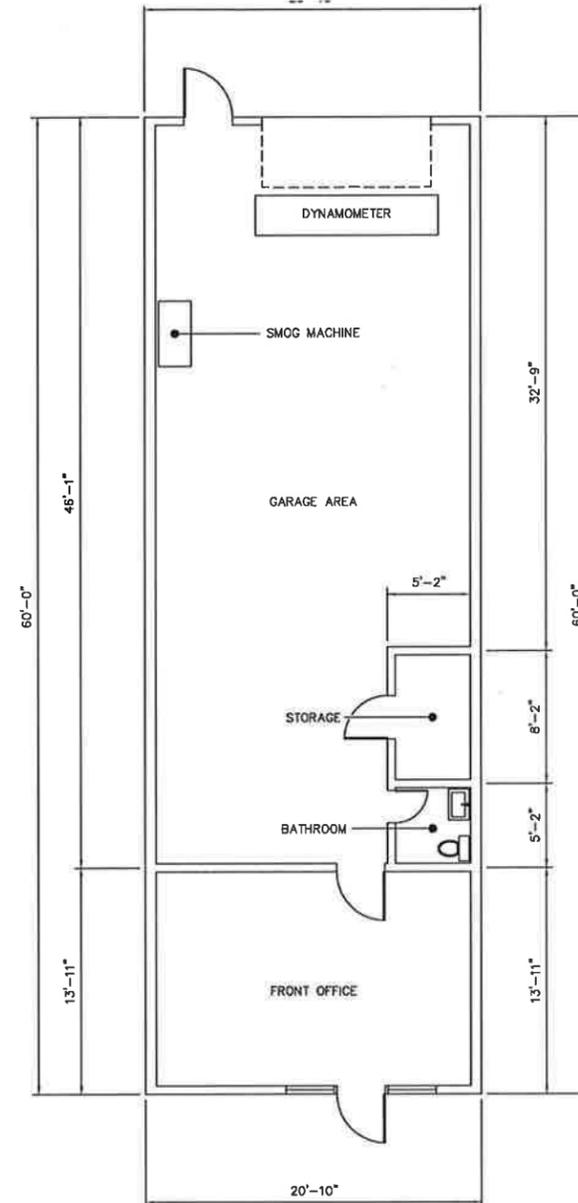
There is a waiting room for customers to wait until the smog test is done. On October 2014, vehicles from years 2000 and newer will be tested on a new smog machine called DAD. The machine is the size of a small laptop, and plugs into the onboard car computer. No dyno machine will be required on these 2000 and newer vehicles.

We have been in business since 1999, and we currently have three smog test locations in Irvine, Tustin, and Orange. The business is operated in a clean and organized manner.





**SITE PLAN**  
SCALE: 1" = 20'-0"



**FLOOR PLAN**  
SCALE: 1" = 5'-0"

APPLICANT/OWNER: FRANK MALIK  
(949) 677-7151

SITE ADDRESS: 1370 LOGAN AVENUE  
COSTA MESA, CA, 92626

APN: 141-191-40

LEGAL DESCRIPTION: A TR 265 BLK LOT 29 FOUNTAIN ADD LOT BLK

BUILDING SQUARE FOOTAGE: 1,200 SQ. FT.

LOT AREA (ACRES): 0.88 ACRES

ZONE USAGE: INDUSTRIAL

PARKING SPACES: 66

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REVIEWED:		1370 LOGAN AVENUE-UNIT F, COSTA MESA, CA 92626	
DESIGNED:		DATA, FLOOR & SITE PLAN	
DRAWN:			
CHECKED:			
DATE:			
NO.	DATE	DESCRIPTION OF REVISIONS	