



PLANNING COMMISSION

AGENDA REPORT

VII.3

MEETING DATE: JANUARY 26, 2009

ITEM NUMBER:

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:

SURROUNDING PROPERTY:

Zone: <u>R1 (Single-Family Residential)</u>	North: <u>Surrounding properties are</u>
General Plan: <u>Low Density Residential</u>	South: <u>zoned R1</u>
Lot Dimensions: <u>60.5 FT X 125 FT</u>	East: <u>and contain</u>
Lot Area: <u>7,562 SF</u>	West: <u>residences.</u>
Existing Development: <u>A two-story single family residence with an attached one-car garage and a detached one-story unit and two-car garage.</u>	

DEVELOPMENT STANDARD COMPARISON

<u>Development Standard</u>	<u>Code Requirement</u>	<u>Proposed/Provided</u>
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/5 FT, 4 IN (2)
Rear	10 FT	1 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
<p>(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).</p> <p>(2) Does not apply with Code changes and administrative adjustment requested.</p>		
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 to 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.
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ATTACHMENT 1

RESOLUTION NO. PC-09-

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COSTA MESA APPROVING 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 an administrative adjustment 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 **APPROVES** PA-08-30 with respect to the property described above.

BE IT FURTHER RESOLVED that the Costa Mesa Planning Commission 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 26th day of January, 2009.

Donn Hall, Chair
Costa Mesa Planning Commission

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 with the Zoning Code.

RESOLUTION NO. PC-09-

**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

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 as 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 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.

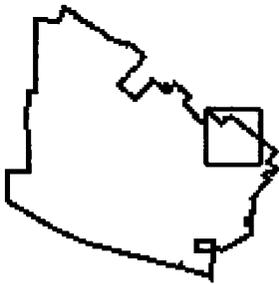
We appreciate your attention regarding this manner.

Sincerely,

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

ATTACHMENT 3

Overview Map

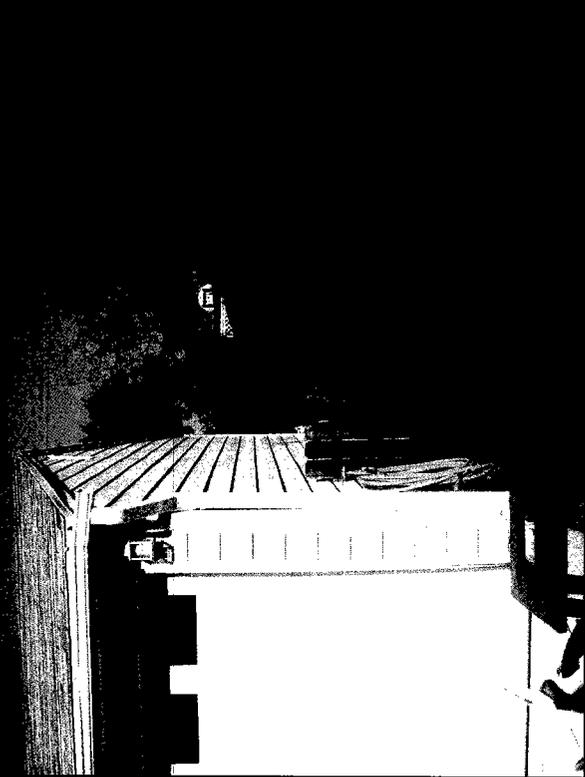


Map Display



Legend

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



DETACHED UNIT AND GARAGE AT 378 COSTA MESA ST.



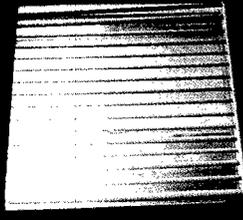
LIVING ROOM



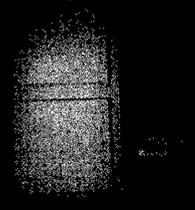
LARGE BEDROOM



KITCHEN



SMALL BEDROOM



LAUNDRY RM.

BATH



GARAGE

