



PLANNING COMMISSION AGENDA REPORT

MEETING DATE: APRIL 8, 2002

ITEM NUMBER: 111.5

SUBJECT: CONDITIONAL USE PERMIT PA-02-08
1178 SUNFLOWER AVENUE

DATE: APRIL 2, 2001

FOR FURTHER INFORMATION CONTACT: WILLA BOUWENS-KILLEEN, SENIOR PLANNER
714.754.5153

DESCRIPTION

The applicant proposes to sell alcoholic beverages from a reestablished convenience store. The store, previously occupied by Circle K, closed in November 2001.

APPLICANT

Paul Bozarth is representing the property owner, C.J. Segerstrom and Sons.

RECOMMENDATION

Withdraw the request for a conditional use permit for the convenience store, approve the request to sell alcoholic beverages, and make a finding that public convenience or necessity will be served by approval of the ABC license, by adoption of Planning Commission resolution, subject to conditions.


WILLA BOUWENS-KILLEEN
Senior Planner


PERRY L. VALANTINE
Asst. Development Services Director

PLANNING APPLICATION SUMMARY

Location: 1178 Sunflower Avenue Application: Conditional Use Permit PA-02-08

Request: Conditional use permit to allow sales of alcoholic beverages from a reestablished convenience store.

SUBJECT PROPERTY:

Zone: C1
 General Plan: Neighborhood Comm.
 Lot Dimensions: Irregular
 Lot Area: 23,087 sq.ft.
 Existing Development: Retail strip center

SURROUNDING PROPERTY:

North: City of Santa Ana – apartments
 South: (Acr Sunflower Ave)–PDR-LD, single-fam residence
 East: C1 – Water well
 West: C1, gas station

DEVELOPMENT STANDARD COMPARISON

Development Standard Required/Allowed Proposed/Provided

Lot Size:		
Lot Width		
Lot Area		
Floor Area Ratio:		
(Traffic FAR)		
Building Height:		
Interior Landscaping:		
Setbacks:		
Front		
Side (left/right)		
Rear		
Parking:		
Standard		
Compact		
Handicapped		
TOTAL:		
Driveway Width:		

NA = Not Applicable or No Requirement

CEQA Status: Exempt, Class 1

Final Action: Planning Commission

Notes: *

BACKGROUND

On April 17, 2000, City Council approved Planning Application PA-99-49, which included a conditional use permit to establish a new convenience store (Circle K), with sales of alcoholic beverages, at 3067 Bristol Street. Circle K intended to transfer their business from 1178 Sunflower Avenue to this new location. Because of concerns with the number of Alcoholic Beverage Control (ABC) licenses in the City, City Council included a condition requiring Circle K to surrender their existing ABC license at 1178 Sunflower Avenue. In November 2001, Circle K closed their 1178 Sunflower Avenue location.

The current applicant would like to open a new convenience store in the same suite vacated by Circle K. Although a new convenience store would normally have to obtain a CUP, one is not required in this case, because there is a legal nonconforming use, which may be reestablished any time within six months of its November 2001, closing.

However, the applicant is proposing to sell beer and wine, and has applied for a premises-to-premises transfer of a Type 20 (off-sale beer and wine) ABC license for that purpose. The zoning code requires an existing convenience store to obtain a conditional use permit prior to obtaining a new or transferred ABC license.

In addition, state law prohibits ABC from approving the transfer of an off-sale license if the census tract to which it will be transferred has an "undue concentration" of off-sale licenses. "Undue concentration" is defined as a higher ratio of off-sale ABC licenses to population than the county average. ABC may, however, approve the license if the City makes a finding that public convenience or necessity would be served by approval of the license. The census tract within which this site is located currently has four (4) off-sale ABC licenses. Under the State standard, an undue concentration of licenses would result if more than four (4) such licenses were issued. Thus, in addition to the conditional use permit, the City must make a finding of public convenience or necessity before the applicant may sell beer and wine.

ANALYSIS

The zoning code amendment requiring a conditional use permit for sales of alcoholic beverages was based on concerns with littering, loitering, graffiti, noise, and interference with the quiet enjoyment of surrounding properties. Adjacent apartment residents to the north should be buffered by the existing building since the parking lot and front door of the unit face Sunflower Avenue to the south. On Sunflower Avenue, a 25-foot deep landscaped setback, and a block wall separate the site from the single-family homes to the south. Furthermore, the applicant proposes limited hours of operation (7 a.m. to 9 p.m., Monday through Thursday and 7 a.m. to 11

p.m., Friday and Saturday), which should further reduce the potential for impacts on neighboring residents.

Although there are four existing off-sale ABC licenses in the census tract where this business is located, two of the licenses are for suites inside South Coast Plaza for a seasonal business (Christmas gift baskets). Consequently, beer and wine cannot be purchased throughout the year nor are they sold independent of the gift baskets. One of the licenses is for Cost Plus Imports, located at 1313 Sunflower Avenue. The fourth existing license is for the Mobil gas station abutting this site to the west (3470 Fairview Road). The gas station mini-mart sells snack-type foods, coffee and soft drinks in addition to beer and wine. The proposed convenience store will offer a greater variety of items, including grocery and household items (milk, bread, detergent, etc.) and beer and wine.

Because of the limited and seasonal nature of the businesses represented by two of the existing four licenses, it is staff's opinion that approval of the subject application will not violate the intent of State regulations limiting off-sale ABC licenses in census tracts with an undue concentration of licenses. Further, it is staff's opinion that public convenience would be served by approval of this ABC license because of the difference between the proposed convenience store and the more limited type and number of products offered in the adjacent gas station mini-mart. In addition, based on testimony from the property owner and adjacent business owners, reestablishment of a successful convenience market as an anchor to this neighborhood retail center will attract additional customers to other businesses in the center, resulting in a healthier economic environment for all.

The Police Department had 40 calls for service under this address in the last, approximately 8 years. Of these, at least 26 – or 65% - were for offenses against the Circle K (theft, primarily of beer, and robberies). Additionally, some calls of service were for trespassing and disturbances. However, since Circle K shared a common parking lot, it is difficult to confirm whether these calls for service were directly related to the Circle K. It is staff's opinion that, since the majority of the calls for service were for crimes committed against the store, there was not the disruptive effect on the surrounding community like loitering, drinking in public, littering, etc., which the conditional use permit requirement addresses. Furthermore, the new business owner has another, similar location in the City of Tustin which, according to the City of Tustin's Planning and Code Enforcement Departments, is operated without complaint.

The City Council adopted a list of standard conditions to be applied to liquor stores and convenience stores that sell alcoholic beverages. These conditions, which have been incorporated into the attached conditions of approval (Exhibit B), are intended to minimize negative impacts that such uses may have on surrounding properties, and to restrict the number of off-sale alcoholic beverage outlets in the City.

ALTERNATIVES

The Planning Commission may deny the requested conditional use permit to sell alcoholic beverages and not make the required public convenience or necessity finding. The convenience store could still open, but could not sell alcoholic beverages.

ENVIRONMENTAL DETERMINATION

This application is exempt from the provisions of the California Environmental Quality Act.

CONCLUSION

Although the abutting Mobil gas station property already has a type 20 ABC license, they provide a different type of service than the proposed convenience store. Approval would cause the census tract to have an undue concentration of off-sale ABC licenses. However, the intent of the limitation will not be violated, since two of the existing licenses are for a seasonal gift basket business, so beer and wine cannot be purchased throughout the year nor are they sold independent of the gift baskets. Public convenience or necessity will be served by the approval of the proposed ABC license. Approval will also bring additional customers and greater stability to other businesses in the center.

Attachments: Applicant's Project Description and Justification
 Draft Planning Commission Resolution
 Exhibit "A" - Draft Findings
 Exhibit "B" - Draft Conditions of Approval
 Plans

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

Mike Paz
C.J. Segerstrom and Sons
3315 Fairview Road
Costa Mesa, CA 92626

Paul Bozarth
18661 Vale Avenue
Santa Ana, CA 92705

RESOLUTION NO. PC-02-12

A RESOLUTION OF THE PLANNING COMMISSION OF THE
CITY OF COSTA MESA APPROVING CONDITIONAL USE
PERMIT PA-02-08

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

WHEREAS, an application was filed by Paul Bozarth, authorized agent for C.J. Segerstrom and Sons, with respect to the real property located at 1178 Sunflower Avenue, requesting approval of a conditional use permit to sell alcoholic beverages in a convenience store in the C1 zone; and

WHEREAS, a duly noticed public hearing was held by the Planning Commission on April 8, 2002.

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** Conditional Use Permit PA-02-08 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 Conditional Use Permit PA-02-08 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 8th day of April, 2002.



Chair, Costa Mesa
Planning Commission

EXHIBIT "A"

FINDINGS

- A. The information presented substantially complies with Costa Mesa Municipal Code section 13-29(g)(2) in that the proposed sale of alcoholic beverages is substantially compatible with developments in the same general area. Specifically, the convenience store provides a different type of service than the adjoining gas station that also sells beer and wine. Although approval would cause the census tract to have an undue concentration of off-sale licenses, two of those licenses are for a seasonal gift basket business, which is not open year round and does not sell beer and wine independent of the gift basket. For these reasons, public convenience or necessity will be served by approval of the proposed ABC license. Reestablishment of a successful convenience market as an anchor to this neighborhood retail center will attract additional customers to other businesses in the center, resulting in a healthier economic environment for all. Past calls for Police service at this site have been primarily for crimes against the store, and not for littering, loitering, drinking in public, or other problems which the conditional use permit requirement is intended to address. The business owner operates a similar business in the City of Tustin without any record of Planning or Code Enforcement complaints. 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. Granting the conditional use permit will not allow a use, density or intensity that is not in accordance with the general plan designation for the property.
- 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.
- C. 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. Prior to alcohol sales at this location, the applicant shall exercise his best efforts to purchase and transfer an existing Alcoholic Beverage Control license from a location within the City limits of Costa Mesa. If, within a six-month period, it can be proved to the satisfaction of staff that this is not possible, then a transfer from outside Costa Mesa will be permitted.
3. Alcoholic beverage sales shall be limited to only beer and wine.
4. No wine shall be sold with an alcoholic content of greater than 15% by volume except for "dinner wines" which have been aged 2 years or more and maintained in corked bottles.
5. Wine shall not be sold in bottles or containers smaller than 750 milliliters.
6. No sale of beer in single cans or bottles (any size) shall be permitted. This restriction is not intended to prohibit the sale of such beverages in kegs or other types of containers, with a volume of 2 or more gallons, which are clearly designed to dispense multiple servings.
7. Malt beverages, wine coolers or pre-mixed distilled spirit cocktails (if allowed by the license) packed in 16-ounce containers or smaller, may not be sold as single containers, but must be sold in manufacturer pre-packaged multi-unit quantities.
8. Beer or wine shall not be displayed or sold from an ice tub or any other type of portable refrigerated unit.
9. Applicant shall post signs inside and outside the premises prohibiting the on-site consumption of alcoholic beverages and loitering.
10. Applicant shall post signs inside and outside the premises in compliance with the City of Costa Mesa Municipal Code notifying the public with regard to the prohibition of open containers of alcohol beverages.
11. Every 2 hours, from 4:00 p.m. to closing, the applicant shall patrol the area over which the applicant has control in an effort to prevent the loitering of persons about the premises. The applicant shall make

reasonable efforts to prevent loitering during other hours the business is open.

12. Applicant shall secure the premises with appropriate security lighting and employee scrutiny of adjacent areas under which applicant has control, to prevent trash, graffiti and littering. Any lighting under the control of applicant shall be directed in such a manner so as not to unreasonably interfere with the quiet enjoyment of nearby residences. Applicant shall further provide adequate lighting above the entrance to the premises sufficient in intensity to make visible the identity and actions of all persons entering and leaving the premises.
13. Exterior public telephones shall be equipped to prohibit incoming calls.
14. Except as permitted by the City of Costa Mesa Municipal Code for temporary window signs, windows shall not be blocked or obscured.
15. The applicant shall maintain free of litter all areas of the premises under which applicant has control.
16. Any graffiti painted or marked upon the premises shall be removed or painted over within 48 hours of being applied.
17. Exterior advertising shall comply with the City's sign regulations, and exterior advertisements shall be prohibited which indicate the availability of alcoholic beverages. Interior displays of alcoholic beverages or signs which are clearly visible from the exterior at the closest public street or sidewalk, shall constitute a violation of this condition.
18. Hours of operation are limited to 7 a.m. to 9 p.m., Sunday through Thursday and 7 a.m. to 11 p.m. Friday and Saturday. Expansion beyond these hours will require prior approval of an amendment to this conditional use permit.
- Police 19. A list of security recommendations has been provided by the Police Department for the applicant's consideration.
20. Applicant and property owner shall work with the adjacent property owner to the north to, if possible, extend the height of the wall/fence between the two properties.

STATE OF CALIFORNIA)

)ss

COUNTY OF ORANGE)

I, Perry L. Valantine, 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 April 8, 2002, by the following votes:

AYES: COMMISSIONERS: Katrina Foley, Bruce Garlich, Walt Davenport and Eleanor Egan

NOES: COMMISSIONERS: Bill Perkins

ABSENT: COMMISSIONERS

ABSTAIN: COMMISSIONERS

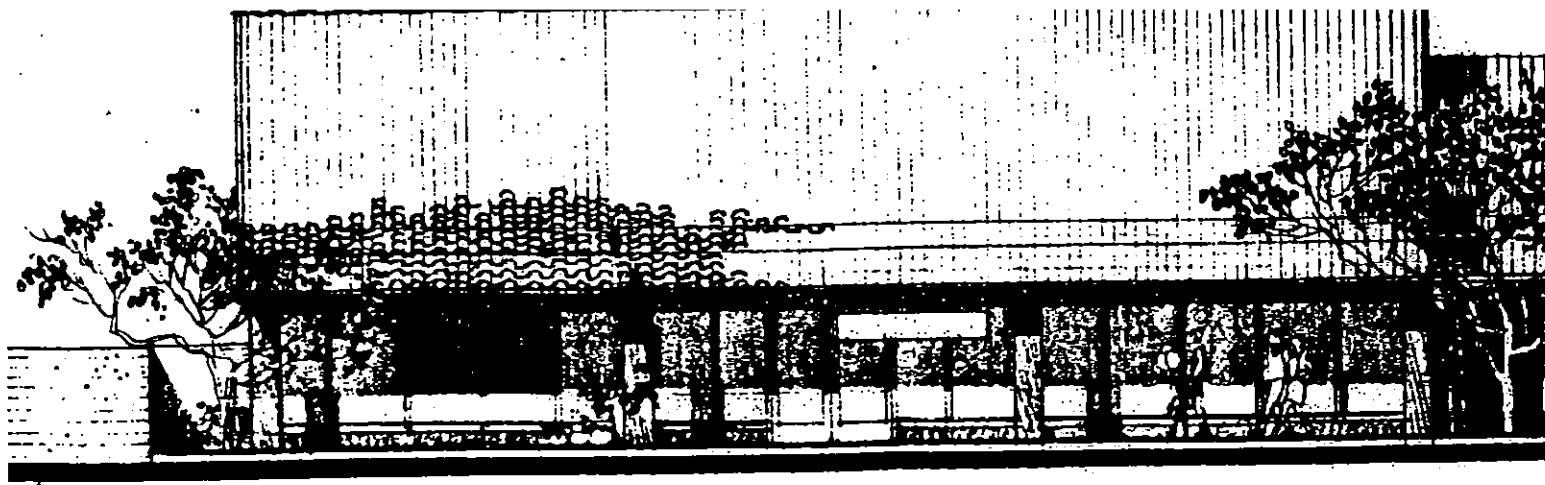
A handwritten signature in black ink, appearing to read "Perry L. Valantine", is written over a horizontal line.

Secretary, Costa Mesa
Planning Commission

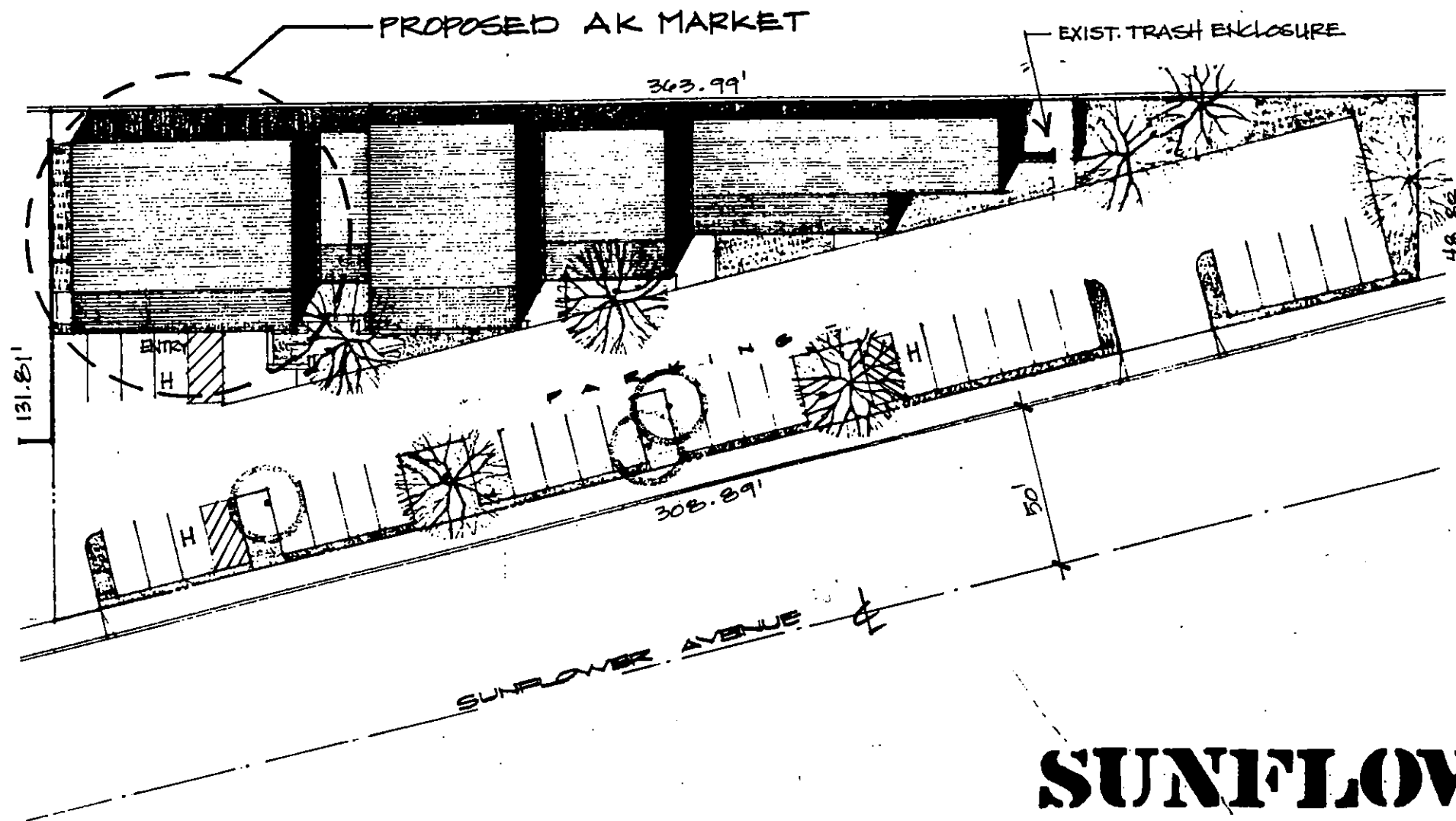
CODE REQUIREMENTS

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.

- | | | |
|----------------|----|--|
| PIng. | 1. | Approval of the conditional use permits valid for one (1) year and will expire at the end of that period unless business license is obtained and business commences, or the applicant applies for and is granted an extension of time. |
| Parks & Pkwys. | 2. | Existing trees to remain. |



SUNFLOWER AVE. ELEVATION
= 1"=20'



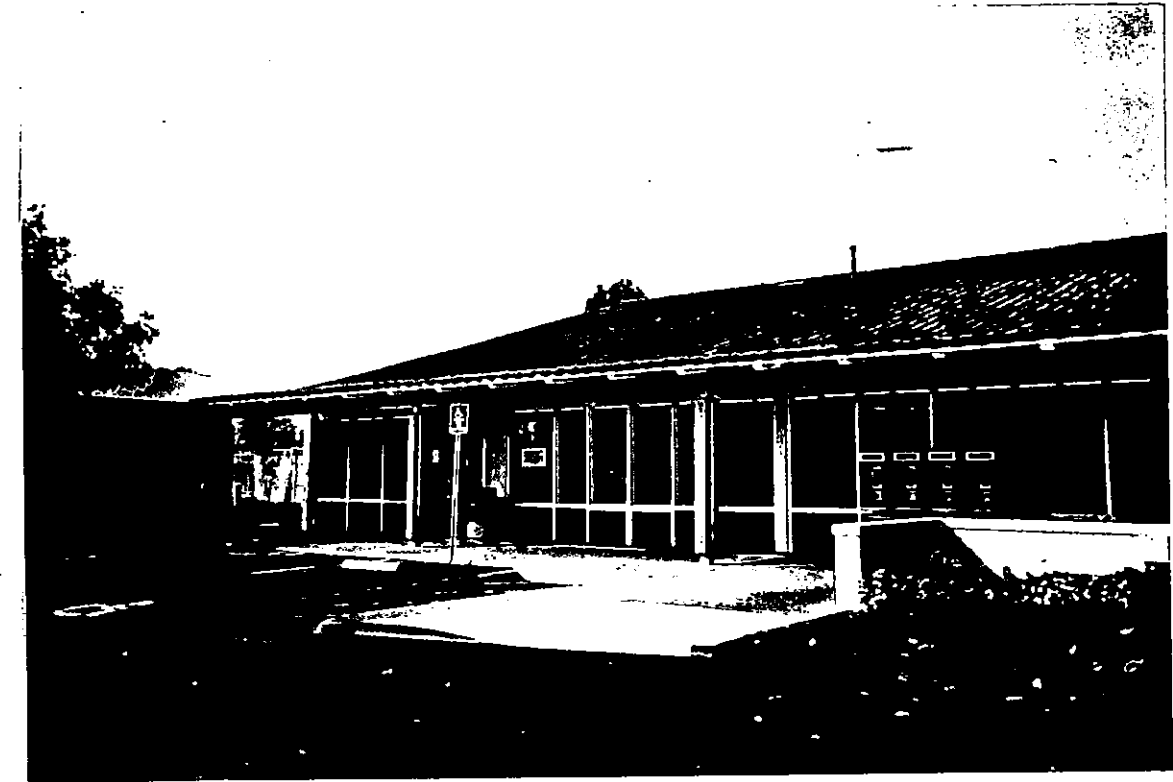
31 PARKING SPACES PROVIDED

SITE PLAN

SCALE: 1/40" = 1'-0"



(17)



APPLICANT/TENANT: KIMER PATEL
425 S. STATE COLLEGE BLVD.
ANAHEIM 92806 (714) 609-1516

SUNFLOWER CENTER

PROPOSED AK MARKET 1178 SUNFLOWER AVENUE AVE.

ARCHITECT: PAUL BOZARTH 18661 VALE AVE.
SANTA ANA 92705 (714) 538-5777

MARCH 5-02

SERVICE

PREP

OFFICE

WALK-IN REFRIGERATOR

WINE & BEER

SODAS

CANDY/CHIPS

COFFEE
SERVICE

CHECK-OUT
COUNTER

PROPOSED
AK MARKET

GROCERIES

EXISTING
DOUGHNUT
SHOP

PRIOR
FLORIST
(VACANT)

1178

60' x 40' = 2400 S.F.

1172

20' x 40' = 800 S.F.

1166

40' x 42'-10" = 1712 S.F.

EXIST
HANDICAP
PARKING

FLOOR PLAN

SCALE: 1/8" = 1'-0"



MARCH 5.02

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