



# City of Costa Mesa

## Agenda Report

77 Fair Drive  
Costa Mesa, CA 92626

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**Item #: 24-117**

**Meeting Date: 04/16/2024**

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**TITLE: APPEAL OF PLANNING APPLICATION 22-37 TO ESTABLISH AN EVENT CENTER WITH OUTDOOR ACTIVITIES, INCLUDING A REQUEST TO OFFER VALET PARKING AND TO DEVIATE FROM PARKING REQUIREMENTS LOCATED AT 3150 BEAR STREET**

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

**PRESENTED BY: CAITLYN CURLEY, ASSISTANT PLANNER**

**CONTACT INFORMATION: CAITLYN CURLEY, ASSISTANT PLANNER, 714-754-5692**

**RECOMMENDATION:**

Staff recommends the City Council:

1. Find that the project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) per CEQA Guidelines Section 15301 (Class 1), Existing Facilities.
2. Adopt a Resolution approving Planning Application 22-37, based on findings of fact and subject to conditions of approval.

**APPLICANT OR AUTHORIZED AGENT:**

The applicant and property owner is the Khoshbin Company. The authorized agent is Alireza Mirzaeiramin.

**BACKGROUND:**

On February 26, 2024, by a vote of 5-1 with Commissioner Klepack absent, the Planning Commission approved a conditional use permit for an event center at the subject property. On February 28, 2024, an adjacent residential neighbor filed an appeal of that decision.

The City Council's consideration of an appeal is considered *De Novo*, which means that the City Council may exercise its independent judgment on the whole project rather than only for the reasons listed in the appeal.

The subject property is located at 3150 Bear Street. It is bounded by Bear Street and Shiffer Park to the west, the I-405 Freeway to the north, single-family residential properties to the east and south, and an office building to the south. See Figure 1, Project Aerial, below. The site is designated "General Commercial" by the Land Use Element of the General Plan and is zoned "Administrative Professional" (AP).

The subject property is approximately six acres in size and is currently developed with two structures. The primary building is a three-story 65,924-square-foot building that was constructed in 1978. The second structure houses several different pieces of equipment such as a chiller, emergency generator and fountain pump. The remainder of the site is improved with 241 surface parking spaces and site landscaping, which includes the Grand Courtyard area that consists of colonnades, sculptures, and fountains.

Figure 1 Project Aerial



The subject property is the former Trinity Broadcasting Network site, which is now used by the current owner, Khoshbin Company, as their offices for about 20 employees.

**ANALYSIS:**

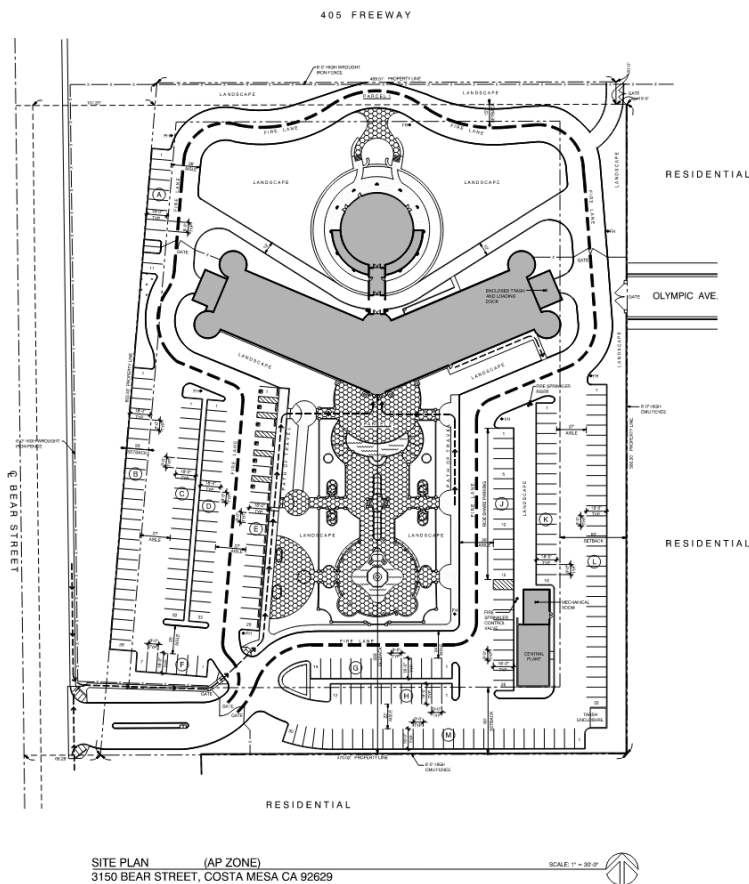
The proposed event center use requires City approval of the following applications:

1. **Conditional Use Permit** to operate an event center pursuant to Costa Mesa Municipal Code Section 13-30(d);
2. **Conditional Use Permit** to deviate from event center parking requirements pursuant to Costa Mesa Municipal Code Section 13-89.5;
3. **Conditional Use Permit** to offer on-site valet services pursuant to Costa Mesa Municipal Code Section 13-96; and
4. **Minor Conditional Use Permit** for outdoor activities incidental to the event center pursuant to Costa Mesa Municipal Code Section 13-44.

The Khoshbin Company purchased the property in August of 2021; however, only recently has the applicant occupied portions of the first and second stories of the primary building as office headquarters. The current office use of the space includes a social media studio (Suite 100), storage (Suite 150), professional office (Suite 200), and temporary assembly (Suite 250). The Khoshbin Company employs approximately 20 on-site employees. The third floor is currently unoccupied due to unfinished construction. The proposed event center will occupy the atrium (Suite 100B), auditorium (Suite 200B), dining room (Suite 250), and outdoors in the grand courtyard. All proposed uses, including the offices and event center, will take place within the existing building, or existing grand courtyard. No new construction is proposed as part of this application. See Figure 2, Project Site Plan, below.

The existing building is located at a minimum of 60 feet away from the residential properties to the east and 320 feet away from the residential and commercial properties to the south. The grand courtyard is located 170 feet from the residential properties to the east and 120 feet from the residential and commercial properties to the south.

Figure 2 Project Site Plan



The applicant proposes to operate an event center with onsite valet parking for no more than 225 people between 8:00 a.m. and 10:00 p.m. on weekdays, and 7:00 a.m. and 10:00 p.m. on weekends. The event center is planned to operate mostly outside of regular offices hours, during the weekends and in the evening when the offices are closed. Additionally, the project is conditioned so that the office would be required to close during events, should an event take place during office hours. As part of the event center, outdoor activities are proposed between 8:00 a.m. and 9:00 p.m. on weekdays and 7:00 a.m. and 9:00

p.m. on weekends with no amplified sound and a maximum of four () musicians; and a deviation from parking requirements based on unique operating characteristics.

A detailed description of the proposed use and staff's analysis of the request are contained in the February 26, 2024 Planning Commission staff report, which is provided as Attachment 7 to this report. The Planning Commission meeting minutes are also provided as Attachment 6 to this report.

### ***Public Comments***

Prior to the hearing, three public comments were received regarding this project. The first expressed concerns about parking and traffic impacts, the second expressed concerns about the utilization of Olympic Avenue as a point of egress to the property and the establishment of car shows at the property. The third public comment was placed over the phone and expressed various concerns regarding traffic, enforcement and past operations at the site.

Public comments at the Planning Commission hearing regarding the property included concerns about traffic, circulation, noise, the service of alcohol and food at the site, fees for valet parking, and overflow parking at Shiffer Park.

### ***Planning Commission Review***

In its review of the project, the Planning Commission considered the application for a conditional use permit and minor conditional use permit. The Commission inquired about, and staff and the applicant responded to, the potential for car shows at the site, the future use of the third floor, sound impacts to the adjacent residential neighborhoods, traffic impacts, that a traffic study was not required, the number of parking spaces provided in the valet parking plan, the use of Olympic Avenue for site access, and potential expansion of the office and event center uses.

By a vote of five to one, and with one Commissioner being absent, the Planning Commission determined Findings for the CUP/MCUP could be met and approved the project subject to conditions of approval.

Resolution No. PC-2024-05 approving the subject project is provided as Attachment 4.

A detailed description of the proposed use, operations, and improvements to the property are described in the February 29, 2024 Planning Commission staff report (also provided as Attachment 7) and attachments, linked below:

<https://costamesa.legistar.com/View.ashx?M=A&ID=1181185&GUID=BF7693E0-96BA-4202-A3E5-2291BF4F9CFB>

The Planning Commission meeting minutes are provided as an attachment to this report and the meeting video is linked below:

[https://costamesa.granicus.com/player/clip/4091?view\\_id=14&redirect=true](https://costamesa.granicus.com/player/clip/4091?view_id=14&redirect=true)

### ***Appeal of Planning Commission's Approval***

On February 28, 2024, an appeal of Planning Commission's approval of the project was filed by a neighboring resident. In summary, the application for appeal noted the following topics/areas of concern:

- CEQA determination;
- Noise impacts to nearby properties;
- Circulation impacts to Bear Street; and
- Enforcement of Conditions of Approval.

The submitted appeal and justification are provided as Attachment 2, to this report. Since the appeal was filed, the appellant has submitted additional documents clarifying the purpose of the appeal. These are also provided as Attachment 3 for the Council's information.

### **City Council "De Novo" Hearing**

Pursuant to CMMC Chapter 9, Appeal and Review Procedures, the City Council shall conduct a new or "de novo" review of the matter. The City Council may exercise its independent judgment and discretion in making a decision, and the appeal hearing is not limited to the grounds stated for the review or the evidence that was previously presented to the Planning Commission. The City Council's decision on the matter is the final decision.

Staff has attached a draft City Council resolution for approval based on the Planning Commission's decision of February 26, 2024. Notwithstanding this, should the City Council determine to overturn the Planning Commission's decision, staff requests that the City Council articulate its reasons for denial based on the required findings so staff can incorporate these into a resolution.

Pursuant to the Costa Mesa Municipal Code (CMMC), approval of each of the project's applications must be based on evidence in the administrative record that substantially supports the following review criteria and findings:

### **Conditional and Minor Conditional Use Permit 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;*
- *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; and*
- *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.*

### **APPEAL EVALUATION:**

The following discussion identifies and then responds to the appellant's concerns included in the February 28, 2024 appeal.

### **CEQA Determination**

The appellant expressed concerns about the CEQA exemption applied to this project, specifically asking if there are examples and data which supports using the Existing Facilities (Class 1) CEQA exemptions.

CEQA is the California Environmental Quality Act, which contains several exemptions which preclude certain projects from requiring full environmental review due to their insignificant impact to the environment. The Class 1 exemption consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing or former use. The key consideration in the Class 1 exemption is whether the project involves negligible or no expansion of use. Due to these considerations, the Class 1 (Existing Facilities) exemption is appropriate for this project.

### ***Noise Impacts***

The appellant expressed concerns that noise originating from the proposed event center, including from possible car shows, activities to build-up or tear-down for events, and other noise would impact adjacent neighbors.

This entitlement includes several conditions intended to minimize impacts to neighboring properties, including noise resulting from use of the grand courtyard. Conditions required of the project include the prohibition of amplified sound and music, limitations on the number of musicians and types of musical instruments used in the grand courtyard, limited hours of operation for outdoor activities (8:00 a.m. and 9:00 p.m. on weekdays and 7:00 a.m. and 9:00 p.m. on weekends), and a 225-total person limit for events that is inclusive of guests, waitstaff, caterers, organizers, musicians, valet attendants and any other individual or group associated with the event. "Teardown" activities will not be subject to the 9:00 p.m. closing time of the grand courtyard. These activities are distant from the residential uses and are not expected to take a significant amount of time.

Finally, car shows were not requested as part of the application for the event center. However, through the City's special event permit process, car shows could be requested at the site up to four times per year and would be considered on a case-by-case basis, separate and apart from this conditional use permit application.

### ***Circulation***

Lastly, the appellant expressed concerns about traffic on Bear Street due to the events, requesting that all traffic related to the event center use the Olympic Avenue entrance to the site, instead of the main entrance at Bear Street. Bear Street was determined to be the main entrance to the property and have a minimal impact to the neighborhood. Olympic Avenue is a residential street with homes abutting the street; traffic generated by an event center is incompatible with a residential street. There are also conditions of approval to limit parking demand and traffic congestion to Bear Street, such as requiring a 1-hour gap between events and establishing a 225-person limit on events (described above). Additionally, the valet parking podium will be located more than 420 feet of driving distance from the property line at the property's entrance at Bear Street. This is expected to prevent vehicles from backing up on Bear Street, waiting to enter the property. Additionally, the City's Transportation Division reviewed this application and determined that it would not have an adverse effect on Bear Street's level of service and that Bear Street has capacity to accommodate this type of use.



***Enforcement of the Conditions of Approval***

The applicant was also concerned about enforcement of the project's conditions of approval. The City has a Code Enforcement Division which responds to all reports made by citizens concerning possible violations of conditions of approval and relevant municipal code requirements, such as the City's noise ordinance. If a member of the public has concerns that a use is violating provisions of the Municipal Code or project-specific conditions, they can contact Code Enforcement and the City will investigate the concerns. If Code Enforcement validates the concern, remedies to the complaint include, but are not limited to: (1) requiring the property to comply with all conditions of approval and other code requirements (such as the noise ordinance), and (2) the City could revoke an entitlement if Code Enforcement finds that an establishment has repeatedly been violating its conditions of approval and other code requirements. For operation issues that arise after normal business hours, like late-hour noise complaints the Police Department can be contacted. Because of these existing practices, staff believes that appropriate procedures are in place to fully enforce and compel compliance with the project's conditions of approval.

**ENVIRONMENTAL DETERMINATION:**

The project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) per CEQA Guidelines Section 15301 for Existing Facilities. This exemption allows for the permitting of uses involving negligible or no expansion of the use beyond what is existing. The project is consistent with the applicable General Plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations. Additionally, all activities will take place in the existing building and grand courtyard. No new construction is proposed as part of this application.

**ALTERNATIVES:**

The City Council has the following alternatives:

1. Approve the request. The City Council may adopt the attached Resolution upholding the Planning Commission's decision and approve the request as proposed; or
2. Approve the request with modifications. The City Council may uphold the Planning Commission's decision and approve the request with specific changes that are necessary to address concerns; or
3. Continue the item. The City Council may continue the item to a future meeting to allow for modifications or additional analysis; or
4. Deny the request. If the City Council believes that there are insufficient facts to support the findings for approval, the City Council may deny the request. A similar application could not be submitted for at least six months.

**FISCAL REVIEW:**

There are no fiscal impacts with this agenda item.

**LEGAL REVIEW:**

The City Attorney's Office has reviewed this report and approved it 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.

Any public comments received prior to the April 16, 2024 City Council meeting, may be viewed at this link: [CITY OF COSTA MESA - Calendar \(legistar.com\)](https://legistar.com/Calendar/CITY_OF_COSTA_MESA)

**CITY COUNCIL GOALS AND PRIORITIES:**

This item is administrative in nature.

**CONCLUSION:**

The proposed event center would provide employment and a gathering space for residents of the City of Costa Mesa and the region. Operational conditions would apply to the project to assure the project's compatibility with its neighbors. As the subject property has been substantially vacant for several years, rebranding the site as a gathering space for events provides an opportunity to re-invigorate an underutilized property.