



CITY COUNCIL AGENDA REPORT

MEETING DATE: AUGUST 4, 2015

ITEM NUMBER: **PH-2**

SUBJECT: APPEAL OF THE PLANNING COMMISSION'S APPROVAL OF PLANNING APPLICATION PA-08-27A1 TO AMEND AN EXISTING CONDITIONAL USE PERMIT FOR A JEWELRY STORE WITH ANCILLARY PAWN SERVICES AT 1872 NEWPORT BOULEVARD

FROM: PLANNING DIVISION/DEVELOPMENT SERVICES DEPARTMENT

PRESENTATION BY: CHELSEA CRAGER, ASSISTANT PLANNER

DATE: JULY 23, 2015

**FOR FURTHER INFORMATION CONTACT: CHELSEA CRAGER (714) 754-5609
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RECOMMENDATION

Pursuant to the Planning Commission's action:

UPHOLD the Planning Commission's decision and approve amendment to Conditional Use Permit PA-08-27A relating to certain conditions of approval for an existing jewelry store with ancillary pawn brokerage services at 1872 Newport Boulevard.

APPLICANT

Dan Stansell is the authorized agent for the property owner, Coastline Equity, Inc.

BACKGROUND

Project Site/Environs

The project site is located on the southeast corner of Newport Boulevard and Flower Street on a 3,546 square foot lot, with the building frontage facing Newport Boulevard and vehicle access from Flower Street. It is zoned C2 (General Commercial) with a General Plan land use designation of General Commercial. The site is developed with one single-story building and 11 parking spaces. The building is 1,012 square feet.

The subject property is abutting C2 zones to the north and south, which contain commercial uses. To the west across Newport Boulevard is The Triangle retail center, zoned PDC (Planned Development Commercial) and to the east across a public alley are residential uses, zoned R2-HD (Multi-Family Residential, High Density).

Pawn broker services require a conditional use permit (CUP) in the C2 zone.

Previous Entitlement

On October 27, 2008, Planning Commission approved Conditional Use Permit PA-08-27, allowing for two existing watch and jewelry stores at 1808 Newport Boulevard and 1827 Newport Boulevard, both named Estate Watch Jewelry and Loan, to add ancillary pawnbroker services. The business at 1808 Newport Boulevard has since stopped operating, and therefore the conditional use permit was revoked for this location.

Intent of the Original Conditions of Approval

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. The Police Department was supportive of regulations for pawn shops.

Project Description

The applicant proposed amending the previously approved conditional use permit to remove the following conditions of approval from the original entitlement:

- Pawnbroker services shall be limited to watches and jewelry only.
- No loans less than \$2,500 shall be permitted.

Expansion of Eligible Items to be pawned

The applicant would like a greater array of items to be eligible to be pawned. The request to amend the conditional use permit includes a request to remove all limitations on items eligible for pawnbroker services, however, when asked by staff, the applicant provided a more extensive list of items to be included in pawnbroker services. Specifically, the list includes:

- Jewelry
- Watches
- Loose gemstones
- Precious metals
- Items containing gemstones and/or precious metals
- Coins and currency
- Art
- Memorabilia
- Designer handbags
- Crystal
- Rare collectibles
- Antiques
- Individual items with a fair market value of \$5,000 or more

The applicant believes that the above list of items are appropriate additions to the items eligible for pawnbroker services at the subject property because they are luxury items. The applicant also states that there are several pawn brokers operating in the City without a restriction on items eligible for pawn.

Increased Loan Services by Eliminating Loan Minimums

The applicant also requests that there be no minimum loan amount. The applicant believes that the pawn brokers operating in the City without the minimum loan restriction creates inequitable competition for his business. The applicant also states that because pawnbroker services are restricted by a minimum loan amount, this encourages customers with items valued less than the \$2,500 minimum to sell the item. Additionally, the applicant states that the minimum loan amount encourages customers to take out larger loans than necessary.

Planning Commission Action

On June 22, 2015, the Planning Commission considered the proposed amendment to the conditional use permit. The application to completely remove the conditions of approval was denied, and the Planning Commission instead approved modified conditions on a 3-1 vote (Commissioner Andranian absent).

Although the Planning Commission approved an amendment to the CUP to a certain degree, the Commission did not fully grant the request made by the applicant. The

following table is a comparison of the applicant's request to the Planning Commission's action:

Applicant Request	Planning Commission Action
<p>No changes requested to the building wall signage.</p>	<p><i>Building Wall Signage to be renovated and/or removed:</i></p> <ul style="list-style-type: none"> 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.
<p>Remove requirement for minimum loan amounts of \$2,500.</p>	<ul style="list-style-type: none"> No loans less than \$1,000 shall be permitted.
<p>Expand the list of eligible goods for pawning to include:</p> <ul style="list-style-type: none"> Loose gemstones Precious metals Items containing gemstones and/or precious metals Coins and currency Art Memorabilia Designer handbags Crystal Rare collectibles Antiques Individual items with a fair market value of \$5,000 or more 	<ul style="list-style-type: none"> Pawnbroker services shall be limited to luxury items, including: jewelry, watches, loose gemstones, precious metals, art, and antiques.

Other modified conditions that are not disputed by the applicant are shown below:

- 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.
- 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

The Planning Commission staff report, adopted resolution, and meeting minutes are attached (Attachments 7-9).

Appeal of Planning Commission Action

On June 29, 2015, the Planning Commission's approval of modified conditions for PA-08-27A1 was appealed by the applicant to the City Council. The basis for the appeal includes the following:

1. The remaining conditions are unnecessary and ineffective to ensure the use is compatible and complimentary to the community.
2. The conditions of approval impose a significant burden on the business and customers.

De Novo Hearing

The City Council hearing is a **de novo hearing** in which the City Council may consider the project in its entirety. Council may consider all aspects of the proposed use and is not required to limit the discussion to the appellant's issues in the appeal.

ANALYSIS

The following analysis provides information intended to address the issues raised by the appellant in the appeal application.

1. *Per the appellant, the remaining conditions are unnecessary and ineffective to ensure the use is compatible and complimentary to the community.*
- *After the Planning Commission meeting, the Police Department reiterated their opposition to any changes to the CUP.*

Lieutenant Beckman, Investigative Services Bureau, communicated with the applicant on July 21, 2015 to give the applicant an opportunity to express his position. Lieutenant Beckman summarized the communication in an email [excerpt below]:

"Mr. Stansell [applicant] felt that allowing more opportunity for people to get lower loans for a greater variety of property would benefit the police department because it would help us identify more stolen property that would otherwise be sold by other means.

I disagreed with his assessment as it suggests that the current reporting of pawns and loans is an efficient means of identifying stolen property. Some

property may get identified, however, the majority of reported stolen property lacks serial numbers or other definitively unique characteristics as to ever be reunited with the rightful owner.

After he made his statements, I advised him that I was not in agreement with his position and that based on my professional experience I would not be in support of changing any of the conditions of the existing CUP.

My position in regards to this matter is based on my own professional experiences dealing with pawn shops and secondhand dealers and investigating all types of thefts. I had been a detective assigned to oversee Costa Mesa Pawn and Secondhand dealer licenses, I had supervised investigators assigned to handle the pawn licensing and am currently managing the Investigative Service Bureau that is responsible for the pawn and secondhand dealers.”

(7/23/2015 Email from Lt. Beckman, Attachment 10)

The original CUP ensures that the retail sales of jewelry/watches be the primary business and establishes appropriate conditions of approval to prevent blighted conditions and increased criminal activity (burglaries, robberies, sale of stolen goods).

- *The Planning Commission considered the Costa Mesa Police Department's position and approved select modifications to the original report.*

At the Planning Commission meeting, there was discussion about the Police Department's concerns related to the existing concentration of pawn shops in the City, trafficking of stolen goods at pawn stores and potential increase in criminal activity. The Police Department indicated 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 also indicated that it is difficult to trace and recover stolen goods offered in pawn shops.

- *The CUP was amended to allow additional goods to be pawned.*

The condition of approval limiting pawn brokerage services to watches and jewelry only ensures that that pawn brokerage aspect of the business remains ancillary to the primary retail use. The condition serves to address the concern that second-hand stores may give the appearance of blight and deteriorated retail conditions. Limiting pawn brokerage services to luxury items only (jewelry, watches, loose gemstones, precious metals, art, and antiques) is included to ensure compatibility with the surrounding area.

- *The loan amount was reduced from \$2,500 to \$1,000 to be consistent with the CUP for another similar business.*

The condition of approval setting a minimum loan amount of \$1,000 is consistent with the minimum loan amount required by the CUP for the pawn broker located at 1860 Newport Boulevard (PA-08-24 for Newport Watch and Jewelry Center). This condition of approval is included as it is 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 watch and jewelry store.

2. Per the appellant, the conditions of approval impose a significant burden on the business and customers.

The following pawn brokers are currently operating in the City of Costa Mesa:

Site Address	PA Number	Business Name	Limitation on Types of Items to be Pawned	Minimum Loan Amount
1860 Newport Boulevard*	PA-08-24	Newport Watch and Jewelry Center	Watches and jewelry only	\$1,000
1836 Newport Boulevard	N/A (Legal nonconforming)	Coast Jewelry and Loan	No Restrictions	No Restrictions
780 W 19 th Street	N/A (Legal nonconforming)	AA Cash for Gold	No Restrictions	No Restrictions
710 W 19 th Street	N/A (Legal nonconforming)	Rio's Jewelry and Loan	No Restrictions	No Restrictions
1145 Baker Street	N/A (Legal nonconforming)	American Jewelry and Loan	No Restrictions	No Restrictions
Subject Application:** 1872 Newport Boulevard	PA-08-27A1	Jewelry-N-Loan (Subject Property)	Jewelry, watches, loose gemstones, precious metals, art, and antiques	\$1,000

*Existing CUP approved in 2009 for Newport Watch & Jewelry Center.

**CUP as amended by the Planning Commission on 22 June 2015.

Of the six operating pawn brokers in the City, four are legal nonconforming without conditional use permits, and two are subject to conditional use permits. The site at 1860 Newport Boulevard was granted a conditional use permit in 2008 to provide ancillary pawn broker services to a watch and jewelry store, similar to the subject property. This property also had a minimum loan amount of \$2,500, however in 2009 the City Council approved an amendment to the CUP, lowering the minimum loan amount to \$1,000 due to the economic climate at the time. The modified conditions of approval at the subject property are consistent with the CUP at 1860 Newport Boulevard.

LEGAL REVIEW

The City Attorney has reviewed the draft resolutions and they have been approved as to form by the City Attorney's Office.

ALTERNATIVES

The City Council may take the following actions:

- Uphold the Planning Commission's decision and approve modified conditions of approval for PA-08-27A1. Any further modifications to the conditions of approval,

such as additions or deletions, can be made by the Council as part of this action;
or

- Reverse the Planning Commission's approval of modified conditions and deny PA-08-27A1.

CONCLUSION

De novo literally translates to "anew," "afresh" or "a second time." A de novo hearing is essentially a new proceeding where the proposal is presented to the City Council for final consideration. In its decision making, City Council is not restricted to the evidence that was previously presented to the Planning Commission.

CHELSEA CRAGER
Assistant Planner

GARY ARMSTRONG, AICP
Economic Development & Development
Services Director / Deputy CEO

- Attachments:
1. [Location Map, Zoning Map, and 500' Radius Map](#)
 2. [Site Photos](#)
 3. [Appeal](#)
 4. [Draft Resolutions and Exhibits](#)
 5. [Correspondence From Public](#)
 6. [Plans](#)
 7. [Planning Commission Minute Excerpts](#)
 8. [June 22, 2015 Planning Commission Staff Report and Attachments](#)
 9. [Planning Commission Resolution](#)
 10. [July 23, 2015 Email from Lieutenant Paul Beckman](#)

cc:

- Chief Executive Officer
- Assistant Chief Executive Officer
- Economic Development & Development Services Director / Deputy CEO
- City Attorney
- Public Services Director
- Transportation Svs. Mgr.
- City Engineer
- City Clerk (9)
- Staff (7)
- File (2)

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