

RESOLUTION NO. 15-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA UPHOLDING THE PLANNING COMMISSION'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 CITY COUNCIL 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 Planning Commission, based on the evidence and testimony presented during the hearing, voted to deny the project by a 5-0 vote; and

WHEREAS, on June 12, 2015, an appeal of the decision of the Planning Commission's denial of the project was filed; and

WHEREAS, a duly noticed public hearing was held by the City Council on July 21, 2015 with all persons having the opportunity to speak for and against the proposal; and

BE IT RESOLVED that, based on the evidence in the record and the findings contained in Exhibit A, the City Council hereby upholds the Planning Commission's decision and **DENIES** Zoning 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 21st day of July, 2015.

STEPHEN M. MENSINGER
Mayor, City of Costa Mesa

ATTEST:

APPROVED AS TO FORM:

CITY CLERK OF THE
CITY OF COSTA MESA

CITY ATTORNEY

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 facility 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 found 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.

RESOLUTION NO. 15-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA REVERSING THE PLANNING COMMISSION'S DECISION AND APPROVING 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 CITY COUNCIL 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 Planning Commission, based on the evidence and testimony presented during the hearing, voted to deny the project by a 5-0 vote; and

WHEREAS, on June 12, 2015, an appeal of the decision of the Planning Commission's denial of the project was filed; and

WHEREAS, a duly noticed public hearing was held by the City Council on July 21, 2015 with all persons having the opportunity to speak for and against the proposal; and

WHEREAS, 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.

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

BE IT RESOLVED that, based on the evidence in the record and the findings contained in Exhibit A, and subject to the conditions of contained within Exhibit B, the City Council hereby **APPROVES** Zoning Application ZA-15-01.

BE IT FURTHER RESOLVED that the Costa Mesa City Council does hereby find and determine that adoption of this Resolution is expressly predicated upon the activity as described in the staff report for Zoning Application ZA-15-01 and upon the applicant's compliance with each and all of the conditions in Exhibit B, and compliance of all applicable federal, state, and local laws. Any approval granted by this resolution shall be subject to review, modification or revocation if there is a material change that occurs in the operation, or if the applicant fails to comply with any of the conditions of approval and/or mitigation measures.

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 21st day of July, 2015.

STEPHEN M. MENSINGER
Mayor, City of Costa Mesa

ATTEST:

APPROVED AS TO FORM:

CITY CLERK OF THE
CITY OF COSTA MESA

CITY ATTORNEY

EXHIBIT A

FINDINGS (APPROVAL)

- 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. 67 parking spaces is required for the use, 24 on-site parking spaces are provided (29 existing minus 5 that will be lost when the West 19th Street gate is reopened), leaving a shortfall of 43 spaces required for the use. However, based on the information provided by the applicant, only 20 parking spaces will be needed (17 employee vehicles and 3 vans), thus 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 West 19th Street will be required to be provided. Unlike other commercially-zoned properties on this block, which provide 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 provide 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.

EXHIBIT B

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 minor conditional use permit, subject to either Zoning Administrator or Planning Commission approval, depending on the nature of the proposed change. The applicant is reminded that 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 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 or her 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 may be 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 West 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 West 19th 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 West 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 and/or proposed vehicle gate locations shall be submitted to the Transportation Services Division for review and approval. If the existing/proposed 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 West 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.