



Agenda Report

Item #: 24-001

Meeting Date: 01/16/2024

TITLE: REVIEW OF THE PLANNING COMMISSION'S DECISION TO DENY 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

DEPARTMENT: ECONOMIC AND DEVELOPMENT SERVICES DEPARTMENT/PLANNING DIVISION

PRESENTED BY: GABRIEL VILLALOBOS, ASSISTANT PLANNER

CONTACT INFORMATION: GABRIEL VILLALOBOS, ASSISTANT PLANNER, (714) 754-5610

RECOMMENDATION:

Staff recommends the City Council review the Planning Commission's decision to deny Planning Application 22-45.

APPLICANT OR AUTHORIZED AGENT:

The applicant/authorized agent is Joseph Smith on behalf of Vista Meridian Global Academy and the property owner, SFHY Enterprise, LLC.

BACKGROUND:

The subject property (1620 Sunflower Avenue) is located northwest of the intersection of Sunflower Avenue and Hyland Avenue in the northern portion of the City. The project site is currently developed with an existing 37,455-square-foot, two-story building and surface parking. Originally, this property was approximately double in size, and consisted of two buildings and a 262-space parking lot. However, in 1990, the Planning Commission approved a subdivision for the property which allowed for the lot to be divided into two parcels. The subdivision approved a new devising property line which resulted in each building being located on separate parcels (now identified as 1600 and 1620 Sunflower Avenue) with a reciprocal easement for shared access, drive aisles and parking. Both buildings are currently vacant and were previously occupied by a medical device supplier (1620 Sunflower Avenue) and a financial consulting office (1600 Sunflower Avenue). Although the subdivision allows for divided property interest, both properties are currently commonly owned. The two properties are accessed via driveway approaches on Sunflower Avenue and Hyland Avenue. Current uses operating around the proposed school include a mix of commercial and restaurant uses to the south (SOCO and the OC mix), an industrial warehouse to the west (FedEx distribution center), and commercial offices to the north and east.

The Vista Meridian Global Academy submitted a City use permit application to occupy the vacant 37,455-square-foot office building at 1620 Sunflower Avenue and convert the building into a new public charter high school. The application included a Conditional Use Permit (PA-22-45) to allow the establishment of a new school in the MP (Industrial Park) zone. The new public charter high school would serve grades 9 through 12, and would have a maximum student enrollment of 500 students with 36 full-time employees and 15 part-time employees. The proposed school hours are from 8:30 AM to 4:00 PM, Monday through Thursday, and from 8:30 AM to 2:00 PM on Fridays. A Minor Conditional Use Permit for the allowance of small car (compact) parking was also requested.

ANALYSIS:

Proposed School Operations

The Vista Meridian Global Academy (“Vista Meridian”) is a tuition-free, public charter school, which is authorized by the Orange County Department of Education and is independently operated by Vista Charter Public Schools. This proposal is the School’s first dedicated and separate high school for grades 9 through 12. Vista Charter Public Schools currently operates five other charter schools in California, ranging in grades from “transitional kindergarten” (TK) to 10th grade. The following is a list of the other schools operated by the applicant:

- **Vista Condor Global Academy** - Santa Ana (grades TK – 5th, with 336 current students and 500 student capacity);
- **Vista Heritage Global Academy** - Santa Ana (grades 6 – 8th, with 316 current students and 450 student capacity)
- **Palm Lane Global Academy** - Anaheim (grades TK – 6th with 273 current students and 502 student capacity)
- **Vista Charter Middle School** - Los Angeles (grades 6th – 8th, with 374 current students and 420 student capacity); and
- **Vista Horizon Global Academy** - Los Angeles (grades TK – 5th, with 147 current students and 450 student capacity).

As a charter school, Vista Meridian will serve all students free of charge, regardless of academic level and special education status, and will follow both State and Federal charter school education guidelines. All school activities would be conducted indoors, including recreation (physical education) and lunch areas. As proposed, the students would be dropped-off and picked-up, with no student driving/parking allowed. Additionally, Vista Meridian proposes to provide free transportation services to/from the school that includes three 65-passenger buses, and nine 10-person vans. Vista’s buses and vans would pick-up and drop-off students from public locations based on where students live, with the routes and pickup/drop-off times decided and communicated at the beginning of each school year. Vista Meridian also proposes a “bike-to-school” program as an alternate mode of transportation, as the Santa Ana River trail is located within one-half mile of the project site. However, the School has not yet fully developed “bike-to-school” program details.

A detailed description of the proposed school operations, proposed site improvements, parking and site circulation are provided in the November 27, 2023 Planning Commission staff report and attachments, linked below:

<https://costamesa.legistar.com/LegislationDetail.aspx?ID=6430259&GUID=384FAF3E-0B34-4DA5-9FA4-B8A7A55C8872>

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

https://costamesa.granicus.com/player/clip/4065?meta_id=308283

Public Comment

Four public comment letters were submitted to the Planning Commission regarding the Vista Meridian project including two letters in support and two letters opposing the project. During the Planning Commission public hearing, five members of the public spoke in favor of the project and two spoke in opposition of the project. Comment letters are provided as an attachment to this report and include:

1. David Haithcock, President & CEO, Costa Mesa Chamber of Commerce – submitted written comments in support;
2. Wallid Kazi, President, ECM Consultants – submitted written comments opposing the project;
3. Sue Ann Salmon Evans, Attorney, Dannis Woliver Kelley – submitted written comments on behalf of Newport Mesa Unified School District in opposition to the project; and
4. Brent Stoll, Rose Equities – submitted written comments in support of the project.

Planning Commission Review

The application was heard by the Planning Commission on November 27, 2023. After receiving staff's presentation and recommendation for approval, the Planning Commission asked questions of staff and then opened the public hearing. The applicant provided a presentation and the Planning Commission subsequently asked questions of the applicant and members of the applicant's team. The Planning Commission then heard and considered public comments before closing the public hearing. Ultimately, the majority of the Planning Commission determined that the required Conditional Use Permit findings could not be made, and denied the project by a vote of 6-1.

Conditional Use Permit Findings

Pursuant to the Costa Mesa Municipal Code (CMMC), in order to approve a CUP and MCUP applications, the final review authority shall find that the evidence presented in the administrative record substantially supports the following 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”.

The subject property has a General Plan Land Use designation of Industrial Park. Pursuant to the City's Land Use Element and subject to the approval of a Conditional Use Permit (CUP) by the Planning Commission, Institutional uses are allowed in the Industrial Park District "provided that land use compatibility and traffic issues have been addressed". The Planning Commission could not make the required Conditional Use Permit findings because of potential land use compatibility and vehicle/pedestrian circulation-related conflicts related to the proposed new school. Specifically, the Planning Commission determined that the proposed school would be:

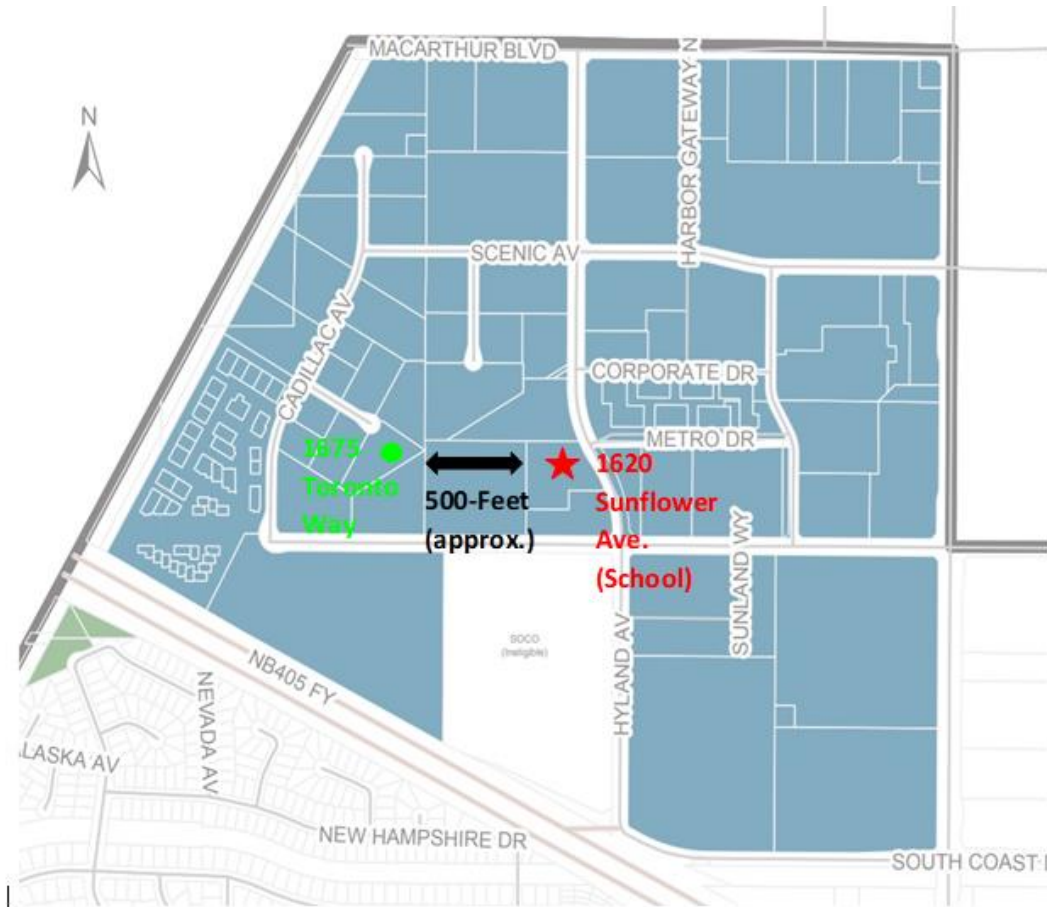
- Incompatible with adjacent uses in that the proposal includes educating minors within the City's Measure X "green zone", where cannabis manufacturing, distribution, research and development, testing, and home delivery businesses are allowed to operate;
- Detrimental to the local circulation conditions in that the proposed project could result in traffic queueing during peak hour pick-up and drop-off times for students. A specific concern was cited related to traffic queueing into the public right-of-way along the southbound lane of Hyland Avenue impacting the adjacent property located north of the project site;
- Detrimental to public health and safety in that the site's proposed circulation and parking layout was not adequately designed to accommodate the proposed school's circulation demand, and could result in conflicts between pedestrian, bicyclist and vehicle traffic circulating through the project site at peak demand periods (pick-up and drop-off); and
- Detrimental to public health, safety, and general welfare as students are limited to classrooms during the school day with no outside areas for student activities.

Measure X "Green Zone"

The project site is located within the Measure X "green zone" which allows for cannabis manufacturing, distribution, research and development, testing, and home delivery (non-storefront retail) with City approval of a Conditional Use Permit and issuance of a Cannabis Business Permit and business license.

There are approximately 25 cannabis non-storefront businesses operating in the green zone, with the closest cannabis business operating approximately 500 feet from the subject site. Refer to the below Exhibit A for a map showing the "green zone" (identified in blue), the proposed school site and the location of the nearest operating cannabis businesses ("Natures Market").

Exhibit A – Green Zone



Note that there are no State or local requirements that prohibit a school from locating in close proximity to non-storefront cannabis uses; however, once a school is established, new cannabis non-storefront uses are required to locate 600 feet away from the school per State law (Business and Professional Code Section 26054). Currently, there is one cannabis non-storefront use located within 600 feet of the proposed school, and another four cannabis non-storefront uses located within 1,000 feet from the proposed school. The majority of the other operating cannabis non-storefront uses in the “green zone”, are located westerly of the site on Cadillac Avenue. Storefront retail is prohibited in the “green zone”.

Circulation, Parking and Bike Access

In making its decision, the Planning Commission determined that the proposed project would result in certain circulation issues both on- and off-site. The Commission found that the existing parking lot developed for the previous use was not adequate to facilitate safe student pedestrian circulation. The Commission was generally concerned with student safety in the parking lot amongst queuing buses, vans and other vehicles during peak student drop-off and pick-up times. The Commission also stated

concerns in regard to potential off-site queuing impacts on the adjacent streets. During the public hearing, a Commissioner also voiced concerns in regard to bicycle circulation from the nearby Santa Ana River Trail to the site.

Outside Activity Areas

As proposed, the School does not provide any on-site outdoor programs. The School proposes only indoor classes, including spaces for indoor physical education classes and amenities. During Planning Commissioner deliberations, a Commissioner voiced concerns in regard to the School's operations and specifically not providing an outdoor component to the proposed student daily activities. Although the City's Municipal Code does not prescribe minimum requirements for outdoor areas, the City Council has adopted standards for exterior space at private schools based on specific grade levels (Policy No. P-20-01). However, the proposed school is a public charter school and not a private school, and therefore these standards may not apply.

Call for Review

On November 28, 2023, Mayor Stephens submitted an application to call up for review the Planning Commission decision, which is provided as Attachment 2 to this report.

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 call for a review 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 provided as attachments, a draft Resolution for denial based on the Planning Commission's November 27, 2023 decision. A draft Resolution for approval including potential conditions of approval is also attached; however, the required findings for approval have not been included. If the Council chooses to approve the application, the Council should articulate its basis for approving the project consistent with the required Conditional Use Permit findings.

ENVIRONMENTAL DETERMINATION:

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 project site contains an existing commercial building that has been used for commercial activities, and the application does not propose an increase in floor area. Furthermore, none of the exceptions that bar the application from a categorical exemption pursuant to CEQA Guidelines Section 15300.2 applies. Specifically, the project would not result in a significant 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. However, if the City Council desires to uphold the Planning Commission's decision to deny the application, CEQA does not apply to projects which a public agency rejects or disapproves per CEQA Guidelines Section 15270(a).

ALTERNATIVES:

The City Council has the following alternatives:

1. Uphold the Planning Commission’s decision and adopt a Resolution to deny the application;
2. Overturn the Planning Commission’s decision and approve the application subject to conditions of approval, and direct staff to prepare a Resolution for approval reflecting the City Council’s findings;
or
3. Remand the request back to the Planning Commission.

FISCAL REVIEW:

There are no fiscal impacts with this agenda item.

LEGAL REVIEW:

The City Attorney has reviewed and approved this report 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.

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

CITY COUNCIL GOALS AND PRIORITIES:

This item is administrative in nature.

CONCLUSION:

The subject review is intended to provide the City Council with an opportunity to review the Planning Commission’s decision to deny the Vista Meridian Global Academy’s land use permit application. The City Council’s review of the application is “de novo” and the Council is the final decision-making body for the requested Conditional Use Permit.