

RESOLUTION NO. PC-2023-

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COSTA MESA, CALIFORNIA APPROVING PLANNING APPLICATION 23-12 AND TENTATIVE PARCEL MAP 2023-167 FOR A CONVERSION OF AN EXISTING BUILDING AT 200 EAST BAKER STREET INTO A NON-RESIDENTIAL COMMON INTEREST DEVELOPMENT AND TO ALLOW A FOOD AND BEVERAGE USE IN THE MP (INDUSTRIAL PARK) ZONE FOR PROPERTY AT 200 EAST BAKER STREET

THE PLANNING COMMISSION OF THE CITY OF COSTA MESA, CALIFORNIA FINDS AND DECLARES AS FOLLOWS:

WHEREAS, Planning Application 23-12 and Tentative Parcel Map 2023-167 was filed by Timothy Cottage, authorized agent for the property owner, Project 200, LLC. requesting approval of the following: the conversion of the existing office building into 11 non-residential condominium units (ranging in size from 1,651 square feet to 8,380 square feet) on one lot with ancillary common spaces. The operation of the facility would remain substantially unchanged to what could otherwise be permitted. A parcel map is proposed to facilitate the industrial condominium project and is required to be recorded prior to the sale of the industrial condominium units. The project is also requesting a Minor Conditional Use Permit (MCUP) to permit a 1,031-square-foot food and beverage establishment and 553-square-foot outdoor dining patio at the front of the building.

WHEREAS, a duly noticed public hearing held by the Planning Commission on October 23, 2023 with all persons having the opportunity to speak for and against the proposal;

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 and per Section 15315 (Class 15), Minor Land Divisions.

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

NOW, THEREFORE, 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 Planning Commission hereby **APPROVES** Planning Application 23-12 and Tentative Parcel Map 2023-167 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 23-12 and Tentative Parcel Map 2023-167 and upon applicant's compliance with each and all of the conditions in Exhibit B, and 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.

BE IT FURTHER RESOLVED that if any section, division, sentence, clause, phrase or portion of this resolution, or the document in the record in support of this resolution, are for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions.

PASSED AND ADOPTED this 23rd day of October, 2023.

Adam Ereth, Chair
Costa Mesa Planning Commission

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

I, Scott Drapkin, Secretary to the Planning Commission of the City of Costa Mesa, do hereby certify that the foregoing Resolution No. PC-2023-__ was passed and adopted at a regular meeting of the City of Costa Mesa Planning Commission held on October 23, 2023 by the following votes:

AYES: COMMISSIONERS

NOES: COMMISSIONERS

ABSENT: COMMISSIONERS

ABSTAIN: COMMISSIONERS

Scott Drapkin, Secretary
Costa Mesa Planning Commission

Resolution No. PC-2023-__

EXHIBIT A

FINDINGS

- A. The Conditional Use Permit and Minor Conditional Use Permit for the proposed non-residential common interest development conversion and food and beverage establishment in the MP zone project complies with Costa Mesa Municipal Code Section 13-28(b)(1) because:

Finding: 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

Facts in Support of Findings: The proposed non-residential condominium would be substantially compatible with developments in the same general area and would not be materially detrimental to other properties within the area in that the use and operation of the underlying property, with the exception of minor exterior and interior tenant improvements, would remain substantially unchanged and any future uses would be required to comply with applicable requirements of the MP zoning standards. The proposal primarily affects the ownership of the property; a single owner versus multiple owners via an airspace condominium established through a parcel map. In addition, the provision of a food and beverage establishment in the MP zone would be compatible with the developments in the same general area in that it would provide a walkable service to surrounding residential, industrial, and commercial uses. The food and beverage establishment complies with CMMC requirements/standards for establishments located within 200 feet of a residential zone.

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 proposed industrial condominium conversion would allow ownership of the 11 individual units and would not modify the use or operation of the current commercial site. The project will bring the existing building into conformance with the building and fire codes, and therefore, granting the conditional use permit would improve the health, safety, and general welfare of the public, and the property/improvements within the immediate neighborhood. The proposed food and beverage establishment would comply with all code requirements/standards for establishments located within 200 feet of a residential zone and therefore would not be materially detrimental to the health, safety, and general welfare of the general public and immediately surrounding 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 Industrial Park General Plan land use designation allows for large developments that contain a variety of industrial and compatible office and support commercial uses. The proposed condominium conversion is an existing permitted use in the Industrial Park zoning district subject to a conditional use permit. Approval of the conversion of the existing building will not change the overall building area or allowable land uses; therefore, the intensity of development on the site will remain unchanged. The establishment of a food and beverage establishment is permitted subject to obtaining a MCUP and would provide a walkable service to the surrounding developments.

- B. The Planning Application for the proposed non-residential common interest development conversion complies with Costa Mesa Municipal Code Section 13-28(g)(10) because:

Finding: The applicant has submitted an adequate and legally binding plan which addresses the displacement of long-term residents, particularly senior citizens and low- and moderate-income families and families with school-age children.

Facts in Support of Findings: The proposed non-residential condominium does not displace any residents.

Finding: The proposed common interest development conversion project conforms to adopted general plan policies.

Facts in Support of Finding: The proposed condominium conversion conforms to Policies LU-6.1, LU-6.11, LU-7.5, and LU-7.6 of the City's 2015-2035 General Plan.

Finding: The establishment, maintenance, or operation of the project will not be detrimental to the health, safety, peace, comfort, and general welfare of persons residing or working in the surrounding neighborhood, nor will the project be detrimental or injurious to property and improvements in the neighborhood or the general welfare of the city.

Facts in Support of Finding: The proposed condominium conversion would not be detrimental to the health, safety, peace, comfort, and general welfare of persons working in the surrounding neighborhood, nor would the project be detrimental or injurious to property and improvements in the neighborhood or the general welfare of the City since the conversion is primarily intended to allow for commercial ownership opportunities, and any future uses are required to comply with the MP Zoning District. Additionally, the proposed café

complies with the CMMC standards in regard to a food and beverage use located within 200 feet of residential.

Finding: The overall design and physical condition of the common interest development conversion project achieves a high standard of appearance, quality, and safety.

Facts in Support of Findings: The overall design and physical condition of the proposed condominium conversion project will achieve a high standard of appearance, quality, and safety. Exterior improvements include new landscaping and facade improvements. Interior improvements will bring the building into compliance with current building and fire codes as required by the Building Division and Fire Department.

Finding: The proposed common interest development conversion project conforms to the Costa Mesa Zoning Code requirements.

Facts in Support of Findings: The proposed common interest development conversion conforms to the Costa Mesa Zoning Code requirements in that the proposed project would have one lot containing the parking lot and landscape area to be held in common ownership and maintained by a property owners association; consequently, the general operation and use would remain relatively unchanged. Additionally, with the exception of the floor area ratio, the development as proposed and conditioned complies with current development standards.

Finding: For a proposed common interest development conversion project that does not conform to the zoning code requirements, the project due to its proportions and scale, design elements, and relationship to the surrounding neighborhood, is of continued value to the community and it contributes to defining and improving the community as a whole. Deviations from zoning code requirements are acceptable because it would be impracticable or physically impossible without compromising the integrity of the overall project to implement features that could result in conformance with current code requirements.

Facts in Support of Findings: The subject property conforms to the Zoning Code requirements and is physically suitable to accommodate the proposed tentative parcel map in terms of its proportions and scale, design elements, and relationship to the surrounding neighborhood since the use, operation, and form will remain largely unchanged from the existing development. A deviation from the parking configurations is requested because the parking lot was approved in 1984. As conditioned, the legal non-conforming parking lot will be upgraded to remove non-conforming parking stalls, including reducing the amount of small car parking space ratio in compliance with the current CMMC.

Finding: For a proposed common interest development conversion project located in an urban plan area, the proposed conversion is consistent with the applicable mixed-use overlay zoning district. Specifically, the proposed non-residential conversion project supports a mixed-use development or a similar land use that is not allowed in the base zoning district, or the proposed conversion project is a residential common interest development that is permitted by either the base or overlay zoning district.

Facts in Support of Findings: The proposed common interest development is not located in an urban plan area.

- C. The proposed parcel map complies with Costa Mesa Municipal Code Section 13-29(g)(13) because:

Finding: The creation of the subdivision and related improvements is consistent with the general plan, any applicable specific plan, and this Zoning Code.

Facts in Support of Findings: As proposed and conditioned, the commercial condominium conversion conforms to Policies LU-6.1, LU-6.11, LU-7.5, and LU-7.6 of the City's 2015-2035 General Plan, and the Costa Mesa Zoning Code requirements (as indicated further in this report).

Finding: The proposed use of the subdivision is compatible with the General Plan.

Facts in Support of Finding: The use of the proposed condominium is not proposed to change and will remain compatible with the underlying Industrial Park General Plan land use designation. The application does not propose any alterations to zoning or allowable land uses.

Finding: The subject property is physically suitable to accommodate the subdivision in terms of type, design and density of development, and will not result in substantial environmental damage nor public health problems, based on compliance with the Zoning Code and general plan, and consideration of appropriate environmental information.

Facts in Support of Finding: With the exception of the legal non-conforming floor area ratio and parking configuration, the existing development conforms to the Zoning Code requirements and is physically suitable to accommodate the proposed tentative parcel map in terms of its proportions and scale, design elements, and relationship to the surrounding neighborhood since the use, operation, and form. The CMMC allows the FAR to remain nonconforming and as conditioned, the parking would be modified in compliance with the CMMC prior to recordation of the Final Map.

Finding: The design of the subdivision provides, to the extent feasible, for future passive or natural heating and cooling opportunities in the subdivision, as required by State Government Code section 66473.1.

Facts in Support of Finding: The overall design and physical condition of the proposed condominium conversion project achieves a high standard of appearance, quality, and safety while allowing for energy efficient systems which would be required as applicable for any future tenant improvements. The building improvements will meet current building codes and will be more energy efficient than the existing unmodified structure.

Finding: The division and development will not unreasonably interfere with the free and complete exercise of the public entity and/or public utility rights-of-way and/or easements within the tract.

Facts in Support of Finding: The proposed parcel map does not modify any existing easements and will not interfere with the free and complete exercise of any public entity or utility rights-of-way or easements.

Finding: The discharge of sewage from this land division into the public sewer system will not violate the requirements of the State Regional Water Quality Control Board pursuant to Division 7 (commencing with State Water Code section 13000).

Facts in Support of Finding: As required, the property is connected to the public sewer system and is required to comply with all applicable laws and regulations.

EXHIBIT B

CONDITIONS OF APPROVAL

- PIng.
1. Approval of the planning application is valid for two years from the effective date of this approval and will expire at the end of that period unless applicant establishes the use by one of the following actions: 1) a building permit has been issued and construction has commenced, and a valid building permit has been maintained by making satisfactory progress as determined by the Building Official; 2) a certificate of occupancy has been issued; or 3) the use has been established and a business license has been issued. A time extension can be requested no less than 30 days or more than 60 days before the expiration date of the permit and submitted with the appropriate fee for review to the Planning Division. The Director of Development Services may extend the time for an approved permit or approval to be exercised up to 180 days subject to specific findings listed in Title 13, Section 13-29 (k) (6). Only one request for an extension of 180 days may be approved by the Director. Any subsequent extension requests shall be considered by the original approval authority.
 2. The applicant shall defend, 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 and/or employees arising out of, or which are in any way related to, the applicant's project, or any approvals granted by City related to the applicant's project. 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. City shall have the right to choose its own legal counsel to represent the City's interests, and applicant shall indemnify City for all such costs incurred by the City.
 3. The applicant shall contact the Planning Division to arrange a Planning inspection of the site prior to the release of occupancy/utilities. This inspection is to confirm that the conditions of approval and code requirements have been satisfied.
 4. Address assignment shall be requested from the Planning Division prior to submittal of working drawings for plan check. 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.
 5. Prior to issuance of Certificate of Occupancy (C of O) the applicant shall provide a scaled and dimensioned digital site plan(s) for the project site, on either a CD or thumb drive, to the Planning Division. All site plans shall

include an accurate and precise drawing of all building footprints and property line locations for the entire project site. All buildings shall be annotated with its corresponding address and suites if applicable.

6. Prior to final map recordation, the applicant shall provide the Conditions, Covenants, and Restrictions (CC&Rs) to the Development Services Director and City Attorney's office for review. The CC&Rs must be in a form and substance acceptable to, and shall be approved by the Development Services Director and City Attorney's office.

A. The CC&Rs shall contain provisions requiring that the maintenance or property owner's association effectively manage parking and contract with a towing service to enforce the parking regulations.

B. The CC&Rs shall also contain provisions related to use, preservation and maintenance of the common areas in perpetuity by the maintenance association.

C. The CC&Rs and articles of incorporation and bylaws of the Property Owners Association shall reflect the conditions of approval included herein. The CC&Rs shall be submitted for review by the Planning Division to confirm common use and maintenance of all parking spaces, driveway and landscaping will continue.

7. The Final Map shall be recorded prior to the sale of any condominium unit.
8. All conditions of approval and code requirements shall be satisfied prior to the release of the parcel map for recordation.
9. The applicant shall contact utility companies (e.g., gas, electricity, and water) for requirements and to obtain meters. Each unit shall be separately metered for gas, electricity, and water, unless the declaration of covenants provides for the association to take responsibility of the utilities.
10. Prior to issuance of building permits, a detailed hardscape and landscape plan shall be provided for Planning Division approval.
11. All tenant identification signs shall be replaced and be consistent with the architecture of the building and shall comply with the Sign Standards in the CMMC prior to finaling of the project by the Building Division.
12. All requirements and recommendations as indicated in the inspection reports in Attachment 5 and the memorandums provided by the Fire Inspector and Building Inspector and included as Attachment 6 to the staff report shall be incorporated into the plans submitted for building plan check and completed prior to finaling of the project by the Building Division.
13. Subject to approval of the Planning Division and prior to Parcel Map recordation, the site parking lot shall be reconfigured in compliance with the CMMC required minimum standard parking spaces and maximum allowed small car spaces. The applicant may provide additional non-required parking as small car spaces. Any proposed parking lot landscaping modifications shall conform to the CMMC minimum landscaping requirements and be subject to approval of the Planning Division.

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| Bldg. | 14. | Prior to issuing the Building permit all conditions of approval shall be incorporated into the approved Architectural plans |
| Fire | 15. | Comply with the requirements of the 2022 California Fire Code, including the reference standards, as adopted and amended by Costa Mesa Fire & Rescue. |
| Trans. | 16. | Fulfill mitigation of off-site traffic impacts at the time of issuance of building permit by submitting to the Transportation Division the required Traffic Impact Fee pursuant to the prevailing schedule of charges adopted by the City Council. The Traffic Impact Fee is calculated based on the average daily trip generation rate of 107.2 trip ends per TSF for the proposed project and includes a credit for any previously existing use. At the current rate, the Traffic Impact Fee is estimated at \$23,441.25. NOTE: The Traffic Impact Fee will be recalculated at the time of issuance of the building permit based upon any changes in the prevailing schedule of charges adopted by the City Council and in effect at that time. |

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. | 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. |
| | 2. | Prior to issuance of building permits, applicant shall contact the US Postal Service with regard to location and design of mail delivery facilities. Such facilities shall be shown on the site plan, landscape plan, and/or floor plan prior to submittal for plan check. |
| | 3. | Grading materials delivery, equipment operation, and other construction-related activity shall be limited to be-tween the hours of 7 a.m. and 8 p.m., Monday through Friday, and 8 a.m. to 6 p.m. 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. |
| | 4. | All on-site utility services shall be installed underground. |
| | 5. | 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 <u>prohibited</u> on Sunday and the following Federal holidays: New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day. |
| | 6. | Installation of all utility meters shall be performed in a manner so as to obscure the installation from view from any place on or off the property. The installation shall be in a manner acceptable to the public utility and |

shall be in the form of a vault, wall cabinet, or wall box under the direction of the Planning Division.

7. Any mechanical equipment such as air-conditioning equipment and duct work shall be screened from view in a manner approved by the Planning Division.
8. Two (2) sets of detailed landscape and irrigation plans, which meet the requirements set forth in Costa Mesa Municipal Code Sections 13-101 through 13-108, shall be required as part of the project plan check review and approval process. Plans shall be forwarded to the Planning Division for final approval prior to issuance of building permits.
9. Two (2) sets of final landscape and irrigation plans, approved by the Planning Division, shall be attached to two of the final building plan sets. The plans shall include the retention of existing mature trees wherever possible and should it be necessary to remove existing trees, 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 may be required on a 1:1 basis. In addition, all landscaped areas shall be separated from paved vehicular areas by 6" high continuous Portland Cement Concrete curbing. The landscaping of this project shall comply with the City's landscaping requirements and any applicable guidelines (i.e. Water Efficient Landscape Guidelines). The final landscape plan shall meet tree count, tree selection, shrub count, groundcover and turf requirements per the City's Zoning Code and shall comply with required conditions of approval.
10. Prior to issuance of building permits, a final landscape plan indicating the landscape palette and the design/material of paved areas shall be submitted for review and approval by the Planning Division.
- Bldg. 11. 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.
12. Prior to the Building Div. (AQMD) issuing a demolition permit contact South Coast Air Quality Management District located at:
21865 Copley Dr.
Diamond Bar, CA 91765-4178
Tel: 909- 396-2000

Or

Visit their web site

<http://www.costamesaca.gov/modules/showdocument.aspx?documentid=23381>

The Building Div. will not issue a demolition permit until an Identification number is provided by AQMD

13. Comply with the requirements of the California Department of Food and Agriculture (CDFA) to determine if red imported fire ants exist on the property prior to any soil movement or excavation. Call CDFA at (714) 708-1910 for information.
14. Submit precise grading plans, an erosion control plan and a hydrology study. If it is determined that a grading plan is not required a drainage plan shall be provided. Prior to issuing the Building permit, the rough grading certificate shall be submitted to the Building Div.
15. Submit a soils report for this project. Soil's Report recommendations shall be blueprinted on both the architectural and the precise grading plans.
16. The ground adjacent immediately to the foundation shall be slopes away from the building at a slope of not less than 5% for a minimum distance of 10 feet measured perpendicular to the face of the wall CBC sec. 1804.3. See also exception. On graded sites the top of exterior foundation shall extend above the elevation of the street gutter at point of discharge or the inlet of an approved discharge devise a minimum of 12 inches plus 2 percent 2013 California Building Code sec. 1808.7.4
- Eng. 17. Two copies of the Final Map and one copy of the Property Boundary closure calculations shall be submitted to the City of Costa Mesa Engineering Division for checking
18. Submit updated Title Report of subject property.
19. The Parcel Map shall be developed in full compliance of CMMC Sec. 13-237 through 13-249 inclusive.
20. Submit seven copies, one duplicate mylar and an electronic copy of recorded map or signed plan to Engineering Division, City of Costa Mesa, prior to occupancy.
21. Prior to recordation of a Final Map, the surveyor/engineer preparing the map shall tie the boundary of the map into the Horizontal Control System established by the County Surveyor and shall submit to the City Engineer and the County Surveyor a digital-graphic file of said map in a manner described in Subarticle 11/12, Sections 7-9-330/7-9-337 of the Orange County Subdivision Code.
22. Survey Monuments shall be preserved and referenced or set pursuant to Section 8771 of the Professional Land Surveyors Act and Business and Professional code.
23. Submit cash deposit or surety bond to guarantee monumentation prior to approval of the map. Amount to be determined by City Engineer.
24. Fulfill City of Costa Mesa Drainage Ordinance No. 06-19 requirements prior to approval of Final Map.

25. Submit for approval an Offsite Plan to the Engineering Division that shows parkway improvements. Pay Offsite Plan Check fee per Section 13-231 of the C.C.M.M.C.
26. Obtain a permit from the City of Costa Mesa, Engineering Division and then reconstruct P.C.C. driveway approaches per City of Costa Mesa Standards as shown on the Offsite Plan. ADA compliance required for all driveway approaches.
27. Obtain a permit from the City of Costa Mesa, Engineering Division and then install parkway drains at the end of the cross gutters.
28. Submit required cash deposit or surety bond to guarantee construction of off-site street improvements per Section 15-32, C.C.M.M.C. and as approved by City Engineer. Cash deposit or surety bond amount to be determined by City Engineer.

SPECIAL DISTRICT REQUIREMENTS

The requirements of the following special districts are hereby forwarded to the applicant:

- Sani.
1. Owner to clean and CCTV existing sewer laterals being used and provide video to CMSD. Deficiencies, if any, shall be repaired or the sewer lateral replaced.
 2. Owner to install 6" two-way sewer cleanout per CMSD Standard Plan S-107A behind R.O.W. on existing sewer laterals. The owner will need to apply for a permit from CMSD for this work.
 3. Private on-site sewer improvements will need to be reviewed by CMSD. Additional information may be required after initial review of the plans and prior to approval by the District. Contact the District's Permit office for plan requirements.
 4. Fees may be required, contact CMSD for requirements (949) 645-8400.