

**RESOLUTION NO. 15-**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA UPHOLDING THE PLANNING COMMISSION'S DECISION AND APPROVING CERTAIN AMENDED CONDITIONS FOR PLANNING APPLICATION PA-08-27A1 A CONDITIONAL USE PERMIT FOR A REDUCTION IN ON-SITE PARKING SPACES FOR A PAWN BROKER LOCATED AT 1872 NEWPORT BOULEVARD**

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

WHEREAS, an application was filed Dan Stansell, representing Coastline Equity, Inc., the property owner, requesting approval of the following:

**Planning Application PA-08-27A1** is an Amendment to a Conditional Use Permit to operate a jewelry store with ancillary pawnbroker services.

WHEREAS, a duly noticed public hearing held by the Planning Commission on June 22, 2015 with all persons having the opportunity to speak for and against the proposal; and

WHEREAS, the Planning Commission voted to approve the project by a 3-1 vote; and

WHEREAS, on June 29, 2015, an appeal of the decision of the Planning Commission's approval of the project was filed; and

WHEREAS, a duly noticed public hearing was held by the City Council on August 4, 2015 with all persons having the opportunity to speak for and against the proposal; and

WHEREAS, 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.

WHEREAS, the CEQA categorical exemption for this project reflects the independent judgment of the City of Costa Mesa.

BE IT RESOLVED that, based on the evidence in the record and the findings contained in Exhibit A, and subject to the conditions of contained within Exhibit B, the

City Council hereby UPHOLDS the Planning Commission's decision and **APPROVES** Planning Application PA-08-27A1.

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-08-27A1 and upon the applicant's compliance with each and all of the conditions in Exhibit B, and 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 and/or mitigation measures.

BE IT FURTHER RESOLVED that if any section, division, sentence, clause, phrase or portion of this resolution, or the documents in the record in support of this resolution, are for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions.

**PASSED AND ADOPTED this 4th day of August, 2015.**

\_\_\_\_\_  
STEPHEN M. MENSINGER  
Mayor, City of Costa Mesa

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
CITY CLERK OF THE  
CITY OF COSTA MESA

\_\_\_\_\_  
CITY ATTORNEY

STATE OF CALIFORNIA)  
  )ss  
COUNTY OF ORANGE )

I, BRENDA GREEN, City Clerk and ex-officio Clerk of the City Council of the City of Costa Mesa, hereby certify that the above Council Resolution Number 15\_\_ as considered at a regular meeting of said City Council held on the 4th day of August, 2015, and thereafter passed and adopted as a whole at the regular meeting of said City Council held on the 4th day of August, 2015, by the following roll call vote:

AYES:

NOES:

ABSENT:

IN WITNESS WHEREOF, I have hereby set my hand and affixed the Seal of the City of Costa Mesa this \_\_\_ day of \_\_\_\_\_, 2015

## EXHIBIT A

### FINDINGS (APPROVAL)

- A. The information presented substantially complies with Costa Mesa Municipal Code Section 13-29(g)(2) in that:

**Finding:** The proposed use is substantially compatible with developments in the same general area and would not be materially detrimental to other properties within the area.

**Facts in Support of Finding:** The use, as conditioned, is not anticipated to have any negative effects on the surrounding properties, and is compatible with the surrounding commercial uses. No noise impacts to the nearby residential properties are anticipated due to the nature of the business. The parking demand of the proposed use is compatible with parking demand existing at the subject property. No security impacts are anticipated due to included conditions of approval requiring surveillance cameras, an alarm system, and an armed guard on the premises during operating hours.

**Finding:** Granting the conditional use permit will not be materially detrimental to the health, safety, and general welfare of the public or otherwise injurious to property or improvements within the immediate neighborhood.

**Facts in Support of Finding:** The use, as conditioned, will not be materially detrimental to the health, safety, or general welfare of the public in that security measures will be in place.

The project is conditioned to maintain the security measures currently in place and described in the attached security plan submitted by the applicant. These security measures include:

- Installation of 27 surveillance cameras covering the interior and exterior of the building, with 6 months of stored footage
- An armed security guard on the premises during operating hours
- Installation of an alarm system

**Finding:** Granting the conditional use permit will not allow a use, density, or intensity which is not in accordance with the General Plan designation and any applicable specific plan for the property.

**Facts in Support of Finding:** The project is consistent with the General Plan land use designation of General Commercial, intended to permit a wide range of commercial uses.

Granting the modification to the CUP for the jewelry stop and pawnbroker services shall not allow a use, density, or intensity which is not in accordance with the General Plan. The shop has been in operation with a CUP since 2008, and the proposed modification to the CUP will not substantially increase the use or intensity

of the store.

- B. The information presented substantially complies with Costa Mesa Municipal Code section 13-29(e) because:
- a. The proposed development and use is compatible and harmonious with uses both on site as well as those on surrounding properties. The project is conditioned to minimize any security impacts to nearby residential and commercial uses.
  - b. 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. The proposed use will be conditioned to maintain all security measures currently in place, and has sufficient parking for the proposed use.
  - c. The project, as conditioned, is consistent with the General Plan. The project is consistent with the General Plan land use designation of General Commercial. This designation is intended to permit a wide range of commercial uses to serve local and regional needs and should be insulated from sensitive uses through buffers or onsite mitigation measures. The proposed project will prevent security impacts to surrounding residential and commercial uses through onsite security measures.
  - d. The proposed use is compliant with performance standards as prescribed in the Zoning Code. The proposed swim school will be conditioned to operate as described in the submitted business description and is compliant with Zoning Code.
  - e. The planning application is for a project-specific case and does not establish a precedent for future development. Approval will apply to this project-specific locations. Conditions have been included that are specific to the proposed project.

## EXHIBIT B

### CONDITIONS OF APPROVAL

[\*As modified pursuant to Amendment No. 1 to PA-08-27 on June 22, 2015]

- Plng.
1. The use shall be limited to the type of operation described in this staff report: a jewelry store with ancillary pawn broker services. Any significant change in the operational characteristics will require approval of an amendment to the conditional use permit, subject to Planning Commission approval. The Development Services Director shall make a determination that certain changes could be approved at a staff level.
  2. The applicant shall defend, indemnify, and hold harmless the City, its elected and appointed officials, agents, officers and employees from any claim, action, or proceeding (collectively referred to as "proceeding") brought against the City, its elected and appointed officials, agents, officers or employees arising out of, or which are in any way related to, the applicant's project, or any approvals granted by City related to the applicant's project. The indemnification shall include, but not be limited to, damages, fees and/or costs awarded against the City, if any, and cost of suit, attorney's fees, and other costs, liabilities and expenses incurred in connection with such proceeding whether incurred by the applicant, the City and/or the parties initiating or bringing such proceeding. This indemnity provision shall include the applicant's obligation to indemnify the City for all the City's costs, fees, and damages that the City incurs in enforcing the indemnification provisions set forth in this section. City shall have the right to choose its own legal counsel to represent the City's interests, and applicant shall indemnify City for all such costs incurred by City.
  3. If construction is proposed, the conditions of approval, code requirements, and special district requirements of PA-08-27 A1 shall be blueprinted on the face of the site plan as part of the plan check submittal package.
  4. The applicant shall contact the Planning Division to arrange a Planning inspection of the site upon completion of all site improvements and prior to final approval of any building permits for interior building improvements. This inspection is to confirm that the conditions of approval and Code requirements have been satisfied.
  5. A copy of the conditions of approval for the conditional use permit must be kept on premises and presented to any authorized City official upon request. New business/property owners shall be notified of conditions of approval upon transfer of business or ownership of land.
  6. **\*The applicant shall submit a sign plan to upgrade and renovate the existing building wall sign on the front elevation to complement existing signage in the downtown district for the review and approval of the Development Services Director. The existing building wall signs on both side elevations of the building shall be**

**completely removed. The installation of the new building wall signage on the front elevation and the removal of all wall signage along the side elevations shall occur within 60 days of the date of approval of the Amendment to the Conditional Use Permit, unless an extension is granted by the Development Services Director for just cause. No changes to the existing above-roof sign are required.**

7. The business shall be conducted, at all times, in a manner that will allow the quiet enjoyment of the surrounding neighborhood. The applicant and/or business owner shall institute whatever security and operational measures are necessary to comply with this requirement.
8. The conditional use permit herein approved shall be valid until revoked, but shall expire upon discontinuance of the activity authorized hereby for a period of 180 days or more. The conditional use permit may be referred to the Planning Commission for modification or revocation at any time if the conditions of approval have not been complied with, if the use is being operated in violation of applicable laws or ordinances, or if, in the opinion of the Director of Economic & Development Services/Deputy CEO or his designee, any of the findings upon which the approval was based are no longer applicable.
9. As required by Conditional Use Permit PA-08-27 A1, except as permitted by the City of Costa Mesa Municipal Code for temporary window signs, windows shall not be blocked or obscured.
10. **\*No loans less than \$1,000 shall be permitted.**
11. **\*Pawnbroker services shall be limited to luxury items, including: jewelry, watches, loose gemstones, precious metals, art, and antiques.**
12. **\*Pawnbroker services further shall not be permitted for sports equipment, lawn equipment, clothing, household goods, electronics, or any other item not specifically permitted in Condition of Approval Number 11.**
13. **\*Security measures described in the security plan shall be maintained, including:**
  - **Installation of 27 surveillance cameras covering the interior and exterior of the building, with 6 months of stored footage**
  - **An armed security guard on the premises during operating hours**
  - **Installation of an alarm system**

**RESOLUTION NO. 15-**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA REVERSING THE PLANNING COMMISSION'S DECISION AND DENYING PLANNING APPLICATION PA-08-27A1 A CONDITIONAL USE PERMIT FOR A REDUCTION IN ON-SITE PARKING SPACES FOR A PAWN BROKER LOCATED AT 1872 NEWPORT BOULEVARD**

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

WHEREAS, an application was filed Dan Stansell, representing Coastline Equity, Inc., the property owner, requesting approval of the following:

**Planning Application PA-08-27A1** is an Amendment to a Conditional Use Permit to operate a jewelry store with ancillary pawnbroker services.

WHEREAS, a duly noticed public hearing held by the Planning Commission on June 22, 2015 with all persons having the opportunity to speak for and against the proposal; and

WHEREAS, the Planning Commission voted to approve the project by a 3-1 vote; and

WHEREAS, on June 29, 2015, an appeal of the decision of the Planning Commission's approval of the project was filed; and

WHEREAS, a duly noticed public hearing was held by the City Council on August 4, 2015 with all persons having the opportunity to speak for and against the proposal; and

BE IT RESOLVED that, based on the evidence in the record and the findings contained in Exhibit A, the City Council hereby REVERSES the Planning Commission's decision and **DENIES** Planning Application PA-08-27A1.

BE IT FURTHER RESOLVED that if any section, division, sentence, clause, phrase or portion of this resolution, or the documents in the record in support of this resolution, are for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions.

**PASSED AND ADOPTED this 4th day of August, 2015.**

\_\_\_\_\_  
STEPHEN M. MENSINGER  
Mayor, City of Costa Mesa

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
CITY CLERK OF THE  
CITY OF COSTA MESA

\_\_\_\_\_  
CITY ATTORNEY



## EXHIBIT A

### FINDINGS (DENIAL)

- A. The proposed project does not comply with Costa Mesa Municipal Code Section 13-29(e) because:
1. A compatible and harmonious relationship does not exist between the proposed use and existing buildings, site development, and uses on surrounding properties.
  2. The proposed project does not comply with the performance standards as prescribed in the Zoning Code.
  3. The proposed project is not consistent with the General Plan or Zoning Code.
- B. The proposed project does not comply with Costa Mesa Municipal Code Section Code Section 13-29(g)(1) because:
- The proposed use is not substantially compatible with developments in the same general area and would be materially detrimental to other properties within the area because:
    - The retail sales of jewelry and watches is intended to be the primary business.
    - The original intent of the conditions is to discourage blight and deterioration from proliferation of pawn shops.
    - Increased crime may be associated with the ability to pawn a great variety of stolen items without being traced and with ease.
  - Granting the amendment to the conditional use permit will be materially detrimental to the health, safety and general welfare of the public or otherwise injurious to property or improvements within the immediate neighborhood.
  - Granting the amendment to the conditional use permit will allow a use, density, or intensity which is not in accordance with the General Plan designation and any applicable specific plan for the property.
    - The original CUP ensures that the retail sales of jewelry/watches be the primary business. Pawn brokerage and loan services were required to be ancillary to the retail sales of jewelry/watches.
    - The CUP establishes appropriate conditions of approval to prevent blighted conditions. The staff report for the original CUP states that there was a concern that pawn shops, pawnbroker services, and second-hand stores may give the appearance of blight and deteriorated retail conditions.

To address this concern and ensure compatibility with the surrounding area, a condition of approval was included limiting pawnbroker services to jewelry and watches only.

- A condition of approval setting a minimum loan amount of \$2,500 was included as a justification for approval as it was expected that customer traffic to the pawnbroker/loan aspect of the business would be limited by the condition, thereby maintaining the store primarily as a jewelry and watch retail store.
  - Planning staff consulted the Costa Mesa Police Department, who expressed concern that expanding the list of items eligible for pawnbroker services may increase criminal activities associated with stolen goods, as these types of items are often sold on the pawn market. The Police Department indicated that it is difficult to trace and recover stolen goods offered in pawn shops.
  - Lowering the minimum loan amount and increasing the items eligible for pawn broker services may substantially increase the use or intensity beyond what was previously permitted as a jewelry and watch store, with ancillary pawn brokerage services.
- C. The Costa Mesa City Council has denied Planning Application PA-08-27 A1. 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.