



CITY COUNCIL AGENDA REPORT

MEETING DATE: APRIL 15, 2008

ITEM NO:

**SUBJECT: REHEARING OF PLANNING APPLICATION PA-07-48
378 COSTA MESA STREET**

DATE: APRIL 3, 2008

FROM: DEVELOPMENT SERVICES DEPARTMENT – PLANNING DIVISION

PRESENTATION BY: MEL LEE, AICP, SENIOR PLANNER

FOR FURTHER INFORMATION CONTACT: MEL LEE, AICP, SENIOR PLANNER (714)754-5611

RECOMMENDED ACTION

Conduct a public hearing and uphold, reverse, or modify the decision of the City Council.

BACKGROUND

On March 18, 2008, City Council, on a 5-0 vote, approved Planning Application PA-07-48 pertaining to variances from rear yard setback, rear yard coverage, and open space requirements, and an administrative adjustment for reduced side yard setbacks, to legalize a detached structure containing a two-car garage and granny unit. The portion of the project pertaining to the minor design review for the proposed second story addition to the main residence, with minor modifications, was previously approved by Planning Commission.

A request to rehear the approval of the portion of the project pertaining to the legalization of the rear structure was filed by Mayor Bever on March 25, 2008. On April 1, 2008, City Council voted to rehear the approval of the deviations for the rear structure.

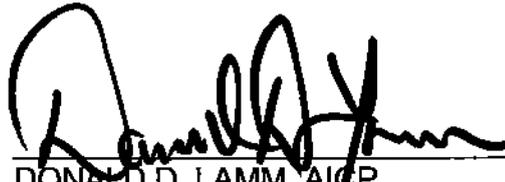
ALTERNATIVES CONSIDERED

As discussed at the April 1, 2008 meeting, the City Council may consider the following alternatives:

1. Uphold the decision to legalize the rear structure with conditions of approval per the attached resolution dated March 18, 2008;
2. Uphold the decision to legalize the rear structure with modifications to the conditions of approval;
3. Refer the item back to Planning Commission for review and reconsideration; or
4. Reverse the approval and deny the legalization of the rear structure, without prejudice. If the project is denied, appropriate findings would need to be made.



MEL LEE, AICP
Senior Planner



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

Attachments: Rehearing Request
City Council Resolution
City Council and Planning Commission Reports and Attachments
Planning Commission Resolution (Final)
Planning Commission Resolution (Draft)
Additional Correspondence Received From Applicants and Public

Distribution: City Manager
Assistant City Manager
City Attorney
Deputy City Mgr.-Development Svs. Dir.
Public Services Director
City Clerk (2)
Staff (4)
File (2)

Richard and Wendy Schones
378 Costa Mesa Street
Costa Mesa, CA 92627

Gary F. Schones
2140 Jefferson
Riverside, CA 92504

File: 041508PA0748Rehearing

Date: 040308

Time: 10:00 a.m.

REHEARING REQUEST

CITY OF COSTA MESA
P.O. BOX 1200 COSTA MESA, CALIFORNIA 92626
APPLICATION FOR APPEAL OR REHEARING

RECEIVED
CITY CLERK

VIII-1

2008 MAR 25 AM 11:56
FEE: \$

CITY OF COSTA MESA
BY _____

Applicant Name: Mayor Eric R. Bever

Address: 77 Fair Drive

Phone: (714) 754-5285

Representing:

Decision upon which appeal or rehearing is requested: (Give number of rezoning, zone exception, ordinance, etc., if applicable, and the date of the decision, if known.): PA-07-48

Decision by: City Council

Reason (s) for requesting appeal or rehearing:

This request for a rehearing is based on two key components of the motion approved by the City Council at its meeting of March 18, 2008.

1. Although the City Attorney advised the City Council during the course of deliberations that it could not use the subject of the alley as a basis for its determination, Council Member Leece's motion specifically makes reference to the alley as part of the justification for reversing the Planning Commission's denial.
2. The motion as offered by Council Member Leece and approved by the City Council is internally inconsistent and contradictory. The verbatim transcript below – as prepared by the City Clerk – demonstrates this point. The non-permitted two-car garage and granny unit cannot both be found to (a) be in compliance with the zoning and building codes and (b) granted a variance and administrative adjustment to legalize the unit in question.

"Motion: the Alternative No. 2, to reverse the Planning Commission's decision and approve all of the entitlements related to the request, including the variances, an administrative adjustment to legalize the detached two-car garage and granny unit with the additional recommended conditions of approval attached, which particularly means that the zoning code and the building codes would be that the granny unit would be in compliance with the zoning code and the building codes, and those are written into the conditions."

I would respectfully request that this matter be referred back to the Planning Commission.

Date: MARCH 25, 2008

Signature: 

For Office Use Only - Do Not Write Below This Line

SCHEDULED FOR THE CITY COUNCIL/PLANNING COMMISSION MEETING OF:

CITY COUNCIL RESOLUTION

RESOLUTION NO. 08-19

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY
OF COSTA MESA, CALIFORNIA, APPROVING
PLANNING APPLICATION PA-07-48.**

THE CITY COUNCIL OF THE CITY OF COSTA MESA HEREBY RESOLVES AS FOLLOWS:

WHEREAS, an application was filed by Richard and Wendy Schones, representing Gary F. Schones, owner of real property located at 378 Costa Mesa Street, requesting approval of variances from rear yard setback, rear yard coverage, and open space requirements, and administrative adjustment for reduced side yard setbacks, to legalize a detached two-car garage and granny unit, with a minor design review for a proposed second story addition to the main residence that does not meet the City's Residential Design Guidelines, as well as minor modifications to allow first and second story encroachments into the front yard setback; and

WHEREAS, a duly noticed public hearing was held by the Planning Commission on February 25, 2008, and PA-07-48 was approved in respect to the minor design review and minor modifications for the second story addition to the main residence, but denied, without prejudice, in respect to the variances and administrative adjustment to legalize the detached two-car garage and granny unit; and

WHEREAS, on February 29, 2008, Planning Commission's decision was called up for review to the City Council; and

WHEREAS, a duly noticed public hearing was held by the City Council on March 18, 2008.

BE IT RESOLVED that, based on the evidence in the record and the findings contained in Exhibit "A", the City Council hereby **APPROVES** PA-07-48 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 Planning Application PA-07-48 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 18th day of March, 2008:



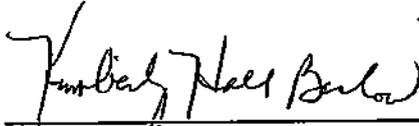
Eric R. Bever, Mayor

ATTEST:

APPROVED AS TO FORM:



Julie Folcik, City Clerk



Kimberly Hall Barlow, City Attorney

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

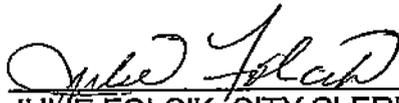
I, JULIE FOLCIK, City Clerk of the City of Costa Mesa, DO HEREBY CERTIFY that the above and foregoing is the original of Resolution No. 08-19 and was duly passed and adopted by the City Council of the City of Costa Mesa at a regular meeting held on the 18th day of March, 2008, by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS: BEVER, MANSOOR, DIXON, FOLEY, LEECE

NOES: COUNCIL MEMBERS: NONE

ABSENT: COUNCIL MEMBERS: NONE

IN WITNESS WHEREOF, I have hereby set my hand and affixed the seal of the City of Costa Mesa this 19th day of March, 2008.



JULIE FOLCIK, CITY CLERK

(SEAL)

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. Safety and compatibility of the design of the parking areas, landscaping, luminaries, and other site features including functional aspects of the site development such as automobile and pedestrian circulation have been considered.
 3. The project, as conditioned, is consistent with the General Plan.
 4. The planning application is for a project-specific case and does not establish a precedent for future development.
- B. The information presented complies with Section 13-29(g)(1) of the Costa Mesa Municipal Code in that special circumstances applicable to the property exist to justify granting of the variances from rear yard setback requirements, rear yard coverage requirements, minimum open space requirements, as well as the administrative adjustment from side yard setback requirements. Specifically, the property complies with the other requirements to accommodate a granny unit, such as maximum size of the unit and on-site parking. The second unit will be required to comply with all applicable requirements of the Building Code and the City has no record of Code Enforcement complaints related to the unit.
- C. The information presented substantially complies with Costa Mesa Municipal Code Section 13-29(g)(14) in that the proposed development complies with the City of Costa Mesa Zoning Code and meets the purpose and intent of the Residential Design Guidelines, which are intended to promote design excellence in new residential construction, with consideration being given to compatibility with the established residential community. This design review includes site planning, preservation of overall open space, landscaping, appearance, mass and scale of structures, location of windows, varied roof forms and roof plane breaks, and any other applicable design features. Specifically, although the second floor does not comply with the 80% second floor to first floor ratio recommended in the City's Residential Design Guidelines, the proposed second story incorporates variation in rooflines and architectural articulation to create visual interest. Privacy of the adjoining neighbors will not be negatively impacted because the second floor windows have been placed to minimize visibility into the abutting yards on the adjoining properties.
- D. The information presented complies with Costa Mesa Municipal Code Section 13-29(g)(6) with regard to the minor modification because granting the minor modification will not be materially detrimental to the health, safety, and general welfare of persons residing within the immediate vicinity of the project or to property

and improvements within the neighborhood. The improvement enhances the design of the existing and anticipated development in the vicinity. Specifically, the encroachments on the first and second floor do not extend the entire length of the front elevation and over half of the front elevation complies with the required front setback. The proposed encroachments will also provide visual interest to the front of the house

- E. 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 15301 for Existing Facilities.
- F. The project is exempt from Chapter IX, Article 11, Transportation System Management, of Title 13 of the Costa Mesa Municipal Code.

CONDITIONS OF APPROVAL

- Plng.
1. Address assignment shall be requested from the Planning Division prior to submittal of working drawings for plan check. The approved address of individual units, suites, buildings, etc, shall be blueprinted on the site plan and on all floor plans in the working drawings.
 2. The second-story addition shall be architecturally compatible with regard to building materials, style, colors, etc. Plans submitted for plan check shall indicate how this will be accomplished.
 3. No modification(s) of the approved building elevations including, but not limited to, changes that increase the building height, removal of building articulation, or a change of the finish material(s), shall be made during construction without prior Planning Division written approval. Failure to obtain prior Planning Division approval of the modification could result in the requirement of the applicant to (re)process the modification through a discretionary review process such as a minor design review or a variance, or in the requirement to modify the construction to reflect the approved plans.
 4. The applicant shall contact the current cable company prior to issuance of building permits to arrange for pre-wiring for future cable communication service.
 5. The conditions of approval, ordinance and code provisions of PA-07-48 shall be blueprinted on the face of the site plan.
 6. Any future second-floor windows shall be reviewed and approved by the Planning Division prior to installation. The windows shall be designed and placed to minimize direct lines-of-sight into windows on adjacent neighboring properties and to minimize visibility into abutting residential side and rear yards. Every effort shall be made to maintain the privacy of abutting property owners.
 7. The applicant shall contact the Planning Division to arrange Planning inspection of the site prior to the release of occupancy/utilities. This inspection is to confirm that the conditions of approval and code requirements have been satisfied.
 8. Demolition permits for existing structures shall be obtained and all work and inspections completed prior to final building inspections. Applicant is notified that written notice to the Air Quality Management District may be required ten (10) days prior to demolition.
 9. Existing mature vegetation shall be retained wherever possible. Should it be necessary to remove existing vegetation, the applicant shall submit a written request and justification to the Planning Division. A report from a California licensed arborist may be required as part of the justification. Replacement trees shall be of a size consistent with trees to be removed, and shall be replaced on a 1-to-1 basis. This condition shall be completed under the direction of the Planning Division.
 10. Construction, grading, materials delivery, equipment operation or other noise-generating activity shall be limited to between the hours of 7 a.m.

and 8 p.m., Monday through Friday, and between the hours of 8 a.m. and 6 p.m. on Saturday. Construction is prohibited on Sundays and Federal holidays. Exceptions may be made for activities that will not generate noise audible from off-site, such as painting and other quiet interior work.

- 11. Deleted.
- 12. Deleted.
- 13. The applicant shall replace the existing solid wall and window for the attached one car-garage for the main residence with an operable garage door.
- 14. Deleted.
- Eng. 15. Maintain the public right-of-way in a "wet-down" condition to prevent excessive dust and promptly remove any spillage from the public right-of-way by sweeping or sprinkling.
- Planning Comm. 16. Deleted.
- City Council 17. The second-story addition and granny unit shall be architecturally compatible with regard to building materials, style, colors, etc. Plans submitted for plan check shall indicate how this will be accomplished.
- 18. The granny unit shall be served from the same utility meters (electric, gas and water) as the main dwelling unit on the property.
- 19. A land use restriction, executed by and between the applicant and the City of Costa Mesa, shall be recorded prior to the issuance of building permits. This land use restriction shall inform future property owners that the granny unit shall be occupied by no more than two residents, each of whom is no less than 62 years of age, and that one of the units on the subject property shall be owner occupied. Applicant shall submit to the Planning Division a copy of the legal description for the property, and either a lot book report or current title report identifying the current legal property owner so that the document may be prepared.
- 20. The applicant shall obtain all necessary permits and inspections, and make any other modifications as required by the California Building Code for the detached granny unit and garage, prior to building final of the second-story addition to the main residence.

**CITY COUNCIL AND PLANNING COMMISSION
REPORTS AND ATTACHMENTS**



CITY COUNCIL AGENDA REPORT

MEETING DATE: MARCH 18, 2008

ITEM NO:

**SUBJECT: REVIEW OF PLANNING APPLICATION PA-07-48
378 COSTA MESA STREET**

DATE: MARCH 6, 2008

FROM: DEVELOPMENT SERVICES DEPARTMENT – PLANNING DIVISION

PRESENTATION BY: MEL LEE, AICP, SENIOR PLANNER

FOR FURTHER INFORMATION CONTACT: MEL LEE, AICP, SENIOR PLANNER (714)754-5611

RECOMMENDED ACTION

Conduct public hearing and adopt a resolution to uphold, reverse, or modify Planning Commission's decision.

BACKGROUND

On February 25, 2008, Planning Commission denied, without prejudice, a portion of Planning Application PA-07-48 pertaining to variances from rear yard setback, rear yard coverage, and open space requirements, and an administrative adjustment for reduced side yard setbacks, to legalize a detached structure containing a two-car garage and granny unit. However, Commission approved the proposed second-story addition to the main residence that exceeds the 80% second floor to first floor ratio recommended by the City's Residential Design Guidelines, and a minor modification to allow first- and second-story encroachments into the front yard setback.

On February 29, 2008, a request to review Commission's decision with respect to the denial of the variances and administrative adjustment for the detached structure was filed by Council Member Leece, on behalf of the project applicant.

ANALYSIS

According to the applicant, the detached structure was built around 1961. The City has no record of a building permit for the structure. The Commission determined on a 3-1 vote (Commission Chair Hall voting no; Commissioner Clark absent) that there was no basis to approve the variances and administrative adjustment to legalize the detached structure because the structure does not comply with either the current zoning code setback requirements or the zoning code setback requirements at the time it was originally built. Additionally, Commission felt that approving the structure could establish a precedent for legalizing non-permitted structures based upon the length of time they have existed on a residential property. The Commission also found that there were no special circumstances applicable to the property such as unusual lot size or

shape to justify the request.¹ The variances and administrative adjustment were denied without prejudice to allow the applicant to submit plans for a new structure in compliance with code requirements within the 6-month period stipulated in Code Section 13-29(n).

The Commission did not have any concerns with the proposed second story addition to the main residence and approved that portion of the project.

ALTERNATIVES CONSIDERED

City Council may consider the following alternatives:

1. Uphold Planning Commission's decision to approve the project in respect to the minor design review and minor modifications for the second story addition to the main residence, and deny, without prejudice, the project in respect to the variances and administrative adjustment to legalize the detached two-car garage and granny unit;
2. Reverse Planning Commission's decision and approve all of the entitlements related to the request, including the variances and administrative adjustment to legalize the detached two-car garage and granny unit, with the additional recommended conditions of approval attached; or
3. Deny the entire project. If the project is denied, appropriate findings would need to be made.

FISCAL REVIEW

Fiscal review is not required.

LEGAL REVIEW

Legal review is not required.

ENVIRONMENTAL REVIEW

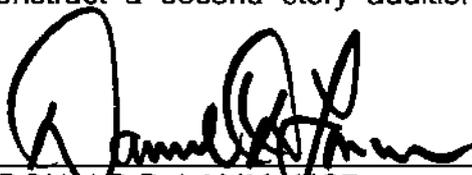
Pursuant to Section 15301 (Existing Facilities) of the California Environmental Quality Act (CEQA) Guidelines, this project is exempt from CEQA.

CONCLUSION

The Planning Commission denied the applicant's request to legalize the detached structure finding there was no basis to approve the variances and administrative adjustment, however, the request to construct a second story addition to the main residence was approved.



MEL LEE, AICP
Senior Planner



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

¹ It was suggested that there may have been an alley at the rear of the property sometime in the past that affected the placement of the structure. However, staff found no evidence of an alley existing on this property or within the block.

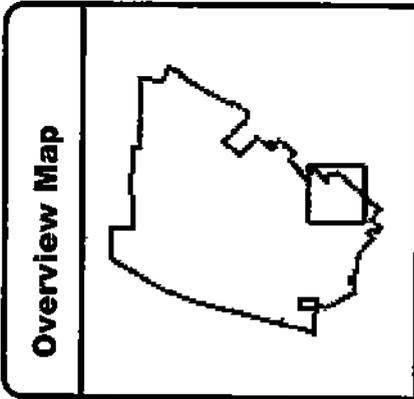
Attachments: Zoning/Location Map
Plans
Draft City Council Resolution
Exhibit "A" – Draft Findings
Exhibit "B" – Draft Conditions of Approval
Review Request
Copies of Public Correspondence
Minutes of Planning Commission meeting of February 25, 2008
Planning Division Staff Report
Planning Commission Resolution

Distribution: City Manager
Assistant City Manager
City Attorney
Deputy City Mgr.-Development Svs. Dir.
Public Services Director
City Clerk (2)
Staff (4)
File (2)

Richard and Wendy Schones
378 Costa Mesa Street
Costa Mesa, CA 92627

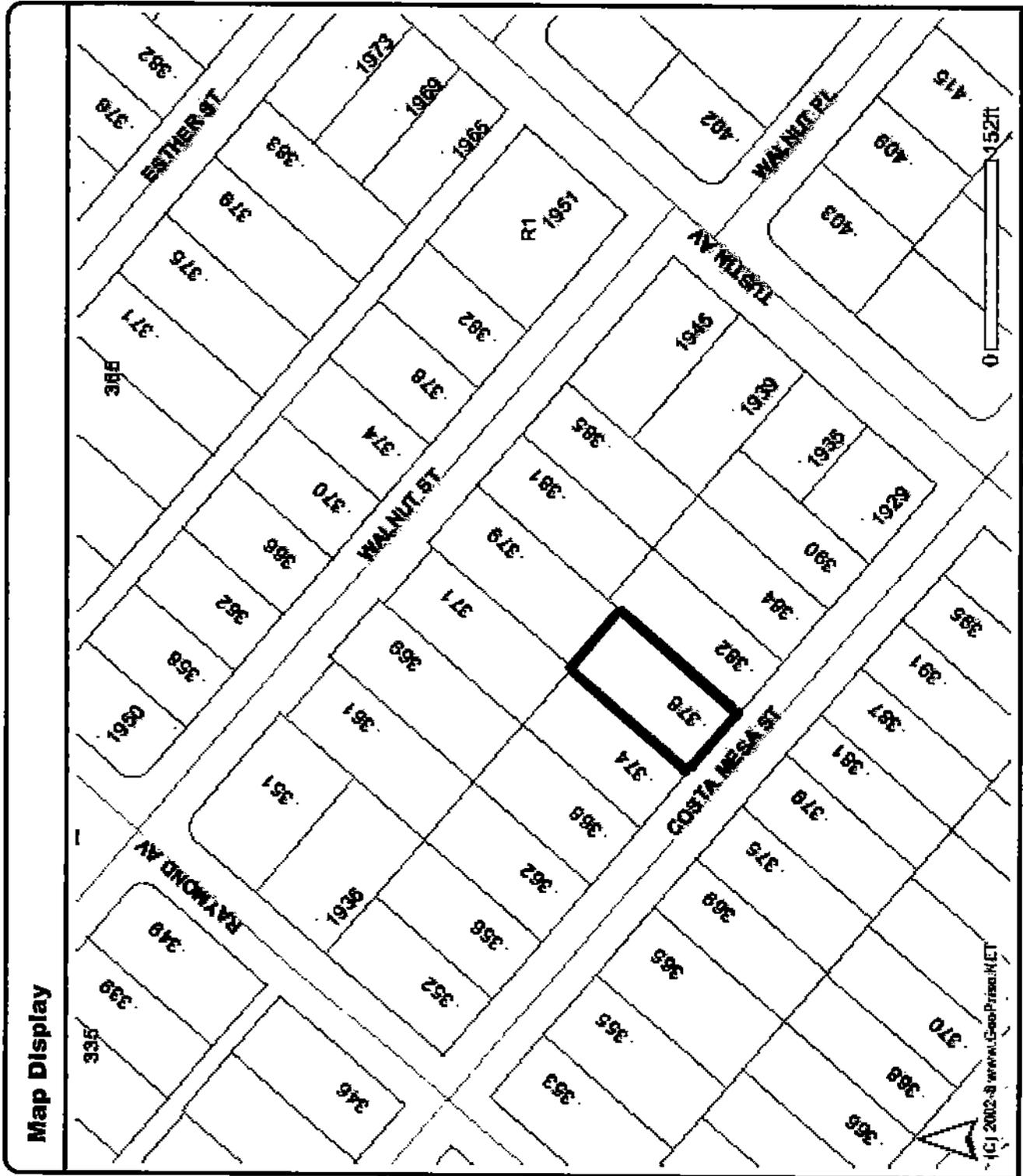
Gary F. Schones
2140 Jefferson
Riverside, CA 92504

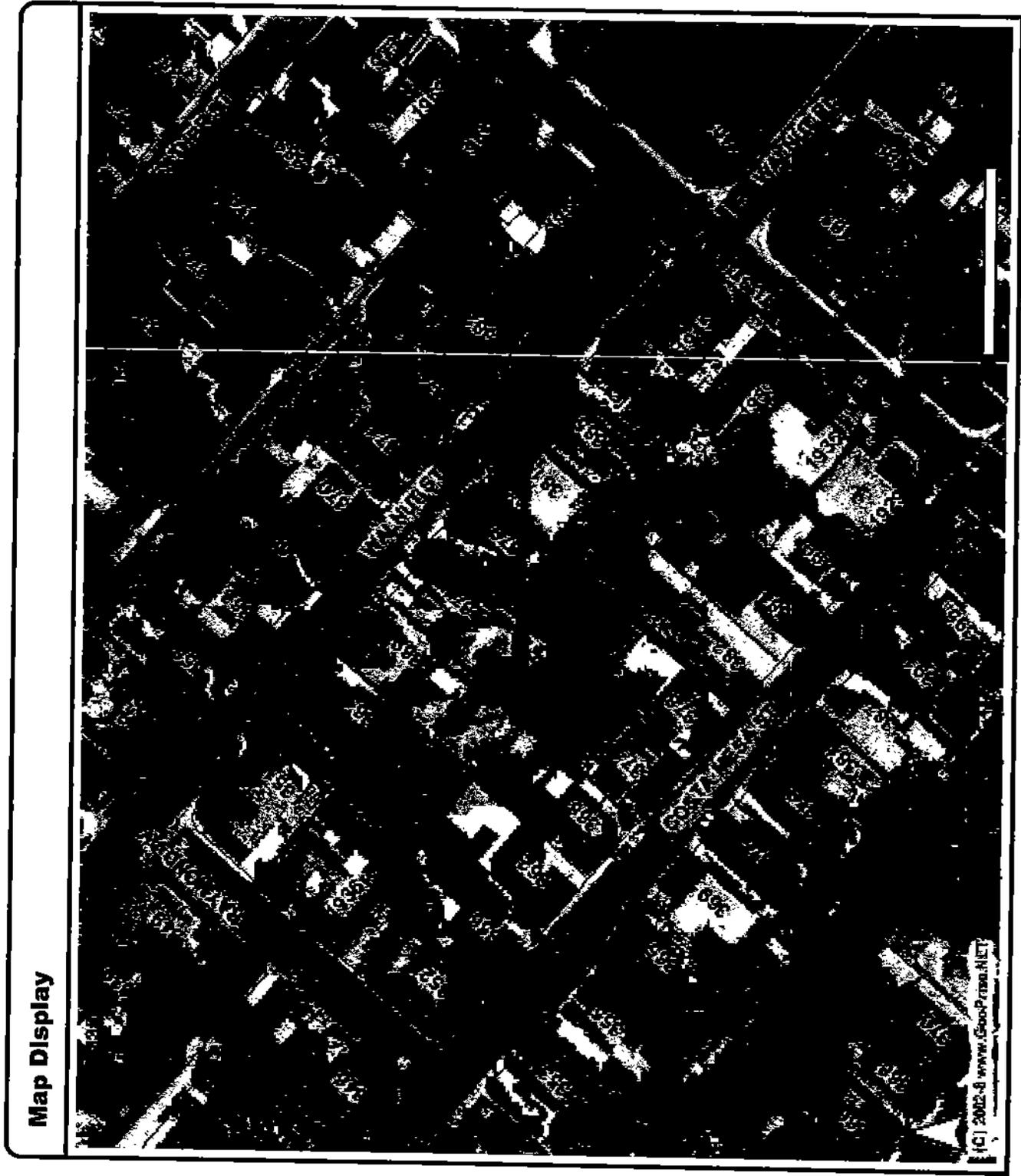
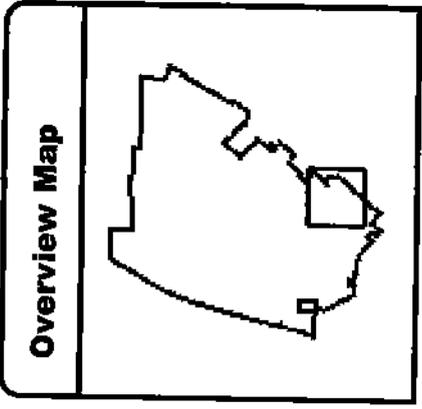
File: 031808PA0748Review	Date: 030408	Time: 11:00 a.m.
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Legend

Address Medium	Zoning
Address Points	AP
Street Names	C1
Street Centerlines	C1-S
Parcel Lines	C2
	CL
	UR
	UR-S
	MG
	MP
	P
	POC
	PDI
	PPR-d/D
	(cont)





Legend

Address Medium	Level 1 Ortho Photo
Address Points	Parcels
Street Names	ROW Polygons
Street Centerlines	
Parcel Lines	



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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'S OFFICE AT

(714) 754-5121