



# **CITY COUNCIL AGENDA REPORT**

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MEETING DATE: OCTOBER 7, 2008

ITEM NO:

**SUBJECT: APPEAL OF AMENDMENT #1 TO PLANNING APPLICATION PA-08-10  
947 WEST 18<sup>TH</sup> STREET**

**DATE: SEPTEMBER 29, 2008**

**FROM: DEVELOPMENT SERVICES DEPARTMENT**

**PRESENTATION BY: WENDY SHIH, ASSOCIATE PLANNER  
DONALD D. LAMM, DIRECTOR**

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

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## **RECOMMENDATION:**

Uphold, reverse, or modify Planning Commission's decision to deny an amendment to Planning Application PA-08-10; a request to modify a condition of approval that requires removal of a roof over an existing structure used for vehicle parking.

## **BACKGROUND:**

### **Property Location:**

The property is industrially zoned and located in Westside Costa Mesa (see Attachment 1). An automobile service and repair business and a used car sales business currently operate on site. The appellant owns both the property and automobile repair business. As shown in Attachment 1, the property is surrounded by industrial businesses with the exception of the Green Leaf Mobile Home Park that is located to the southwest.

### **Previous Actions:**

In June 2007, Code Enforcement notified the property owner of the following three code violations:

1. An illegally constructed 146 square-foot bathroom addition;
2. An illegally constructed 1,800 square-foot storage building located at the rear corner of the property; and
3. Used cars being displayed outdoors as "for sale" without a conditional use permit.

The property owner submitted an application (PA-08-10) to correct the violations, which required several discretionary actions by Planning Commission. See Attachment 2 for a copy of the site plan and the applicant's proposal to correct the code violations.

On May 27, 2008, Commission took the following actions on PA-08-10:

1. ***Approved the 146 square-foot bathroom addition*** in conjunction with the removal of 197 square feet of permitted building area in order to comply with the property's maximum floor area ratio requirements.
2. ***Approved a variance from the side and rear building setbacks*** for the 1,800 square-foot building and determined that it is a "parking structure" and would not affect the property's maximum floor area ratio limits, since parking structures are exempt from floor area ratio calculations. Commission also required removal of the parking structure's roof so the structure would not be used for other purposes.
3. ***Denied the conditional use permit*** to allow outdoor display of "for sale" vehicles due to on-site parking constraints.

The applicant did not appeal the Commission's decision within the seven-day appeal period, so staff believed the issues had been satisfactorily resolved.

Subsequently, the property owner submitted an application to amend Commission's approval of the 1,800 square-foot parking structure. Specifically, he sought relief from the following condition of approval that requires removal of the parking structure's roof. His reason for the request is the high financial costs associated with the necessary associated removal of the structure's interior electrical system for the lighting and overhead doors.

1. *Obtain building permits to remove roof and legalize the vehicle storage structure and legalize bathroom facility within 30 days of application approval.*

At their meeting of August 25, 2008, Commission affirmed their previous determination that removal of the parking structure roof is required and denied the applicant's request on a 3 to 2 vote (Chair Hall and Vice Chair Fisler voting no).

On September 2, 2008 the property owner's attorney, Ronald Talmo, appealed Commission's decision to Council. The appellant believes that allowing the roof to remain with a corresponding use restriction would ensure the structure would be only used for parking vehicles.

The Planning Commission staff report and minutes for August 25, 2008 are included as Attachment 7.

### **ALTERNATIVES:**

City Council may consider the following alternatives:

1. *Uphold Planning Commission's decision and require the roof to be removed.* This alternative corresponds to the resolution that is contained in Attachment 3.
2. *Reverse Planning Commission's decision and allow the roof to remain.* In conjunction with this alternative, staff recommends the following modifications to the conditions of approval for PA-08-10.
  1. Obtain building permits to ~~remove roof and~~ legalize the vehicle storage structure and legalize bathroom facility within 30 days of application approval.

8. The detached structure at the rear of the property shall be only used for vehicle parking.

The resolution contained in Attachment 4 corresponds to this alternative.

**FISCAL REVIEW:**

Fiscal review is not required.

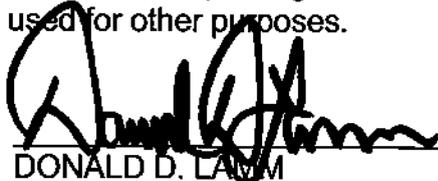
**LEGAL REVIEW:**

The City Attorney's Office has reviewed the resolution and approved it as to form.

**CONCLUSION:**

Commission denied the applicant's request to retain the parking structure's roof because they believe a fully enclosed building may be used for other purposes.

  
WENDY SHIH  
Associate Planner

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

- Attachments:
1. Aerial Photo/Location Map
  2. Plans
  3. Draft City Council Denial Resolution
  4. Draft City Council Approval Resolution
  5. Appeal Application
  6. Planning Commission Resolution
  7. Planning Commission staff report and meeting minutes from August 25, 2008

Distribution:

- City Manager
- Asst. City Manager
- City Attorney
- Deputy City Manager-Development Svs. Dir.
- Public Service Director
- City Clerk (2)
- Staff (4)
- File (2)

Ronald Taimo  
2415 North Hesperian  
Santa Ana, CA 92706

Maurice Lavoie  
947 W. 18<sup>th</sup> St.  
Costa Mesa, CA 92627

# ATTACHMENT 1

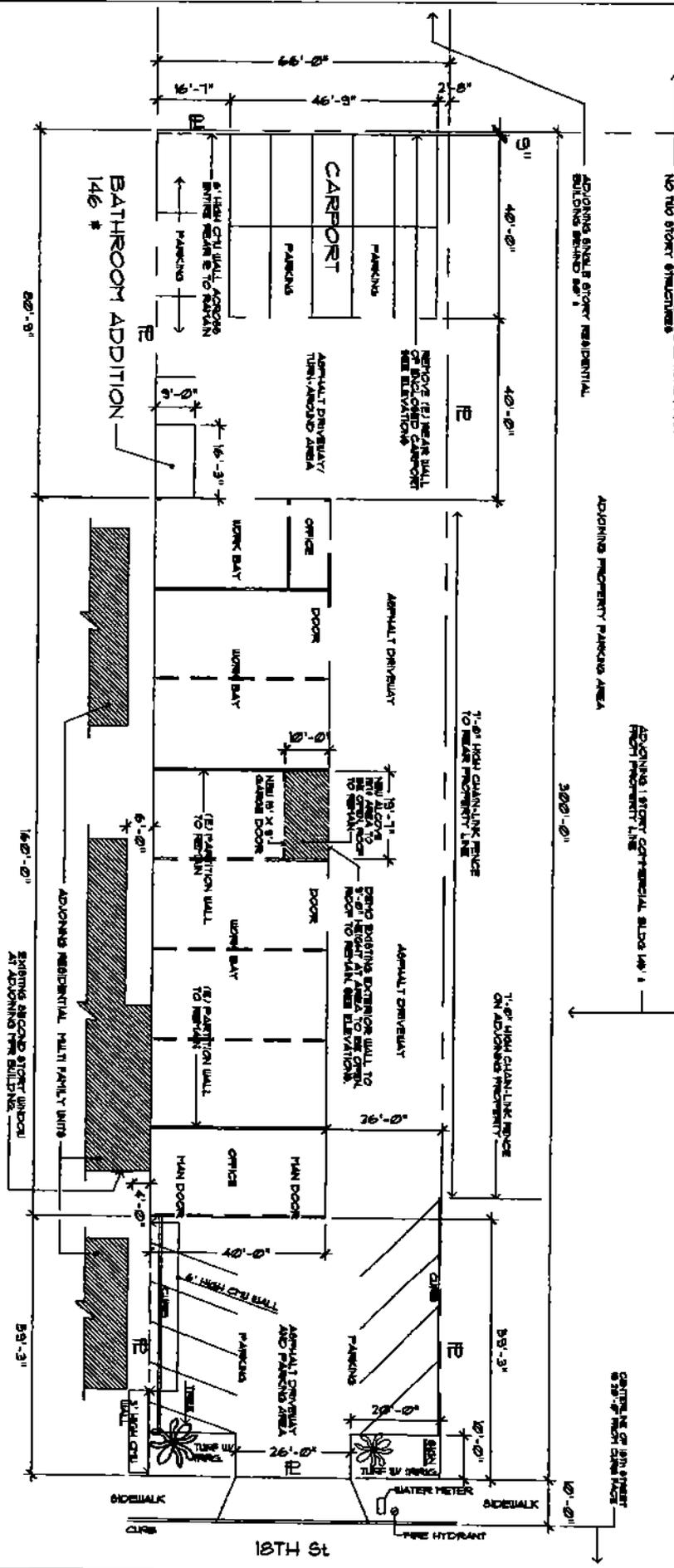
LOCATION MAP/AERIAL PHOTO



# ATTACHMENT 2

**OWNER:**  
MAURICE LAYOIE  
947 W. 18TH ST  
COSTA MESA, CA

**SITE PLAN**  
PROJECT DATA  
VICINITY MAP



**SITE PLAN**  
3/32" = 1'-0"

LEGAL OWNER	SETBACKS	EXISTING	NEW	N/A	SHEET INDEX	VICINITY MAP
NAME: MAURICE E LAYOIE STREET: 947 W. 18TH ST COSTA MESA, CA PH 949-245-0800	FRONT (NORTH) 99'-3" REAR (SOUTH) 9' SIDE (EAST) 0'-0" SIDE (WEST) 26'-0"	99'-3" 9' 0'-0" 26'-0"	99'-3" 9' 0'-0" 26'-0"		4-1 SITE PLAN 4-2 ELEVATIONS 4-3 FLOOR PLAN 1 4-4 FLOOR PLAN 2	
<b>LEGAL DESCRIPTION</b>	<b>SCOPE OF WORK:</b>	ADD 146 SQ FT BATHROOM AREA (EXISTING NON-CONFORMING) REMOVE 96 SQ FT OF EXISTING BUILDING FOR NEW ALCOVE. REMOVE REAR STUD WALL AND ALL ATTACHED MATERIALS OF EXISTING NON-CONFORMING CARPORT. REAR CHU BLOCK WALL TO REMAIN.				
APN: 424-361-10 LOT 10009 TRACT No 917 ORANGE CO. RECORDERS OFFICE		AREA	EXISTING	NEW	RATIO	
		(E) BLDG.	6,400	146	32.2%	
		BATH ADDITION		146		
		ALCOVE (REDUCTION)		-186		
		CARPORT		1,870		
		(O) (A) (B)		6,350		
		LOT SQ. FT.	6,400			
		BUILDING SQ. FT.		32.2%		
			18,800	6,350		

PA-08-10

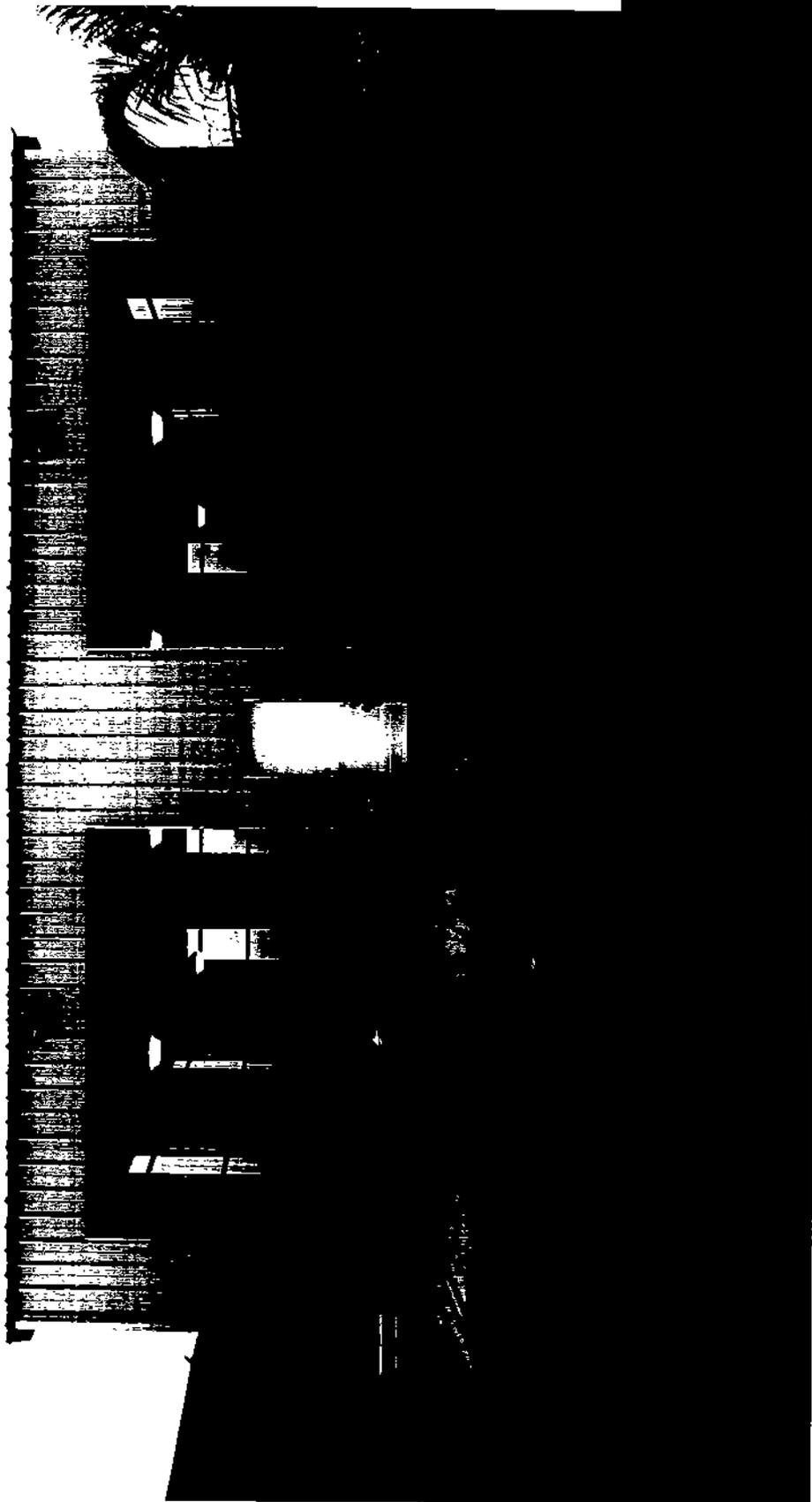
A-1  
5

**SITE PLAN**  
PROJECT DATA  
VICINITY MAP

**OWNER:**  
MAURICE LAYOIE  
947 W. 18TH ST  
COSTA MESA, CA



ATTACHMENT 2A



# ATTACHMENT 3

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
COSTA MESA DENYING AN AMENDMENT TO PLANNING  
APPLICATION PA-08-10**

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

WHEREAS, an application was filed by Maurice Lavoie with respect to the real property located at 947 W. 18<sup>th</sup> Street, requesting approval of an amendment to condition of approval number one to allow retention of the roof structure in conjunction with the legalization of the parking structure, in an MG zone; and

WHEREAS, a duly noticed public hearing was held by the Planning Commission on August 11, 2008 and August 25, 2008, and was denied by Planning Commission; and

WHEREAS, the item was appealed by Ronald Talmo to the City Council on September 2, 2008; and

WHEREAS a duly noticed public hearing was held by the City Council on October 7, 2008;

NOW, THEREFORE, BE IT RESOLVED that, based on the evidence in the record and the findings contained in Exhibit "A", the City Council of the City of Costa Mesa hereby **DENIES** an amendment to Planning Application PA-08-10 with respect to the property described above.

**PASSED AND ADOPTED this 7<sup>th</sup> day of October, 2008.**

\_\_\_\_\_  
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 7<sup>th</sup> day of October 2008.

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

EXHIBIT "A"

FINDINGS (for denial)

- A. The proposed amendment does not comply with Costa Mesa Municipal Code Section 13-29(e) because:
  - 1. The proposed development and use is not compatible and harmonious with uses on- or off-site.
  - 2. Safety and compatibility of the design of the buildings, 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 planning application is for a project-specific case and does not establish a precedent for future development.
  
- B. The Costa Mesa Planning Commission has denied the amendment to PA-08-10. Pursuant to Public Resources Code Section 21080(b)(5) and CEQA Guidelines Section 15270(a), CEQA does not apply to this project because it has been rejected and will not be carried out.
  
- C. The project is exempt from Chapter XII, Article 3, Transportation System Management, of Title 13 of the Costa Mesa Municipal Code.

# ATTACHMENT 4

RESOLUTION NO. \_\_\_\_\_

## A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA APPROVING AN AMENDMENT TO PLANNING APPLICATION PA-08-10

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

WHEREAS, an application was filed by Maurice Lavoie with respect to the real property located at 947 W. 18<sup>th</sup> Street, requesting approval of an amendment to condition of approval number one to allow retention of the roof structure in conjunction with the legalization of the parking structure, in an MG zone; and

WHEREAS, a duly noticed public hearing was held by the Planning Commission on August 11, 2008 and August 25, 2008, and was denied by Planning Commission; and

WHEREAS, the item was appealed by Ronald Talmo to the City Council on September 2, 2008; and

WHEREAS a duly noticed public hearing was held by the City Council on October 7, 2008;

NOW, THEREFORE, 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** the modification of condition number one and an additional condition number eight for Planning Application PA-08-10 to read as follows:

1. Obtain building permits to legalize the vehicle parking structure and legalize the bathroom facility within 30 days of application approval.
8. The detached structure at the rear of the property shall be only used for vehicle parking..

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-08-10 and upon applicant's compliance with each and all of the conditions contained in Exhibit "B" as modified. 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 7<sup>th</sup> day of October 2008.**

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Mayor of the City of Costa Mesa

**EXHIBIT "A"****FINDINGS (for approval)**

- A. The proposed amendment 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 buildings, 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 amendment is consistent with the General Plan since retention of the roof structure does not intensify the approved uses on the property.
  4. The planning application is for a project-specific case and does not establish a precedent for future development.
- B. The proposed amendment complies with Costa Mesa Municipal Code section 13-29(g)(1) in that retention of the roof structure does not increase the mass of the parking structure which only abuts at one point the corner of the residentially-zoned property nor 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 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.

# ATTACHMENT 5

**RONALD TALMO**  
ATTORNEY AT LAW  
2415 NORTH HESPERIAN  
SANTA ANA, CALIFORNIA 92706

AREA CODE (714)  
TELEPHONE & FACSIMILE  
543-1294

September 2, 2008

City Council for the City of Costa Mesa  
77 Fair Drive  
Costa Mesa, California 92628

RECEIVED  
CITY CLERK  
2008 SEP - 2 PM 2:36  
CITY OF COSTA MESA  
BY \_\_\_\_\_

Re: Appeal of Planning Commission Resolution PC-08-67 (August 25, 2008)  
Denying an Amendment to Planning Application PA-08-10

To the City Council:

By this letter, I appeal on behalf of my client, Maurice Lavoie, the above referenced decision of the Planning Commission.

The grounds for this appeal are that the criteria of the Costa Mesa Municipal Code, Section 13-29(e) have been met in that the proposed development and use is compatible and harmonious with uses on-site and off-site and that the requested restriction of the building to parking only does not impact the FAR for this property as those spaces will not be reduced by the existence of a metal roof.

Respectfully submitted,



Ronald Talmo, attorney  
On behalf of the property owner, Maurice Lavoie

# ATTACHMENT 6

RESOLUTION NO. PC-08-67

**A RESOLUTION OF THE PLANNING COMMISSION OF THE  
CITY OF COSTA MESA DENYING AN AMENDMENT TO  
PLANNING APPLICATION PA-08-10**

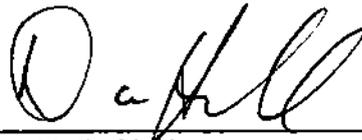
THE PLANNING COMMISSION OF THE CITY OF COSTA MESA HEREBY  
RESOLVES AS FOLLOWS:

WHEREAS, an application was filed by Maurice Lavoie with respect to the real property located at 947 W. 18<sup>th</sup> Street, requesting approval of an amendment to condition of approval number one to allow retention of the roof structure in conjunction with the legalization of the parking structure, in an MG zone; and

WHEREAS, a duly noticed public hearing was held by the Planning Commission on August 11, 2008 and August 25, 2008;

BE IT RESOLVED that, based on the evidence in the record and the findings contained in Exhibit "A", the Planning Commission hereby **DENIES** an amendment to Planning Application PA-08-10 with respect to the property described above.

**PASSED AND ADOPTED this 25<sup>th</sup> day of August, 2008.**



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Donn Hall, Chair  
Costa Mesa Planning Commission

**EXHIBIT "A"**

**FINDINGS (for denial)**

- A. The proposed amendment does not comply with Costa Mesa Municipal Code Section 13-29(e) because:
  - 1. The proposed development and use is not compatible and harmonious with uses on- or off-site.
  - 2. Safety and compatibility of the design of the buildings, 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 planning application is for a project-specific case and does not establish a precedent for future development.
  
- B. The Costa Mesa Planning Commission has denied the amendment to PA-08-10. Pursuant to Public Resources Code Section 21080(b)(5) and CEQA Guidelines Section 15270(a), CEQA does not apply to this project because it has been rejected and will not be carried out.
  
- C. The project is exempt from Chapter XII, Article 3, Transportation System Management, of Title 13 of the Costa Mesa Municipal Code.

STATE OF CALIFORNIA )  
 )ss  
COUNTY OF ORANGE )

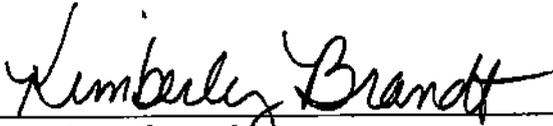
I, Kimberly Brandt, secretary to the Planning Commission of the City of Costa Mesa, do hereby certify that the foregoing Resolution was passed and adopted at a meeting of the City of Costa Mesa Planning Commission held on August 25, 2008, by the following votes:

AYES: COMMISSIONERS: CLARK, EGAN, RIGHEIMER

NOES: COMMISSIONERS: HALL, FISLER

ABSENT: COMMISSIONERS: NONE

ABSTAIN: COMMISSIONERS: NONE

  
Secretary, Costa Mesa  
Planning Commission

# ATTACHMENT 7



## **PLANNING COMMISSION AGENDA REPORT**

MEETING DATE: AUGUST 25, 2008

VI.1

ITEM NUMBER:

SUBJECT: AMENDMENT OF PLANNING APPLICATION PA-08-10  
947 WEST 18<sup>TH</sup> STREET

DATE: AUGUST 14, 2008

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

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### PROJECT DESCRIPTION/BACKGROUND

The applicant requests a modification to a condition of approval to allow retention of the roof for legalization of the parking structure.

This item was heard by the Planning Commission on August 11, 2008. However, the motion to approve the request failed to carry (2 to 2 with Commissioners Rigueimer and Clark voting no; Commissioner Egan absent); thus no action on the request was taken. Since Planning Commission action is required, either approval or denial, this application has been re-noticed for the Commission meeting of August 25, 2008.

The original staff report and revised resolution are attached for reference.

### APPLICANT

Maurice Lavoie is the property owner and applicant.

### RECOMMENDATION

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

WENDY SHIH  
Associate Planner

KIMBERLY BRANDT, AICP  
Asst. Development Services Director

- Attachments:
1. Draft Planning Commission Resolutions
  2. Planning Commission Agenda Report for August 11, 2008
  3. Applicant's Project Description Letter
  4. Planning Commission Resolution PC-08-46
  5. Location Map
  6. Plans

cc:

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

Ronald Talmo  
2415 North Hesperian  
Santa Ana, CA 92706

Maurice Lavoie  
947 W. 18<sup>th</sup> St.  
Costa Mesa, CA 92627

## Excerpt from PC minutes of August 25, 2008

Commissioner Righeimer complimented the Halecrest Homeowners Association and Mike Brumbaugh for putting on an impressive Chili Cook-off.

### VI. PUBLIC HEARINGS:

1. Planning Application PA-08-10, for Ronald Talmo, authorized agent for Maurice Lavoie, to modify Condition of Approval No. 1 requiring removal of the roof of the parking structure, to allow the roof to remain, located at 947 West 18th Street, in an MG zone. Environmental determination: exempt.

Associate Planner Wendy Shih reviewed the information in the staff report, and there were no questions of staff.

Ronald Talmo, representing the property owner, Maurice Lavoie, stated he was seeking permission for the roof to remain on the structure.

Mr. Lavoie pointed out that the structure is only being used for parking.

No one else wished to speak and the Chair closed the public hearing.

In response to Commissioner Egan's question as to why staff would change their recommendation on this request, especially considering the Code, Ms. Shih replied that the approval is based on the Planning Commission's prior approval of the variance, and staff's belief that retention of the roof will not increase the mass of the structure.

Commissioner Egan commented that the Planning Commission does not normally grant a variance with a land use restriction, and stated that the Commission tried very hard to retain the enclosure for the vehicles without creating a new building.

**MOTION: Deny an amendment to Planning Application PA-08-10, by adoption of Planning Commission Resolution PC-08-67, based on the evidence in the record and the denial findings contained in Exhibit "A". Moved by Commissioner Eleanor Egan, seconded by Commissioner James Righeimer.**

During discussion on the motion, Commissioner Egan replied to the Chair that the land use is for parking and they tried to keep the enclosure.

The motion carried by the following roll call vote:

Ayes: Commissioner Sam Clark, Commissioner Eleanor Egan, and  
Commissioner James Righeimer

Noes: Chair Donn Hall, and Vice Chair James Fisler  
Absent: None.

The Chair explained the appeal process.

2. Appeal of the Zoning Administrator's approval of Zoning Application ZA-08-23, for Cindy Tom, authorized agent for Tempest Equities/Sid Crossley, for a minor conditional use permit to deviate from shared parking requirements to legalize the expansion of indoor/public area to exceed 300 sq. ft., and to allow outdoor seating for Swirls Yogurt, located at 1799 Newport Boulevard, Suite A101, in a C2 zone. Environmental determination: exempt.

Assistant Planner Rebecca Robbins reviewed the information in the staff report, and there were no questions of staff.

Katherine Young, appellant, distributed a handout to the Commissioners, and expressed her concern relating to the increased parking Swirls Yogurt will generate if their expansion is approved. She explained that she has studied this area and wants the Planning Commission to be aware of the parking shortage now and that when the Aloha Grill opens, it will be even worse.

Debra Young, appellant's daughter, noted she was against any increase in seating area for Swirls Yogurt. She discussed the available parking spaces for each lot area; passed out exhibits for the Commissioners; and explained the possible impacts to parking when the Aloha Grill opens.

Ms. Katherine Young replied to the Chair that she leases her property to Roman Cucina.

Planning Commission Secretary Kimberly Brandt explained that when Newport Boulevard is widened, the landscaped area next to the front parking lot will be made narrower.

The Chair pointed out that even if Swirls Yogurt does not expand, the area will still be short in parking.

Ms. Debra Young asked if the item could be continued until after Aloha Grill has opened.

The Chair and Ms. Brandt discussed the parking shortage situation as not being unusual; people using alternative ways to get to the business; and looking at the businesses in the area as being very successful.



# **PLANNING COMMISSION AGENDA REPORT**

VI. 2

MEETING DATE: AUGUST 11, 2008

ITEM NUMBER:

**SUBJECT: AMENDMENT OF PLANNING APPLICATION PA-08-10  
947 WEST 18<sup>TH</sup> STREET**

**DATE: JULY 31, 2008**

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

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## **PROJECT DESCRIPTION**

The applicant requests a modification to a condition of approval to allow retention of the roof for legalization of the parking structure.

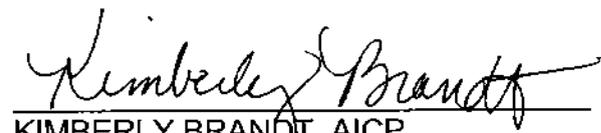
## **APPLICANT**

Maurice Lavoie is the property owner and applicant.

## **RECOMMENDATION**

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

  
\_\_\_\_\_  
WENDY SHIH  
Associate Planner

  
\_\_\_\_\_  
KIMBERLY BRANDT, AICP  
Asst. Development Services Director

**BACKGROUND**

The property is located in Westside Costa Mesa, within the Mesa West Bluffs Urban Plan area. The lot abuts a residentially-zoned mobile home park to the southwest. An auto repair business and an auto retail sales business occupy the property.

On May 27, 2007, Planning Commission approved part of Planning Application PA-08-10:

Approved

1. Variance from building setback requirements for legalization of a parking structure at the rear of the property. This structure contains 10 parking spaces which are counted towards satisfying parking requirements (20 spaces required; 20 provided).
2. Legalization of bathroom addition (floor area offset with new 197 square-foot alcove in main building).

Denied

1. Conditional use permit for five outdoor display/storage spaces for a motor vehicle retail sales business.
2. Minor conditional use permit for reduced parking requirements.

The following condition was included requiring legalization of the parking structure without the existing roof:

1. Obtain building permits to remove roof and legalize the vehicle storage structure and legalize bathroom facility within 30 days of application approval.

The applicant requests an amendment to that condition to retain the roof structure.

**ANALYSIS**

Commission approved the variance from rear and side setback requirements for the parking structure because it only abuts at one point the corner of the residentially-zoned property. A condition for removal of the roof structure was included so that the building does not increase the development's nonconformity with regards to floor area ratio (FAR).

The allowable building intensity standard for the existing uses is FAR of 0.15 (2,970 square feet); 0.32 (6,400 square feet) was approved prior to establishment of the FAR standards. Staff believes that retention of the roof does not increase building mass as viewed from the street or from adjoining properties, and since the building is a parking structure to be used for parking only, approval of the amendment would not intensify previously approved uses on the property or increase the development's nonconformity.

**ADDITIONAL BACKGROUND INFORMATION**

The previous Planning Commission staff report can be viewed on the City's Web page:

<http://www.ci.costa-mesa.ca.us/council/planning/2008-05-27/052708PA0810.pdf>

The Planning Commission meeting minutes from May 27, 2008 can be viewed on the City's Web page:

[http://www.ci.costa-mesa.ca.us/council/planning/pm\\_080527.pdf](http://www.ci.costa-mesa.ca.us/council/planning/pm_080527.pdf)

**GENERAL PLAN CONSISTENCY**

Since retention of the roof structure does not intensify the approved uses on the property, the amendment is consistent with the General Plan.

**ALTERNATIVES**

If the request for amendment is approved, the parking structure roof may remain in place.

If the request is denied, the original condition for removal of the roof structure would remain.

**ENVIRONMENTAL DETERMINATION**

The project is exempt from the provisions of the California Environmental Quality Act under Section 15301 for Existing Facilities.

**CONCLUSION**

Since retention of the roof structure does not increase building mass or intensify existing uses on the property, it would not negatively impact surrounding properties. However, staff recommends a condition stating that the structure shall be used for parking purposes only to ensure adequate parking on-site.

- Attachments:
1. Draft Planning Commission Resolutions
  2. Applicant's Project Description Letter
  3. Planning Commission Resolution PC-08-46
  4. Location Map
  5. Plans

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

Ronald Talmo  
2415 North Hesperian  
Santa Ana, CA 92706

Maurice Lavoie  
947 W. 18<sup>th</sup> St.  
Costa Mesa, CA 92627

File: 081108PA0810Amendment	Date: 073108	Time: 3:30 p.m.
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## Excerpt from PC minutes of August 11, 2008

During discussion on the motion, Planning Commission Secretary Kimberly Brandt noted that Condition No. 15 as revised is sufficient and no additional condition is needed regarding drainage.

Commissioner Righeimer supported the project and mentioned the problem is with the next door neighbor's property.

Commissioner Clark also mentioned that the majority of the concerns relate to the property at 1034 Linden Place, not the subject property at 1030 Linden Place.

The motion carried by the following roll call vote:

Ayes: Chair Donn Hall, Vice Chair James Fidler, Commissioner Sam Clark,  
and Commissioner James Righeimer

Noes: None.

Absent: Commissioner Eleanor Egan

**2. Planning Application PA-08-10, for Maurice Lavoie, to modify Condition of Approval No. 1 requiring removal of the roof of the parking structure, to allow the roof to remain, located at 947 West 18th Street, in an MG zone. Environmental determination: exempt.**

Associate Planner Wendy Shih reviewed the information in the staff report, and there were no questions of staff.

Ronald Talmo, representing the property owner, Maurice Lavoie, asked for approval to allow the retention of the roof for legalization of the parking structure.

Mr. Lavoie explained to Commissioner Righeimer that removing the roof and pulling out the electrical work would cost approximately \$120,000. He also said he has a Mercedes Benz repair business and the tin around the carport stops the homeless from using the vehicles that have been brought in for repair. In addition, he explained to Vice Chair Fidler that 12 vehicles can fit in the parking structure.

Mr. Lavoie explained that their competitors use concertina wire, a watchdog, or they have a guard stay/sleep on the property for security.

Commissioner Righeimer discussed the illegally built building and Ms. Shih pointed out that a variance had been required to legalize it. Commissioner Righeimer expressed his displeasure with this building being called a parking structure.

Mr. Talmo agreed to Condition No. 8 that the detached structure at the rear of the property shall be used for parking only.

Planning Commission Secretary Kimberly Brandt pointed out to Vice Chair Fisler that when the Planning Commission granted the zoning variance for the building, the next step is for the property owner to obtain building permits. Also Ms. Shih said the conditional use permit and all its conditions run with the land.

Commissioner Righeimer and Assistant City Attorney Harold Potter discussed how an observation from Code Enforcement or from the public could enforce the parking condition. Another discussion ensued between the Chair and Commissioner Righeimer concerning the roof.

No one else wished to speak and the Chair closed the public hearing.

**MOTION: No action taken.**

**Moved by Vice Chair James Fisler, seconded by Chair Donn Hall.**

Commissioner Clark agreed with Commissioner Righeimer stating that he sees this as an illegal building.

The Chair and Commissioner Clark had a discussion concerning the roof.

Vice Chair Fisler emphasized that we need an element of trust, and this building is conditioned just for parking.

The Chair and Commissioner Clark continued their discussion concerning the roof.

Commissioner Righeimer continued to explain that he was not giving his support for the motion and made some comments, followed by another discussion between the Chair and Commissioner Righeimer.

The motion failed by the following roll call vote:

Ayes: Chair Donn Hall, and Vice Chair James Fisler

Noes: Commissioner Sam Clark, and Commissioner James Righeimer

Absent: Commissioner Eleanor Egan

The Chair stated that the motion failed to carry.

3. Planning Application PA-08-20, for Maura B. O'Conner, authorized agent for McCray Dale Partnership, L.P., for a conditional use permit for a bus dealership including sales, outdoor storage, servicing of motor coaches, and warehousing the wholesaling of related parts and supplies, and revocation of PA-03-54 and ZA-03-40, which previously permitted administrative offices, auto detailing, and auto storage of new vehicles, located at 1485 Dale Way, in an MG zone.  
Environmental determination: exempt.