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City of Costa Mesa

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CITY OF COSTA MESA  
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- Appeal of Planning Commission Decision/Rehearing: \$1,220.00
- Appeal of Zoning Administrator/ Building Official / Fire Marshal / Staff Decision: \$690.00

**APPLICATION FOR APPEAL OR REVIEW**

Applicant Name\* Michael H. Leifer, attorney for Koll-Irvine Community Association  
 Address c/o Palmieri, Tyler, Wiener, Wilhelm & Waldron, LLP, 1900 Main Street, Suite 100, Irvine, CA 92614  
 Phone (949) 851-7294

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.)

PA-16-48 "Conditional Use Permit" to establish a theater/school at 3184-A Airway Avenue; decided on June 13, 2016.

Decision by: Planning Commission

Reasons for requesting appeal or review:

The Planning Commission's decision was improper and an abuse of discretion.

Koll-Irvine Community Association's objection letter submitted to the Planning Commission on June 13, 2016 is attached. This application in no way limits the grounds or evidence on which this appeal is being made.

Date: June 17, 2016

Signature: Michael H Leifer

\*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

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

CHK # 57223

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June 13, 2016

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Refer To File No. 35458-003  
Document I.D. 1823699.1

## VIA E-MAIL

City of Costa Mesa Planning Commission  
77 Fair Drive  
Costa Mesa, California 92626

Re: Conditional Use Permit PA-16-48 for Arts and Learning Conservatory and Shared Parking Requirements at 3184 Airway Avenue, Suite A

Dear Planning Commissioners:

This office represents the association for the business park in which the 3184-A Airway Avenue property is located in--Koll-Irvine Community Association ("Association.")

The Association objects to the proposed conditional use permit. We request that this letter be included in the administrative record.

In reviewing the Staff Report, it omits material and fundamental information. It improperly presents in favor of adoption by omission and mischaracterization. In many ways, the Staff Report defies common sense about the nature of the Association's business park development and the nature of the Theater/School applicant. In short, they don't mix.

This Planning Commission is required to apply the Zoning Code even if it receives an inadequate or improper Staff Report.

The Theater/School should not be approved:

- The Theater/School is simply not compatible with the business park, the rights of the Association or the rights of its members.
- The Planning Commission cannot properly grant a conditional use permit for this proposed use. It also may not approve a deviation from the parking requirements.

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- The application is for a theater within the MP (industrial park) zone. The theater space as proposed is more than half of the square-footage of the 3184-A unit. (Staff Report, p. 3.) Pursuant to Costa Mesa Municipal Code section 13-30, Land Use Matrix items 99 and 100, a theater is neither a permitted nor conditionally permitted use in the MP zone.
- Located next to the Freeway, the Airport and Redhill, the business park was developed for business use; not a Theater/School. The building and land ratio and configuration is business park, not Theater/School.
- The business park is subject to the CC&Rs. Staff's recommended approval is of a use that is not permitted.
- The Planning Commission cannot properly approve the requested "deviation" from parking requirements.
  - The Planning Commission cannot make the requisite findings to approve the request.
  - The parking area in the business park is part of the common area that is owned by the Association. Each member of the Association has a right to use the parking area--no one member's rights are superior or exclusive in relation to another member's.
  - Staff is recommending that the Planning Commission change the CC&Rs that govern the business park and the rights of the Association and its members by **purporting to approve a surcharge on the parking by the applicant**. Improper.
  - The Staff Report and the "analysis" provided is improper, incomplete and inadequate.
    - The "analysis" of parking appears to be focused on the "6 weekends" of performances--a total of 30 performances. It contravenes the rights of other members. The "analysis" defies common sense and the existing conditions about which the City is aware. It ignores the parking situation that will occur on a daily basis for the school and summer camp components.
    - The claim that the drop off and pick up does not need to be analyzed because "their parent's vehicle . . . does not remain on-site during the instructional period" defies commonsense and is not supported.

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June 13, 2016

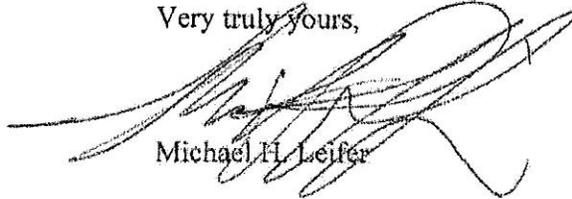
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- There has been no analysis of the circulation impacts on the parking area caused by having school-age children dropped off and picked up at set times during the day.

Approval of this application would purport to substantially affect important rights of the Association and its members including the rights provided in the CC&Rs. There is no evidence to support this use in the MP industrial park zone. There is no evidence to support the deviation from the Municipal Code and the significant surcharge on the parking proposed by this use.

The Association requests that the Planning Commission deny the instant application.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Michael H. Leifer', is written over the typed name. The signature is stylized and somewhat cursive.

Michael H. Leifer

MHL:ebn

cc: Mel Lee, Senior Planner  
Client