



## Legislation Text

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**File #:** 21-562, **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

**CONTACT INFORMATION:** NANCY HUYNH, [nancy.huynh@costamesaca.gov](mailto:nancy.huynh@costamesaca.gov); (714) 754-5609

### **RECOMMENDATION:**

Staff recommends that the City Council adopt Resolution No. 2022-XX to approve MCUP ZA-21-48 to amend previously-approved CUP PA-91-102 to modify certain conditions of approval. Staff also recommends that the Housing Authority Board approve the Termination of Original Regulatory Agreement, Adoption of New Regulatory Agreement, transfer of property ownership from Costa Mesa Village, Ltd. to Century Affordable Development, Inc. (CADI) and authorize the Executive Director to execute these agreements and related documents to approve CADI as the new owner and operator of Costa Mesa Village (CMV).

### **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. 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.

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

The Applicant is requesting City and Housing Authority approval of the following:

1. MCUP ZA-21-48, which amends PA-91-102 to modify certain conditions of approval.
2. Termination of the Original Regulatory Agreement and Adoption of New Regulatory Agreement (provided as attachments to this report) which terminates the agreement with the current owner and replaces it with a new agreement 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 CMV.

### ***City Council and Housing Authority Review***

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.

### ***Planning Commission Hearing***

On January 24, 2022, the Planning Commission held a public hearing, received staff's presentation, considered public comments, discussed the item, and recommended to City Council approval of ZA-21-48 by a 7-0 vote with one modification to amend Condition of Approval No. 4 as shown below (strikethrough text proposed to be deleted and underline text proposed to be added):

- **Condition of Approval No. 4:** Applicant shall provide up to three additional Ssecurable bicycle racks with a minimum of seven spaces per rack. shall be provided under the direction of the Director or their designee A total of six bicycle racks shall be provided on-site including the three existing bicycle racks (21 existing spaces), to accommodate up to 42 spaces for bicycle parking.

The staff report for the January 24, 2022 Planning Commission meeting are available at the following links:

January 24, 2022 Planning Commission staff report:

<https://costamesa.legistar.com/View.ashx?M=F&ID=10416901&GUID=390A4CC2-045A-453C-9E8B-5F88858D4E30>

Video from January 24, 2022 Planning Commission meeting:

[https://costamesa.granicus.com/player/clip/3818?view\\_id=14&redirect=true](https://costamesa.granicus.com/player/clip/3818?view_id=14&redirect=true)

The following is a summary of the main topics discussed by the Planning Commission:

- **Non-Qualifying Households Provision in Regulatory Agreement:** The Planning Commission requested clarification from the applicant in regard to how often tenants become non-qualifying households due to increased income levels discovered during re-certification of tenants' eligibility;
- **Guest Policy:** The Planning Commission requested clarification from the applicant in regard to how guests would be managed so that they do not over stay the maximum days allowed per the Management Plan and how the maximum occupancy would be enforced; and
- **Exterior Lockers and Bicycle Racks:** The Planning Commission requested clarification from the applicant in regard to how the lockers are assigned as well as the number of existing lockers provided; discussed the number of existing bicycle racks and whether or not additional racks should be provided given that majority of residents do not own vehicles.

## **ANALYSIS:**

The Buyer (CADI) is a well-known developer, manager and financier of affordable housing developments throughout California. CADI has developed multiple new affordable housing projects and also actively acquires existing income restricted properties to preserve affordability, and, when needed, performs substantial renovations. The Buyer proposes to maintain all 96 units for very-low income individuals (i.e., 50-percent Area Median Income (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 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 developmental disabilities. The affordability term is proposed to remain in perpetuity and the Buyer does not currently propose any physical changes to the property.

### ***Amendment to CUP PA-91-102 (ZA-21-48)***

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.

Conditions proposed to be modified pertain to bicycle racks, laundry machines, the level of affordability as required in the Regulatory Agreement, a Management Plan to govern the day-to-day operations, annual reporting, and exterior storage for tenants.

A detailed discussion of the conditions proposed to be modified can be found in the January 24, 2022 Planning Commission staff report.

A copy of the Management Plan is also included as an attachment to this staff report for reference.

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

The Authority's continuing interest in the Regulatory Agreement and transfer of ownership is to retain the discretion to ensure that the housing units at CMV are 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. Proposed changes from the original Regulatory Agreement primarily involve deleting operational requirements that are 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 in the event rental subsidies are lost in the future (no such changes would be allowed without City Council/Authority approval).

## **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 Boulevard.

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 Conditional Use Permit 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 special needs population specified pursuant to the Section 811 program will also be served.

## **FINDINGS:**

Pursuant to CMMC Section 13-29(g)(2), CUP and MCUP Findings, in order to approve the CUP amendment, the City Council shall find that the evidence presented in the administrative record substantially meets specified findings. Staff recommends City Council approve the proposed CUP amendment 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 Boulevard. The project's CUP was previously approved and the amendment including modified conditions does not involve a change in use 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 alterations or additions, the project qualifies for this exemption.

## **ALTERNATIVES:**

The City Council/Housing Authority Board can consider the following alternatives for project decision:

1. Approve the project with modifications: The City Council/Housing Authority Board may make specific changes to the CUP amendment or Regulatory Agreement that are necessary to alleviate their concerns. 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. Deny the project: If the City Council and Authority believes that there are insufficient facts to support the findings for approval of the CUP amendment, Regulatory Agreement, and transfer of ownership - the City Council/Authority may deny the applicant's requests and provide facts in support of denial to be included in the attached draft resolution.

**FISCAL REVIEW:**

There is no fiscal impact to the City associated with this item.

**LEGAL REVIEW:**

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

**CITY COUNCIL GOALS AND PRIORITIES:**

Diversify, Stabilize and Increase Housing to Reflect Community Needs.

**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 February 15, 2022 City Council meeting will be provided separately.

**CONCLUSION:**

The Buyer is well capitalized with sufficient operational capacity and experience owning and operating other similar affording housing developments throughout Southern California. Therefore, the transfer of ownership is appropriate. Staff recommends that the City Council approve MCUP ZA-21-48 to amend the original CUP and the Housing Authority approve the new Regulatory Agreement and transfer of ownership.