CITY COUNCIL AGENDA REPORT

MEETING DATE: FEBRUARY 17, 2009 **ITEM NO:**

SUBJECT: **REVIEW OF PLANNING APPLICATION PA-08-30**
378 COSTA MESA STREET

DATE: **FEBRUARY 5, 2009**

FROM: **DEVELOPMENT SERVICES DEPARTMENT**

PRESENTATION BY: **MEL LEE, AICP, SENIOR PLANNER**
DONALD D. LAMM, AICP, DIRECTOR

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

RECOMMENDATION:

Adopt a resolution to uphold, reverse, or modify Planning Commission's decision.

BACKGROUND:

Review Summary:

Mayor Pro Tem Leece has requested City Council review of Commission's denial of Planning Application PA-08-30, a request to legalize a detached structure containing a dwelling unit and two-car garage with deviations from the City's Zoning Code requirements for building setbacks, rear yard coverage, and open space.

Planning Commission Action on PA-08-30:

On January 26, 2008, Commission denied the request on a 4-1 vote (Chair Hall voted no). Commission determined the property did not have any special circumstances to justify the deviations from the Zoning Code to legalize the structure (Commission also denied the same request under Planning Application PA-07-48).

A detailed description of the request and additional background information can be found in the Commission staff report dated January 26, 2009 (Attachment 6).

ALTERNATIVES CONSIDERED:

City Council may consider the following alternatives:

1. *Uphold Planning Commission's denial of the request to legalize the detached unit and garage.* If denied, the applicant would not be able to submit a similar request for six months. This alternative corresponds to the draft resolution contained in Attachment 3A.

2. *Reverse the Planning Commission's decision and approve the request to legalize the detached unit and garage.* This alternative corresponds to the draft resolution contained in Attachment 3B.
3. *Reverse the Planning Commission's decision and approve the request to legalize the detached unit and garage with modifications.* This alternative corresponds to the draft resolution contained in Attachment 3C.

FISCAL REVIEW:

Fiscal review is not required.

LEGAL REVIEW:

The attached resolutions were reviewed and approved by the City Attorney as to form.

CONCLUSION:

Commission denied the applicant's request to legalize the detached unit and garage based on their determination that special circumstances did not exist to justify granting the necessary variances and administrative adjustment.

MEL LEE, AICP
Senior Planner

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

Attachments:
1. Location Map and Photos
2. Plans
3. Draft City Council Resolutions
4. Review Application
5. Minutes of January 26, 2009 Planning Commission Meeting
6. Planning Commission Staff Report for the January 26, 2009 Planning Commission Meeting
http://www.ci.costa-mesa.ca.us/council/planning/2009-01-26/012609PA0830.pdf
7. Planning Commission Resolution
8. Table Comparing Project to Current and 1961 Zoning Codes

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

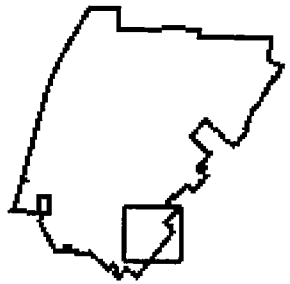
Gary F. Schones
2140 Jefferson
Riverside, CA 92504

File: 021709PA0830Review	Date: 020509	Time: 11:00 a.m.

City of Costa Mesa

CITY OF COSTA MESA - [Created: 1/9/2009 8:36:33 AM] [Scale: 119.44] [Page: 8.5 x 11 / Landscape]

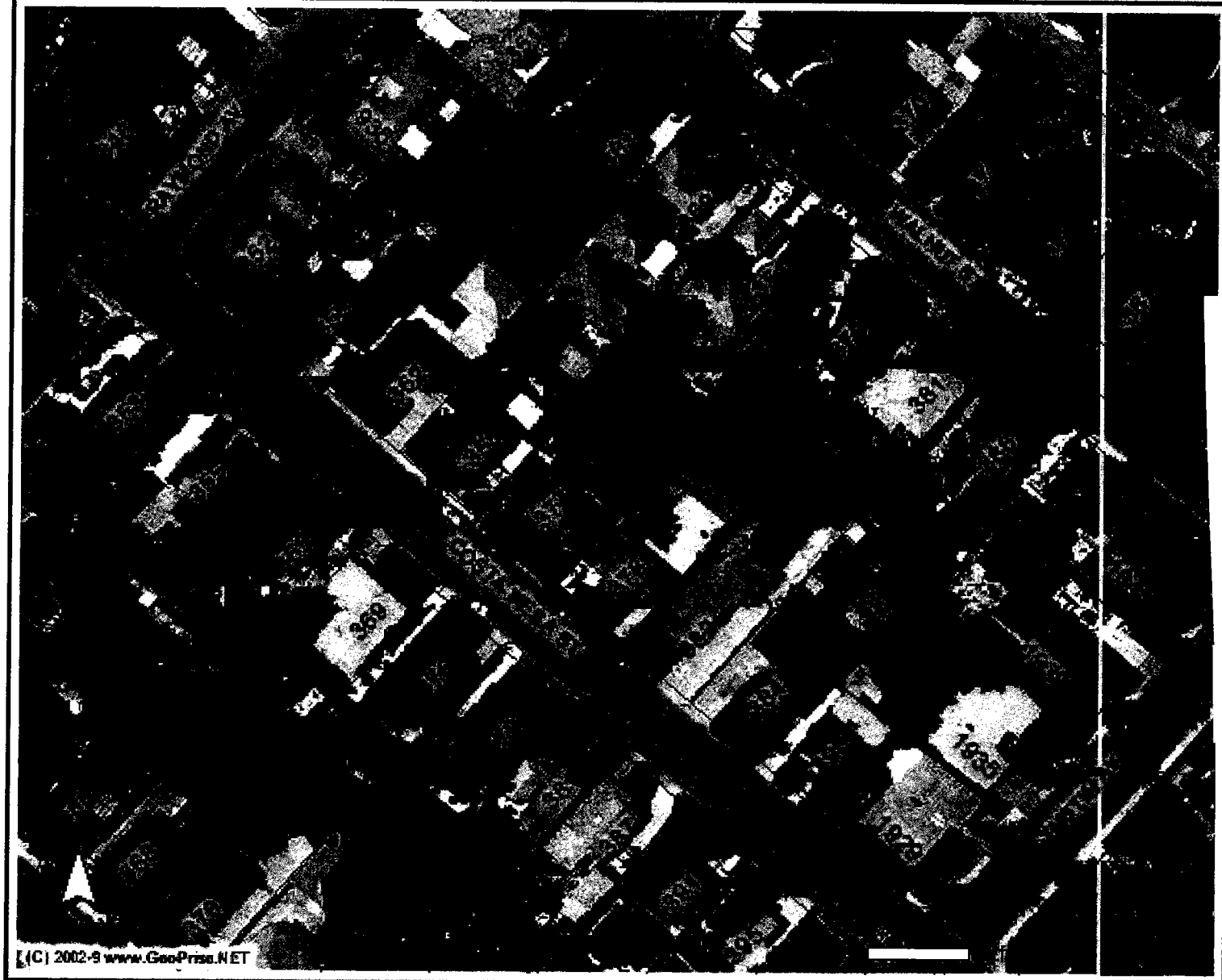
Overview Map



Legend

- Address Large
- Address Points
- Street Names
- Street Centerlines
- Parcel Lines
- Level1 Ortho Photo
- Parcels
- ROW Polygons

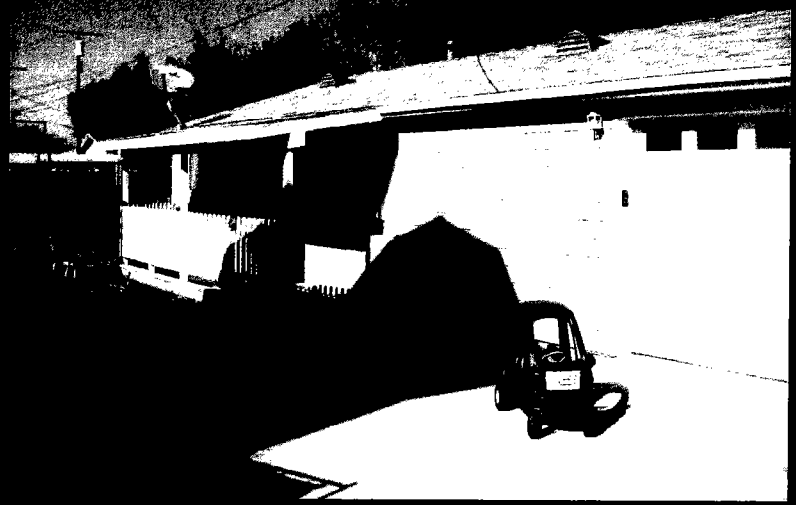
Map Display



ATTACHMENT 1

34

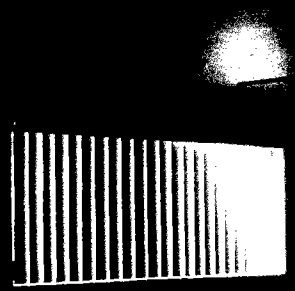
(C) 2002-9 GeoPrise.net (GeoVec, Inc.) - (866)422-2505



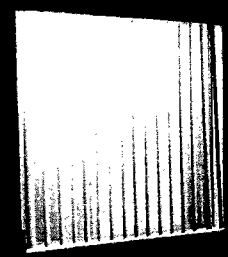
DETACHED UNIT AND GARAGE AT 378 COSTA MESA ST.

LIVING ROOM

KITCHEN



LARGE BEDROOM



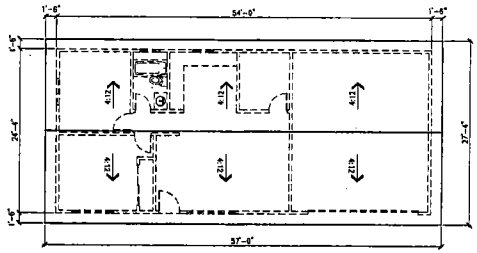
SMALL BEDROOM

BATH

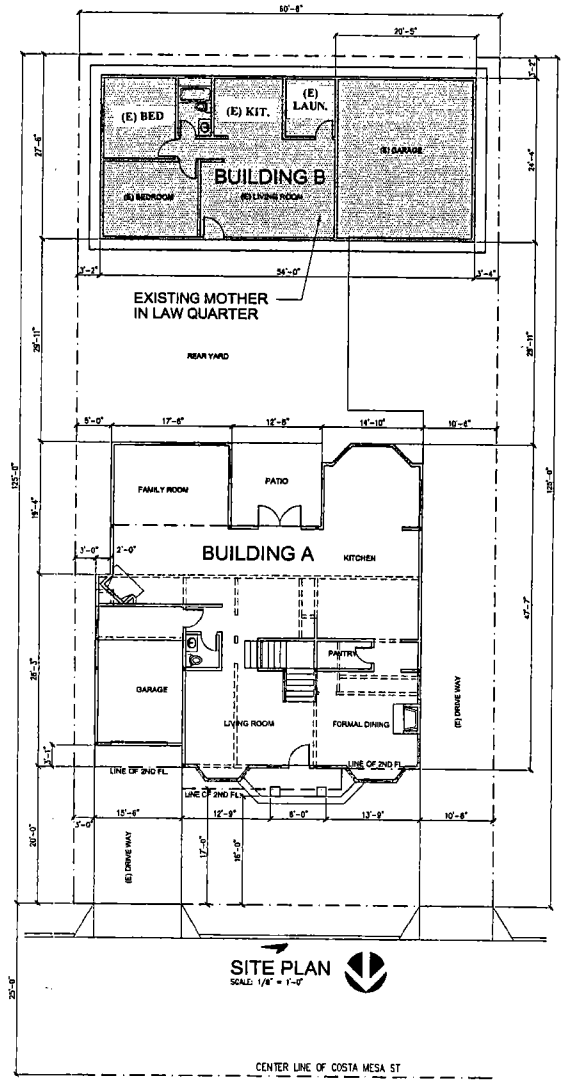
LAUNDRY RM.

GARAGE

ATTACHMENT 2



(E) ROOF PLAN
SCALE : 1/4" = 1'-0"



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

PROJECT SUMMARY:

1. PROJECT ADDRESS : 378 COSTA MESA ST
   COSTA MESA, CA 92627
2. OWNERS: GARY SCHONES
3. APPLICANT: RICH & WENDY SCHONES
   378 COSTA MESA ST
   COSTA MESA, CA 92627
   TEL: (949) 515-4896
3. LOT SIZE: 60.50'X125'=7,562 S.F.
   LOT #16 TRACT 499 APN # 426-302-16
   LOT COVERAGE: 3,488 SF/ 7,562 SF = 46.12%
4. BUILDING SQUARE FOOTAGE :

   BUILDING A

A.	(E) GROUND FLOOR :	1,095 SF
B.	(N) GROUND FLOOR :	700 SF
C.	(N) SECOND FLOOR :	1,790 SF
D.	(N) PORCH :	32 SF
E.	(N) PATIO W/ TRELLIS :	153 SF
F.	(E) ONE CAR GARAGE	194 SF

   BUILDING B

A.	(E) TWO CAR GARAGE	466 SF
B.	(E) MOTHER-IN-LAW QUARTER :	828 SF

5. CONSTRUCTION TYPE: VN
6. OCCUPANCY GROUP : R3-U1
7. CODE APPLICANT
   2001 CBC, CMC, CPC, 2004 CEC

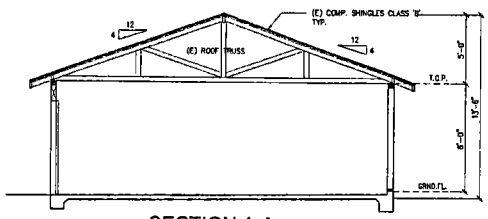
PA-08-30

REVISION :	BY
PLAN CHECK SUBMITTAL	

Owner: GARY SCHONES
378 COSTA MESA STREET
COSTA MESA, CA 92627
TEL: (949) 394-1213

EXISTING MOTHER IN LAW QUARTER
378 COSTA MESA STREET
COSTA MESA, CA 92627

Date 11-19-07
Scale AS NOTED
Job
Project No.
Sheet B-01
01 02 Sheets



SECTION A-A
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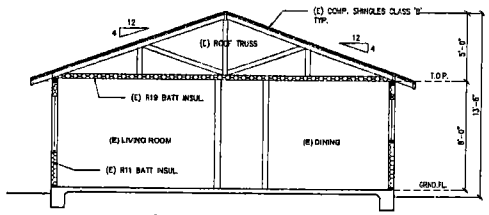

SECTION B-B
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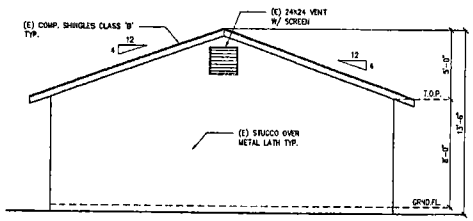
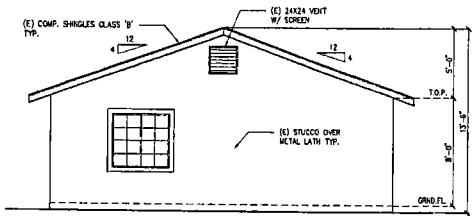
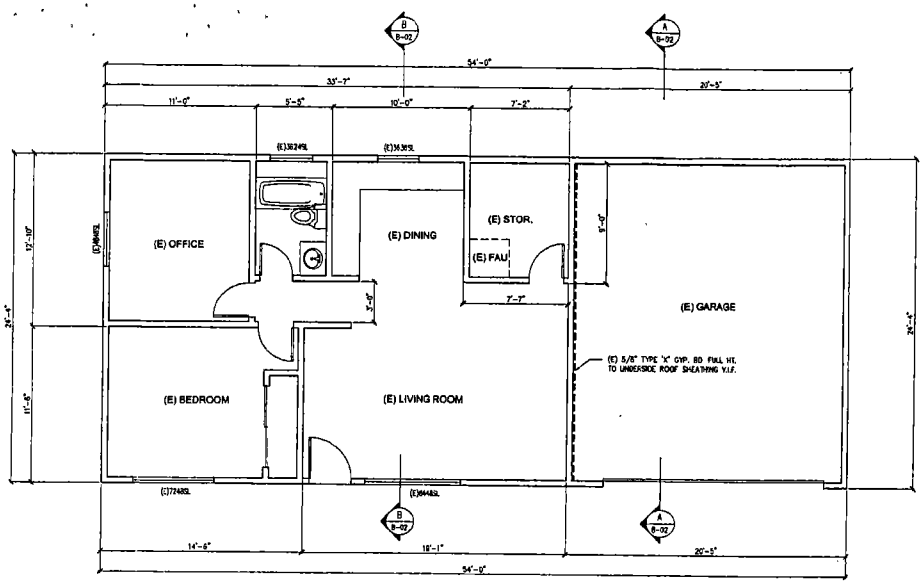


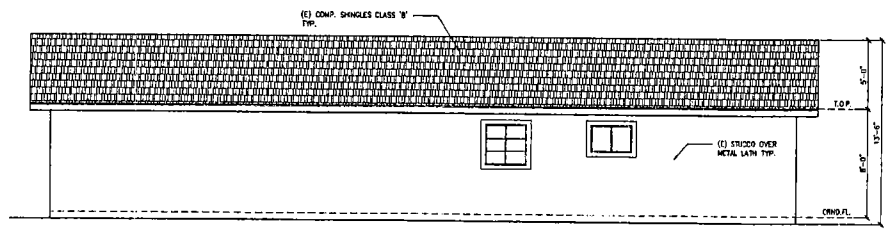
EAST ELEVATION
SCALE : 1/4"= 1'-0"



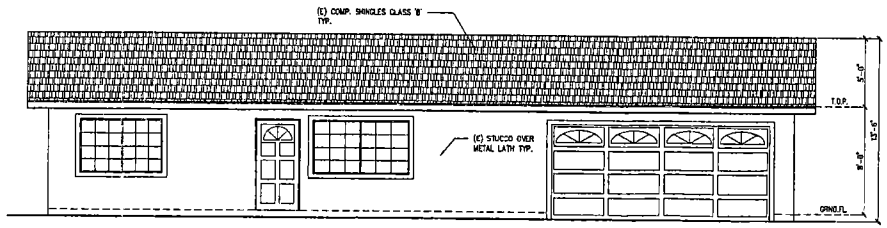
WEST ELEVATION
SCALE : 1/4"= 1'-0"



(E) FLOOR PLAN
SCALE : 1/4"= 1'-0"



NORTH ELEVATION
SCALE : 1/4"= 1'-0"



SOUTH ELEVATION
SCALE : 1/4"= 1'-0"

PA.08.30

REVISION :	BY
PLAN CHECK SUBMITTAL	

Owner: GARY SCHONES
378 COSTA MESA STREET
COSTA MESA, CA 92627
TEL: (949) 394-1213

EXISTING MOTHER IN LAW QUARTER

378 COSTA MESA STREET
COSTA MESA, CA 92627

Date 11-19-07
Scale AS NOTED
Job
Project no.
Sheet B-02
of 02 Sheets

8

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA DENYING PLANNING APPLICATION PA-08-30

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; and

WHEREAS, a duly noticed public hearing was held by the Planning Commission on January 26, 2009, and PA-08-30 was denied; and

WHEREAS, on January 27, 2009, 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 February 17, 2009.

BE IT RESOLVED that, based on the evidence in the record and the findings contained in Exhibit "A, the City Council hereby **DENIES** Planning Application PA-08-30 with respect to the property described above.

PASSED AND ADOPTED this 17th day of February, 2009.

ATTEST:

City Clerk of the City of Costa Mesa

Mayor of the City of Costa Mesa

APPROVED AS TO FORM:

City Attorney

EXHIBIT "A"

FINDINGS - DENIAL

A. The proposed project does not comply with Costa Mesa Municipal Code Section 13-29(e) because:

1. The project is not compatible and harmonious with uses on surrounding properties.
2. The project is not consistent with the General Plan.
3. The planning application is for a project-specific case and does not establish a precedent for future development.

B. The information presented does not comply with Section 13-29(g)(1) of the Costa Mesa Municipal Code because special circumstances are not applicable to the property and the strict application of development standards does not deprive the property of privileges enjoyed by others in the vicinity under identical zoning classifications. Specifically, the site is rectangular and flat, and does not have special circumstances such unusual lot size, lot shape, or topography 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. Granting the deviations would constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which the property is situated.

C. The Costa Mesa City Council has denied Planning Application PA-08-30. 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.

D. The project is exempt from Chapter IX, Article 11, 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-08-30

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; and

WHEREAS, a duly noticed public hearing was held by the Planning Commission on January 26, 2009, and PA-08-30 was denied; and

WHEREAS, on January 27, 2009, 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 February 17, 2009.

BE IT RESOLVED that, based on the evidence in the record and the findings contained in Exhibit "A", the City Council hereby **APPROVES** PA-08-30 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-08-30 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 17th day of February, 2009.

ATTEST:

_____

City Clerk of the City of Costa Mesa

_____

Mayor of the City of Costa Mesa

APPROVED AS TO FORM:

_____

City Attorney

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA APPROVING PLANNING APPLICATION PA-08-30 WITH MODIFICATIONS

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; and

WHEREAS, a duly noticed public hearing was held by the Planning Commission on January 26, 2009, and PA-08-30 was denied; and

WHEREAS, on January 27, 2009, 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 February 17, 2009.

BE IT RESOLVED that, based on the evidence in the record and the findings contained in Exhibit "A", the City Council hereby **APPROVES AS MODIFIED** PA-08-30 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-08-30 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 17th day of February, 2009.

ATTEST:

City Clerk of the City of Costa Mesa

Mayor of the City of Costa Mesa

APPROVED AS TO FORM:

City Attorney

EXHIBIT "A"

FINDINGS - APPROVAL

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 because of special circumstances applicable to the property, the strict application of development standards deprives the property of privileges enjoyed by others in the vicinity under identical zoning classifications. Specifically, the detached structure has not adversely impacted surrounding properties in the 40-plus years it was built. The use of the detached structure as a "granny" unit is consistent with the zoning code requirements for on-site parking and unit size. The deviation authorized does not constitute a grant of special privileges inconsistent with the limitation upon other properties in the vicinity and zone in which the property is situated.

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 IX, Article 11, Transportation System Management, of Title 13 of the Costa Mesa Municipal Code.

CONDITIONS OF APPROVAL (IF PROJECT IS APPROVED)

Plng. 1. Address assignment shall be requested from the Planning Division. 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 applicant shall contact the current cable company prior to issuance of building permits to arrange for pre-wiring for future cable communication service.

3. The conditions of approval, ordinance and code provisions of PA-08-30 shall be blueprinted on the face of the site plan.

4. The applicant shall contact the Planning Division to arrange Planning inspection of the site. This inspection is to confirm that the conditions of approval and code requirements have been satisfied.

5. 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.

6. 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.

7. The unit shall be served from the same utility meters (electric, gas and water) as the main dwelling unit on the property.

8. A land use restriction, executed by and between the property owner 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 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.

9. The applicants shall obtain any required permits from the Building Safety Division to legalize the detached structure, including, but not limited to, building, electrical, and plumbing permits, no later than 60 days from the date of approval.

10. The detached structure's footprint or the height shall not be altered in the future unless it is to bring into closer compliance wit the Zoning Code.

Costa Mesa

City of Costa Mesa

ATTACHMENT 4

☐ Appeal of Planning Commission Decision - $1070.00
☐ Appeal of Zoning Administrator/Staff Decision -$670.00

APPLICATION FOR APPEAL, REHEARING, OR REVIEW

Applicant Name* Wendy Leece

Address Mayor Pro Tem, City of Costa Mesa

Phone _____ Representing _____

REQUEST FOR: ☐ **REHEARING** ☐ **APPEAL** ☒ **REVIEW****

Decision of which appeal, rehearing, or review is requested: (give application number, if applicable, and the date of the decision, if known.)

Planning Application PA-08-30 – 378 Costa Mesa Street

Decision by: Planning Commission

Reasons for requesting appeal, rehearing, or review:

City Council review requested for above application.

RECEIVED
CITY CLERK
2009 JAN 27 PM 4:40
CITY OF COSTA MESA
BY_____

Date: 1-27-09 Signature: Wendy Leece

*If you are serving as the agent for another person, please identify the person you represent and provide proof of authorization.
**Review may be requested only by Planning Commission, Planning Commission Member, City Council, or City Council Member

For office use only – do not write below this line

SCHEDULED FOR THE CITY COUNCIL/PLANNING COMMISSION MEETING OF:
If appeal, rehearing, or review is for a person or body other than City Council/Planning Commission, date of hearing of appeal, rehearing, or review:

01-26-09 PC Minute Excerpt for PA-08-30 - Unofficial Until Approved

3. **Planning Application PA-08-30, for Richard and Wendy Schones, authorized agents for Gary Schones, for variances from rear setback requirements (10 ft. required; 3 ft. existing), rear yard coverage requirements (25% maximum permitted; 76% existing) and open space requirements (40% required; 36% proposed), and an administrative adjustment for reduced side setbacks (5 ft. required; 3 ft. proposed) to legalize a detached garage and granny unit at the rear of the property, located at 378 Costa Mesa Street, in an R1 zone. Environmental determination: exempt.**

Senior Planner Mel Lee reviewed the information in the staff report and gave a detailed presentation with photographs. He responded to questions from the Commission regarding the rain gutters and eaves, maintenance of rain gutters, the structure's setback requirements, and open space.

Deputy City Attorney Tom Duarte replied to the Vice Chair that an existing structure does not constitute as a finding for a variance.

Richard Schones, applicant, said he will do whatever is needed to comply with the conditions. He gave a presentation explaining that there have been no Police Department violations; several trees will be planted; and the structure will be brought into compliance with the Building Code.

Mr. Richard Schones replied to Commissioner Righeimer that there have been no changes to the garage. He said nothing has been changed.

Gary Schones, owner, stated that he looks forward to keeping the structure and living in it, and would appreciate approval of the project. He explained that he does not know who will live in the structure, and he lives in Riverside.

David Kinkade, Costa Mesa, thanked Chairman Hall and Commissioner Egan for their service and noted that both the Planning Commission and the City Council denied this project previously. He expressed concern regarding the large number of granny units in the City; the project site's small backyard; and cautioned granny units being approved.

Mr. Gary Schones returned to the podium and stated that he agreed with the staff report and the report describes their situation very well.

Mr. Richard Schones returned to the podium and asked the Planning Commission to approve this project.

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

The Chair said he believes this structure met setbacks when it was built and has set no precedent; the Schones have shown good faith through this process; the neighbors do not object; and there have been no Police calls.

MOTION: Approve Planning Application PA-08-30, based on the evidence in the record and the findings contained in Exhibit "A", subject to the conditions in Exhibit "B".
Moved by Chair Donn Hall, seconded by Commissioner Sam Clark.

Commissioner Clark stated he agrees with most of what the Chair has said and that he also believes the structure was essentially built to code. He also stated the applicant has shown good faith and supports the motion.

Mr. Lee replied to Commissioner Righeimer that after doing some research he found that the structure, built back in the 1960's, was not built to the Zoning Code at that time.

Commissioner Egan pointed out that the City does have setback requirements and this structure is not in compliance. She said she cannot support the motion. She noted the City Council should take a look at the requirements for granny units.

Commissioner Righeimer mentioned that there are three requirements for a granny unit: occupant is 62 years old or above; the unit is parked properly; and the guidelines are followed. He noted four separate variances. Commissioner Righeimer said he would not support the motion; permits were not obtained; and the rules were set in place.

Mr. Lee replied to Commissioner Clark that this structure was not built to code and Commissioner Clark stated he could not support this motion after all. The motion died for lack of a second.

A discussion ensued among the Commissioners concerning whether the structure was an assessory structure or a residential unit.

Mr. Gary Schones was asked to return to the podium and he explained that the structure was built as a workshop/garage, and in the mid-1970's it became a residential unit and his sister lived there.

The Chair and Mr. Lee discussed the setback for a detached storage structure or workshop.

The Chair pointed out that we need to help our neighbors and not penalize them. He also stated that if this project was denied it would go on to the City Council, and it has been going on now for a year.

Commissioner Egan made some remarks and said conforming to the applicable codes and going by the rules are what we swore to uphold.

The Vice Chair said that it is a tough decision to make and that he watched previous Council meetings on this item. He stated that he cannot find a finding to approve this project. He noted to the Chair that in Finding "B" there are no special circumstances.

Commissioner Clark noted that he feels for the applicant, but there is no reason for the variance and agrees with the Vice Chair. He said he could not support the motion.

Commissioner Righeimer proceeded to make a substitute motion.

MOTION: Deny Planning Application PA-08-30, by adoption of Planning Commission Resolution PC-09-06, based on the evidence in the record and the denial findings contained in Exhibit "A".
Moved by Commissioner James Righeimer, seconded by Commissioner Eleanor Egan.

The motion carried by the following roll call vote:
Ayes: Vice Chair James Fisler, Commissioner Sam Clark, Commissioner Eleanor Egan, and Commissioner James Righeimer
Noes: Chair Donn Hall
Absent: None.

The Vice Chair explained the appeal process.

ATTACHMENT 6

PLANNING COMMISSION AGENDA REPORT

MEETING DATE: JANUARY 26, 2009 ITEM NUMBER: VII.3

SUBJECT: PLANNING APPLICATION PA-08-30
378 COSTA MESA STREET

DATE: JANUARY 15, 2009

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

DESCRIPTION

The applicants are requesting approval of 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 unit and two-car garage. This request was previously denied, without prejudice, by both Planning Commission and City Council as part of Planning Application PA-07-48.

APPLICANT

The applicants are Richard and Wendy Schones, authorized agents for Gary Schones, the owner of the property.

RECOMMENDATION

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

MEL LEE, AICP
Senior Planner

KIMBERLY BRANDT, AICP
Asst. Development Services Director

PLANNING APPLICATION SUMMARY

Location: 378 Costa Mesa Street Application: PA-08-30

Request: Variances from rear setback requirements, rear yard coverage, and open space, and an administrative adjustment for reduced side yard setbacks, to legalize a detached structure containing a unit and two-car garage.

SUBJECT PROPERTY:

Zone: R1 (Single-Family Residential)
General Plan: Low Density Residential
Lot Dimensions: 60.5 FT X 125 FT
Lot Area: 7,562 SF

SURROUNDING PROPERTY:

North: Surrounding properties are
South: zoned R1
East: and contain
West: residences.

Existing Development: A two-story single family residence with an attached one-car garage and a detached one-story unit and two-car garage.

DEVELOPMENT STANDARD COMPARISON

Development Standard	Code Requirement	Proposed/Provided
Density:		
Zone	1 du: 6,000 SF	1 du: 7,562 SF (1)
General Plan	1 du:5,445 SF	
Site Coverage:		
Main Building and Detached Building		34% (3,303 SF)
Paving/Driveways		20% (1,545 SF)
TOTAL – Coverage		64% (4,848 SF)
Open Space	40% (3,025 SF)	36% (2,714 SF) (2)
Height - Detached Building:	2 stories/27 FT	1 story/13 FT, 6 IN
Setbacks - Detached Building:		
Front	20 FT	96 FT
Side (left/right) – 1st story	5 FT/5 FT	3 FT, 2 IN /3 FT, 4 IN (2)
Rear	10 FT	3 FT, 2 IN (2)
Distance Between Buildings	10 FT	29 FT, 11 IN
Rear Yard Coverage	25% Maximum	76% (2)
Parking:		
Covered	2	3
Open	4	3
TOTAL	6	6

(1) Per State law and City Code, second units are not considered to exceed the allowable density for residentially-zoned properties (Government Code Section 65852.2 and Zoning Code Section 13-36 – see staff report discussion).

(2) Does not comply with Code - variance and/or administrative adjustment requested.

CEQA Status	Exempt, Class 1 (Existing Facilities)
Final Action	Planning Commission

BACKGROUND

The property is located on the City's eastside and contains a two-story residence with an attached one-car garage. A detached one-story structure containing an 828 square-foot unit and a 486 square-foot two-car garage exists at the rear of the property. According to the property owner, the detached unit and garage was constructed in the early 1960's, after the City's incorporation. The City has no record of a permit for the detached structure.

The applicants requested approval of a Minor Design Review for a second-story addition to the main residence, which exceeded the second floor to first floor ratio per the City's Residential Design Guidelines for (80% allowed; 90% proposed). The applicants also requested the following deviations to legalize the detached unit and garage:

- Variance from rear yard setback requirements for the granny unit (10 feet required; 3 feet, 2 inches existing).
- Variance from rear yard coverage requirements for the granny unit (25% maximum coverage allowed; 76% coverage existing).
- Variance from minimum open space requirements (40% allowed; 36% existing).
- Administrative Adjustments from side yard setback requirements for the granny unit (5 feet allowed; 3 feet, 2 inches and 3 feet, 4 inches existing).

The above entitlements were originally processed as Planning Application PA-07-48. A summary of the actions related to the planning application is discussed below.

February 25, 2008, Planning Commission Meeting:

Planning Commission approved PA-07-48 as it pertained to the second-story addition to the main residence, but denied, without prejudice, the deviations to legalize the detached unit and garage.

The staff report for the Commission hearing can be found on the City's website at the below link:

http://www.ci.costa-mesa.ca.us/council/planning/2008-02-25/022508PA0748Rev.pdf

The minutes of the Commission meeting can be found at this link:

http://www.ci.costa-mesa.ca.us/council/planning/pm080225.pdf

March 18, 2008, City Council Meeting (Review):

A request by Council Member Leece to review Commission's denial of the code deviations pertaining to PA-07-48 was heard by City Council. On a 5-0 vote, Council overturned Commission's denial and approved the deviations to legalize the detached unit and garage.

The staff report for the Council hearing can be found on the City's website at the below link:

http://www.ci.costa-mesa.ca.us/council/agenda/2008-03-18/031808PA0748Review.pdf

The minutes of the Council meeting can be found at this link:

http://www.ci.costa-mesa.ca.us/council/minutes/2008-03-18.pdf

April 15, 2008 City Council Meeting (Rehearing):

A request to rehear City Council's approval to legalize the detached unit and garage was filed by Mayor Bever on March 25, 2008. On April 1, 2008, Council voted to rehear the project. On April 15, 2008, City Council reversed its previous approval and denied the code deviations, without prejudice, on a 4-1 vote (Council Member Foley voted no). By denying it without prejudice, the applicant was able to file a new application within six months of Council's denial of the request. Additionally, Council directed that the applicant would not be required to pay new filing fees and that construction for the second story of the main residence may proceed to completion prior to any final action on the legalization of the detached unit and garage.

The staff report for the Council rehearing can be found on the City's website at the below link:

http://www.ci.costa-mesa.ca.us/council/agenda/2008-04-15/041508PA0748Rehearing.pdf

The minutes of the Council meeting can be found at this link:

http://www.ci.costa-mesa.ca.us/council/minutes/2008-04-15.pdf

ANALYSIS

The applicant filed a new application to legalize the detached unit and garage and is requesting approval of the same code deviations discussed above. Construction of the second-story addition to the main residence is nearing completion. Per Council's direction, Planning Commission's decision to approve or deny the legalization of the detached structure will not affect the final inspection and release of the second story addition.

Code Section 13-29(g)(1) allows granting a variance and administrative adjustment where special circumstances applicable to the property exist, such as an unusual lot size, lot shape, topography, or similar features, and where strict application of the Zoning Code would deprive the property owner of privileges enjoyed by owners of other properties in the vicinity under an identical zoning classification. Other factors (such as existing site improvements) may also be considered.

When the applicant first requested approval to legalize the structure under PA-07-48, staff recommended approval of the deviations because the detached structure has not adversely impacted surrounding properties in the 40-plus years since it was built. Staff also noted that the Zoning Code allows "granny" units as a second unit in the R1 zone and use of the structure as a granny unit complies with the zoning code requirements for

on-site parking (six spaces required, six spaces proposed) and unit size (1,200 square feet maximum allowed; 828 square feet existing). If approved, the applicant would be required to record a Land Use Restriction (LUR) to limit the occupancy of the detached unit two a maximum of two persons 62 years of age or older.

If the Commission were to approve the request to legalize the detached structure, the applicant would be required to obtain building, electrical, and plumbing permits. To determine if the structure could be brought into compliance with the requirements of the 2007 California Building Code, the structure was inspected by the Building Safety Division on January 14, 2009. Based on this inspection, it is the opinion of the Building Safety Division that it is feasible to bring the structure into compliance with the 2007 California Building Code without having to substantially modify or demolish the structure.

Staff also recommends, as a condition of approval, that the detached structure's footprint or the height may not be altered in the future unless it is to bring into closer compliance with the Zoning Code.

GENERAL PLAN CONFORMITY

The property has a general plan designation of Low Density Residential. Under State law and the City's Zoning Code, granny units are not considered to exceed the allowable density for residentially-zoned properties. Therefore, if approved, the use and density would conform to the City's General Plan.

ALTERNATIVES

The Planning Commission has the following alternatives:

1. Approve the project. If the project were to be approved, the applicant would also be required to obtain building, electrical, and plumbing permits, as well as comply with the recommended conditions of approval.
2. Deny the project. The applicant could not submit substantially the same type of application for six months.

ENVIRONMENTAL DETERMINATION

If approved, the project would be exempt from the provisions of the California Environmental Quality Act under Section 15301 for Existing Facilities.

CONCLUSION

It is staff's opinion that, there is a sufficient basis to approve the requested code deviations to legalize the detached structure. Therefore, staff recommends approval of the project.

Attachments:
1. ~~Draft Planning Commission Resolutions (Approval and Denial)~~
2. Applicant's Justification for Legalization of the Detached Unit and Garage
3. ~~Location Map and Photos~~
4. ~~Plans~~

cc: Deputy City Manager - Dev. Svs. Director
Deputy City Attorney
Assistant City Engineer
Fire Protection Analyst
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: 012609PA0830	Date: 011509	Time: 12:45 p.m.

ATTACHMENT 2

Application letter for

378 Costa Mesa St. Costa Mesa, CA 92627

Owner: Gary Schones

Agent/Applicants: Richard and Wendy Schones

December 15, 2008

We are requesting a variance and minor conditional use permit of a detached structure at the aforementioned address. We would greatly appreciate your favorable consideration.

The property is 125 feet deep by 60.5 feet wide totaling 7,562.5 square feet. On the front of the property sits a residence. The rear of the property sits a detached structure that is 1,314 square feet.

1. **Variance request:** The detached structure (hereafter known as structure) was built by the original owner circa 1961. The location of the structure is set to the rear of the lot out of sight as viewed from the street. I have been informed recently that permits were not pulled, which from speaking to long time residents on my block say was common practice for the time. The setback is 3 feet 2 inches (10 feet is code) and the offsets are 3 feet 2 inches on the west and 3 feet 4 inches on the east (5 feet is code). These dimensions are clearly defined on the site plans as well as the dimensions of the structure. As a side note, the neighbor directly behind us has a standard 6 foot tall fence with an additional 3 foot lattice. They also have thick foliage type trees that block their view of the structure. The neighbors to the east, west and corners do not have direct view of the structure. There has never been a civil complaint regarding the structure or property. We respectfully request consideration for the structure to be designated as legal nonconforming. Granting the variance, and leaving the structure as is, will maintain the integrity of the property as well as the neighborhood as surrounding neighbors have similar structures with similar uses on their property. Denying the variance request during these difficult financial times would cause a serious financial burden.

2. **Minor Conditional Use Permit:** We request a minor conditional use permit for the bathroom that is in the structure. The bathroom and plumbing is functional without any defects and well within code. 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.

We appreciate your attention regarding this manner.

Sincerely,

Richard T. Schones, D.C. and Wendy Schones

ATTACHMENT 7

RESOLUTION NO. PC-09-6

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COSTA MESA DENYING PLANNING APPLICATION PA-08-30

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

WHEREAS, an application was filed by 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 adjustments for reduced side yard setbacks, to legalize a detached structure containing a unit and two-car garage; and

WHEREAS, a duly noticed public hearing was held by the Planning Commission on January 26, 2009.

BE IT RESOLVED that, based on the evidence in the record and the findings contained in Exhibit "A, the Planning Commission hereby **DENIES** Planning Application PA-08-30 with respect to the property described above.

PASSED AND ADOPTED this 26th day of January, 2009.

Donn Hall, Chair
Costa Mesa Planning Commission

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 January 26, 2009, by the following votes:

AYES: COMMISSIONERS: FISLER, CLARK, EGAN, RIGHEIMER

NOES: COMMISSIONERS: HALL

ABSENT: COMMISSIONERS: NONE

ABSTAIN: COMMISSIONERS: NONE

Kimberly Brandt

Kimberly Brandt, Secretary,
Costa Mesa Planning Commission

EXHIBIT "A"

FINDINGS - DENIAL

A. The proposed project does not comply with Costa Mesa Municipal Code Section 13-29(e) because:

1. The project is not compatible and harmonious with uses on surrounding properties.
2. The project is not consistent with the General Plan.
3. The planning application is for a project-specific case and does not establish a precedent for future development.

B. The information presented does not comply with Section 13-29(g)(1) of the Costa Mesa Municipal Code because special circumstances are not applicable to the property and the strict application of development standards does not deprive the property of privileges enjoyed by others in the vicinity under identical zoning classifications. Specifically, the site is rectangular and flat, and does not have special circumstances such unusual lot size, lot shape, or topography 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. Granting the deviations would constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which the property is situated.

C. The Costa Mesa Planning Commission has denied Planning Application PA-08-30. 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.

D. The project is exempt from Chapter IX, Article 11, Transportation System Management, of Title 13 of the Costa Mesa Municipal Code.

ATTACHMENT 8

Development Standard	R1 Zoning Code Requirement (2008)	R1 Zoning Code Requirement (1961)	Provided for Subject Site	Complies With 2008/1961 Requirements?
Granny Unit/ Accessory Living Quarters	Permitted, Subject to Compliance with Development Standards	Not Permitted	Granny Unit (Proposed to Be Legalized)	No, Unless Variances Approved (2008 Code) Not Permitted Under 1961 Code
Front Setback	20 FT (From Property Line)	50 FT (From Street Centerline)	96 FT (P.L.) 121 FT (C.L.)	Yes
Side Setback For Main Buildings (left/right)	5 FT/5 FT	5 FT/5 FT	3 FT, 2 IN/3 FT, 4 IN	No
Rear Setback For Main Buildings	10 FT	7 1/2 FT	3 FT, 2 IN	No
Rear Yard Coverage For Main Buildings	25% Maximum	33% Maximum	76% Maximum	No
Building Separation Between Main Buildings	10 FT	No Requirement	29 FT, 11 IN	Yes (2008 Code Only)
On-Site Parking For Main Building & Granny Unit	6 Spaces (2 Covered, 4 Open)	2 Spaces (Covered For One Main Building Only)	6 Spaces (3 Covered, 3 Open)	Yes (2008 Code Only)