

City of Costa Mesa

Interoffice Memorandum

To: CITY COUNCIL
From: WENDY SHIH, ASSOCIATE PLANNER *WS*
Date: October 6, 2004
Subject: **APPEAL OF PLANNING APPLICATION PA-04-21**
1045 EL CAMINO DRIVE
CITY COUNCIL MEETING OF OCTOBER 18, 2004

The subject appeal was scheduled for the September 7, 2004, City Council meeting. Council Member Mike Scheafer abstained due to a potential conflict of interest. City Council voted to continue the application to the October 18, 2004, meeting to allow the City Attorney's Office time to research Council Member Scheafer's voting status.

The agenda report (dated September 7, 2004) and all applicable attachments are included for City Council's reference. The draft resolutions have been revised to reflect the October 18, 2004, meeting date.

Attachment: City Council Agenda Report for September 7, 2004
Zoning/Location Map
Plans
Photo Exhibit
Draft City Council Resolution
Exhibit "A" – Draft Findings
Exhibit "B" – Draft Conditions of Approval
Appeal Application
Minutes of Planning Commission Meeting of July 26, 2004
Planning Commission Agenda Report
Planning Commission Resolution and Findings
Correspondence from Neighbors

cc: Deputy City Mgr.-Dev. Svs. Director
Assistant City Attorney
City Engineer
Fire Protection Analyst
Staff (4)
File (2)

Carl Reinhart
El Camino Partners
17871 Mitchell, Ste. 100
Irvine, CA 92614

Daniel Carlton
2600 Michelson Dr., Suite 1120
Irvine, CA 92612



CITY COUNCIL AGENDA REPORT

MEETING DATE: SEPTEMBER 7, 2004

ITEM NUMBER:

**SUBJECT: APPEAL OF CONDITIONAL USE PERMIT PA-04-21
1045 EL CAMINO DRIVE, COSTA MESA**

DATE: AUGUST 26, 2004

FROM: DEVELOPMENT SERVICES DEPARTMENT – PLANNING DIVISION

PRESENTATION BY: WENDY SHIH, ASSOCIATE PLANNER

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

RECOMMENDED ACTION

Conduct public hearing and either uphold, reverse, or modify Planning Commission's decision.

BACKGROUND

At their meeting on July 26, 2004, by a vote of 2 to 1 (Bruce Garlich voting no, Katrina Foley abstained, and Eric Bever absent), Planning Commission denied Planning Application PA-04-21 to modify an existing conditional use permit to discontinue the car wash and gasoline sales and to become solely an automotive repair facility at the above address. The Planning Commission felt the change in use is incompatible with other (residential) developments in the same general area and that it is not in conformance with the General Plan designation for the property (Medium Density Residential). Daniel Carlton, representing the business owner as well as the property owner, appealed Planning Commission's decision to deny the application because he believes that there has not been a change or intensification of use on the property.

SITE HISTORY

The property currently contains an automotive repair facility in a former gasoline service station building, and is located adjacent to a neighborhood commercial center, surrounded by El Camino Drive to the north, Mendoza Drive to the west, and Coronado Drive to the south. The properties to the north and south are residentially zoned and developed, the property to the west is commercially zoned and developed, and to the east is a nonconforming commercial center in an R2-MD (Multiple-Family Residential, Medium Density) zone.

In 1964, a conditional use permit (C-254) was approved to allow a service station (gasoline sales and auto repair) on the property. Conditional Use Permit PA-87-204(A) was approved

in 1988 (amendment in 1996), for an expansion of the service station to include an automated car wash facility. In February 2004, the underground tanks, gasoline pumps and canopies were removed. A case closure letter from the County of Orange Health Care Agency was received on February 9, 2004, stating that site remediation had been completed. The car wash facility is also no longer operating.

Since the original conditional use permit (CUP) approved a gasoline service station with incidental automotive repair and car wash, upon learning that gasoline tanks and pumps had been removed, City staff advised the owner that he must either discontinue the use or apply for modification of the CUP. An amendment to the CUP would be necessary to recognize the change in use to auto repair and service only, including smog check and certification. Site design (including number of driveways and amount of landscaping) and conditions of approval are generally different for gasoline service stations than for automotive repair facilities.

The subject site (and adjacent commercial center) was zoned C1 (Local Business District) with a General Plan designation of Neighborhood Commercial. On April 2, 2001, City Council approved a rezone of the properties to R2-MD with a General Plan designation of Medium Density Residential. Therefore, the commercial uses are now nonconforming.

DISCUSSION

According to the Zoning Code (Sec. 13-204), any nonconforming use may be changed to another nonconforming use provided that the change does not expand or intensify the nonconforming use.

As mentioned above, all underground tanks, gasoline pumps and canopies have been removed. The service garage building (approximately 1,500 sq.ft.) will remain unchanged and the former car wash tunnel (approximately 400 sq.ft.) will be used for storage. Since the auto repair building was designed as an incidental use to the gasoline station, staff felt continuation of its use without the gasoline sales and car wash would lessen the impact on nearby residential properties, assuming no significant increase in the intensity of repair services. The applicant states that the majority of his income has always been generated by the auto repair and service portion of the business, and that the "gasoline sales accounted for no more than 25% of the gross profits".

The Planning Commission felt that changing the use to solely auto repair and service constitutes an intensification of use on the property. They believe that elimination of the gasoline sales results in an increase of auto repair services, which would constitute expansion of a nonconforming use.

If the application is approved, staff recommends site improvements to make the development more compatible with the area. There are currently three driveway entrances onto the property; two on El Camino Drive and one on Mendoza Drive. Since the additional circulation and fueling stations required for gasoline sales are no longer needed, staff recommends a condition to remove the driveway closest to the intersection on El Camino Drive and to improve the northwest corner of the property (between the two remaining

driveways) with a minimum of 15 ft. wide landscape planter. A condition is also recommended to provide a total of eight parking spaces (4 spaces/1,000 sq.ft. of building area) to serve the auto repair use. There are currently four parking spaces located on the adjacent property serving this site and one handicap space in front of the building. Approval of this application would be contingent upon the continued availability of the four parking spaces on the adjacent lot unless a total of eight parking spaces can be provided on-site. A site/landscaping/parking improvement plan would be required for Planning staff approval.

FISCAL REVIEW

Fiscal review is not required.

LEGAL REVIEW

Please refer to the confidential memo from the City Attorney's Office provided under separate cover.

ENVIRONMENTAL REVIEW

Pursuant to Section 15301 (Existing Facilities) of the California Environmental Quality Act (CEQA) Guidelines, this project is exempt from CEQA.

ALTERNATIVES

The City Council may:

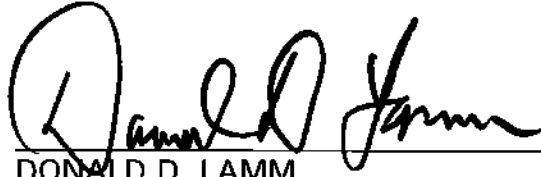
1. Approve modification of the CUP and allow continued operation of the auto repair business, subject to additional conditions,
2. Approve modification of the CUP and allow continued operation of the auto repair business without additional conditions, or
3. Deny modification of the CUP and direct the Planning Commission to schedule a hearing to revoke the existing CUPs.

CONCLUSION

Since the property was rezoned from commercial to residential, the gasoline service station with automotive repair and car wash became legal nonconforming uses. Upon removal of the underground tanks and closure of the car wash tunnel, the gasoline sales and car wash portion of the business lost their legal nonconforming status, which means they cannot be reinstated. Since this left the business with an auto repair use only, it no longer complied with the original CUP. Staff advised the owner that he must either close the business or apply for modification of the CUP. He chose to apply for modification of the CUP, and that is the subject of this report. The Planning Commission voted to deny the requested modification, because they felt continued operation as an auto repair business only would be incompatible with the surrounding residential area.



WENDY SHIH
Associate Planner



DONALD D. LAMM
Deputy City Mgr. – Dev. Svs. Director

Attachments: Zoning/Location Map
 Plans
 Photo Exhibit
 Draft City Council Resolution
 Exhibit "A" – Draft Findings
 Exhibit "B" – Draft Conditions of Approval
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 Minutes of Planning Commission meeting of July 26, 2004
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 Planning Commission Resolution and Findings
 Correspondence from Neighbors

Distribution: City Manager
 City Attorney
 Assistant City Attorney
 Public Services Director
 City Clerk (2)
 Staff (4)
 File (2)

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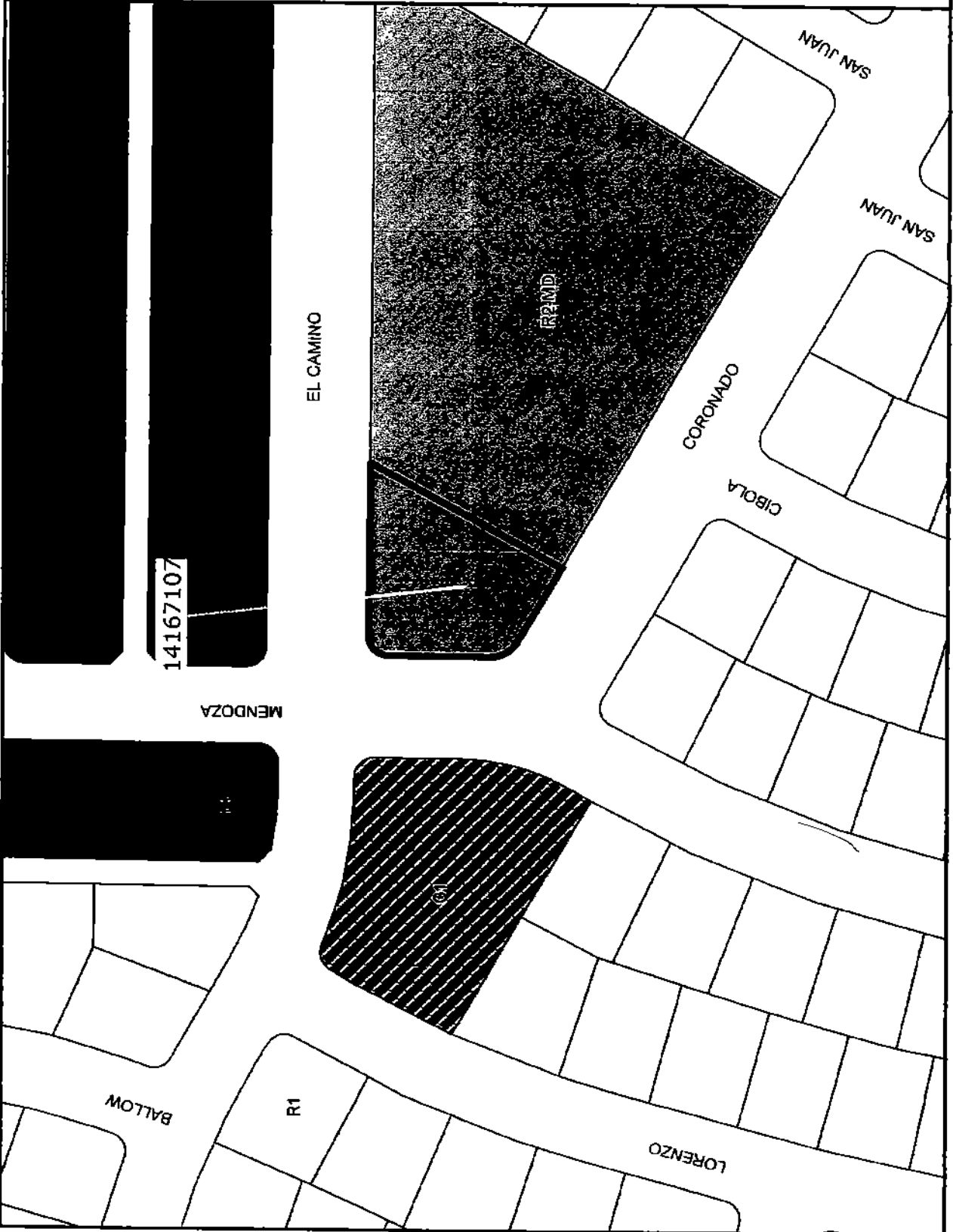
File: PA0421CC090704

Date: 082604

Time: 1130a.m.

ZONING/LOCATION MAP

1045 El Camino Drive



14167107

MENDOZA

EL CAMINO

R2MD

CORONADO

CIBOLA

LORENZO

SAN JUAN

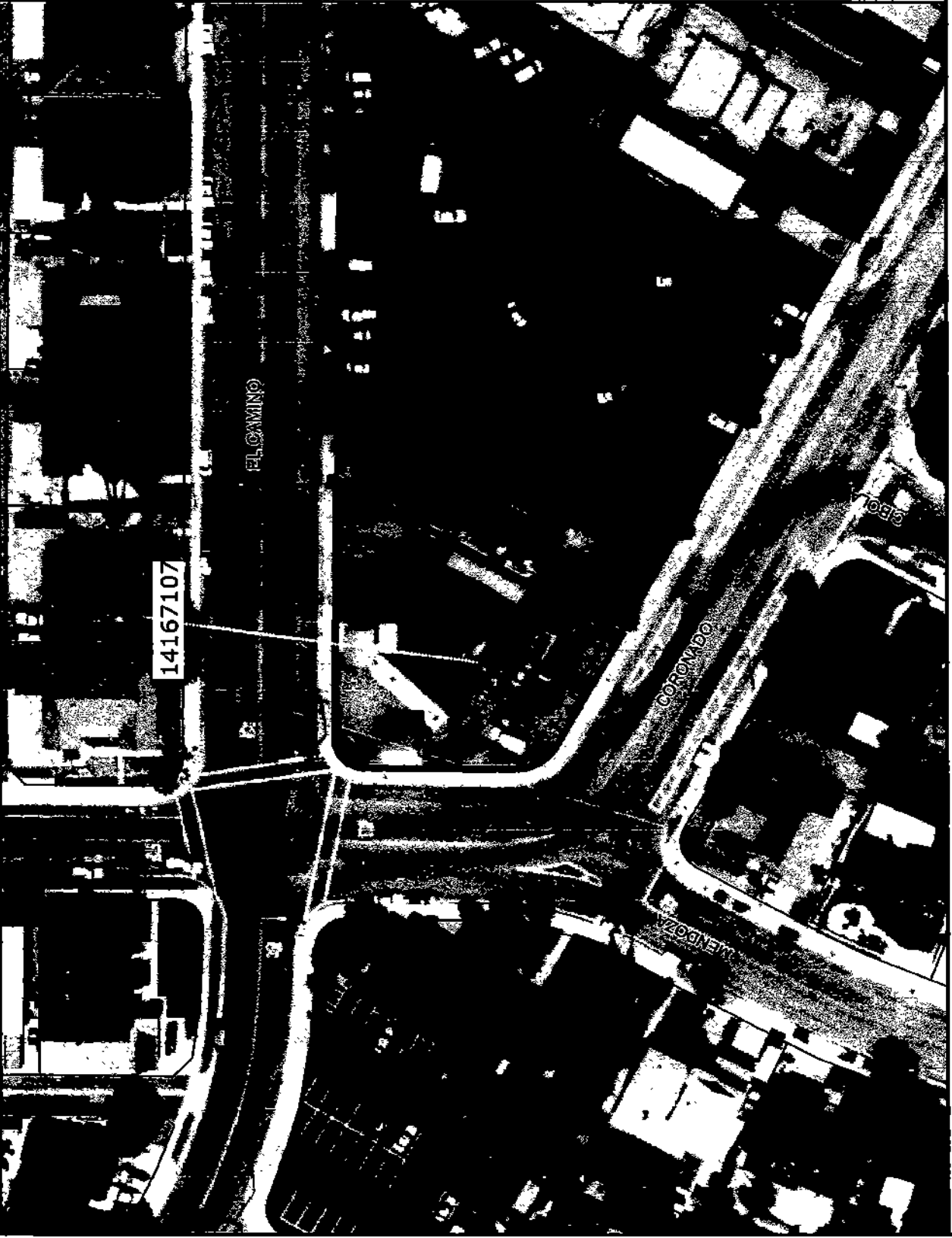
SAN JUAN

Legend

- Selected Features
- Street Names
- Parcel Lines
- City Boundary
- Zoning
- Other
- Administrative & Professional
- Local Business
- Local Business & School
- General Business Commercial Limited
- Institutional & Recreational
- Institutional & Recreational - School
- General Industrial
- Industrial Park
- OCPD
- Off Street Parking
- Planned Development Commercial

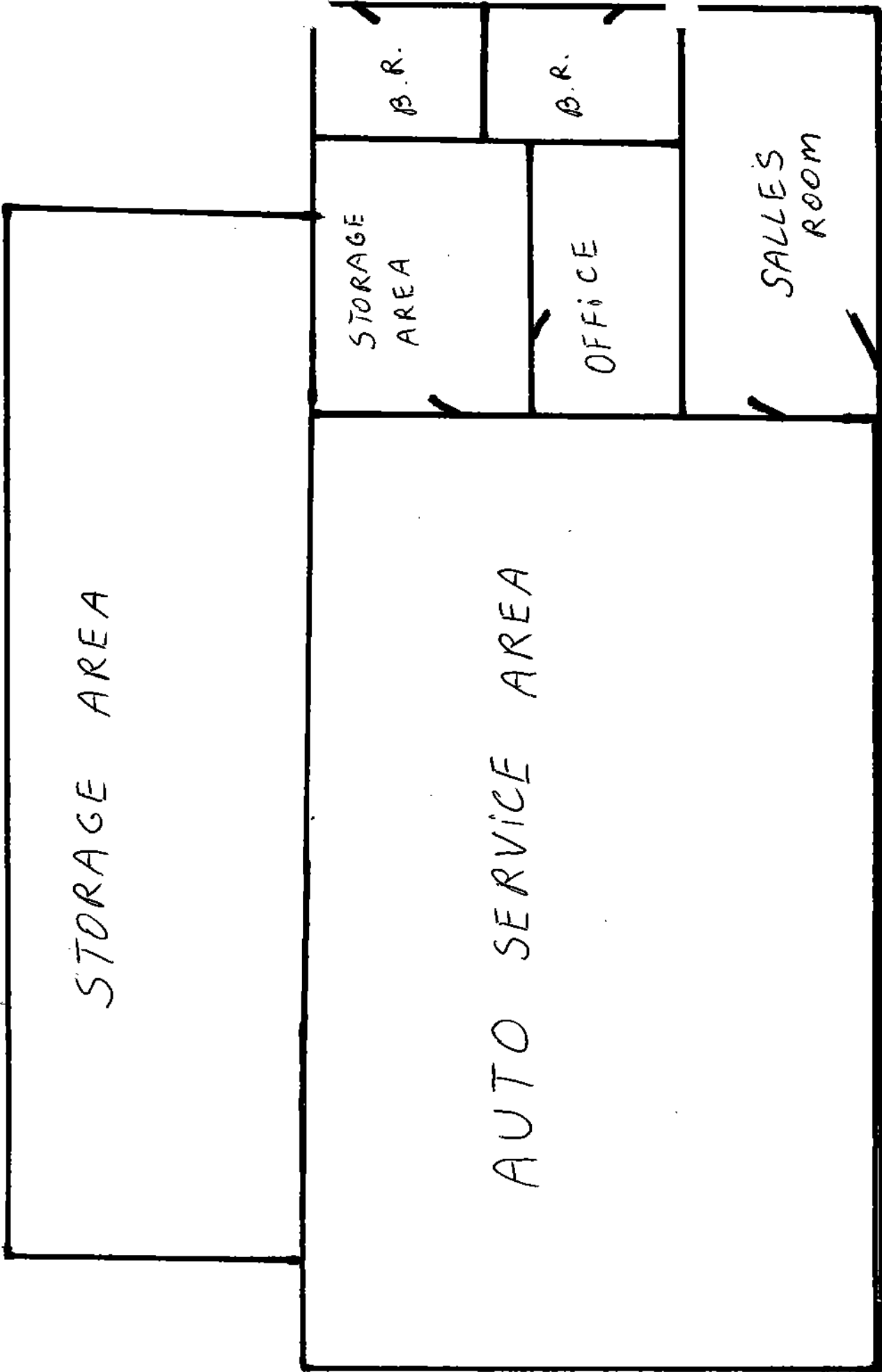
AERIAL PHOTOGRAPH

1045 El Camino Drive



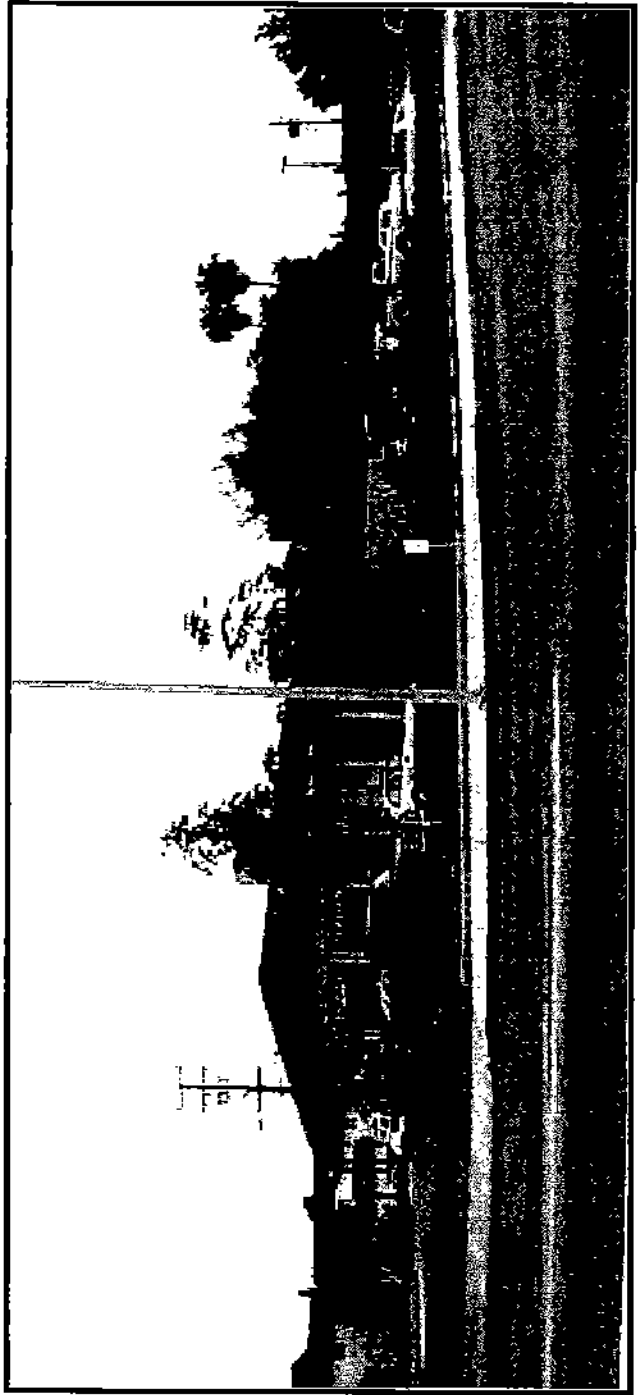
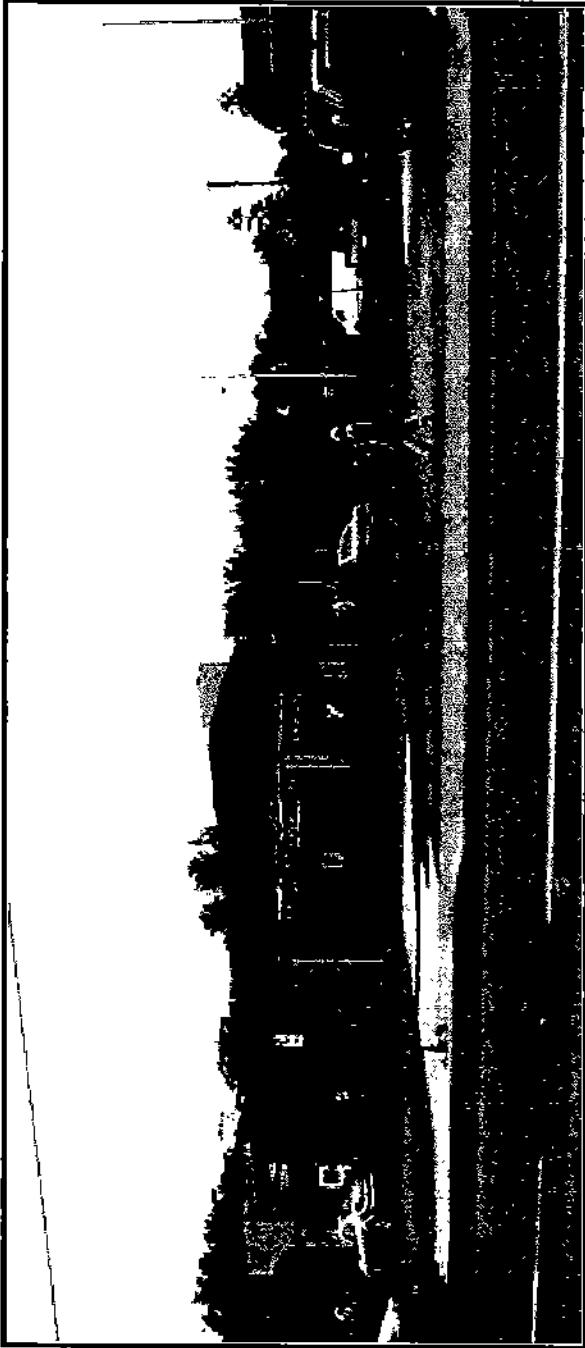
Legend

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



FLOOR PLAN

SITE PHOTOS



RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
COSTA MESA DENYING PLANNING APPLICATION PA-04-
21**

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

WHEREAS, an application was filed by Daniel Carlton, representing Carl Reinhart, owner of real property located at 1045 El Camino Drive, requesting approval to modify an existing conditional use permit to discontinue the car wash and gasoline sales and to become solely an automotive repair facility; and,

WHEREAS, duly noticed public hearings were held by the Planning Commission on June 28, 2004, and July 26, 2004.

WHEREAS, the item was appealed to the City Council on August 2, 2004, and a duly noticed public hearing was held by the City Council on September 7, 2004, and October 18, 2004;

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 City Council hereby **DENIES** Planning Application PA-04-21 with respect to the property described above.

PASSED AND ADOPTED this 18th day of October 2004.

Mayor of the City of Costa Mesa

ATTEST:

Deputy City Clerk of the City of Costa Mesa

STATE OF CALIFORNIA)
COUNTY OF ORANGE)ss
CITY OF COSTA MESA)

I, JULIE FOLCIK, Deputy City Clerk and ex-officio Clerk of the City Council of the City of Costa Mesa, do hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the said City Council at a regular meeting thereof held on the 18th day of October 2004.

Deputy City Clerk and ex-officio Clerk of the
City Council of the City of Costa Mesa

EXHIBIT "A"**FINDINGS**

- A. The information presented does not comply with Costa Mesa Municipal Code Section 13-29(g)(2) in that the proposed change of use, as conditioned, will not be more compatible with developments in the same general area. Granting the conditional use permit will be detrimental to the health, safety and general welfare of the public or other properties or improvements within the immediate vicinity. Specifically, the property will be more intensely used than before, without the gasoline sales and car wash. The recommended conditions of approval will not ensure that the operation will not be disruptive to residential uses or properties in the vicinity. The use is not in conformance with the current General Plan designation for the property (Medium Density Residential), and it does not comply with the Nonconforming Provisions with regard to allowable change of nonconforming use in nonresidential structures, because the degree of nonconformity will be increased.
- B. The proposed project does not comply with Costa Mesa Municipal Code Section 13-29 (e) because:
- a. The proposed use will not be more compatible and harmonious with uses both on-site as well as those on surrounding properties.
 - b. Safety and compatibility of the design of buildings, parking area, landscaping, luminaries and other site features which may include functional aspects of the site development such as automobile and pedestrian circulation.
 - c. The planning application is for a project-specific case and does not establish a precedent for future development.
- 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.

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
COSTA MESA APPROVING PLANNING APPLICATION PA-
04-21**

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

WHEREAS, an application was filed by Daniel Carlton, representing Carl Reinhart, owner of real property located at 1045 El Camino Drive, requesting approval to modify an existing conditional use permit to discontinue the car wash and gasoline sales and to become solely an automotive repair facility; and,

WHEREAS, duly noticed public hearings were held by the Planning Commission on June 28, 2004, and July 26, 2004.

WHEREAS, the item was appealed to the City Council on August 2, 2004, and a duly noticed public hearing was held by the City Council on September 7, 2004, and October 18, 2004;

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 City Council hereby **APPROVES** Planning Application PA-04-21 with respect to the property described above.

BE IT FURTHER RESOLVED that the Costa Mesa City Council does hereby find and determine that adoption of this Resolution is expressly predicated upon the activity as described in the staff report for PA-04-21 and upon applicant's compliance with each and all of the conditions contained in Exhibit "B". 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 18th day of October 2004.

ATTEST:

Deputy City Clerk of the City of Costa Mesa

Mayor of the City of Costa Mesa

STATE OF CALIFORNIA)
COUNTY OF ORANGE)ss
CITY OF COSTA MESA)

I, JULIE FOLCIK, Deputy City Clerk and ex-officio Clerk of the City Council of the City of Costa Mesa, do hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the said City Council at a regular meeting thereof held on the 18th day of October 2004.

Deputy City Clerk and ex-officio Clerk of the
City Council of the City of Costa Mesa

JF

EXHIBIT "A"**FINDINGS**

- A. The information presented substantially complies with Costa Mesa Municipal Code Section 13-29(g)(2) in that the proposed change of use, as conditioned, will be more 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 property will be less intensely used than before, without the gasoline sales and car wash. The recommended conditions of approval will ensure that the operation will not be disruptive to residential uses or properties in the vicinity. The added landscaping at the northwest corner of the property will also improve the aesthetics of the property as viewed from the street intersection and increase its compatibility with the surrounding residential neighborhood. Parking will comply with current Code requirements and approval of the use is contingent upon availability of the existing 4 parking stalls provided off-site plus 4 parking stalls on-site unless a total of 8 parking stalls can be provided on-site to serve the automotive repair business. Although the use is not in conformance with the current General Plan designation for the property (Medium Density Residential), it complies with the Nonconforming Provisions with regard to allowable change of nonconforming use in nonresidential structures, and the degree of nonconformity will not be increased.
- B. The proposed project complies with Costa Mesa Municipal Code Section 13-29 (e) because:
- a. The proposed use will be more compatible and harmonious with uses both on-site as well as those on surrounding properties.
 - b. Safety and compatibility of the design of buildings, parking area, landscaping, luminaries and other site features which may include functional aspects of the site development such as automobile and pedestrian circulation have been considered.
 - c. The planning application is for a project-specific case and does not establish a precedent for future development.
- 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**

- Plng. 1. 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.
2. 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.
 3. A total of 8 parking stalls shall be available to serve the property. Approval is contingent upon continued availability of the existing 4 parking spaces off-site plus 4 on-site unless all 8 parking spaces can be provided on-site.
 4. Close the drive approach at the northwest corner of the lot on El Camino Drive and replace with full-height curb, gutter, and sidewalk.
 5. Provide a minimum 15 ft. continuous landscape strip at the northwest corner of the property, between the two driveways. This condition shall be completed under the direction of the Planning staff.
 6. A site/parking/landscape plan shall be submitted reflecting the above conditions (no. 3-5). This condition shall be completed under the direction of the Planning staff.
 7. All site improvements shall be completed by **December 31, 2004**.
 8. The applicant shall contact the Planning Division to arrange for a Planning inspection of the site prior to the above date. This inspection is to confirm that the conditions of approval and code requirements have been satisfied.
 9. There shall be no outdoor overnight storage of vehicles.
 10. The use shall be limited to the number of vehicles that will not interfere with on- or off-site parking and circulation.
 11. No queuing of customer vehicles within the public right-of-way shall be permitted.
 12. No vehicles shall be parked/stored on the street or at the adjacent shopping center.
 13. The use shall be conducted, at all times, in a manner to allow the quiet enjoyment of the surrounding neighborhood. The applicant and/or business owner shall institute whatever operational measures

are necessary to comply with this requirement.

14. Complaints regarding noise related to the operation of the use and/or violation of any of the operating conditions and restrictions shall be immediately remedied by the applicant.
15. The use shall be limited to the description in the staff report (auto repair/service including smog check and certification in the main building and storage in the former car wash building). No body work/repair, engine replacement/rebuilding, or vehicle working/detailing shall be permitted.
16. The freestanding sign for the auto service facility shall be repaired/replaced and maintained in good condition.
17. The hours of operation shall be limited to 8 a.m. to 6 p.m., Mondays through Fridays, and 8 a.m. to 2 p.m. on Saturdays. No work shall be permitted on Sundays.
- Eng. 18. Obtain a permit from the Engineering Division, at the time of development and then remove existing driveway on El Camino Drive and replace with full height curb and sidewalk at applicant's expense.
- Trans. 19. Close westerly drive approach on El Camino Drive with full height curb and gutter.



CITY OF COSTA MESA

P.O. BOX 1200 • 77 FAIR DRIVE • CALIFORNIA 92628-1200

DEVELOPMENT SERVICES DEPARTMENT

**FOR ATTACHMENTS NOT INCLUDED IN THIS REPORT,
PLEASE CONTACT THE CITY CLERK AT (714) 754-5223**