



## Legislation Text

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File #: 21-534, Version: 1

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### **TITLE:**

**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 A REQUEST TO APPROVE A REGULATORY AGREEMENT AND THE TRANSFER OF OWNERSHIP OF THE COSTA MESA VILLAGE PROPERTY, LOCATED AT 2450 NEWPORT BOULEVARD.**

**DEPARTMENT: ECONOMIC AND DEVELOPMENT SERVICES  
DEPARTMENT/PLANNING DIVISION**

**PRESENTED BY: NANCY HUYNH, SENIOR PLANNER**

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### **RECOMMENDATION:**

Staff recommends that the Planning Commission: (1) Recommend that the City Council approve MCUP ZA-21-48 to amend previously-approved CUP PA-91-102 to modify certain conditions of approval, and (2) Provide feedback to the City Council (as appropriate) pertaining to the Regulatory Agreement and transfer of ownership requests.

### **APPLICANT OR AUTHORIZED AGENT:**

The property owner is Costa Mesa Village, Ltd. The authorized agent is Brian D'Andrea with Century Affordable Development Inc.

### **BACKGROUND:**

Costa Mesa Village (CMV), located at 2450 Newport Boulevard, is a 96-unit single room occupancy (SRO) affordable housing development with one manager's unit for a total of 97 units on site. The subject property is zoned C1 (Local Business District) and has a General Plan land use designation of Commercial-Residential. The property to the north of CMV is a commercial development also zoned C1 and the properties to the south and east are existing multi-family residential developments zoned R2-MD (Multi-Family Residential District, Medium Density).

CMV was originally approved and developed as a two-story Travelodge motel in the mid-1980s under ZE-84-48. In 1991, a conditional use permit (CUP) under PA-91-102 was approved to allow the conversion of the existing motel into a single room occupancy (SRO) affordable housing development. (Today, SRO's are referred to as "efficiency units"). Subsequently in 1992, PA-91-102 was amended to modify two of the conditions of approval.

As part of the conversion project, the City through its Redevelopment Agency (Agency) provided

financial assistance for land acquisition costs in the form of a \$500,000.00 loan in addition to a \$1,200,000.00 loan from the Orange County Housing Authority. The Agency entered into several agreements with Costa Mesa Village, Ltd. (original developer and current owner of CMV) including a Regulatory Agreement to ensure that the units were provided as very low-income units at or below 50 -percent of the area median income (AMI) in perpetuity. The conversion improvements were completed in 1993 and the loans were fully repaid in 2014.

The Costa Mesa Housing Authority (Authority), which is the successor to the Costa Mesa Redevelopment Agency, continues to inspect and monitor the facility pursuant to the Regulatory Agreement to ensure:

- That new tenants qualify as very low-income occupants and are charged affordable rents and that all tenants are annually recertified;
- The structure does not present any threat to the health and safety of the occupants;
- Ceilings, walls, floors roofs, the foundation and exterior walls are maintained in a safe and sanitary condition and free of defects;
- Adequacy of heating, plumbing, sewage disposal and other equipment; and
- Exterior of the property is maintained in compliance with City requirements.

In 2020, the owner was awarded “Section 811” program funds for up to 24 of the 96 affordable units. The Section 811 program is a federal Housing and Urban Development (HUD) program administered by the State’s Housing and Community Development (HCD) that provides subsidies for housing for very-low income persons with disabilities, in this case developmentally disabled persons. As such, as units become vacant through attrition, Section 811 eligible residents are being referred to CMV through the Regional Center of Orange County. The referral entity is responsible for providing the supportive services to the Section 811 tenants. Programming and services are individualized based on each person’s needs and provided off-site.

## **DESCRIPTION:**

Costa Mesa Village, Ltd. is in the process of selling the subject property to CADI (Buyer) to be the new owner and operator of CMV. The original Regulatory Agreement as amended requires that any transfer of ownership be approved by the City/Authority.

The Applicant is requesting City/Authority approval for 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.

The proposed CUP amendment includes modifying conditions of approval numbers 3 through 6 as well as 8, and 10. The CUP amendment proposes to update conditions of approval to be consistent

with the planned operation of CMV by the new Buyer, new Regulatory agreement, as well as Council Policy No. 500-05 (Attachment 6) which is the policy pertaining to the development guidelines and review process of SRO's and efficiency unit developments. (This policy was approved by the City Council on September 1, 1991 and modified on August 23, 2021). As an informational item, the Buyer has also provided an updated Management Plan (Attachment 4), which provides additional operation and management details for the site.

### ***Planning Commission Authority***

The requested CUP amendment would typically be processed as an MCUP, with the final decision making authority held by the City's Zoning Administrator. However, since the Regulatory Agreement and transfer of ownership must be decided upon by the City Council and the Authority, and the CUP amendment is a related request, staff has processed the requests together as a single package.

As such, the Zoning Administrator has deferred review authority for the MCUP to the Planning Commission. The Planning Commission may recommend approval, approval with modifications, or denial of the CUP amendment to the City Council. The Planning Commission has no review authority over the Regulatory Agreement or the transfer of property, but may provide its feedback to the City Council as part of its recommendation.

### **ANALYSIS:**

The Buyer proposes to maintain all 96 units for very-low income individuals (i.e., 50-percent AMI) working and/or living in Costa Mesa with up to 24 units set aside for households eligible under the Section 811 program consistent with the existing use. The affordability term will continue to remain in perpetuity. The Buyer does not propose any physical changes to the property.

### ***Amendment to CUP PA-91-102***

The CUP amendment proposes modifications to several conditions of approval to update the conditions to be consistent with the planned operation of CMV by the new Buyer, and to conform with City Council Policy No. 500-05 pertaining to SROs/efficiency units as well as provisions of the new Regulatory Agreement. All other conditions of approval from PA-91-102 including the two amendments in 1992 remain in effect.

In addition, this amendment will update the terminology of the development from "SRO" to efficiency unit development to be more consistent with HUD's terminology for this type of development; this change will not have any impacts to the existing use, its operations or the affordable income level of the residents served. This CUP amendment also imposes new standard/current planning conditions of approval on the project, such as limiting the use to that described in the project, defense and indemnity of the City, and various Code requirements.

The following are the CUP conditions proposed to be modified (~~striketrough~~ text proposed to be deleted and underline text proposed to be added):

- **Condition No. 3:** *Decorative wrought iron ~~shall be~~ 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 Planning Division Director or their designee.

**Explanation of Condition Modification:** The conversion improvements were completed which included the decorative wrought iron fencing added to the top of the block wall. The condition has been modified to require the developer to continue to maintain it and any future proposed changes must be reviewed and approved by the Director or designee.

- **Condition No. 4:** *Securable bicycle storage racks shall be provided under the direction of the Planning Division Director or their designee.*

**Explanation of Condition Modification:** CMV currently provides three bicycle racks to accommodate 21 bicycles as required by the original condition. Staff removed the word “storage” to clarify the original intent to provide bicycle racks.

- **Condition No. 5:** *Linens and regular weekly laundry service for the room linens shall be provided at no additional charge to the tenants at the option of each tenant. Coin or card -operated washers and dryers shall be provided for tenant use.*

**Explanation of Condition Modification:** CMV currently does not offer weekly linen services but does offer laundry machines for tenants’ use. Linen services were provided when the development was a motel and offered as an option to short-term tenants at some point in the past, but is no longer a best practice for rental housing. Council Policy No. 500-05 indicates the developer shall provide coin operated washers and dryers (but does not require linen services).

- **Condition No. 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. Tenant income shall be limited to very low-income levels rental rates tied to very-low income levels. The maximum rental rate would be 30% of 50% of the Orange County median income as published by HUD and adjusted for single person household size. If would not comply with either Council Policy No. 500-05 such change shall be referred back to the Planning Commission for review and approval.*

**Explanation of Condition Modification:** The condition is being modified to be consistent with the language in the new Regulatory Agreement.

- **Condition No. 8:** *The draft A Management Plan is required which shall govern the operation of the development SRO. 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 Planning Division Director or their designee, and must be consistent with. If any change would not comply with Council Policy 500-05 as amended, and the Regulatory Agreement, such change shall be referred back to the Planning Commission for review and approval.*

**Explanation of Condition Modification:** The council policy indicates a management plan shall be submitted for review to address the day-to-day operations and management of the project. The condition is being modified to require a Management Plan that includes all of the items required to be addressed by the council policy and ensures the plan is consistent with the new Regulatory Agreement. The new Buyer proposes to replace the existing plan with a new one that is in conformance with the council policy as amended and contains a more robust description of operational details. The new Management Plan is provided for informational purposes as Attachment 4 to this report.

- **Condition No. 10:** *During the first year of operation, quarterly reports (due March 1<sup>st</sup>, June 1<sup>st</sup>, September 1<sup>st</sup> and December 1<sup>st</sup>) shall be submitted to the Planning Division pertaining to the 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 30<sup>th</sup> 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, automobile ownership of tenants, and job locations of tenants. Thereafter, such report shall be submitted on an annual basis, due each March 1<sup>st</sup>.*

**Explanation of Condition Modification:** The condition is being modified to require annual income and rent certification reports consistent with the Regulatory Agreement.

- **Condition No. 11:** *Securable lockers or similar exterior storage exterior to the tenants' rooms shall be provided on the property for each unit where feasible under the direction of the Planning Division Director or their designee.*

**Explanation of Condition Modification:** The project was approved with and currently provides some exterior lockers but not one locker for each unit. Based on existing site capacity and constraints, it is problematic to retrofit the site at this point to provide lockers for each unit. Therefore, staff proposes to work with the new Buyer to identify potential areas for additional storage where possible without impacting required parking, walkways and common areas. Although the Council policy for SRO's/efficiency units call for lockers, the policy does not contain absolutes, but rather general guidelines intended to allow flexibility when appropriate. In this case, staff believes providing flexibility on the number of exterior storage lockers is appropriate, noting that each unit already contains an interior storage area which will remain in place.

### ***Regulatory Agreement and Transfer of Ownership***

The motel conversion improvements were completed many years ago, the public loans have been repaid and the efficiency unit development has provided low-income housing in Costa Mesa since the early 1990s. The Authority's continuing interest in this matter is to retain the authority to ensure that the housing units be provided as affordable units in perpetuity and that the property is maintained in compliance with applicable requirements. Approval of the new Regulatory Agreement will preserve the Authority's continuing interest. The original Regulatory Agreement will be terminated and a replaced with a new one. Changes from the original Regulatory Agreement to the new one primarily involve deleting operational requirements no longer necessary for the project, clarifying use of the

HUD calculation for income levels and affordable rents, allowing for future consideration of revising affordability limits to maintain project viability and providing options in the event rental subsidies are lost in the future. Furthermore, the property is in substantial compliance with the provisions of the Regulatory Agreement and the Buyer is well capitalized with sufficient operational capacity and experience owning and operating other similar affording housing developments. Therefore, the transfer of ownership is appropriate.

### **GENERAL PLAN CONFORMANCE:**

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 development is existing and has been operating as an affordable efficiency unit development since the 1990's and will continue to operate as such but with a new owner and management entity. The proposed CUP amendment will not substantively change the use and the project will continue to conform with the City's General Plan. The following discussion evaluates the project's consistency with the most relevant goals, objectives, and policies of the General Plan.

**Policy LU-1.1** *Provide for the development of a mix and balance of housing opportunities, commercial goods and services, and employment opportunities in consideration of the needs of the business and residential segments of the community.*

**Consistency:** The need for affordable housing for very-low income populations has been exacerbated by the current housing crisis and high housing costs. The use will continue to provide affordable housing opportunities for an at risk segment of the community.

**Policy HOU-1.8** *Encourage the development of housing that fulfills specialized needs.*

**Consistency:** In addition to serving the very-low income population who live and/or work in Costa Mesa, the property will provide additional housing opportunities for disabled individuals under the Section 811 program by providing up to 24 units for the program. These units will provide disabled individuals with an opportunity for permanent supportive housing at a more affordable rate.

**GOAL HOU-2:** *Preserving and expanding affordable housing opportunities. It is the goal of the City of Costa Mesa to provide a range of housing choices for all social and economic segments of the community, including housing for persons with special needs.*

**Consistency:** The project currently provides affordable housing to those who live and/or work in Costa Mesa. The new Buyer will continue to preserve the affordable units in perpetuity. Additionally, the target population under the Section 811 program will also be served.

### **FINDINGS:**

Pursuant to CMMC Section 13-29(g)(2), CUP and MCUP Findings, in order to recommend approval of the project, the Planning Commission shall find that the evidence presented in the administrative record substantially meets specified findings. Staff recommends Planning Commission recommend approval of the proposed project, based on the below assessment of facts and findings, which are

also reflected in the draft Resolution:

*Section 13-29(g)(2), CUP and MCUP Findings*

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

**Compliance with required 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.

- *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.*

**Compliance with required findings:** 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.

- *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.*

**Compliance with required findings:** 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.

**ENVIRONMENTAL DETERMINATION:**

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.

**ALTERNATIVES:**

The Planning Commission has the following alternatives:

1. Recommend approval of the project with modifications: The Planning Commission may

suggest specific changes that are necessary to alleviate concerns for City Council and the Housing Authority Board's consideration. If any of the additional requested changes are substantial, the item should be continued to a future meeting to allow for additional information or analysis.

2. Recommend denial of the project: If the Planning Commission believes that there are insufficient facts to support the findings for approval, the Planning Commission may recommend denial of the application to City Council and the Housing Authority Board and provide facts in support of denial to be included in the attached draft resolution.

### **LEGAL REVIEW:**

The City Attorney's office has reviewed the new Regulatory Agreement as well as the draft Resolution and approves them as to form.

### **PUBLIC NOTICE:**

Pursuant to Title 13, Section 13-29(d), of the Costa Mesa Municipal Code, three types of public notification have been completed, no less than 10 days prior to the date of the public hearing:

1. **Mailed notice.** A public notice was mailed to all property owners and occupants within a 500-foot radius of the project site. The required notice radius is measured from the external boundaries of the property.
2. **On-site posting.** A public notice was posted on each street frontage of the project site.
3. **Newspaper publication.** A public notice was published once in the Daily Pilot newspaper.

As of this report, no written public comments have been received. Any public comments received prior to the January 24, 2022 Planning Commission meeting will be provided separately.

### **CONCLUSION:**

Staff recommends that Planning Commission recommend that the City Council approve MCUP ZA-21-48 to amend the original CUP and provide feedback (where appropriate) regarding the new Regulatory Agreement and transfer of ownership.