Correspondence received pertaining to Public Hearing Item #2 – Appeal of the Planning Commission's Denial of Zoning Application ZA-15-01 for a deviation from parking requirements for a group counseling use at 657 W. 19th Street.

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Via Email and Personal Delivery

July 14, 2015

Mayor Stephen Mensinger
Costa Mesa City Council
c/o Jessica Meija – Deputy City Clerk
77 Fair Drive
Costa Mesa, CA 92628
Jessic.Mejia@costamesaca.gov

Re: Appeal of Planning Commission Resolution PC-15-34
657 W. 19th Street, Costa Mesa, CA

Dear Mr. Mayor and Honorable Members of the City Counsel:

This letter is submitted by on behalf of our client, Solid Landings Behavioral Health ("Solid Landings"), as a tenant at the above referenced property. This letter sets forth the grounds upon which Solid Landings is appealing Planning Commission Resolution PC-15-34, which denied the Zoning Administrator's approval of a minor conditional use permit ("MCUP") to deviate from parking requirements for Solid Landings' community center. Solid Landings requests that the City Council reverse the decision of the Planning Commission, and reinstate the MCUP granted under Planning Application ZA-15-01 ("ZA-15-01"). We request that this letter be made part of the record of these proceedings and we intend to appear and by this letter request to be heard.

Factual Background

Solid Landings is a tenant of 657 W. 19th Street, Costa Mesa, CA ("MCUP Building"). In September 2014, Solid Landings applied for a Business License to operate at the MCUP Building. An administrative business license was issued in September 2014. Solid Landings was informed that it would need to request an MCUP for a parking deviation in order to have a business license issued for counseling services. On December 11, 2014, Solid Landings submitted an "Amended Application for Minor Conditional Use Permit for Parking Deviation for 657 West 19th Street, Costa Mesa, California – Project Description & Justification." A copy of the MCUP Application is attached hereto as **Exhibit A**. Included in this application is a typical

schedule for the daily operation of Solid Landings, illustrating that Solid Landings was eligible for a parking deviation based on the nature of its use at the property.

By letter dated April 23, 2015, notice of approval and the decision of Zoning of Application ZA-15-01 Minor Conditional Use Permit for Parking Reduction for Group Counseling Use (Solid Landings Behavioral Health, dba Rock Solid Recovery) 657 West 19th Street, Costa Mesa was sent by Willa Bouwens-Killeen, Zoning Administrator to Solid Landings. The decision of the Zoning Administrator became final at 5:00 p.m. on April 30, 2015. A copy of the Zoning Administrator's decision in Zoning Application ZA-15-01 is attached hereto as **Exhibit B**. ZA-15-01 contained 17 conditions of approval, and allowed 45 days from the date of approval to revise the parking area and access gates at the MCUP Building. The conditions that are relevant here include:

- #3 – No employees, clients, or visitors to the property shall park on City streets. All parking for the use shall take place on the property in designated parking spaces.
- #4 – All clients shall be dropped off and picked up in the parking area. No pick-up or drop-off will occur in the driveways or in the public right-of-ways.
- #5 – The use shall be limited to the type of operation as described herein. Any changes in the operational characteristics shall require review by the Planning Division and may require an amendment to the condition use permit, subject to either Zoning Administrator or Planning Commission approval, depending on the nature of the proposed change. The applicant is reminded that the Municipal 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)].
- #6 – The zoning application herein approved shall be valid until revoked. The Director of Economic & Development/Deputy CEO or his designee may refer the zoning application to the Planning Commission for modification or revocation at any time if, in his opinion, any of the following circumstances exist: 1) the use is being operated in violation of the conditions of approval; 2) the use is being operated in violation of applicable laws or ordinances or 3) one or more of the findings upon which the approval was based are no longer applicable.
- #8 – If parking shortages or other parking-related problems arise, the business operator shall institute appropriate operational measures necessary to minimize or eliminate the problem.
- #9 – The use shall be conducted, at all times, in a manner that will allow the quiet enjoyment of the surrounding neighborhood. The applicant and/or operator shall institute whatever security and operational measures are necessary to comply with this requirement.

- #11 – The applicant shall contact the Planning Division to arrange a Planning inspection of the site. This inspection is to confirm that the Planning Division conditions of approval and code requirements have been satisfied.
- #16 – No later than 30 days from the date of approval, existing vehicle gate locations shall be submitted to the Transportation Services Division for review and approval. If the existing gate locations cannot be approved, the applicant shall relocate and/or remove the vehicle gates as necessary.
- #17 – All vehicular access gates shall comply with the requirements of Sections 506.1 and 506.2 of the 2013 California Fire Code (or any successor provisions), so as to provide access to emergency crews. A Knox system for gate access must be obtained through the Costa Mesa Fire Department within 30 days from the date of approval for the existing gate on Plumer Street, and concurrently with the approval of the gate on W. 19th Street.

On April 30, 2015, Ann H. Parker, representing herself, Residents, and TBON, filed an Application for Review of the Zoning Administrator's decision in Zoning Application ZA-15-01. The form of the Application for Appeal or Review filed by Ann Parker is attached hereto as **Exhibit C**. The "Residents" are not identified. This unidentified group obviously is not qualified to join in this Application. We have learned that TBON stands for "Take Back Our Neighborhood." However, we do not know if this is a legally formed entity or if Ann Parker is authorized to represent TBON, or who TBON members are.

Dennis O'Neil submitted a letter outlining the flaws in Ms. Parker's appeal on behalf of Solid Landings on May 29, 2015. A copy of this letter is attached hereto as **Exhibit D**

Yesenia Umana, Solid Landings' Community Relations and Real Estate Liaison, submitted a declaration under the penalty of perjury on June 2, 2015 to the Planning Commission, outlining the steps she has taken to comply with the conditions in ZA-15-01. A copy of this Declaration is attached hereto as **Exhibit E**. Ms. Umana submitted plans to the Transportation Services Division for review and approval on May 26, 2015 (Condition #16). Ms. Umana obtained the authorization from the Costa Mesa Fire Department for the purchase and installation of the required Knox systems (Condition #17). Ms. Umana caused the five parking spaces along the West 19th driveway access to the parking area to be eliminated and was in the process of working with Planning towards plans for the construction of a commercial driveway. (Conditions #14 and #15).

The Parker Request for Review was considered at the regular meeting of the Planning Commission on Monday, June 8, 2015. The Planning Commission adopted Planning Commission Resolution PC-15-34 on June 9, 2015, reversing and denying the Zoning Administrator's approval of a MCUP to deviate from parking requirements for Solid Landings' community center. A copy of the Planning Commission Decision is attached hereto as **Exhibit F**.

Kristen Ford, on behalf of Solid Landings, filed an Application for Appeal of Planning Commission Decision on June 12, 2015, and requested hearing by the City Council on July 21, 2015. A copy of the Application for Appeal is attached hereto as **Exhibit G**.

The June 8, 2015 Hearing

The Parker Request for Review was considered at the regular meeting of the Planning Commission on Monday, June 8, 2015 (the "Public Hearing"). At the Public Hearing, Parker and several other Costa Mesa residents spent more than an hour testifying about alleged code violations and lack of permits for construction that was already completed. These allegations are irrelevant to the determination of a MCUP for a parking deviation.

Several times throughout her testimony, Parker refers to the MCUP Building as a "John Morehart Property." John Morehart is Solid Landings' landlord. Most of Parker's allegations against Solid Landings were related to the construction and state of the MCUP Building; issues that are the responsibility of Mr. Morehart. If Parker has personal issues or gripes with Mr. Morehart, this is not the appropriate venue in which they should be addressed.

Additionally, photographic evidence was presented by Parker at the Public Hearing, purporting to show employees parking on Plumer Street and vans pulling into the MCUP Building driveway. All of these photographs were taken on the same day.

Dennis O'Neil appeared on behalf of Solid Landings at the Public Hearing. He informed the Planning Commission that Solid Landings had no notice from the City of Costa Mesa of any code violations. He also explained, as Ms. Umana stated in her declaration, that Solid Landings was working towards complying with the conditions listed in ZA-15-01. Mr. O'Neil also emphasized that Solid Landings still had time to comply with the conditions required under ZA-15-01.

The Planning Commission Decision

Parker prematurely and illegally called for a review of ZA-15-01, citing her reasons for review being that the conditions imposed by the Zoning Administrator's decision had been ignored. The conditions imposed by the MCUP were in the process of being implemented *during the 45 day time period authorized* by the Zoning Administrator. Moreover, the MCUP was not yet even in effect. Despite evidence presented under the penalty of perjury (*See* Exhibit E) illustrating that Solid Landings was working with the City to comply with the conditions, and *still had time to come into full compliance with said conditions*, the Planning Commission chose to give weight to unauthenticated evidence presented by disgruntled citizens with an agenda, and to overturn the Zoning Administrator's decision.

The Planning Commission based its decision to overturn ZA-15-01 for several reasons, including:

- The residential neighborhoods of Center Street and Plumer Street are being disrupted by the following activities related to the use:
    - Clients and employees have been observed parking on Center Street and Plumer Street instead of in the parking lot and walking to the facility; additionally, clients are walking to the faculty [sic] rather than being dropped off as indicated in the applicants' business plan.
    - Employees have been observed parking in the nearby Costa Mesa Senior Center parking lot and walking to the facility.
    - The client vans have been observed blocking traffic on Plumer Street and parking in the nearby Senior Center parking lot.
    - The above activities are inconsistent with the plan submitted by the applicants, which indicated that all employees park inside the property, all clients are dropped off by vans inside the property so as to ensure minimal impact on the neighboring properties and the adjacent residential neighborhoods.
    - In light of the above the Planning Commission finds that, according to the applicant's submittals, the current operation should have little or no impact on parking and traffic. However, the current operation is spilling over into the neighborhood demonstrating that the proposed operating measures are inadequate to address the parking shortfall.

Additionally, the Planning Commission held that "the use is not being operated in compliance with the following conditions of approval and code requirements for ZA-15-01:

- Conditions of Approval Numbers 3, 4, 5, 6, 8, 9, 11, 16, and 17;
- Code Requirement Numbers 1, 3, 4, 9, and 10.

Finally, the Planning Commission held that "the property owner and applicant did not follow the correct procedures for obtaining the necessary building and fire safety permits and inspections for the use, including, but not limited to:

- Permits for interior and exterior alterations to the building, fire safety inspections, certificates of occupancy, and business licenses;
- The addition of the Security Gate on Plumer Street;
- The removal of the driveway and the additional of a vehicle gate on West 19th Street;

- The addition of glass storefront windows along the building's West 19th Street frontage;
- Kitchen and kitchenette facilities were installed without the required OC Health Department permits and inspections;
- Electrical conduits and piping were installed on the exterior of the building without the required permits and inspections;
- Rusted/damaged exterior stairs were installed without the required building permits and inspections.

Procedural Issues

The Application for Appeal or Review requires an applicant to mark the box for "Appeal" or the box for "Review." The application expressly states on its face the "Review" may be requested *only* by Planning Commission, Planning Commission Member, City Council or City Council Member. Nevertheless, Ann Parker marked the box requesting a "Review" of the Zoning Administrator's decision in case ZA-15-01.

The procedures relating to the method of appeal and review of decisions of the staff, committees, commissions and City Council are set forth in Ordinance No. 13-08 amending Chapter IX of Title 2 of the Costa Mesa Municipal Code (Sections 2-300 through 2-314). Ordinance No. 13-08 was adopted by the Costa Mesa City Council on December 3, 2013. A copy is attached hereto as **Exhibit H**. Section 2-311 of Ordinance No. 13-08 states that the procedures set forth in this chapter are the exclusive methods by which appeals and reviews may be pursued and none of the steps set forth herein may be waived or omitted. Ann Parker failed to follow these procedures by marking the wrong box requesting a "Review" which cannot be waived and interpreted to mean she meant to check the "Appeal" box.

Additionally, Section 2-303 of Ordinance No. 13-08 states that any affected person may, within the time limit set forth in Section 2-305, file an application for appeal with the City Clerk. Said application shall contain sufficient information to identify the party, its interest in the matter, and the reasons for requesting an appeal. Section 2-301 of Ordinance No. 13-08 defines "Affected Person" to mean "any person, including the applicant, any city staff member, committee, or commission who has an interest in the matter at issue or whose health, safety, or welfare may be affected by the decision." Section 2-301 defines "Review" to mean reconsideration of the decision of any city employee, committee, or commission requested by the City Council, on its own motion, or upon request of any City Council member, in order to consider the decision and any broad legislative and policy factors involved. This could mean the only body having jurisdiction to review a decision of the Zoning Administrator is the City Council. If this is the case, the Planning Commission should have been preempted from reviewing a decision of the Zoning Administrator in case ZA-15-01.

The Parker Request for Review fails to provide any justification or sufficient information to identify herself, the Residents or TBON as having such an interest in the matter at issue to be qualified as an "affected person" or "affected persons" or having any interest affecting their health, safety or welfare. The reasons set forth in the Parker Request for Review state that the conditions imposed by the Zoning Administrator's decision have been ignored. This allegation is patently false, has no merit, and does not give rise to Ann Parker being an "Affected Person." Moreover, Ann Parker does not reside in the vicinity of the MCUP Building. In fact, she lives more than 1.5 miles away from the MCUP Building.

Regardless, Ann Parker, the Residents and TBON lack standing to request review which can only be made by the Planning Commission, a Planning Commission member, the City Council, or a City Council Member.

A search of the City's records disclose that Ann Parker on a number of occasions has appeared before the Costa Mesa Planning Commission and City Council to voice her objection to the City's ordinances and regulations allowing group homes to exist in the City. Ann Parker has expressed strong feelings against providing these services for recovering addicts in Costa Mesa. The City, however, as a public entity, must conduct itself in compliance with federal and state law. The City is bound by the provisions of the Americans With Disabilities Act and other state and federal constitutional guarantees to prevent discrimination against persons disabled by addiction.[1] Nevertheless, Ann Parker has shown in her prior testimony before the Planning Commission and City Council her ill-will against these facilities and this ill-will is likely to be the true motivation behind the Parker Request for Review of the Zoning Administrator's decision in case ZA-15-01. The MCUP Building is not a group home. Ann Parker is not an "Affected Person" in this case but is attempting to use this process to promote her established position in opposition to group homes in Costa Mesa. Ann Parker's assertions are not relevant to a request for a MCUP for parking deviation. If the Council were to embrace her position it would necessarily be a City action predicated on illegal grounds and constitute an abuse of discretion and an abuse of process.

<u>The June 8, 2015 Hearing was Premature</u>

The Planning Commission came to the determination that Solid Landings was not complying with its "business plan" and therefore reversed the Zoning Administrator's decision

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[1] Individuals in recovery for alcohol and/or drug abuse are considered disabled under federal law and are protected both by the Federal Fair Housing Amendments Act (FHAA) and the Americans with Disabilities Act (ADA). The activities taking place and intended to take place at the MCUP Building involve disabled persons recovering from alcoholism and substance abuse. This is a permitted use in the City's General Plan and the MCUP Building zoning district. The ADA prohibits state and local governments from discriminating against individuals with disabilities in virtually all governance activities and decision-making, including planning and land use. Planning Commission Resolution PC-15-34 is arbitrary and capricious and is causing significant harm to members of a protected class under state and federal anti-discrimination laws.

and denied Planning Application ZA-15-01. However, the "business plan" was an outline of daily activities at Solid Landings, explaining why a parking deviation should be granted. Upon review of the application, the Zoning Administrator determined that several conditions would be required in order to ensure that the parking deviation did not interfere with the neighborhood. Said conditions were incorporated into ZA-15-01, and Solid Landings had ***45 days*** to construct a commercial driveway at W.19th Street for vehicle ingress and eliminate parking spaces interfering with the driveway access to the parking area. Once this was completed, existing access to Plumer was to be used for vehicle egress only. These construction requirements were designed to prevent vans from stacking on Plumer Street by accessing the property from 19th street, and also to prevent vans from blocking the street when entering the property. As Ms. Umana testified in her declaration, Solid Landings was working towards completing these requirements. (*See* Exhibit E).

Before Solid Landings could begin construction to meet these conditions, Ann Parker filed her appeal. Despite this, Solid Landings continued to work towards completing the requirements imposed by ZA-15-01. (*See* Exhibit E). At the public hearing, Parker and others accused Solid Landings of violating its business plan as part of the MCUP. However, as Deputy City Attorney Elena Gerli stated at the Public Hearing, Solid Landings was not "in violation" of the MCUP because the MCUP had not yet matured. Additionally, Ms. Gerli explained that Solid Landings would have to comply with all code requirements before the MCUP would be issued. Ms. Gerli also explained that when a code violation occurs on a property, the first step is to bring the property into compliance, *not* shut down the business. Despite this, the Planning Commission found that the neighborhood was being disrupted by Solid Landings, and Solid Landings was in violation of MCUP Conditions of Approval Numbers 3, 4, 5, 6, 8, 9, 11, 16, and 17; and Code Requirement Numbers 1, 3, 4, 9, and 10.

The business cannot violate a condition has not yet matured. Solid Landings was given 45 days to reconstruct portions of its property in order to address traffic concerns in the neighborhood. As Ms. Umana testified in her declaration, Solid Landings was working with the City to complete the imposed conditions. Yet, before Solid Landings had a chance to fully implement those changes, it was punished for the very traffic concerns the conditions and changes were intended to address. This is circular reasoning and unlawfully penalizes Solid Landings before it has had a chance to even comply with the conditions in the time frame given.

Solid Landings cannot obtain a business license for counseling services without an approved MCUP. The Planning Commission's decision effectually puts Solid Landings out of business, without giving it a chance to comply with the conditions that the City itself prescribed. The decision by the Planning Commission was premature and should be reversed.

<u>Code Violations and Permit Issues are Irrelevant</u>

Solid Landings is a tenant at 657 W. 19th Street. As such, any allegations of code violations or permit issues with respect to the property are improperly addressed to Solid

Landings. Code violations and permit issues should be addressed with Solid Landings' landlord. Additionally, Solid Landings applied for a MCUP for a parking deviation. Code violations and permit issues are irrelevant with respect to a MCUP for a parking deviation.

At the Public Hearing, Commissioner McCarthy raised his concern about the premature nature of the hearing and the fact that the parking deviation and code violations were distinct issues. Commissioner's Andranian and Dickson convinced him that there was enough evidence to revoke ZA-15-01 based on the *parking issues only*. Yet, the Planning Commission issued a parking deviation decision for reasons that included "the property owner and applicant did not follow the correct procedures for obtaining the necessary building and fire safety permits and inspections for the use." There was no evidence in the record of Solid Landings violations or notice of such violations to Solid Landings. In any event, these are issues beween the City and the landlord. This is an improper basis on which to make a decision and therefore we respectfully request the City Council overturn the Planning Commission's decision.

Conclusion

In sum, Solid Landings requests that Planning Commission Resolution PC-15-34 be set aside and the approval of Planning Application ZA-05-01 be reinstated. First, Ann Parker did not have standing to bring a review of ZA-15-01 to the Planning Commission. Second, Ann Parker is not an affected person. Third, Ann Parker has a discriminatory and illegal agenda outside of the parking deviation and is abusing the MCUP process in order to make her discriminatory agenda known. Fourth, the Planning Commission review was premature as Solid Landings was not given the allotted 45 days to make the required changes to the MCUP Building. Fifth, irrelevant information regarding alleged code violations and permitting issues should not have been considered by the Planning Commission. Sixth, the alleged code violations and permitting issues would be the responsibility of Solid Landing's landlord—not Solid Landings. Seventh, Solid Landings is making every effort to accommodate the requests of its neighbors and ensure that its business does not interfere with the neighborhood. For the foregoing reasons, Solid Landings respectfully requests the City Council set aside Planning Commission Resolution PC-15-34 and the approval of Planning Application ZA-05-01 be reinstated.

Very truly yours,

John S. Peterson

JSP:swt
Encl.

Exhibit “A”

December 11, 2014

VIA HAND DELIVERY TO: CITY OF COSTA MESA

City of Costa Mesa
Development Services Department
77 Fair Drive
Costa Mesa, California 92628-1200

Re: Amended Application for Minor Conditional Use Permit for Parking Deviation for 657 West 19th Street, Costa Mesa, California – Project Description & Justification

City of Costa Mesa Development Services Department:

A. Introduction

Sure Haven, Inc. d/b/a Rock Solid Recovery (hereinafter "Rock Solid") submits the following detailed project description and justification for a parking deviation for the 657 West 19th Street property as a location for a state certified outpatient treatment program attended by Rock Solid clients residing in a sober living home or state certified outpatient residential program. This parking deviation request includes this justification followed by a list of [proposed] conditions on the minor conditional use permit (MCUP.)

Use is permitted: 657 West 19th Street is located in a C1 local business district. A C1 business district includes, but is not limited to, facilities such as city halls, courthouses, police/fire stations, schools, art studios, antique malls, banks, beauty shops, hardware stores, department stores, grocery stores, movie theaters, automobile sale and repair, administrative offices, medical and dental offices, and dance studios. Therefore, use of the premises as a outpatient treatment facility, which is most similar to a medical office (as explained *ante*), administrative offices, and medical (therapy) offices is permitted under the City's Code. No use authorization for the use is required.

Parking deviation: The 19th street property is 6710 square feet. The entrance is on Plumer Street and includes 29 on site parking spaces that are accessed via a confidential gate code known to Rock Solid employees. Members of the general public cannot freely enter and park. Rock Solid seeks a parking deviation that permits this facility to function with the allocated 29 gated spaces instead of the 54 required per the Code. This request is based upon Rock Solid's detailed use of the facility as described herein.

B. Detailed Project Description

Solid Landings Behavioral Health, Inc. is the parent company of Rock Solid Recovery. It provides effective residential and outpatient treatment services for those suffering from the disease of drug and alcohol addiction. We have operated our homes and treatment facilities within the City of Costa Mesa since approximately 2010. In doing so, we have contributed to the fiscal health of the City in many ways, including but not limited to, employing individuals in various capacities, including staff in our corporate offices, the warehouse, landscaping and maintenance, alumni services, family programming, therapy, and community outreach. We are good neighbors in the community. We operate and maintain our properties in a manner that is compatible with each neighborhood, we upgrade our homes to increase their value, and respect the surrounding communities.

Solid Landings Behavioral Health operates gender specific programs. Rock Solid is the program for men and Sure Haven is the program for women. This MCUP only concerns the Rock Solid program which proposes to locate its administrative offices, state certified outpatient treatment program, and individual counseling services at 657 West 19th Street.

Rock Solid's outpatient treatment program is under the jurisdiction of the State Department of Heath Care Services which certifies nonresidential alcohol and drug treatment programs through a procedural framework that requires a detailed provider application followed by a thorough review process to confirm regulatory compliance.[1] In order to obtain this certification, Rock Solid provided the State with a plan of operations detailing a continuous quality management program, its structured recovery program for clients, and a description of education and vocational classes with professional staffing. Following certification, the State provides ongoing oversight and evaluation through quality assurance standards for continuing regulatory compliance.

C. Detailed Program Description

Clients of the Rock Solid program include:

- Adults who voluntarily agree to attend group sessions, individual counseling, and educational sessions to address their substance abuse problems;
- Adults that are currently living in a sober living home or state licensed residential program;
- Private paying individuals either through insurance or out-of-pocket; and
- Voluntary admits, not referred from the criminal justice system.

[1] California Health & Safety Code §§11830, *et seq.*; California Code of Regulations, Title 9, Section 10501, *et seq.*

The following is a detailed outline of the activities related to 657 19th Street (hereinafter "19th Street"). This program runs Monday through Friday followed by limited weekend use. The weekday schedule is as follows:

- 6:00 a.m. — The first Rock Solid employee arrives at 19th Street in a company vehicle and parks in the gated lot.
- 7:30-9:30 a.m. — 16 additional Rock Solid employees and/or therapists arrive in personal or company vehicles. These staff members include 8 therapists to hold 1:1 counseling sessions, 4 therapists who run group sessions; 5 additional staff members who perform administrative tasks and manage the computer lab/library. The maximum number of vehicles on-site throughout the remainder of the day, not including transportation vans (discussed *ante*), is 17 – one for each employee.
- 8:45 – 9:15 a.m. — Clients from four different sober living homes arrive at 19th Street via three 12-seat passenger vans. The vans drop clients off within the gated parking lot and do not remain on-site. The total number of clients that arrive via the three passenger vans will range from approximately 21-30. The vans will arrive at 8:45, 9:00 and 9:15 so as not to overlap.
- 9:15 – 3:00 p.m. — Clients will generally rotate through 1:1 therapy, group counseling, computer lab/library time, lunch, and self-reflection/homework, and free time.
- 3:00 – 3:30 p.m. — Three passenger vans arrive in the gated parking area and transport clients to the gym. Clients not wishing to go to the gym are transported home. Clients do not return to the campus until the following weekday. The vans will stagger their pickups at 3:00, 3:15 and 3:30.
- 3:00 – 5:00 p.m. — Staff may remain on campus until 5:00 when they leave for the day.
- 5:00 – 6:00 p.m. — A cleaning crew of 3 to 6 individuals arrives in one or two cars, park in the gated lot and stays for approximately 60 minutes.
- 6:00 p.m. — Evening staff arrives to run group sessions attended by Rock Solid clients. 10 employees are present representing 10 vehicles. The clients arrive via three passenger vans with staggered arrivals at 6:00, 6:15 and 6:30 p.m. The approximate number of clients onsite will be 30. The total vehicles, including vans, is 13.

- 6:30 – 8:30 p.m. Group sessions are held during this time period.
- 8:30 – 9:00 p.m. Passenger vans arrive to transport clients to their respective homes at 8:30, 8:45 and 9:00 p.m. The employees leave at 9:00 p.m. once the final client departs via passenger van.

During the weekend, a therapist may schedule an appointment with a client at 19th Street. These appointments are rare; however, they occur between 8:00 a.m. and 5:00 p.m. when the need arises. If an appointment occurs, then the maximum number of vehicles would be two, one for the therapist and one for the client who is transported to the premises in a Rock Solid vehicle.

D. Parking Justification

Rock Solid intends to use the 19th street building as part of its outpatient treatment program. Specifically, the building has three uses: administrative, medical (therapist) office space and group counseling. As mentioned above, these are all approved uses within the C1 zone. The only issue relates to sufficient parking. Rock Solid requests a parking variance from 48 to 29 parking spaces. This request is nearly identical to the variance requested and granted for the Group Counseling Center at 1901 Newport Boulevard, Suite 149, Costa Mesa (ZA-09-34). (This document is attached hereto as Exhibit "A.")

The parking lot attached to 19th Street contains 29 gated parking spaces. The maximum number of vehicles onsite at any given time of the day is 17, plus at most, 3 passenger vans. The total number of spaces necessary for Rock Solid's use is 20, which leaves nearly a third of the lot empty. (See parking map attached as Exhibit "B.") The required parking for 19th Street far exceeds the demand of the actual use, permitting the City to reduce the requirement. (Costa Mesa Municipal Code § 13-89.5.)

The City generally requires group counseling to have 10 parking spaces for every 1000 square feet of floor space (10:1); however, due to Rock Solid's actual use as described above, this is an excessive parking requirement and an improper classification for its use. Other establishments that require 10:1 parking are open to the general public and include large restaurants, gyms, trade schools, business colleges, dancing and music academies, and skating rinks. (Costa Mesa Zoning Code, Chapter IV Off Street Parking.) These are extremely different from Rock Solid's use, which is private in nature and both the parking and building entrance are only accessed via a locked gate on a side street. The other 10:1 establishments are not only public, but they encourage large members of the public to attend, they require parking of vehicles owned by unknown members of the public, and the owners of the establishment have very limited control over who parks in the lots.

Rock Solid has absolute control of all vehicles that enter and park in the lot. Only employees have the gate access code and Rock Solid has complete control over the number

of employees present at 19th Street at any given moment. Further, only part of the first floor will be used as a group counseling center. The remainder of the building will be split between administrative and therapist offices. The below chart describes the breakdown of our uses:

Use	Square Feet	Parking Required
Group Counseling	3840	39
Medical Office	1434	9
Administrative	1435	6
TOTAL	6710	54

Due to Rock Solid's use, the total number of parking spaces per the code is 54. However, should the City consider the entire building group counseling (which it is not) then, the total parking would be 67 spaces. Either way, the parking requirement under the Code does not coincide with Rock Solid's actual use and therefore this MCUP is respectfully requested.

E. American's with Disabilities Act

The American's with Disabilities Act (ADA), Title II, prohibits state and local governments from discriminating against individuals with disabilities in virtually all governance activities and decision-making, including planning and land use. (ADA Title II: State and Local Government Activities; 28 C.F.R. §§35.130, *et seq.*) Public entities must make reasonable modifications in rules, policies and practices that are necessary to avoid discrimination on the basis of a disability "unless the public entity can demonstrate that making the modification would fundamentally alter the nature of the service, program or activity." (28 C.F.R. §§35.130(b)(7),the ADA term "reasonable modification" has the same meaning as "reasonable accommodation" under the federal and state fair housing laws; Costa Mesa Municipal Code §13-200.60, *et seq.*, reasonable accommodations.)

The ADA's reasonable modification mandate provides an additional basis for Rock Solid's request for a parking deviation. The City of Costa Mesa's classification of Group Counseling as a trade or vocation school leads to the very high parking requirement of 10:1. The requirement is based on the questionable assertion that the demand for parking at group counseling sessions is the same as that of vocational or trade schools. The more appropriate classification of an outpatient treatment program, such as Rock Solid's, is as a medical office space. This suggested approach is in line with the State's efforts to create parity between physical and mental health treatment access. Classification of Rock Solid's treatment program as one which requires 10:1 parking places an enormous barrier to treating disabled individuals suffering from drug and alcohol addiction.

F. Decisions must not be Arbitrary or Capricious

Decisions of a zoning board are ultimately appealable to the court. When a court reviews decisions of a zoning board and/or its officers, the court may inquire into the conduct of the board or officers which relates to the decision making process in order to determine whether the decision was arbitrary or capricious. (*Ruppert v. Washington* (1973) 366 F. Supp 686.) These decisions are reviewable, not only for the purpose of determining whether there has been an erroneous interpretation of the law, but also to determine whether they impair personal or property rights by reason of an arbitrary or unlawful exercise of discretion. (*Ruppert v. Washington* (1973) 366 F. Supp 686.)

Sober Living By the Sea previously requested a similar parking variance for 1901 Newport Boulevard in Costa Mesa, CA wherein the City agreed that a *total* of 6 parking spaces were required for a 3800 square foot group counseling center because all clients arrived by passenger vans and only 4 employees would be present at the sessions. (ZA-09-34 attached as "A.") Rock Solid requests that the City come to the same, reasonable conclusion, and grant the requested parking deviation. A decision otherwise would essentially prohibit the use of the property by the disabled and be arbitrary.

G. Proposed Conditions on the MCUP

Rock Solid has prepared and agrees to abide by the following list of proposed conditions that could be placed upon the Minor Conditional Use Permit requested herein.

Conditions of Approval

1. Operation of the business shall be limited as described in the project description and the applicant's December 8, 2014 submittal. Any expansion or modification of the use or hours of operation may require approval of an amendment to the minor conditional use permit.

2. If parking shortages or other parking-related problems arise, the applicant shall institute whatever operational measures are necessary to eliminate the problem in a timely fashion.

3. Hours of operation shall be from 6:00 a.m. to 9:00 p.m., Monday through Friday. Weekend operation is limited to one-on-one therapy appointments that, if necessary, would occur between 8:00 a.m. and 5:00 p.m.

4. A copy of the conditions of approval for the minor conditional use permit shall be kept on the premises and presented to any authorized City Official upon request. New business/property owners shall be notified of the conditions of approval upon transfer of the business or ownership of land.

H. Conclusion

Rock Solid respectfully requests the City grant its request for a minor conditional use permit to allow a reduction in the parking requirement for the outpatient treatment center, therapy offices and administrative offices located at 19th Street. This reduction will not be detrimental to the health, safety or general welfare of the public or other properties or improvements within the immediately vicinity. Specifically, the required parking exceeds the actual anticipated demand for the use since the attendees are transported to and from the site via passenger vans. Granting the minor conditional use permit will not allow a use, density or intensity, which is not in accordance with the general plan. Therefore, the parking deviation should be granted as requested.

Sincerely,

Kristen B. Ford
Vice President and Corporate Counsel
Rock Solid Recovery, Inc.

Exhibit A

CITY OF COSTA MESA

P.O. BOX 1200 • 77 FAIR DRIVE • CALIFORNIA 92628-1200

DEVELOPMENT SERVICES DEPARTMENT

November 5, 2009

Brian Burke
2811 Villa Way
Newport Beach, CA 92663

RE: ZONING APPLICATION ZA-09-34
REDUCED PARKING REQUIREMENT FOR GROUP COUNSELING CENTER
1901 NEWPORT BOULEVARD, SUITE 149, COSTA MESA

Dear Mr. Burke:

Review of the minor conditional use permit for the above-referenced project has been completed. The application, as described in the attached project description, has been approved, based on the findings and subject to the conditions of approval (attached). The decision will become final at 5 p.m. on November 12, 2009, unless appealed by an affected party (including filing of the necessary application and payment of the appropriate fee) or by a member of the Planning Commission or City Council.

If you have any questions regarding this letter, please feel free to contact the project planner, Wendy Shih, at 714-754-5136 between 1 p.m. and 5 p.m. or via email at wshih@ci.costa-mesa.ca.us

Sincerely,

WILLA BOUWENS-KILLEEN, AICP
Zoning Administrator

Attachments: Project description
Findings
Conditions of approval
Approved conceptual plans

cc: Engineering
Fire Protection Analyst
Building Division

1901 Newport LLC
3424 Wilshire Blvd., Ste. 1200
Los Angeles, CA 90010

PROJECT DESCRIPTION

Background:

- Sober Living by the Sea provides group counseling and education for drug and alcohol abuse at 1040 West 17th Street, in an approximately 8,273 square-foot suite.
- The applicant proposes to relocate the business to a smaller suite (approximately 3,800 square feet) at the subject location.
- The property is zoned PDC (Planned Development Commercial) and has a General Plan designation of Commercial Center. The property contains a three-story commercial building and a single-story office building, totaling 127,512 square feet.
- According to the City's Land Use Matrix, group-counseling and education center (categorized under trade and vocational schools) is a use permitted within the PDC zone. However, a minor conditional use permit is required to allow a reduction in shared parking requirements due to unique operating characteristics.

Analysis:

- The applicant states that the hours of operation will be from 8 a.m. to 9 p.m., Monday through Friday, with a maximum of four employees/administration staff on-site during those hours. Lectures and educational groups will occur between 9 a.m. and 4:30 p.m. and between 6:30 p.m. and 8:30 p.m.
- The facility will provide individual and group counseling for up to 12 people. All attendees will be transported to and from the facility by two passenger vans.
- The Code requires 10 spaces per 1,000 square feet of gross floor area or 38 parking spaces for the counseling/education center; 11 parking spaces are allocated to this suite based on general office parking requirement (3 spaces per 1,000 square feet for office buildings exceeding two stories in height and 100,000 square feet in area).
- Based on the applicant's description of the proposed use, the actual parking demand is six spaces (four spaces for the employees plus two passenger vans).
- Since all counseling attendees will arrive and leave by passenger vans only and the total actual parking demand is comparable to a general office use, parking impacts are not anticipated.

FINDINGS

1. The information presented substantially complies with Section 13-29(e) of the Costa Mesa Municipal Code in that:

    a. The proposed use is compatible and harmonious with uses on-site as well as those on the surrounding properties.

b. Safety and compatibility of the design of the buildings, parking areas, landscaping, luminaries, and other site features including functional aspects of the site development such as automobile and pedestrian circulation have been considered.

c. The proposed use is consistent with the General Plan because it is a permitted use in the PDC zone and no parking impacts are anticipated due to the unique operating characteristics.

d. The planning application is for a project-specific case and does not establish a precedent for future development.

2. The minor conditional use permit to allow a reduction in shared parking requirements for a counseling/education center substantially complies with Costa Mesa Municipal Code Section 13-29(g)(2) in that the proposed use is substantially compatible with developments in the same general area. Granting the minor conditional use permit will not be detrimental to the health, safety and general welfare of the public or other properties or improvements within the immediate vicinity. Specifically, the required parking exceeds the actual anticipated demand for the use since the attendees are transported to and from the site via passenger vans. Granting the minor conditional use permits will not allow a use, density or intensity, which is not in accordance with the general plan designation for the property.

3. The project has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines, and the City environmental procedures, and has been found to be exempt from CEQA under Section 15301 for Existing Facilities.

4. The project is exempt from Chapter XII, Article 3 Transportation System Management, of Title 13 of the Costa Mesa Municipal Code.

CONDITIONS OF APPROVAL

Plng. 1. Operation of the business shall be limited as described in the project description and in the applicant's letter dated September 21, 2009. Any expansion or modification of the use or hours of operation may require approval of an amendment to the minor conditional use permit.

2. If parking shortages or other parking-related problems arise, the applicant shall institute whatever operational measures are necessary to minimize or eliminate the problem.

3. Hours of operation shall be from 8 a.m. to 9 p.m., Monday through Friday.

4. All attendees shall wait for transportation service inside the building only.

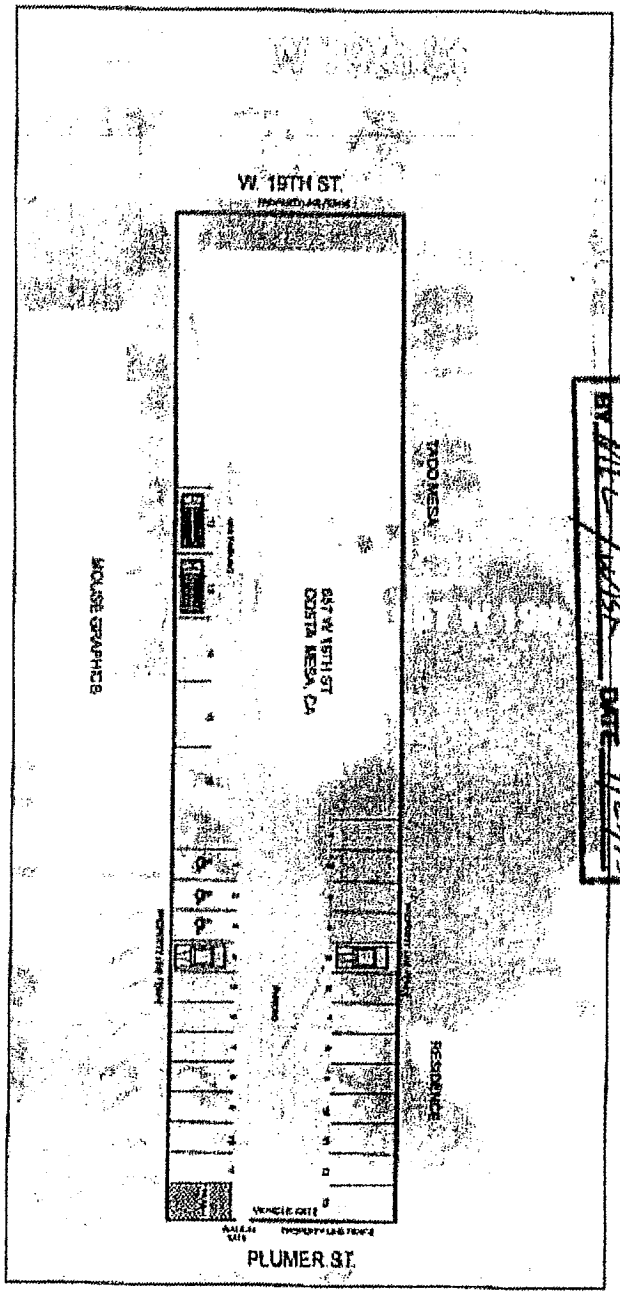
5. A copy of the conditions of approval for the minor conditional use permits must be kept on premises and presented to any authorized City official upon request. New business/property owners shall be notified of conditions of approval upon transfer of business or ownership of land.

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.	Approval of the zoning application is valid for one (1) year 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) obtains building permits for the authorized construction and initiates construction; and/or 2) obtains a business license and/or legally establishes the business. If the applicant is unable to establish the use/obtain building permits or business license within the one-year time period, the applicant may request an extension of time. The Planning Division must receive a written request for the time extension prior to the expiration of the zoning application.
	2.	Once the use is legally established, the zoning application herein approved shall be valid until revoked. The Development Services Director or his designee may refer the zoning application to the Planning Commission for modification or revocation at any time if, in his opinion, any of the following circumstances exist: 1) the use is being operated in violation of the conditions of approval; 2) the use is being operated in violation of applicable laws or ordinances or 3) one or more of the findings upon which the approval was based are no longer applicable.
Bus. Lic.	2.	A business license shall be obtained prior to the initiation of the business approved under this application.
Bldg.	3.	Comply with the requirements of the California Code of Regulations, Title 24, also known as the 2007 California Building Standards Code, as amended by the City of Costa Mesa.

Exhibit B



MINOR CONDITIONAL USE PERMIT
ADMINISTRATIVE ADJUSTMENT NO. 24-15-01

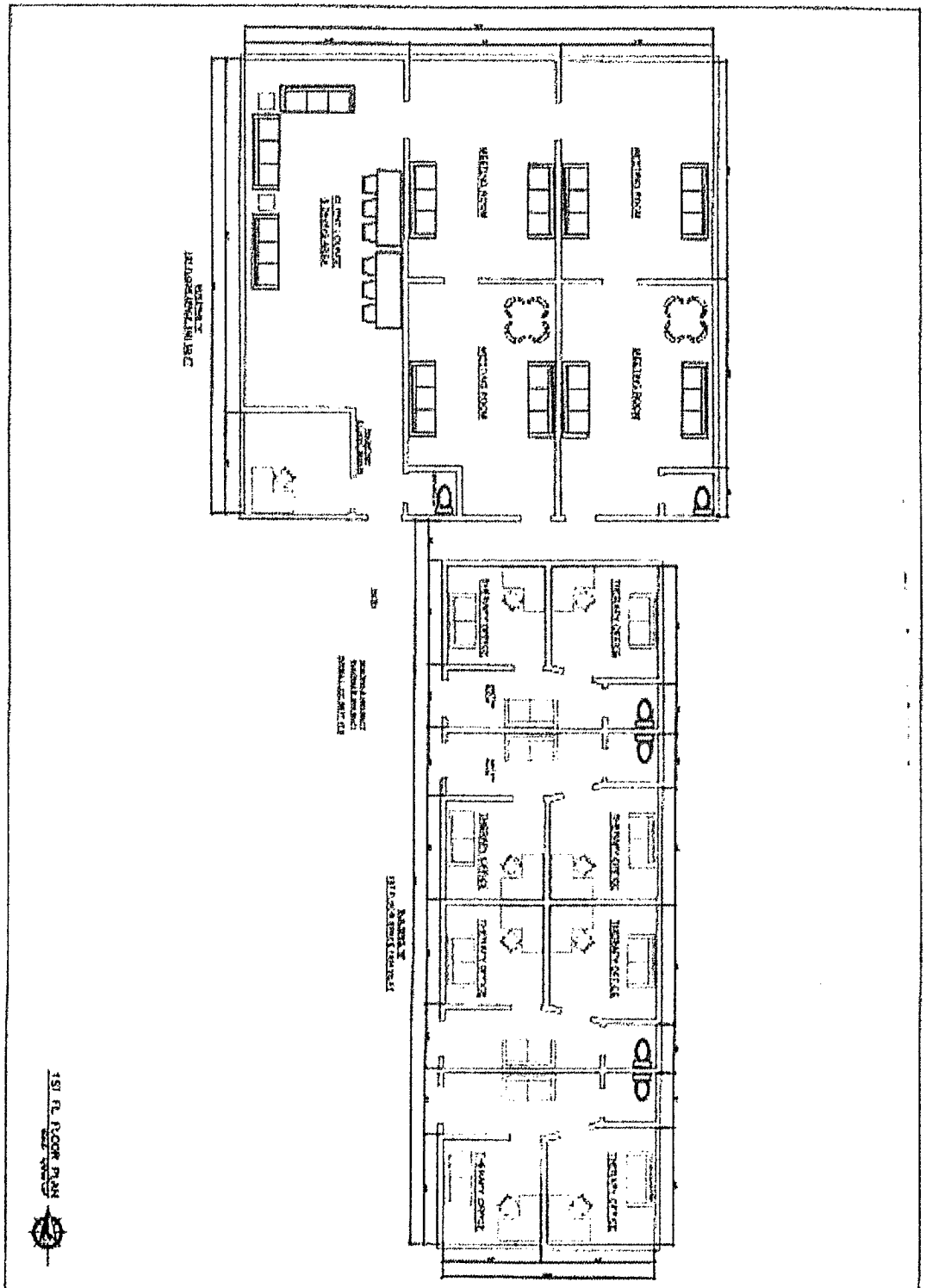
Approval in Concept

SUBJECT TO CONDITIONS
CITY OF COSTA MESA
PLANNING DEPT.

BY [illegible] DATE 4/23/15

SITE PLAN

S	PROJECT PROJECT ADDRESS:	TWO STORY COMMERCIAL BUILDING 657 W. 19TH ST COSTA MESA, CA 92627	CLIENT ROCK SOLID RECOVERY, INC. 2900 BRISTOL ST. SUITE B-300 COSTA MESA, CA 92626 (949)-487-9213



1ST FL. FLOOR PLAN

A-1

PROJECT: TWO STORY COMMERCIAL BUILDING
957 W. 19TH ST
COSTA MESA, CA 92627

PROJECT ADDRESS:

CLIENT: ROCK SOLID RECOVERY, INC.
2900 BRISTOL ST. SUITE B-300
COSTA MESA, CA 92626
(949) 487-9213

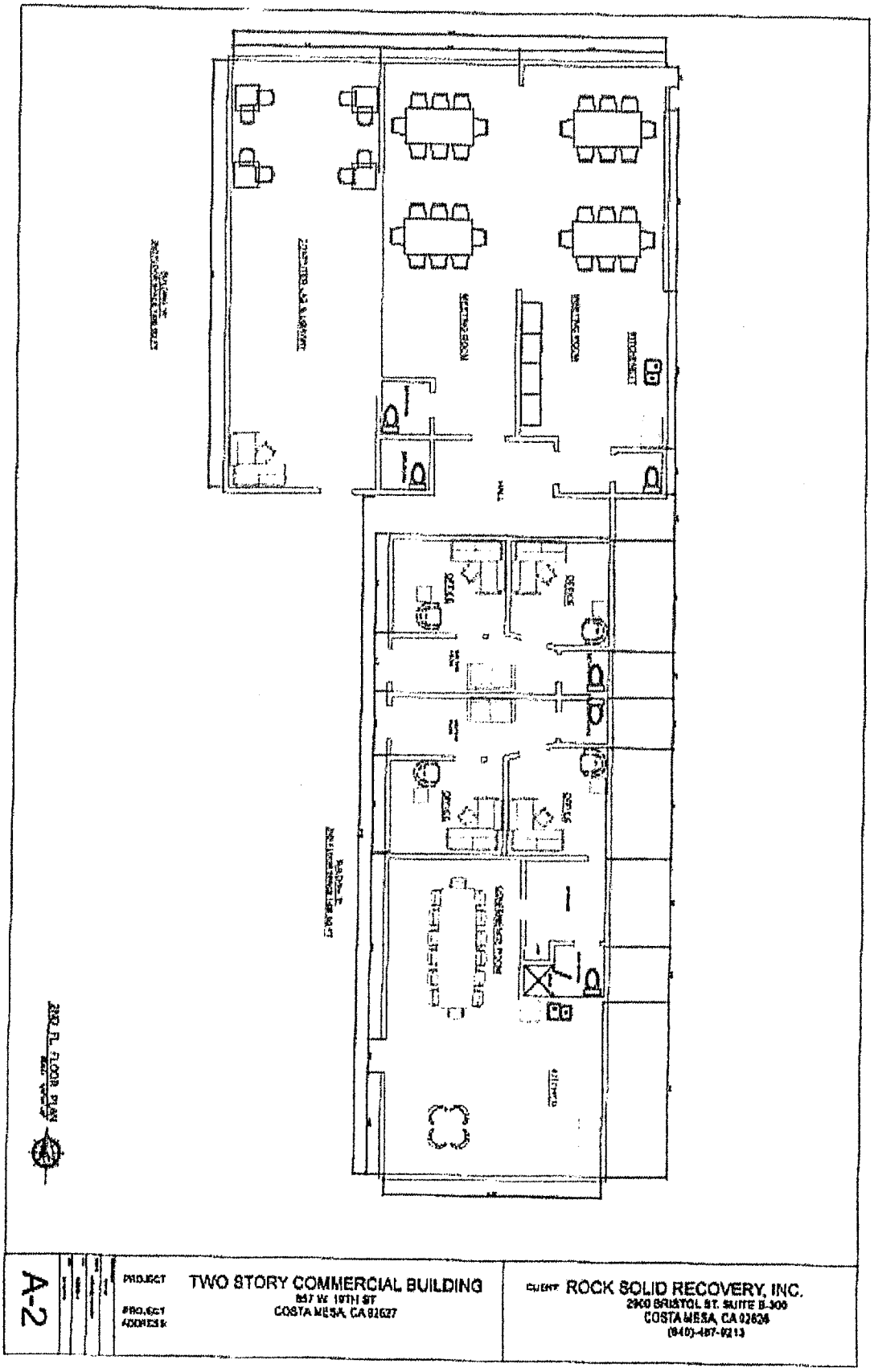

2ND FL. FLOOR PLAN
A-2
PROJECT
TWO STORY COMMERCIAL BUILDING
857 W 19TH ST
COSTA MESA, CA 92627
CLIENT
ROCK SOLID RECOVERY, INC.
2900 BRISTOL ST. SUITE B-300
COSTA MESA, CA 92626
(949)-487-9213

Exhibit “B”

CITY OF COSTA MESA

P.O. BOX 1200 • 77 FAIR DRIVE • CALIFORNIA 92628-1200

DEVELOPMENT SERVICES DEPARTMENT

April 23, 2015

Solid Landings Behavioral Health
Attn: Kristen B. Ford, Esq.
2900 Bristol Street, Suite B-300
Costa Mesa, CA 92626

RE: ZONING APPLICATION ZA-15-01 MINOR CONDITIONAL USE PERMIT FOR PARKING REDUCTION FOR GROUP COUNSELING USE (SOLID LANDINGS BEHAVIORAL HEALTH, DBA ROCK SOLID RECOVERY) 657 WEST 19TH STREET, COSTA MESA

Dear Ms. Ford:

City staff's review of your zoning application for the above-referenced project has been completed. The application, as described in the attached project description, has been approved, based on the findings attached and subject to the conditions listed. The decision will become final at 5:00 p.m. on April 30, 2015, unless appealed by an affected party, including filing of the necessary application and payment of the appropriate fee, or called up for review by a member of the Planning Commission or City Council.

If you have any questions regarding this letter, please feel free to contact the project planner, Mel Lee, at (714) 754-5611, or at mel.lee@costamesaca.gov.

Sincerely,

WILLA BOUWENS-KILLEEN, AICP
Zoning Administrator

Attachments: Project Description
Findings
Applicant's Project Description and Plans

cc: Engineering
Fire Protection Analyst
Building Safety Division
Transportation Services Division

Rock Solid Recovery
657 West 19th Street
Costa Mesa, CA 92627

John Morehart
126 East 18th Street
Costa Mesa, CA 92627

BACKGROUND

Project Site/Environs

The project site is located on the south side of West 19th Street, mid-block between Pomona Avenue and Anaheim Avenue. The site is .36 acres (15,681 square feet) in size. The property is zoned C1 (Local Business District) and has a General Plan Land Use Designation of General Commercial. The site contains a two-story, 6,710 square foot commercial building originally constructed in 1961, a surface parking lot, and site fencing. The site is bounded by commercial uses to the West and north (across West 19th Street), a commercial use (restaurant) and a residential use to the east, and residential uses (across Plumer Street) to the south. The site currently provides 29 on-site parking spaces, which are accessed via a gated driveway on Plumer Street. There is also an existing driveway approach on the West 19th Street frontage of the property, but it is not used because the paved driveway leading from the approach has been removed and is gated and blocked by 5 parallel van parking spaces provided adjacent to the building.

Prior land use actions on the property include a conditional use permit for a fraternal lodge on the second floor, approved in 1965 approved under Conditional Use Permit C-49-65, and a proposed conditional use permit for a manufacturing use under PA-87-07, which was denied by the Planning Commission on January 26, 1987.

The building is currently occupied by Solid Landings, DBA Rock Solid Recovery, which provides outpatient treatment programs and other services, including group counseling, for men with drug and alcohol addiction. The use is currently operating without an approved business license or minor conditional use permit to allow a reduction in the required on-site parking spaces required to support the group counseling use, which is described in the next section.

PROJECT DESCRIPTION

The applicant utilizes the building for the following services:

- State certified outpatient treatment programs for Rock Solid Recovery clients (men) residing in sober living group homes or state certified outpatient residential programs. The programs for women are a separate operation not conducted from this site.
- Individual and group counseling sessions, as well as educational sessions.
- Administrative offices.

According to the applicant's description of the use, a copy of which is attached to this letter, the various programs and services offered at the site run from 6:00 am to 9:00 pm, Monday through Friday. Weekend operation is limited to one-on-one therapy appointments on an as-needed basis between 8:00 am and 5:00 pm. The maximum number of staff on site at any one time during the weekday is 17 and the maximum

number of clients on the site at any one time during the weekday is 30. The clients come to the site by vans at various times of the day. The applicant claims that at no time will the required on-site parking for the use exceed 20 spaces; 3 spaces for the vans and 17 spaces for the staff that drive their cars to the site.

Minor Conditional Use Permit for Reduction in Required On-Site Parking for Group Counseling Use

The City's Zoning Code does not specify a parking requirement for group counseling uses. Zoning Code Section 13-90 (Parking For Uses Not Specified) allows the number of required parking spaces for uses not specified in the Zoning Code to be determined by the Zoning Administrator based upon the parking required for similar types of uses.

Zoning Administrator Determination No. 08-5, dated May 19, 2008, determined that the parking requirement for group counseling uses was to be classified the same as for trade and vocational schools, which is 10 parking spaces per 1,000 square feet of gross floor area. In the case of the subject property, this equates to a requirement of 67 on-site parking spaces based on the existing 6,710 square foot building area. The 10 spaces per 1,000 square foot parking requirement for group counseling uses is needed for the entire building because the other uses (i.e., administrative offices and therapy rooms) support the primary group counseling use.

Because the subject property currently provides 29 on-site parking spaces, a shortfall of 38 spaces required for the use, the applicant is requesting approval of a minor conditional use permit to allow for the reduction in the required parking amount based on their specific operation as discussed in the prior section of this letter and per Zoning Code Section 13-89.5 (Reduction in Parking Requirements).

ANALYSIS

Justifications for Approval

Staff has reviewed the applicant's request and supports the request based on the following:

- *Based on the applicant's description of the use, an adequate number of on-site parking spaces is provided.* As noted earlier, applicant states that currently 29 on-site parking spaces are provided of the 67 spaces required for the use, a shortfall of 38 spaces. However, based on the information provided by the applicant, an adequate number of on-site parking spaces can be provided for the use. The building square footages and summary of on-site activities are provided in the tables below:

PROPOSED USE OF ROOMS AND SQUARE FEET (SF)

FIRST FLOOR	
Therapy Offices (8)	1,434 SF
Meeting Rooms (4)	1,218 SF
Client Lounge/Dining Area	624 SF
Reception/Sign In	99 SF

SECOND FLOOR	
Offices (4)	693 SF
Conference Room/Kitchen/Storage Room	682 SF
Meeting Rooms (1)	1,218 SF
Computer Lab/Library (1)	682 SF

SUMMARY OF ON-SITE ACTIVITIES (MON-FRI)	
6:00 AM	The first Rock Solid employee arrives in a company vehicle and parks in the gated lot.
7:30-9:30 AM	16 additional Rock Solid employees and/or therapists arrive in personal or company vehicles.
8:45-9:15 AM	Clients from 4 different sober living homes arrive via 3 12-seat passenger vans. The vans drop clients off within the gated parking lot and do not remain onsite. The total number of clients that arrive via the 3 passenger vans range from 21-30. The vans arrive at 15 minute intervals so as not to overlap.
9:15 AM-3:00 PM	Clients rotate through one-on-one therapy, group counseling, computer lab/library time, lunch, and free time.
3:00-3:30 PM	Three passenger vans arrive to transport clients to the gym. Clients not wishing to go to the gym are transported home. Clients do not return until the following day. The vans arrive at 15 minute intervals so as not to overlap.
3:00-5:00 PM	Staff remains until 5:00 PM
5:00-6:00 PM	A cleaning crew of 3-6 people arrive in 1 or 2 cars and stays for 1 hour.
6:00 PM-6:30 PM	Evening staff arrives to run group sessions attended by Rock Solid Clients. 10 employees are present representing 10 vehicles. Clients arrive via 3 vans at 15-minute intervals. The approximate number of clients is 30. The total vehicles on site is 13.
6:30-8:30 PM	Group sessions held during this time period.
8:30-9:00 PM	Passenger vans arrive to transport clients to their homes at 15-minute intervals. The employees leave at 9:00 PM once the last passenger van leaves the site.

SUMMARY OF ON-SITE ACTIVITIES (SAT-SUN)	
8:00 AM-5:00 PM	Therapist may schedule an appointment with a client on an as needed basis. If an appointment occurs the number of vehicles is 2 –one for the therapist and one for the client who is transported to the premises via a Rock Solid vehicle.

Source: Applicant Letter Dated December 11, 2014

- *The operational measures proposed by the applicant to mitigate the parking reduction is sufficient to mitigate long-term potential parking impacts.* Staff acknowledges that the measures described in the applicant's letter may address parking shortages. However, staff is recommending, as a condition of approval, that if parking shortages or other parking-related problems arise, the business operator shall institute appropriate operational measures necessary to eliminate the problem. Additionally, based on the large parking shortfall, staff is recommending a number of conditions to ensure that the use is conducted entirely on the property so as to avoid parking shortfalls in the surrounding neighborhood as a result of the applicant's use.

- *The current configuration of the parking area limits vehicle ingress and egress to the site from Plumer Street, creating additional commercial traffic on a local street adjacent to a residential neighborhood; therefore, vehicular access from W. 19th Street will be required to be provided.* Unlike the other commercially-zoned properties on this block, which provides vehicular access from West 19th Street as well as Plumer Street, the subject property's sole vehicular ingress and egress is from Plumer Street. The current gate design lacks an adequate throat for vehicles accessing the parking lot, no kiosk for drivers to access the key pad, and no turnaround area for vehicles that do not gain access into the facility. As a result approaching vehicles are routinely blocking the public sidewalk and extending into through-lanes of traffic while the drivers exits the vehicle to access the key pad placed at the sidewalk adjacent to the gate. The Transportation Services Division has reviewed the applicant's proposal and has determined that to reduce the number of vehicles using Plumer Street to access the site, the driveway on West 19th Street should be restored, the gate and van parking spaces blocking the access from West 19th Street should be removed, and West 19th Street used as the main access to the site, with Plumer Street being designated for egress of vehicles only. This has been incorporated as a condition of approval. The reopening of the 19th Street gate will result in the loss of 5 additional parking spaces, putting the applicant at a scant 24 available spaces, with a 43-space shortfall. The applicant has stated it will only need 20 spaces, 17 for employees and 3 for client vans.

GENERAL PLAN CONFORMITY

Future development of all land within the City of Costa Mesa is guided by the General Plan adopted in 2002. The General Plan sets forth land use goals, policies, and objectives that guide new development and uses.

Based on the issues discussed in the previous sections, the request, as conditioned, is consistent with the following goals and objectives of the General Plan.

- **Objective LU-1F.1:** *Protect existing stabilized residential neighborhoods from the encroachment of incompatible or potentially disruptive land uses and/or activities.*

- **Objective CIR-1A.14:** *Reduce or eliminate intrusion of commuter through traffic on local streets in residential neighborhoods.*

ENVIRONMENTAL DETERMINATION

The project has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines, and the City environmental procedures, and has been found to be exempt under Section 15301, Existing Facilities, of the CEQA Guidelines.

FINDINGS

A. The information presented complies with Costa Mesa Municipal Code Section 13-29(g)(2) in that:

Finding: The proposed use is 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:

Based on the applicant's description of the use, an adequate number of on-site parking spaces is provided. As noted earlier, 67 parking spaces is required for the use, 24 on-site parking spaces is provided, a shortfall of 43 spaces required for the use. However, based on the information provided by the applicant, an adequate number of on-site parking spaces can be provided for the use.

Finding: Granting the 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 Findings:

The current configuration of the parking area limits vehicle ingress and egress to the site from Plumer Street, creating additional commercial traffic on a local street adjacent to a residential neighborhood; therefore, vehicular access from W. 19th Street will be required to be provided. Unlike the other commercially-zoned properties on this block, which provides vehicular access from West 19th Street as well as Plumer Street, the subject property's sole vehicular ingress and egress is from Plumer Street. The Transportation Services Division has reviewed the applicant's proposal and has determined that to reduce the number of vehicles using Plumer Street to access the site, the driveway on West 19th Street should be restored, the

gate and five van parking spaces blocking the access from West 19th Street should be removed, and West 19th Street used as the main access to the site, with Plumer Street being designated for egress of vehicles only. This has been incorporated as a condition of approval.

Finding: Granting the minor conditional use permit will not allow a use, density, or intensity which is not in accordance with the General plan designation.

Facts In Support of Findings:

The request is consistent with the following goals and objectives of the General Plan:

- **Objective LU-1F.1:** *Protect existing stabilized residential neighborhoods from the encroachment of incompatible or potentially disruptive land uses and/or activities.*

  Consistency: The measures described in the applicant's letter may address parking shortages. However, staff is recommending, as a condition of approval, that if parking shortages or other parking-related problems arise, the business operator shall institute appropriate operational measures necessary to minimize or eliminate the problem. Therefore, the request is consistent with this General Plan goal.

- **Objective CIR-1A.14:** *Reduce or eliminate intrusion of commuter through traffic on local streets in residential neighborhoods.*

  Consistency: Unlike the other commercially-zoned properties on this block, which provides vehicular access from West 19th Street as well as Plumer Street, the subject property's sole vehicular ingress and egress is from Plumer Street. The Transportation Services Division has reviewed the applicant's proposal and has determined that to reduce the number of vehicles using Plumer Street to access the site, the driveway on West 19th Street should be restored, the gate and van parking spaces blocking the access from West 19th Street should be removed, and West 19th Street used as the main access to the site, with Plumer Street being designated for egress of vehicles only. This has been incorporated as a condition of approval. Therefore, the use is consistent with this General Plan goal.

B. The project has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines, and the City environmental procedures, and has been found to be exempt under Section 15301, Existing Facilities, of the CEQA Guidelines

C. The project is exempt from Chapter XII, Article 3, Transportation System Management, of Title 13 of the Costa Mesa Municipal Code.

CONDITIONS OF APPROVAL

Plng. 1. The conditions of approval, code requirements, and special district requirements of ZA-15-01 shall be blueprinted on the face of the site plan as part of the plan check submittal package (if plan check is required).

2. The onsite activities shall be as follows:

SUMMARY OF ON-SITE ACTIVITIES (MON-FRI)	
6:00 AM	The first Rock Solid employee arrives in a company vehicle and parks in the gated lot.
7:30-9:30 AM	16 additional Rock Solid employees and/or therapists arrive in personal or company vehicles.
8:45-9:15 AM	Clients from 4 different sober living homes arrive via 3 12-seat passenger vans. The vans drop clients off within the gated parking lot and do not remain onsite. The total number of clients that arrive via the 3 passenger vans range from 21-30. The vans arrive at 15 minute intervals so as not to overlap.
9:15 AM-3:00 PM	Clients rotate through one-on-one therapy, group counseling, computer lab/library time, lunch, and free time.
3:00-3:30 PM	Three passenger vans arrive to transport clients to the gym. Clients not wishing to go to the gym are transported home. Clients do not return until the following day. The vans arrive at 15 minute intervals so as not to overlap.
3:00-5:00 PM	Staff remains until 5:00 PM
5:00-6:00 PM	A cleaning crew of 3-6 people arrive in 1 or 2 cars and stays for 1 hour.
6:00 PM-6:30 PM	Evening staff arrives to run group sessions attended by Rock Solid Clients. 10 employees are present representing 10 vehicles. Clients arrive via 3 vans at 15-minute intervals. The approximate number of clients is 30. The total vehicles on site is 13.
6:30-8:30 PM	Group sessions held during this time period.
8:30-9:00 PM	Passenger vans arrive to transport clients to their homes at 15-minute intervals. The employees leave at 9:00 PM once the last passenger van leaves the site.
SUMMARY OF ON-SITE ACTIVITIES (SAT-SUN)	

8:00 AM-5:00 PM	Therapist may schedule an appointment with a client on an as needed basis. If an appointment occurs the number of vehicles is 2 –one for the therapist and one for the client who is transported to the premises via a Rock Solid vehicle.

3. No employees, clients or visitors to the property shall park on City streets. All parking for the use shall take place on the property in designated parking spaces.

4. All clients shall be dropped off and picked up in the parking area. No pick-up or drop-off will occur in the driveways or public right-of-ways.

5. The use shall be limited to the type of operation as described herein. Any change in the operational characteristics shall require review by the Planning Division 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. The applicant is reminded that the Municipal 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)].

6. The zoning application herein approved shall be valid until revoked. The Director of Economic & Development/Deputy CEO or his designee may refer the zoning application to the Planning Commission for modification or revocation at any time if, in his opinion, any of the following circumstances exist: 1) the use is being operated in violation of the conditions of approval; 2) the use is being operated in violation of applicable laws or ordinances or 3) one or more of the findings upon which the approval was based are no longer applicable.

7. If any section, division, sentence, clause, phrase or portion of this approval 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.

8. If parking shortages or other parking-related problems arise, the business operator shall institute appropriate operational measures necessary to minimize or eliminate the problem.

9. The use shall be conducted, at all times, in a manner that will allow the quiet enjoyment of the surrounding neighborhood. The applicant and/or operator shall institute whatever security and operational measures are necessary to comply with this requirement.

10. 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.

11. The applicant shall contact the Planning Division to arrange a Planning inspection of the site. This inspection is to confirm that the Planning Division conditions of approval and code requirements have been satisfied.

12. No later than 90 days from the date of approval, the landscape setback areas along the W. 19th Street frontage shall be landscaped with trees and vegetation. The landscape plan shall contain 24-inch box trees to the satisfaction of the Development Services Director.

13. Applicant shall defend, indemnify, and hold harmless the City, its elected and appointed officials, agents, officers and employees from any claim, 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 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 select the attorney defending it, if it elects to do so.

14. Applicant shall obtain Planning approval for the construction of the commercial driveway on W. 9th Street, pursuant to condition 15, below.

Trans. 15. No later than 45 days from the date of approval, revise the parking area and access gates as follows:

a) Construct commercial driveway at the existing approach on W. 19th Street leading to the parking area at the rear of the site, which shall be used for vehicle ingress, unless otherwise directed by the Transportation Services Division.

b) Eliminate any parking spaces which interfere with the driveway access to the parking area at the rear of the site to comply with the standard drive aisle dimensions per the City's Parking Design Standards.

c) Onsite vehicular circulation shall comply with the City's Parking Design Standards.

d) Existing Plumer Street access shall only be used as vehicle egress,

unless otherwise directed by the Transportation Services Division.

16. No later than 30 days from the date of approval, existing vehicle gate locations shall be submitted to the Transportation Services Division for review and approval. If the existing gate locations cannot be approved, the applicant shall relocate and/or remove the vehicle gates as necessary.

Fire 17. All vehicular access gates shall comply with the requirements of Sections 506.1 and 506.2 of the 2013 California Fire Code (or any successor provisions), so as to provide access to emergency crews. A Knox system for gate access must be obtained through the Costa Mesa Fire Department within 30 days from the date of approval for the existing gate on Plumer Street, and concurrently with the approval of the gate on W. 19th Street.

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. This use, as well as all contractors and subcontractors doing construction-related activity on the site, shall 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. Approval of the zoning application is valid for one (1) year 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) obtains building permit(s) for the authorized construction and initiates construction; and/or 2) obtains a business license and/or legally establishes the business. If the applicant is unable to establish the use/obtain building permits within the one-year time period, the applicant may request an extension of time. The Planning Division must receive a written request for the time extension prior to the expiration of the zoning application.

3. 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.

4. Street address shall be visible from the fascia adjacent to the main entrance or on another prominent location. Numerals shall be a minimum twelve (12) inches in height with not less than three-fourth-inch stroke and shall contrast sharply with the background. Identification

of individual units shall be provided adjacent to the unit entrances. Letters or numerals shall be four (4) inches in height with not less than one-fourth-inch stroke and shall contrast sharply with the background.

5. Any mechanical equipment such as air-conditioning equipment and duct work shall be screened from view in a manner approved by the Planning Division.

6. 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.

7. Landscaping and irrigation shall be installed in accordance with the approved plans prior to final inspection or occupancy clearance.

8. Two (2) sets of landscape and irrigation plans, approved by the Planning Division, shall be attached to two of the final building plan sets.

Bldg. 9. Comply with the requirements of the following adopted codes: 2013 California Building Code, 2013 California Electrical Code, 2013 California Mechanical Code, 2013 California Plumbing Code, 2013 California Green Building Standards Code, and 2013 California Energy Code (or the applicable adopted California Building Code, California Electrical Code, California Mechanical Code, California Plumbing Code, and 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.

10. Requirements for accessibility to sites, facilities, buildings and elements by individuals with disabilities shall comply with chapter 11B of the 2013 California Building Code.

Exhibit “C”

Costa Mesa

RECEIVED
CITY CLERK

City of Costa Mesa

15 APR 30 PM 1:12

☐ Appeal of Planning Commission Decision - $1,220.00
☐ Appeal of Zoning Administrator/Staff Decision - $690.00

CITY OF COSTA MESA
BY B.G.

APPLICATION FOR APPEAL OR REVIEW

Applicant Name* ANN H. PARKER
Address [redacted]
Phone [redacted] Representing SELF & Residents + TBOW

REQUEST FOR: ☐ APPEAL ☑ REVIEW**

Decision of which appeal or review is requested: (give application number, if applicable, and the date of the decision, if known.)

ZA-15-01 April 23, 2015 (?)
Request for Review of this Decision

Decision by: Gary Armstrong (?) Willa Bouwens-Killeen
Zoning administrator

Reasons for requesting appeal or review:

As of 8:30 this Am April 30, 2015 almost Every single Condition of approval had been ignored - Vans did not Drop off clients but parked in Car. SUVS pulled up & parked on Plumer & also a red Truck & clients got out 6 at a time & Roamed Down plumer from Senior Center to Facility, Employees - including lab techs in Scrubs Etc. parked All over Plummer. Please pay attention to #3 and #4 and 5 & #6 is is being operated in violation of Applicable laws. Guy in Scrubs from lab in & out parking on Plummer

Date: April 30, 2015 Signature: Ann H. Parker

*If you are serving as the agent for another person, please identify the person you represent and provide proof of authorization.
**Review may be requested only by Planning Commission, Planning Commission Member, City Council, or City Council Member

For office use only – do not write below this line

I think at no medical on this license

SCHEDULED FOR THE CITY COUNCIL/PLANNING COMMISSION MEETING OF:
If appeal or review is for a person or body other than City Council/Planning Commission, date of hearing of appeal or review:

Exhibit “D”

PH-1

O'NEIL LLP

ATTORNEYS AT LAW

19900 MACARTHUR BOULEVARD, SUITE 1050
IRVINE, CALIFORNIA 92612
(949) 798-0500 • (949) 798-0511 (FAX)
WEBSITE: www.oneil-llp.com

WRITER'S DIRECT DIAL: (949) 798-0734
EMAIL: doneil@oneil-llp.com

KATHLEEN A. DONAHUE
DEAN DUNN-RANKIN
SANDRA A. GALLE
WILLIAM E. HALLE
ANDREW K. HARTZELL
LAWRENCE J. HILTON

JOHN D. HUDSON
DENNIS D. O'NEIL
JAY F. PALCHIKOFF
PAUL A. ROWE
WILLIAM L. TWOMEY
JOHN P. YEAGER

May 29, 2015

VIA E-MAIL AND U.S. MAIL

Received
City of Costa Mesa
Development Services Department

MAY 29 2015

Robert Dickson
Chairman
Costa Mesa Planning Commission
77 Fair Drive
PO Box 1200
Costa Mesa, CA 92628-1200

Re: Zoning Application ZA-15-01

Dear Chairman Dickson and Members of the Costa Mesa Planning Commission:

By letter dated April 23, 2015, notice of approval and the decision of Zoning of Application ZA-15-01 Minor Conditional Use Permit for Parking Reduction for Group Counseling Use (Solid Landings Behavioral Health, dba Rock Solid Recovery) 657 West 19th Street, Costa Mesa ("MCUP Building") was sent by Willa Bouwens-Killeen, Zoning Administrator to the applicant. The decision of the Zoning Administrator became final at 5:00 p.m. on April 30, 2015. A copy of the Zoning Administrator's decision in Zoning Application ZA-15-01 is attached under ***TAB A***.

Application for Appeal or Review

On April 30, 2015, Stephan H. Andranian, in his capacity as a Member of the Costa Mesa Planning Commission, filed an Application for Review of the Zoning Administrator's decision in Zoning Application ZA-15-01. No fee was charged to Planning Commissioner Andranian for filing this Application for Review. Planning Commissioner Andranian withdrew his Application for Review of the Zoning Administrator's decision in this case on May 26, 2015. But for his position as a member of the Planning Commission scheduled to conduct a hearing on ZA-15-01, Planning Commissioner Andranian is now no longer a party initiating the review of ZA-15-01, but this situation could, however, create a conflict of interest or pre-hearing bias requiring Planning Commissioner Andranian to recuse himself from the hearing. The conflict would be based on the principles of a need for providing due process and a fair hearing discussed in the recent decision of the California Fourth District Court of Appeal in the case of *Woody's Group v. City of Newport Beach* which held that a council member could not sit as a judge on a case called up from a lower decision-making body.

On April 30, 2015, Ann H. Parker representing herself, Residents and TBON filed an Application for Review of the Zoning Administrator's decision in Zoning Application ZA-15-01. Ann Parker paid an Application for Review fee of $690.00 ("Parker Request for Review"). The Residents, I assume, are all the residents of Costa Mesa which are obviously a group not certified as a class qualified to join in this Application. I have learned that TBON stands for "Take Back Our Neighborhood" although I do not know if this is a legally formed entity or if Ann Parker is authorized to represent TBON.

The Application for Appeal or Review requires an applicant to mark the box for "Appeal" or the box for "Review." The application expressly states on its face the "Review" may be requested only by Planning Commission, Planning Commission Member, City Council or City Council Member. Nevertheless, Ann Parker marked the wrong box requesting a "Review" of the Zoning Administrator's decision in case ZA-15-01.

The form of the Application for Appeal or Review filed by Ann Parker is attached under ***TAB B***.

The Parker Request for Review has been calendared for consideration at the regular meeting of the Planning Commission to be held on Monday, June 8, 2015.

This law firm has been retained by Solid Landings Behavioral Health, dba Rock Solid Recovery to represent their position and present their arguments for support of upholding the decision of the Zoning Administrator in case ZA-15-01 and requesting dismissal of this case.

Procedure for Appeal

The procedures relating to the method of appeal and review of decisions of the staff, committees, commissions and City Council are set forth in Ordinance No. 13-08 amending Chapter IX of Title 2 of the Costa Mesa Municipal Code (Sections 2-300 through 2-314). Ordinance No. 13-08 was adopted by the Costa Mesa City Council on December 3, 2013 (copy attached under ***TAB C***). Section 2-311 of Ordinance No. 13-08 states that the procedures set forth in this chapter are the exclusive methods by which appeals and reviews may be pursued and none of the steps set forth herein may be waived or omitted. Ann Parker failed to follow these procedures by marking the wrong box requesting a "Review" which cannot be waived and interpreted to mean she meant to check the "Appeal" box.

Section 2-303 of Ordinance No. 13-08 states that any affected person may, within the time limit set forth in Section 2-305, file an application for appeal with the City Clerk. Said application shall contain sufficient information to identify the party, its interest in the matter, and the reasons for requesting an appeal. Section 2-301 of Ordinance No. 13-08 defines "Affected Person" to mean "any person, including the applicant, any city staff member, committee, or commission who has an interest in the matter at issue or whose health, safety, or welfare may be affected by the decision." Section 2-301 defines "Review" to mean reconsideration of the decision of any city employee, committee, or commission requested by the City Council, on its own motion, or upon request of any City Council member, in order to consider the decision and any broad legislative and policy factors involved. This could mean the only body having jurisdiction to review a decision of the Zoning Administrator is the City Council. If this is the

case, the Planning Commission would be preempted from reviewing a decision of the Zoning Administrator in case ZA-15-01 according to Section 2-301.

The Parker Request for Review fails to provide any justification or sufficient information to identify herself, the Residents or TBON as having such an interest in the matter at issue to be qualified as an "affected person" or "affected persons" or having any interest affecting their health, safety or welfare. The reasons set forth in the Parker Request for Review states that the conditions imposed by the Zoning Administrator's decision have been ignored. This allegation is just not true, has no merit and would not give rise to Ann Parker being an "Affected Person." In any event the conditions are in the process of being implemented during the period time as authorized by the MCUP. Regardless, Ann Parker, the Residents and TBON lack standing to request review which can only be made by the Planning Commission, a Planning Commission member, the City Council or a City Council Member.

A search of the City's records disclose that Ann Parker on a number of occasions has appeared before the Costa Mesa Planning Commission and City Council to voice her objection to the City's ordinances and regulations allowing group homes to exist in the City. Ann Parker has expressed strong feelings against providing these services for recovering addicts in Costa Mesa. The City, however, as a public entity must conduct itself in compliance with federal and state law. The City is bound by the provisions of the Americans With Disabilities Act and other state and federal constitutional guarantees to prevent discrimination against persons disabled by addiction. Nevertheless, Ann Parker has shown in her prior testimony before the Planning Commission and City Council her ill-will against these facilities and this ill-will is likely to be the true motivation behind the Parker Request for Review of the Zoning Administrator's decision in case ZA-15-01. Ann Parker is not an "Affected Person" in this case but is attempting to use this process to promote her established position in opposition to group homes in Costa Mesa. This is not relevant to case ZA-15-01 and constitutes an abuse of process.

Zoning Administrator's Decision

The Zoning Administrator's decision contains a comprehensive report in granting the Minor Conditional Use Permit ("MCUP") to allow a parking reduction for the group counseling use conducted by my client in the MCUP Building, a two-story, 6,710 square foot commercial building located at 657 West 19th Street. The Zoning Administrator considered in detail: the land uses surrounding the MCUP Building; a description of the MCUP Building uses; the justifications for approving the MCUP; and the consistency with the goals and objectives of the General Plan and permitted uses in the C-1 zoning district. The Zoning Administrator not only had the evidence to consider submitted by my client but had input and could rely on the professional recommendations from the City Transportation Services, Economic and Development Services, and the Fire and Police Departments to assist in reaching this decision granting the MCUP.

The Zoning Administrator in support of her decision adopted findings stating: (i) the proposed use of the MCUP Building is compatible with other developments in the same general area and that an adequate number of on-site parking spaces can be provided for the use; (ii) granting the MCUP will not be materially detrimental to the health, safety and general welfare of the public or neighborhood; (iii) granting the MCUP is consistent with the goals and

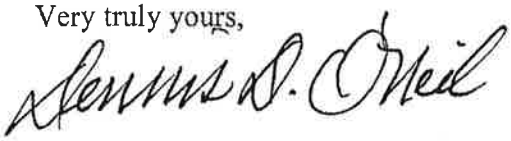
objectives of the General Plan; and (iv) the existing neighborhoods will be protected from incompatible land uses and by reducing or eliminating intrusion of commuters through traffic on local streets.

Most importantly, the Zoning Administrator attached 27 conditions of approval to the MCUP for ZA-15-01. The most significant conditions are: (i) limitation on the hours of operation of the MCUP Building; (ii) no employees, clients or visitors shall be allowed to park on City streets; (iii) the Planning Commission retains the power to modify or revoke the MCUP for noncompliance with the conditions of approval; (iv) if parking-related problems arise, the applicant shall institute appropriate operational measures necessary to eliminate the problem; and (v) provide that the main access to the parking for the MCUP Building be taken off of 19th Street and Plumer Street access shall only be used for vehicle egress. My client has agreed to abide by all conditions imposed by the Zoning Administrator and is in the process of implementing those conditions requiring any follow-up action.

The outpatient counseling services conducted at the MCUP Building are provided for disabled men recovering from alcoholism and substance abuse. This is a permitted use in the City's General Plan and the MCUP Building zoning district. The American's with Disabilities Act prohibits state and local governments from discriminating against individuals with disabilities in virtually all governance activities and decision-making, including planning and land use. The overwhelming preponderance of the evidence presented to the Zoning Administrator clearly establishes the basis for issuance of Zoning Application ZA-15-01. Further, the findings and conditions of approval address the adequacy of onsite parking for the MCUP Building and serve to protect the health, safety and general welfare of the City and its residents and businesses. Any attempt to overrule the decision of the Zoning Administrator in Zoning Application ZA-15-01 would be without justification and considered arbitrary and capricious. Overruling the decision of the Zoning Administrator would further cause significant harm to members of a protected class under state and federal anti-discrimination laws.

On behalf of Solid Landings Behavioral Health, dba Rock Solid Recovery, for the reasons set forth in this letter, I respectfully urge the Planning Commission to summarily dismiss the Parker Request for Review of Zoning Application ZA-15-01 and declare it to be void and of no force and effect.

Very truly yours,



Dennis D. O'Neil

DDO/clt
copy: Colin McCarthy (colinkmccarthy@yahoo.com)
Tim Sesler (twsesler@gmail.com)
Jeff Mathews (aventruc@ca.rr.com)
Stephan Andranian (sandranian@yahoo.com)
Claire L. Flynn (claire.flynn@costamesaca.gov)
Mel Lee (mel.lee@costamesa.gov)
Yolanda M. Summerhill (yms@jones-mayer.com)
Kristen Ford (kristen.ford@solidlandings.com)

Exhibit "E"

In re: APPEAL OF THE ZONING ADMINISTRATOR'S APPROVAL OF ZONING APPLICATION ZA-15-01 FOR A DEVIATION FROM PARKING REQUIREMENTS FOR A GROUP COUNSELING USE AT 657 W. 19TH STREET

DECLARATION OF YESENIA UMANA

I, YESENIA UMANA, declare as follows:

1. I am the Community Relations and Real Estate Liaison for Solid Landings Behavioral Health ("Solid Landings"), which is located in Costa Mesa, California. I submit this Declaration in connection with the scheduled June 8, 2015 meeting concerning the above-referenced matter. I have personal knowledge of the following facts and can testify truthfully and competently to the following:

2. On April 23, 2015, the Zoning Administrator approved Solid Landings' application for a minor conditional use permit to deviate from parking requirements for the building located at 657 West 19th Street in Costa Mesa, which Solid Landings uses for group counseling services.

3. The approval was subject to various conditions, some of which were given deadlines for completion. I am responsible for overseeing the implementation of the conditions according to the proscribed schedule.

Condition #16 – Approval of Existing Gate Locations

4. Condition #16 requires Solid Landings to submit the existing vehicle gate locations to the Transportation Services Division for review and approval no later than May 29, 2015.

5. On May 26, 2015, I spoke with Elizabeth Palacio, an Engineering Technician with the City of Costa Mesa, and submitted site plans to her for approval. The site plans showed the existing vehicle gate locations.

6. Between May 26, 2015 and June 3, 2015 I followed up with Ms. Palacio via e-mail and phone on multiple occasions but did not receive a response. I also visited the Transportation Services Division in person to follow up. I also requested updates from Pritam Deshmukh, an Associate Engineer with the City.

7. On June 4, 2015, Ms. Palacio returned the submitted site plans to me with handwritten comments and requests for additional information.

8. I am presently in the process of obtaining the requested information and will submit the supplemented plans to the Transportation Services Division for further review promptly.

Condition #17 – Obtain Knox Systems for Gate Access

9. Condition #17 requires Solid Landings to obtain a Knox system for emergency gate access from the Costa Mesa Fire Department within 30 days from the date of approval for the existing gate on Plumer Street and concurrently with the approval of the gate on West 19th Street.

10. I have obtained the Authorization from the Costa Mesa Fire Department for the purchasing and installation of the required Knox systems.

Condition #14 and #15 – Obtain Approval for Commercial Driveway

11. Conditions #14 and #15 require Solid Landings to obtain Planning approval for the construction of a commercial driveway on West 19th Street and to revise the parking

area and access gates pursuant to certain conditions, including the elimination of parking spaces that interfere with the West 19th Street driveway access to the parking area.

12. To date, the five parking spaces along the West 19th Street driveway access to the parking area have been eliminated, and I am working with Planning towards plans for the construction of a commercial driveway, as required.

13. Per the Conditions for Approval, we have until June 12, 2015 to obtain such approval.

Various Other Conditions and Code Requirements

14. I am continuing to diligently work towards fulfilling the various other Conditions for Approval, including a landscape plan for the setback areas along the West 19th Street frontage (Condition #12, to be completed before July 29, 2015), posting of a visible street address (Code Requirement #4), screening of mechanical equipment (Code Requirement #5), and the submission of various other plans to the Planning ~~Commission~~ for final approval.

I declare under penalty of perjury pursuant to the laws of the United States of America that the foregoing is true and correct. Executed this 5 day of June, 2015 at Costa Mesa, California.

By: Yesenia Umana
YESENIA UMANA

Exhibit “F”

CITY OF COSTA MESA

P.O. BOX 1200 • 77 FAIR DRIVE • CALIFORNIA 92628-1200

DEVELOPMENT SERVICES DEPARTMENT

NOTICE OF DECISION
PLANNING COMMISSION ACTION

DATE: June 9, 2015

PROJECT NO: ZA-15-01

SITE ADDRESS: 657 West 19th Street

FINAL ACTION: At a noticed public hearing on June 8, 2015, Planning Commission reversed the Zoning Administrator's decision and denied Planning Application ZA-15-01, by adoption of Planning Commission Resolution PC-15-34. The final resolution is attached.

APPEAL PERIOD: This decision will become final unless appealed by 5 p.m., Monday June 15, 2015 by the filing of the necessary form and fees with the City Clerk's office, located at 77 Fair Drive, Costa Mesa.

PLANNING CONTACT: Mel Lee, Senior Planner, (714) 754-5611
mel.lee@costamesaca.gov

If you have any questions or comments regarding this notice of decision, please contact the project planner (above) or me at 714-754-5278.

Sincerely,

Claire L. Flynn, AICP
Assistant Development Services Director

DISTRIBUTION:

Solid Landings Behavioral Health
Attn: Kristen Ford
2900 Bristol Street, Suite B-300
Costa Mesa, CA 92626

Rock Solid Recovery
657 West 19th Street
Costa Mesa, CA 92627

John Morehart
126 East 16th Street
Costa Mesa, CA 92627

RESOLUTION NO. PC-15-34

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COSTA MESA REVERSING THE ZONING ADMINISTRATOR'S DECISION AND DENYING ZONING APPLICATION ZA-15-01 FOR A MINOR CONDITIONAL USE PERMIT FOR A REDUCTION IN ON-SITE PARKING SPACES FOR A GROUP COUNSELING USE AT 657 WEST 19TH STREET

THE PLANNING COMMISSION OF THE CITY OF COSTA MESA HEREBY RESOLVES AS FOLLOWS:

WHEREAS, an application was filed Kristen Ford, representing John Morehart, the property owner, requesting approval of the following:

Zoning Application ZA-15-01 is a Minor Conditional Use Permit to deviate from parking requirements for a group counseling use (Solid Landings) in a 6,710 square foot building (67 parking spaces is required for the use, 24 on-site parking spaces will be provided (29 existing minus 5 that will be lost when the West 19th Street gate is reopened per the conditions of approval) based on unique operating characteristics.

WHEREAS, on April 23, 2015, the Zoning Administrator approved the request; and

WHEREAS, on April 30, 2015, the Zoning Administrator's decision was appealed by a City resident; and

WHEREAS, a duly noticed public hearing held by the Planning Commission on June 8, 2015 with all persons having the opportunity to speak for and against the proposal; and

WHEREAS, the project was reviewed in accordance with the requirements of the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and the City of Costa Mesa Environmental Guidelines; and it was determined that CEQA does not apply to the project, pursuant to CEQA Guidelines Section 15270(a), because the project was denied; and

BE IT RESOLVED that, based on the evidence in the record and the findings contained in Exhibit A, the Planning Commission hereby reverses the Zoning

Administrator's decision and **DENIES** Planning Application ZA-15-01 with respect to the property described above.

BE IT FURTHER RESOLVED that if any section, division, sentence, clause, phrase or portion of this resolution, or the documents 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 8th day of June, 2015.

Robert L. Dickson Jr., Chair,
Costa Mesa Planning Commission

STATE OF CALIFORNIA)
) ss
COUNTY OF ORANGE)

I, Claire Flynn, Secretary to the Planning Commission of the City of Costa Mesa, do hereby certify that the foregoing Resolution No. 15-34 was passed and adopted at a meeting of the City of Costa Mesa Planning Commission held on June 8, 2015 by the following votes:

AYES: Dickson, Mathews, McCarthy, Sesler, Andranian

NOES: None

ABSENT: None

ABSTAIN: None

Claire L. Flynn, Secretary
Costa Mesa Planning Commission

EXHIBIT A

FINDINGS (DENIAL)

A. The information presented does not comply with Costa Mesa Municipal Code Section 13-29(g)(2) in that:

Finding: The proposed use is not compatible with developments in the same general area and would be materially detrimental to other properties within the area.

Facts in Support of Findings: The applicant's request cannot be supported based on the following:

- The residential neighborhoods on Center Street and Plumer Street are being disrupted by the following activities related to the use;
- Clients and employees have been observed parking on Center Street and Plumer Street instead of in the parking lot and walking to the facility; additionally, clients are walking to the faculty rather than being dropped off as indicated in the applicants' business plan.
- Employees have been observed parking in the nearby Costa Mesa Senior Center parking lot and walking to the facility.
- The client vans have been observed blocking traffic on Plumer Street and parking in the nearby Senior Center parking lot.
- The above activities are inconsistent with the plan submitted by the applicants, which indicated that all employees park inside the property, all clients are dropped off by vans inside the property so as to ensure minimal impact on the neighboring properties and the adjacent residential neighborhoods.
- In light of the above the Planning Commission finds that, according to the applicant's submittals, the current operation should have little or no impact on parking and traffic. However, the current operation is spilling over into the neighborhood demonstrating that the proposed operating measures are inadequate to address the parking shortfall.

The approval of ZA-09-34 for a group counseling center at 1901 Newport Boulevard, Suite 149, as cited by the applicant as basis for approval for the subject use, does not establish a precedent for the approval of this application based on the following:

- The 1901 Newport property is zoned PDC, versus the C1 zoning for the subject property;
- The 1901 Newport property is surrounded by commercial properties and a parking structure, versus the subject property, which is abutting residential uses;

- The 1901 Newport property had a shortfall of 2 spaces, based on the shortfall of 38-43 spaces for the subject use;
- The 1901 Newport property has available overflow parking on-site, versus the subject property;
- The 1901 Newport property has no vehicle gates, versus the subject property;
- The 1901 Newport property has all required building and fire safety permits and inspections, versus the subject property.

The use is not being operated in compliance of the following conditions of approval and code requirements for ZA-15-01:

- Conditions of Approval Numbers 3, 4, 5, 6, 8, 9, 11, 16, and 17;
- Code Requirement Numbers 1, 3, 4, 9, and 10.

The use as being operated constitutes a public nuisance per the following sections of Title 20, Chapter III, Article 1 Section 20-12 (Conditions or Uses Qualifying as a Public Nuisance):

- Sections a, x, z, ff, gg, hh, jj, and ll;

- The facility has been operated for nine months without the necessary approvals as noted above;

- The findings upon which the ZA approval was granted are no longer applicable.

Finding: Granting the minor conditional use permit will 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 Findings: The applicant's request cannot be supported based on the following:

The property owner and applicant did not follow the correct procedures for obtaining the necessary building and fire safety permits and inspections for the use, including, but not limited to, the following:

- Permits for interior and exterior alterations to the building, fire safety inspections, certificates of occupancy, and business licenses;
- The addition of the security gate on Plumer Street;
- The removal of the driveway and the addition of a vehicle gate on West 19th Street;
- The addition of glass storefront windows along the building's West 19th Street frontage;
- Kitchen and kitchenette facilities were installed without the required OC Health Department permits and inspections;

- Electrical conduits and piping were installed on the exterior of the building without the required electrical permits and inspections;
- Rusted/damaged exterior stairs were installed without the required building permits and inspections.

Finding: Granting the minor conditional use permit will allow a use, density, or intensity which is not in accordance with the General plan designation.

Facts in Support of Findings: The request is not consistent with the following goals and objectives of the General Plan:

- **Objective LU-1F.1:** *Protect existing stabilized residential neighborhoods from the encroachment of incompatible or potentially disruptive land uses and/or activities.*

- **Objective CIR-1A.14:** *Reduce or eliminate intrusion of commuter through traffic on local streets in residential neighborhoods.*

As noted earlier, the applicant's request cannot be supported based on the following:

- The residential neighborhoods on Center Street and Plumer Street are being disrupted by the following activities related to the use:

- Clients and employees have been observed parking on Center Street and Plumer Street instead of in the parking lot and walking to the facility;

- Employees have been observed parking in the nearby Senior Center parking lot and walking to the facility;

- The client vans have been observed blocking traffic on Plumer Street and parking in the nearby Senior Center parking lot.

B. The project has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines, and the City's environmental procedures. Pursuant to Public Resources Code Section 21080(b)(5) and CEQA Guidelines Section 15270(a), CEQA does not apply to this project because it has been rejected and will not be carried out.

C. The project is exempt from Chapter XII, Article 3, Transportation System Management, of Title 13 of the Costa Mesa Municipal Code.

Exhibit “G”

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CITY CLERK

Costa Mesa

City of Costa Mesa

15 JUN 12 PM 1:18

☑ Appeal of Planning Commission Decision - $1,220.00
☐ Appeal of Zoning Administrator/Staff Decision - $490.00

CITY OF COSTA MESA
BY BG

APPLICATION FOR APPEAL OR REVIEW

Applicant Name* Kristen Ford
Address 2900 Bristol St., Suite B-300, Costa Mesa, CA 92626
Phone 949-467-9213 Representing Solid Landings Behavioral Health

REQUEST FOR: ☑ **APPEAL** ☐ **REVIEW****

Decision of which appeal or review is requested: (give application number, if applicable, and the date of the decision, if known.)

Appeal of the Planning Commission's denial on June 8, 2015 of Zoning Administrator's approval of a minor conditional use permit allowing a deviation from parking requirements for the building at 657 W. 19th Street (Application ZA-15-01).

Decision by: Planning Commission
Reasons for requesting appeal or review:

The decision of the Planning Commission overruling the Zoning Administrator of approval of a minor conditional use permit to deviate from parking requirements for the applicant's group counseling facilities at 657 W. 19th Street denied the applicant a fair hearing on the following grounds:

1. The findings of the Planning Commission supporting the decision cannot be justified in fact or in law.

2. The decision of the Planning Commission was based on unsubstantiated testimony and evidence introduced by the appellant without opportunity for the applicant to review or respond resulting in a denial of due process of law.

3. The Planning Commission's decision resulted in a denial of the applicant's rights as a protected class under the American's With Disabilities Act and other state and federal anti-discrimination laws.

Due to scheduling conflicts, I am respectfully requesting this appeal to be set for hearing at the July 21, 2015 meeting of the City Council.

Date: June 12, 2015 Signature: [signature]

*If you are serving as the agent for another person, please identify the person you represent and provide proof of authorization.
**Review may be requested only by Planning Commission, Planning Commission Member, City Council, or City Council Member

For office use only – do not write below this line

SCHEDULED FOR THE CITY COUNCIL/PLANNING COMMISSION MEETING OF:
If appeal or review is for a person or body other than City Council/Planning Commission, date of hearing of appeal or review:

Exhibit “H”

ORDINANCE NO. 13-08

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, AMENDING CHAPTER IX OF TITLE 2 OF THE COSTA MESA MUNICIPAL CODE RELATING TO APPEAL, REHEARING, AND REVIEW PROCEDURE

WHEREAS, Chapter IX of Title 2 of the Costa Mesa Municipal Code provides for the review, appeal, and rehearing of decisions; and

WHEREAS, the City Council desires to amend Chapter IX to preserve the appeal and review procedures and remove the rehearing procedure.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF COSTA MESA DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Chapter IX of Title 2 of the Costa Mesa Municipal Code is hereby amended as follows:

CHAPTER IX. APPEAL AND REVIEW PROCEDURE

Sec. 2-300. Purpose.
Sec. 2-301. Definitions.
Sec. 2-302. City council review requests.
Sec. 2-303. Procedure for appeal.
Sec. 2-304. Reserved.
Sec. 2-305. Time limitations for appeals and reviews.
Sec. 2-306. Time limitation for issuance of permits.
Sec. 2-307. Fees.
Sec. 2-308. Notice of appeal or review.
Sec. 2-309. Person or body to hear an appeal or review a decision.
Sec. 2-310. Exhaustion of administrative remedies.
Sec. 2-311. Exclusive procedures.
Sec. 2-312. Accrual of certain claims.
Sec. 2-313. Limitations on judicial review.
Sec. 2-314. Severability.
Secs. 2-315—2-400. Reserved.

Sec. 2-300. Purpose.

The purpose of this chapter is to provide an orderly and fair method of appeal and review of decisions of the staff, committees, commissions and council of the city.

Sec. 2-301. Definitions.

As used in this chapter, the following terms shall have the meanings set forth herein below:

(1) *Affected person* means any person, including the applicant, any city staff member, committee, or commission who has an interest in the matter at issue or whose health, safety, or welfare may be affected by the decision.

(2) *Appeal* means reconsideration, by a higher authority, of the specific facts and circumstances of any final decision made by the city, any of its employees, committees or commissions or by the redevelopment agency.

(3) *Applicant* means the person who applied for or requested the decision or action which is the subject of the appeal or review.

(4) *Council* means the Costa Mesa City Council.

(5) *Decision* means any final decision, finding, ruling, order or action.

(6) *Permit,* as used in section 2-306, means anything referred to elsewhere in this Code as being a "permit" or "license."

(7) *Person* shall have the meaning attributed in section 1-21 of this Code.

(8) *Review* means reconsideration of the decision of any city employee, committee, or commission requested by the city council, on its own motion, or upon request of any council member, in order to consider the decision and any broad legislative and policy factors involved.

Sec. 2-302. City council review requests.

Within the time limits set forth in section 2-305, the city council or any council member may request that a decision of any city employee, committee, or commission be reviewed by filing an application with the city clerk stating the reasons for the requested review. Said review will be conducted according to the procedures specified in section 2-303 and 2-309. The person or body to hear the review will be designated in the application by the person or body seeking such review and shall be as specified in section 2-309, unless the council as a whole specifies a higher level of review in the first instance.

Sec. 2-303. Procedure for appeal.

(1) Any affected person may, within the time limits set forth in section 2-305, file an application for appeal with the city clerk. Said application shall contain sufficient information to identify the party, its interest in the matter, and the reasons for requesting an appeal.

(2) If the appeal is to be heard by a person or body which conducts regularly scheduled meetings, the appeal shall be considered at the first regular meeting which follows receipt of the application by ten (10) or more days, and which allows sufficient time for the giving of notice as required by section 2-308

(3) If the appeal is to be heard by an individual or body which does not conduct regularly scheduled meetings, the appeal shall be considered not more than ten (10) days following receipt of the application; provided that the time period may be extended if necessary to allow the giving of notice as required by section 2-308

(4) An appeal hearing shall consist of a new (i.e., de novo) hearing on the matter by the person or body specified in section 2-309. The appeal hearing shall be based on the following evidence:

(a) Any relevant evidence, including staff reports, etc., submitted at the time of the prior decision and at the appeal hearing, and

(b) Findings, if any, and decision of the person or body whose decision is being appealed.

(5) Notwithstanding the provisions of this chapter, there shall be no right of appeal to the city council from a decision by a public officer designated by City Council Policy No. 100-7 on an application for a waiver of fees for use of a city owned public facility or show wagon. A decision pursuant to City Council Policy No. 100-7 shall be subject to California Code of Civil Procedure section 1094.6.

(6) If the original decision being appealed involved issuance of any permit, license, or other entitlement or approval or requested some action by the city, the applicant for the original decision shall have the burden of proof to support the granting of the requested issuance, approval, or action at the appeal.

Sec. 2-304. Reserved.

Sec. 2-305. Time limitations for appeals and reviews.

All applications for appeals and reviews must be filed, in writing, during regular business hours of 8:00 a.m. to 5:00 p.m., Monday through Friday, except holidays, and within the time limits hereinafter set forth:

(1) For all matters relating to the approval, disapproval or extension of tentative and parcel maps, within ten (10) days from the date of the final decision subject to appeal or review.

(2) For all other items, within seven (7) days from the date of the final decision subject to appeal or review.

(3) For all matters requiring approval by the city, its employees, committees, or commissions, and by the redevelopment agency, the time limits for all applications shall begin on the date of the later of the following:

(a) Final decision by the city, its employees, committees, or commissions; or

(b) Final decision by the redevelopment agency.

If the final day for filing an application for appeal or review falls on a holiday or weekend day when city hall is closed, the application shall be filed no later than the next business day.

Sec. 2-306. Time limitation for issuance of permits.

Where a permit is sought and its issuance is contingent upon obtaining a prerequisite permit, the permit sought shall not be issued until the expiration of the time limit for seeking an appeal or review specified in section 2-305 applied to the prerequisite permit. Provided, however, that if an application for appeal or review of the prerequisite permit is filed within the specified time limits, the permit sought shall not be issued until seven (7) days following the final decision on the appeal or review. Any permit issued in violation of the provisions of this section shall be void.

Sec. 2-307. Fees.

Each application for appeal shall be accompanied by a processing fee in an amount determined by resolution of the city council.

Sec. 2-308. Notice of appeal or review.

Notice of the hearing for the appeal or review shall be given in the same manner as any required notice for the hearing at which the decision subject to the appeal or review was made. In all cases for the hearing for an appeal or review, written notice of the date, time, and place shall be given to the original applicant, if any, any prior applicant for appeal regarding the same matter, and for appeals the person requesting the current appeal.

Sec. 2-309. Person or body to hear an appeal or review a decision.

The person or body to hear an appeal or review a decision shall be the following:

(1) From a decision of the city staff to the department head; except that an appeal from a decision of the transportation services engineer regarding traffic matters pursuant to Title 10 of this Code, shall be made to the planning commission;

(2) From a decision of the department head to the city manager; except that (a) an appeal from a decision of the development services director on planning matters pursuant to Title 13 of this Code shall be made to the planning commission, and (b) an appeal from a decision of the building official on building matters pursuant to Title 5 of this Code shall be to the access, building, fire and housing board of appeals as required by section 5-3 of this Code;

(3) From a decision of the city manager to the city council;

(4) From a decision of any city committee or commission to the city council.

Sec. 2-310. Exhaustion of administrative remedies.

Unless appealed or reviewed as provided herein, any decision becomes final for all purposes when made.

Sec. 2-311. Exclusive procedures.

The procedures set forth in this chapter are the exclusive methods by which appeals and reviews may be pursued and none of the steps set forth herein may be waived or omitted.

Sec. 2-312. Accrual of certain claims.

No claim for violation of constitutional rights for deprivation of economic use of property shall arise until and unless a claimant has secured a final decision on a permit application for a plan of development and on a request for a variance or similar relief from the zone or other development standard for a plan of development as specified in Title 13 of this Code.

Sec. 2-313. Limitations on judicial review.

Notwithstanding any provision in this Code to the contrary, no court action or proceeding to attack, review, set aside, void or annul any decision or procedure of the City of Costa Mesa, its council, commissions, boards or officers, which has become administratively final shall be maintained by any aggrieved person unless duly commenced in a court of competent jurisdiction within ninety (90) days, as provided in California Code of Civil Procedure, Section 1094.6, incorporated herein by reference, and/or as provided in California Government Code section 65009, or any shorter statute of limitations provided by law.

Sec. 2-314. Severability.

If any provision of this chapter is found to be invalid or unconstitutional by interpretation or application to any person or circumstances, such invalidity or

unconstitutionality shall not affect the other provisions or applications thereof which can be given valid effect.

Secs. 2-315—2-400. Reserved.

Section 2. Any provision of the Costa Mesa Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to that extent necessary to effect the provisions of this Ordinance.

Section 3. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Costa Mesa hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

Section 4. The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published and posted pursuant to the provisions of law in that regard and this Ordinance shall take effect 30 days after its final passage.

PASSED AND ADOPTED this 3rd day of December, 2013.

JAMES M. RIGHEIMER
Mayor

ATTEST:

Brenda Green
BRENDA GREEN
City Clerk

APPROVED AS TO FORM:

THOMAS DUARTE
City Attorney

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

I, BRENDA GREEN, City Clerk and ex-officio clerk of the City Council of the City of Costa Mesa, hereby certify that the above and foregoing Ordinance No. 13-08 was introduced at a regular meeting of said City Council held on the 5th day of November, 2013, and thereafter passed and adopted as a whole at a regular meeting of said City Council held on the 3rd day of December, 2013, by the following roll call vote:

AYES:	COUNCIL MEMBERS:	Mensinger, Monahan, Righeimer
NOES:	COUNCIL MEMBERS:	Genis, Leece
ABSENT:	COUNCIL MEMBERS:	None

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of the City of Costa Mesa this 4th day of December, 2013.

Brenda Green

BRENDA GREEN
City Clerk