

RESOLUTION NO. 2024-xx

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, OVERTURNING THE PLANNING COMMISSION DENIAL AND APPROVING PLANNING APPLICATION 22-45 FOR A NEW PUBLIC CHARTER HIGH SCHOOL (“VISTA MERIDIAN GLOBAL ACADEMY”) AND A MINOR CONDITIONAL USE PERMIT FOR SMALL CAR PARKING LOCATED AT 1620 SUNFLOWER AVENUE

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

WHEREAS, Planning Application 22-45 was filed by Joseph Smith, authorized agent for the property owner, SFHY Enterprise, LLC requesting approval of the following:

Planning Application 22-45 is for a Conditional Use Permit (CUP) to allow a new public charter high school (“Vista Meridian Global Academy”) in an existing industrial office building and a Minor Conditional Use Permit (MCUP) for the allowance of small car parking. The proposed school would include grades 9 through 12 for up to 500 students, 36 full-time employees, and 15 part-time employees. School classes are proposed from 8:30 AM to 4:00 PM, Monday through Thursday and from 8:30 AM to 2:00 PM on Fridays. Student parking is proposed to be restricted with only student drop-off/pick-up allowed during limited hours. Proposed improvements would consist of interior remodeling of the existing two-story building, new building signage and paint, accessibility upgrades, and parking lot improvements.

WHEREAS, a duly noticed public hearing held by the Planning Commission on November 27, 2023, with all persons having the opportunity to speak for and against the proposal, and the project was denied by the Planning Commission on a 6-1 vote;

WHEREAS, on November 28, 2023 Mayor Stephens filed a request for the City Council review of the Planning Commission’s decision;

WHEREAS, a duly noticed public hearing was held by the City Council on January 16, 2024 with all persons having the opportunity to speak for and against the item;

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.

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

WHEREAS, the City Council has considered all public comments which have been received either in writing or at the public hearing.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF COSTA MESA HEREBY RESOLVES as follows:

BE IT RESOLVED that 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 22-45 with respect to the property described above.

BE IT FURTHER RESOLVED that the Costa Mesa City Council 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 22-45 and upon applicant's compliance with each and all of the conditions in Exhibit B, 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.

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 16th day of January, 2024.

John Stephens, Mayor

ATTEST:

APPROVED AS TO FORM:

Brenda Green, City Clerk

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. 2024-xx and was duly passed and adopted by the City Council of the City of Costa Mesa at a regular meeting held on the 16th day of January, 2024, 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 17th day of January, 2024.

Brenda Green, City Clerk

EXHIBIT A

FINDINGS

- A. Pursuant to Title 13, Section 13-29(g)(2), Conditional Use Permit and Minor Conditional Use Permit Findings, of the Costa Mesa Municipal Code, the proposed project substantially meets specified findings for the proposed use and proposed 14 small car parking spaces:

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:

Finding: Granting the conditional use permit or minor 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:

Finding: Granting the conditional use permit or minor 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:

- B. The project is categorically exempt from the provisions of CEQA pursuant to CEQA Guidelines Section 15301 for the permitting and/or minor alteration of Existing Facilities, involving negligible or no expansion of the existing use. This proposal includes a conditionally permitted use in an existing industrial office building with no increase in floor area or building height. The project is consistent with the applicable General Plan land use designation and General Plan policies as well as with the applicable zoning designation and regulations. Furthermore, none of the exceptions that bar the application of a categorical exemption pursuant to CEQA Guidelines Section 15300.2 applies. The Project would not result in a cumulative impact; would not have a significant effect on the environment due to unusual circumstances; would not result in damage to scenic resources; is not located on a hazardous site or location, and would not impact any historic resources. Lastly, the project is exempt from the requirement of a VMT analysis.
- C. The project is not subject to a traffic impact fee, pursuant to Chapter XII, Article 3 Transportation System Management, of Title 13 of the Costa Mesa Municipal Code.

EXHIBIT B

CONDITIONS OF APPROVAL

- Plng. 1. The use shall be limited to the type of operation described in the staff report and applicant's letters dated September 12, 2023, subject to conditions. Any change in the operational characteristics including, but not limited to, hours of operation, maximum enrollment number, reducing onsite parking, or outdoor activities, shall be subject to Planning Division review and may require an amendment to the minor/conditional use permit, subject to either Zoning Administrator or Planning Commission approval, depending on the nature of the proposed change. The applicant is reminded that 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. Approval of the planning/zoning 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 has continued to maintain a valid building permit by making satisfactory progress as determined by the Building Official, 2) a certificate of occupancy has been issued, or 3) the use is established and a business license has been issued. A time extension can be requested no less than 30 days or more than sixty (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.
3. Any change in the operational characteristics of the use shall be subject to Planning Division review and may require an amendment to the conditional use permit, subject to either Zoning Administrator or Planning Commission approval, depending on the nature of the proposed change.
4. The applicant, the property owner and the operator (collectively referred to as "indemnitors") shall each jointly and severally 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 or employees arising out of City's approval of the project, including but not limited to any proceeding under the California Environmental Quality 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 indemnitors' joint and several 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.

5. If any section, division, sentence, clause, phrase or portion of this resolution is 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.
6. 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.
7. 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.
8. The school shall not accommodate more than 500 students and 51 staff members at any time. The applicant shall also meet all State and local (Building and Fire) occupancy limitations or requirements.
9. The regular hours for which children are present shall be from 7:00 AM to 6:00 PM, Monday through Friday. Special events may occur beyond these hours.
10. The school shall maintain a minimum of 152 parking spaces.
11. During operation, the Applicant shall maintain and enforce the pick-up and drop-off schedule set forth in the Applicant's Operation Plan to prevent adverse traffic conditions.
12. During operation, the Applicant shall evaluate site access during peak times to identify any operational issues with vehicle parking and queueing. If operational problems arise, the Applicant shall recruit a qualified professional to prepare a traffic circulation study identifying causes and solutions. Recommended actions from the traffic circulation study shall be implemented to the satisfaction of the Public Works Department.
13. Prior to issuance of a building permit, project plans shall demonstrate location of designated staff parking stalls along vehicle queuing path.
14. The project is subject to compliance with all applicable Federal, State, and local laws. A copy of the applicable Costa Mesa Municipal Code requirements has been forwarded to the applicant and, where applicable, the Authorized Agent, for reference.
15. The conditions of approval, code requirements, and special district requirements for PA-22-45 shall be blueprinted on the face of the site plan as part of the plan check submittal package.
16. The applicant shall contact the Planning Division to arrange Planning inspection of the site prior to the Building Division's final inspections. This inspection is to confirm that the conditions of approval and Code

requirements have been satisfied.

17. No modification(s) of the approved building elevations including, but not limited to, change of architectural type, changes that increase the building height, removal of building articulation, or a change of the finish material(s), shall be made during construction without prior Planning Division written approval. Failure to obtain prior Planning Division approval of the modification could result in the requirement of the applicant to (re)process the modification through a discretionary review process or a variance, or in the requirement to modify the construction to reflect the approved plans.
18. It is recommended that the project incorporate green building design and construction techniques where feasible. The applicant may contact the Building Safety Division at (714) 754-5273 for additional information.
19. The subject property's ultimate finished grade level may not be filled/raised unless necessary to provide proper drainage, and in no case shall it be raised in excess of 30 inches above the finished grade of any abutting property. If additional fill dirt is needed to provide acceptable on-site stormwater flow to a public street, an alternative means of accommodating that drainage shall be approved by the City's Building Official prior to issuance of any grading or building permits. Such alternatives may include subsurface tie-in to public stormwater facilities, subsurface drainage collection systems and/or sumps with mechanical pump discharge in-lieu of gravity flow. If mechanical pump method is determined appropriate, said mechanical pump(s) shall continuously be maintained in working order. In any case, development of subject property shall preserve or improve the existing pattern of drainage on abutting properties.
20. Demolition permits for existing structure(s) shall be obtained and all work and inspections completed prior to final building inspections. Applicant is notified that written notice to the Air Quality Management District may be required ten (10) days prior to demolition.
21. Transformers, backflow preventers, and any other approved above-ground utility improvement shall be located outside of the required street setback area and shall be screened from view, under direction of Planning staff. Any deviation from this requirement shall be subject to review and approval of the Development Services Director.
22. 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.
23. A landscaping plan shall be submitted for Planning Division Review and shall comply with the City's landscaping requirements and any applicable guidelines (i.e. Water Efficient Landscape Guidelines)".
24. Existing mature trees shall be retained wherever possible. 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. This requirement shall be completed under the direction of the Planning Division

25. All landscaped areas shall be separated from paved vehicular areas by 6" high continuous Portland Cement Concrete curbing.
26. Prior to issuance of grading permits, developer shall submit for review and approval a Construction Management Plan. This plan features methods to minimize disruption to the neighboring uses to the fullest extent that is reasonable and practicable. The plan shall include construction parking and vehicle access and specifying staging areas and delivery and hauling truck routes. The plan should mitigate disruption during construction. The truck route plan shall preclude truck routes through residential areas and major truck traffic during peak hours. The total truck trips to the site shall not exceed 200 trucks per day (i.e., 100 truck trips to the site plus 100 truck trips from the site) unless approved by the Development Services Director or Transportation Services Manager. Any construction access from the neighboring properties will require property owner permission.
27. Prior to issuance of grading permits, developer shall identify to the Development Services Director a construction relations officer to act as a community liaison concerning on-site activity, including resolution of issues related to dust generation from grading/paving activities.
28. No exterior roof access ladders, roof drain scuppers, or roof drain downspouts are permitted. This condition relates to visually prominent features of scuppers or downspouts that not only detract from the architecture but may be spilling water from overhead without an integrated gutter system which would typically channel the rainwater from the scupper/downspout to the ground. An integrated downspout/gutter system which is painted to match the building would comply with the condition. This condition shall be completed under the direction of the Planning Division.
29. Trash facilities shall be screened from view, and designed and located appropriately to minimize potential noise and odor impacts to residential areas either within the garages or within the side yard areas (behind fences).
30. Coordinate with the Public Services department for the selection and siting of new street trees and comply with adopted streetscape standards.

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.

- Plng.
1. Development shall comply with all requirements of Article 1, Chapter 5, Title 13, of the Costa Mesa Municipal Code relating to development standards for residential projects.
 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 Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day.
 3. All on-site utility services shall be installed underground.
 4. 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 vault, wall cabinet, or wall box under the direction of the Planning Division.
 7. Landscaping and irrigation shall be installed in accordance with the approved plans prior to final inspection or occupancy clearance.
 8. All unpaved areas visible from public right-of-ways shall be landscaped and the landscaping shall be maintained in a healthy condition, free of dying, dead, diseased, decayed, discarded, and/or overgrown vegetation.
 9. Trash facilities shall be screened from view, and designed and located appropriately to minimize potential noise and odor impacts to neighbors.
 10. Any mechanical equipment such as air-conditioning equipment and duct work shall be screened from view in a manner approved by the Planning Division.
 11. Transformers, backflow preventers, and any other approved above-ground utility improvements shall be located outside of the required street setback area and shall be screened from view, under direction of Planning staff. Any deviation from this requirement shall be subject to review and approval of the Development Services Director.
- Bldg.
12. Prior to building permit issuance, the conditions of approval shall be on the approved Architectural plans.

13. Comply with the requirements of the following adopted codes Code, 2022 California Building Code, 2022 California Electrical code, 2022 California Mechanical code, 2022 California Plumbing code, 2022 California Green Building Standards Code and 2022 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 2022 California Building Code.
14. A change of occupancy shall require compliance with 2022 California Building codes and Disabled access requirements of Chapter 11B of the 2022 California Building Code.
15. Prior to building permit issuance, the Applicant shall submit a plan to the County of Orange Health Dept. for review and approval.
16. A change of occupancy shall require compliance with 2022 California Building codes and Disabled access requirements of chapter 11B of the 2022 California Building Code.
- Fire 17. Comply with the requirements of the 2022 California Fire Code and referenced standards as amended by the City of Costa Mesa.
- Bus. 18. All contractors and subcontractors must have valid business licenses to do business in the City of Costa Mesa. Final inspections, final Lic. occupancy and utility releases will not be granted until all such licenses have been obtained.

SPECIAL DISTRICT REQUIREMENTS

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

- AQMD
1. Applicant shall contact the Air Quality Management District (800) 288-7664 for potential additional conditions of development or for additional permits required by AQMD.
 2. Prior to the Building Division (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 Division will not issue a demolition permit until an identification number is provided by AQMD.

- Cable 3. The applicant shall contact the current cable company prior to issuance of building permits to arrange for pre-wiring for future cable communication service.
- Sani. 4. It is recommended that the applicant contact the Costa Mesa Sanitary District at (949) 645-8400 for current district requirements.
- State 5. Comply with the requirements of the California Department of Food and Agriculture (CDFA) to determine if red imported fire ants (RIFA) exist on the property prior to any soil movement or excavation. Call CDFA at (714) 708-1910 for information.