

**RESOLUTION NO. 2022-XX**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, APPROVING MINOR CONDITIONAL USE PERMIT (MCUP) ZA-21-48 TO AMEND PREVIOUSLY-APPROVED CONDITIONAL USE PERMIT (CUP) PA-91-102 FOR THE COSTA MESA VILLAGE AFFORDABLE HOUSING DEVELOPMENT, AND APPROVING A REGULATORY AGREEMENT AND THE TRANSFER OF OWNERSHIP OF THE COSTA MESA VILLAGE PROPERTY, LOCATED AT 2450 NEWPORT BOULEVARD**

THE CITY COUNCIL OF THE CITY OF COSTA MESA HEREBY FINDS AND DECLARES AS FOLLOWS:

WHEREAS, Planning Application ZA-21-48 was filed by Brian D'Andrea on behalf of Century Affordable Development Inc., authorized agent for the property owner, Costa Mesa Village, Ltd., requesting approval of the following:

1. MCUP ZA-21-48 which amends PA-91-102 to modify certain conditions of approval.
2. Termination of Original Regulatory Agreement and Adoption of New Regulatory Agreement (Regulatory Agreement) which terminates the agreement with the current owner and replaces it with a new one for the new owner and also includes modifications to certain provisions in the original Agreement.
3. Transfer of the property to the Buyer as the new owner and operator of the project as required under the Regulatory Agreement;

WHEREAS, a duly noticed public hearing held by the Planning Commission on January 24, 2022 with all persons having the opportunity to speak for and against the proposal;

WHEREAS, the Planning Commission recommended to City Council approval of Planning Application ZA-21-48 by a 7-0 vote with modifications to amended Condition of Approval No. 4;

WHEREAS, pursuant to the California Environmental Quality Act (CEQA), the project is exempt from the provisions of the California Environmental Quality Act (CEQA) per Section 15301 (Class 1), for Existing Facilities. The project is an existing affordable efficiency unit development and does not propose any alterations or additions;

WHEREAS, the CEQA categorical exemption for this project reflects the independent judgement of the City of Costa Mesa;

NOW, THEREFORE, THE CITY COUNCIL AND HOUSING AUTHORITY BOARD OF THE CITY OF COSTA MESA HEREBY RESOLVES as follows:

Section 1. Based on the evidence in the record and the findings contained in Exhibit A, and subject to the conditions of approval contained within Exhibit B, the City Council hereby approves Planning Application ZA-21-48 with respect to the property described above and upon applicant's compliance with each and every condition contained in both Exhibit B and Exhibit C attached hereto, and compliance with 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.

Section 2. The Housing Authority Board hereby approves the Termination of Original Regulatory Agreement, Adoption of New Regulatory Agreement, and transfer ownership for the property described above from Costa Mesa Village, Ltd. to Century Affordable Development, Inc. (CADI) and authorizes the Executive Director to execute these agreements and related documents to approve CADI as the new owner and operator of Costa Mesa Village.

**PASSED AND ADOPTED this 15<sup>th</sup> day of February, 2022.**

\_\_\_\_\_  
John Stephens, Mayor

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Brenda Green, City Clerk

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Kimberly Hall Barlow, City Attorney

STATE OF CALIFORNIA    )  
COUNTY OF ORANGE     )     ss  
CITY OF COSTA MESA     )

I, BRENDA GREEN, City Clerk of the City of Costa Mesa, DO HEREBY CERTIFY that the above and foregoing is the original of Resolution No. 2022-XX and was duly passed and adopted by the City Council of the City of Costa Mesa at a regular meeting held on the 15<sup>th</sup> day of February 2022, by the following roll call vote, to wit:

AYES:           COUNCIL MEMBERS:

NOES:           COUNCIL MEMBERS:

ABSENT:        COUNCIL MEMBERS:

IN WITNESS WHEREOF, I have hereby set my hand and affixed the seal of the City of Costa Mesa this 15<sup>th</sup> day of February 2022.

\_\_\_\_\_  
BRENDA GREEN, CITY CLERK

## EXHIBIT A

### FINDINGS

- A. The proposed project complies with Costa Mesa Municipal Code Section 13-29(g)(2), CUP and MCUP findings, because:

**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 Findings:** The project has been operating as an affordable housing development since the 1990's and the proposed CUP amendment will continue the same use with a new owner and management entity which specializes in operating affordable housing developments. Furthermore, the proposed amendment does not involve any physical modifications or expansion of building square footage. As such, the project will continue to be compatible with the developments in the same general area.

**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 project is an existing development that has provided specialized housing to the City for many years. The proposed CUP amendment does not involve any change in use or other physical improvements that would impact the immediate neighborhood. The CUP amendment specifically involves modifying certain conditions of approval primarily for consistency with revised Council Policy No. 500-05. The modified conditions will not have an impact to the immediate neighborhood.

**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 property has a General Plan designation of Commercial-Residential. Under this General Plan designation, a complementary mix of commercial and residential uses are allowed with residential development encouraged along Newport Blvd. The project's CUP was previously approved and the amendment including modified conditions does not involve a change in use, additional uses, or improvements that would intensify the use of the property.

- B. The project is exempt from the provisions of the California Environmental Quality Act under section 15301 (Class 1) Existing Facilities. Class 1 exemptions consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures or facilities involving negligible or no expansion

of the existing or former use. Because the facility is existing and does not propose any alterations or additions, the project qualifies for the exemption.

- C. The project is exempt from Chapter XII, Article 3 Transportation System Management, of Title 13 of the Costa Mesa Municipal Code.

## **EXHIBIT B**

### **CONDITIONS OF APPROVAL**

- PIng.      1.    The use shall be limited to the type of operation described in this staff report and the staff report for the original CUP under PA-91-102. Any change in the operational characteristics shall be subject to Planning Division review and may require an amendment to the conditional use permit, subject to either Zoning Administrator, Planning Commission or City Council approval, depending on the nature of the proposed change. The applicant is reminded that the Zoning Code allows the Planning Commission to modify or revoke any planning application based on findings related to public nuisance and/or noncompliance with conditions of approval [Title 13, Section 13-29(o)].
2.    The applicant is reminded that all conditions of approval of PA-91-102, except for Conditions No. 3 through 6, 8, 10 and 11, continue to apply. Amended conditions under ZA-21-48 (Conditions No. 3 through 6, 8, 10 and 11) shall replace the original conditions No. 3 through 6, 8, 10 and 11 of PA-91-102. Refer to Exhibit C to this Resolution No. CC-2022-XX for a copy of the project's applicable conditions of approval as revised. In addition, the conditions of this Exhibit B shall also apply to the project. In the event of a conflict between any condition of PA-91-102 and any condition set forth in Exhibit B and/or C, the conditions of Exhibit B and/or C shall control, as applicable.
3.    The applicant shall defend, with attorneys of City's choosing, indemnify, and hold harmless the City, its elected and appointed officials, agents, officers and employees from any claim, legal action, or proceeding (collectively referred to as "proceeding") brought against the City, its elected and appointed officials, agents, officers or employees arising out of City's approval of the project, including but not limited to any proceeding under the California Environmental Act. 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.

### **CODE REQUIREMENTS**

The following list of federal, state and local laws applicable to the project has been compiled by staff for the applicant's reference. Any reference to "City" pertains to the City of Costa Mesa.

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| Plng. | <ol style="list-style-type: none"> <li>1. All contractors and subcontractors must have valid business licenses to do business in the City of Costa Mesa. Final inspections, final occupancy and utility releases will not be granted until all such licenses have been obtained.</li> <li>2. All noise-generating construction activities shall be limited to 7 a.m. to 7 p.m. Monday through Friday and 9 a.m. to 6 p.m. Saturday. Noise-generating construction activities shall be prohibited on Sunday and the following Federal holidays: New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day.</li> <li>3. Street address shall be visible from the public street and shall be displayed on the freestanding sign. If there is no freestanding sign, the street address may be displayed on the fascia adjacent to the main entrance or on another prominent location. When the property has alley access, address numerals shall be displayed in a prominent location visible from the alley. Numerals shall be a minimum twelve (12) inches in height with not less than three-fourth-inch stroke and shall contrast sharply with the background. Identification of individual units shall be provided adjacent to the unit entrances. Letters or numerals shall be four (4) inches in height with not less than one-fourth-inch stroke and shall contrast sharply with the background.</li> </ol> |
| Fire  | <ol style="list-style-type: none"> <li>4. Comply with the requirements of the 2019 California Fire Code and referenced standards as amended by the City of Costa Mesa.</li> </ol>  |
| Bldg. | <ol style="list-style-type: none"> <li>5. Comply with the requirements of the following adopted codes Code, 2019 California Building Code, 2019 California Electrical code, 2019 California Mechanical code , 2019 California Plumbing code , 2019 California Green Building Standards Code and 2019 California Energy Code (or the applicable adopted, California Building code California Electrical code, California Mechanical code California Plumbing Code, California Green Building Standards and California Energy Code at the time of plan submittal or permit issuance ) and California Code of Regulations also known as the California Building Standards Code, as amended by the City of Costa Mesa. Requirements for accessibility to sites ,facilities, buildings and elements by individuals with disability shall comply with chapter 11B of the 2019 California Building Code.</li> </ol>   |

## EXHIBIT C

### **COSTA MESA VILLAGE APPLICABLE AMENDED CONDITIONS OF APPROVAL**

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| PA-91-102           | 1. | 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 Development Services Director or his designee, any of the findings upon which the approval was based are no longer applicable.   |
| PA-91-102           | 2. | 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.   |
| Amended<br>ZA-21-48 | 3. | Decorative wrought iron added to the top of the existing perimeter block wall shall be maintained and any future changes including but not limited to material type shall be under direction of the Director or their designee.   |
| Amended<br>ZA-21-48 | 4. | Applicant shall provide up to three additional securable bicycle racks with a minimum of seven bicycle spaces per racks. A total of six bicycle racks shall be provided on-site, including three existing bicycle racks (21 existing spaces), to accommodate up 42 spaces for bicycle parking.  |
| Amended<br>ZA-21-48 | 5. | Coin or card-operated washers and dryers shall be provided for tenant use.  |
| Amended<br>ZA-21-48 | 6. | Applicant shall provide 96 units to 50% AMI Very Low Income households in perpetuity at the applicable maximum monthly rent published by the Tax Credit Allocation Committee (TCAC), as required by the approved Regulatory Agreement.  |
| PA-91-102           | 7. | Security deposits shall be limited to one-half the first month's rent unless a higher limit is approved by the Planning Division.   |
| Amended<br>ZA-21-48 | 8. | A Management Plan is required which shall govern the operation of the development and shall include but not limited to: tenant selection and income/rent verification and reporting procedures; property maintenance standards and repairs, property improvements and maintenance schedules; insurance requirements; tenant services or amenities; access control and security including regulations for guests; and project staffing. Any modification to the Management Plan shall require review and approval by the Director or their designee, and must be consistent with Council Policy 500-05 as amended, and the Regulatory Agreement. |
| PA-91-102           | 9. | The Planning Division shall be provided with the name, address, and telephone numbers for contact persons of the management company and of any change made in the management company.   |



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| Amended<br>ZA-21-48 | 10. A report shall be submitted by the Applicant or its designee to the Executive Director of the City's Housing Authority or their designee on an annual basis on or before April 30th of each year and shall include all information required by the City's Housing Authority to confirm compliance with the Regulatory Agreement, including but not limited to: level of occupancy, certification of tenant income and rental rates charged job locations of tenants. |
| Amended<br>ZA-21-48 | 11. Securable lockers or similar exterior storage shall be provided on the property for each unit where feasible under the direction of the Director or their designee.  |
| PA-91-102           | 12. All units shall be single occupancy. Any proposed change to double occupancy shall be reviewed by the Planning Division. Any proposed change that would not comply with Council Policy No. 500-05 relative to either double occupancy limits or parking requirements based on occupancy shall be referred back to the Planning Commission for review and approval.   |
| PA-91-102           | 13. The project shall conform with sections 4 – Unit Requirements and 7 – Rental Term of Council Policy No. 500-05.  |