



Agenda Report

Item #: 26-451

Meeting Date: 10/20/2026

TITLE: RECONSIDERATION OF A REQUEST FOR CONDITIONAL USE PERMIT PA-17-10 TO OPERATE A SOBER LIVING HOME UP TO 45 ADULTS WITHIN FIVE UNITS OPERATED BY THE OHIO HOUSE AT 115 EAST WILSON STREET, UNITS A THROUGH E

DEPARTMENT: COMMUNITY DEVELOPMENT DEPARTMENT/PLANNING DIVISION

PRESENTED BY: VICTOR MENDEZ, SENIOR PLANNER

CONTACT INFORMATION: VICTOR MENDEZ, SENIOR PLANNER (714) 754-5276

RECOMMENDATION:

1. Find that the project is Exempt from the California Environmental Quality Act (CEQA), Section 15301 (Class 1), based on the findings and conclusions in the staff report; and
2. Hold a public hearing to reconsider application for Conditional Use Permit PA-17-10 and adopt a resolution approving Conditional Use Permit PA-17-10.

APPLICANT OR AUTHORIZED AGENT:

The applicant is The Ohio House LLC.

BACKGROUND:

The Ohio House has operated a sober living home on this property since 2012. This facility houses up to 45 adults (8 clients per unit), including a resident manager in each of the five units. Pursuant to Costa Mesa Municipal Code (CMMC) section 13-323, group homes serving seven or more residents may be permitted on sites zoned for multi-family development, subject to approval of a conditional use permit (CUP).

The CMMC requires that a group home, residential care facility, or state-licensed drug and alcohol treatment facility (with 7 or more occupants) be at least 650 feet from another property that contains a group home, sober living home or state-licensed drug and alcohol treatment facility. The subject property is located within 550 feet of a City-approved sober living home with an existing CUP (PA-16-03) at 165 East Wilson Street. This facility was one basis for the Planning Commission's denial of previous Reasonable Accommodation requests and a CUP discussed below:

In May 2017, CMMC Section 13-323(b) was amended by Ordinance 17-05 to add an exception to the 650-foot separation requirement for group homes, residential care facilities, and state-licensed drug and alcohol treatment facilities. The amendment allows approval of a group home, residential care facility or state-license drug and alcohol treatment facility within 650 feet of another if the reviewing authority determines that such location will not result in an over-concentration of similar uses.

On October 27, 2017, the applicant requested a Reasonable Accommodation to allow the facility to continue operating without complying with the Zoning Code, including the separation requirement. The request argued that the facility was a legal nonconforming use predating the 2015 Group Home Ordinance and that each unit functioned as a single housekeeping unit, and regardless, an exception to the separation requirement should be granted. After going through the appeal process, on August 6, 2019, the City Council upheld the decision of the Planning Commission to deny a Reasonable Accommodation request and to deny CUP PA-17-10 to allow a sober living home operated by Ohio House.

The 2022 U.S. District Court judgment in *Ohio House, LLC v. City of Costa Mesa* upheld the City's 2017 denial, finding no wrongful failure to grant a reasonable accommodation, and no unlawful discrimination or violation of any law including the 2020 FEHA amendments. On April 24, 2025, the Ninth Circuit Court of Appeals upheld the District Court's 2022 judgment in favor of the City.

On May 2, May 6, and June 2, 2025, The Ohio House LLC submitted its third request for Reasonable Accommodation to continue operating a sober living home at 115 E. Wilson St., Units A–E. The request cites alleged material changes in circumstances since prior denials, including the 2022 California Housing and Community Development Department (HCD) Group Home Technical Advisory, the City's adopted housing element, the California Attorney General's amicus brief in related federal litigation, a 2023 HCD letter, and a claimed reduction in sober living homes within the City. This renewed request asks that the City either: 1) waive the "strict application" of the City's definition of "single housekeeping unit," enabling the residents of each unit to qualify as single housekeeping units and thus be exempted from the City's sober living home requirements; or 2) in the alternative, to grant a 100-foot reduction in the 650-foot separation requirement to enable them to obtain a conditional use permit due to the existence of a City-permitted sober living home at 165 E. Wilson Street (located 550 feet from The Ohio House), and take other actions necessary for the issuance of a CUP by the Planning Commission, including a waiver of the City's submittal deadlines and the application of the Uniform Housing Code's occupancy limitations, rather than the HUD standard which is part of the City's adopted Housing Element.

On July 2, 2025, the Director denied the Reasonable Accommodation request. On July 9, 2025, The Ohio House, LLC, along with several of its residents, appealed the Director's decision, alleging violations of state law, fair housing requirements, and City planning policies. On September 22, 2025¹, the Planning Commission voted 5-1, with one member absent, to uphold the Director's denial of the request for Reasonable Accommodation. The Resolution adopted by the Planning Commission is attached to this report (Resolution PC-2025-19, Attachment 5). An excerpt of the minutes of the Planning Commission meeting of September 22, 2025, is included as Attachment 8.

On September 29, 2025, The Ohio House, LLC, along with several of its residents, appealed the Planning Commission's decision, alleging violations of state law, fair housing requirements, and City planning requirements (Attachment 6).

The appeal was agenized for the December 2, 2025, City Council meeting. Prior to the meeting, but after the public hearing was noticed, the applicant submitted a request to continue the item to the

³ The September 22, 2025 staff report and meeting video can be viewed links below:

Report: <https://costamesa.legistar.com/View.ashx?M=F&ID=14791199&GUID=87E94289-5E80-47BB-84B7-D08CE10E8442>

Video: https://costamesa.granicus.com/player/clip/4309?view_id=14&redirect=true

February 3, 2026, City Council Meeting. The City Council opened the public hearing and voted to continue the item.

The item was subsequently agendaized for the February 3, 2026 City Council Meeting. Prior to the meeting, but before the agenda was publicized, staff requested to continue the item to the April 21, 2026, City Council Meeting. The City Council opened the public hearing and continued the item. The item was subsequently agendaized for the April 21, June 16, and September 1, 2026, City Council meetings. Prior to each meeting and before publication of the respective agendas, the applicant requested continuances to June 16, September 1, and October 20, 2026, respectively. At each meeting, the City Council opened the public hearing and voted unanimously to continue the item.

After renoticing, on October 6, 2026, the City Council opened the public hearing and voted 7-0 to remand the Reasonable Accommodation request to the Community Development Director for reconsideration and directed staff to notice a public hearing for October 20, 2026, to reconsider its previous action on the CUP following the Director's decision. On October 13, 2026, the Community Development Director approved the Reasonable Accommodation request, including approval of an Operator's Permit which is required for group homes with seven or more occupants if the facility is not licensed by the State of California pursuant to CMMC sections 13-323(c) and 9-372, with modified conditions as included in the Reasonable Accommodation request and as developed through the interactive process.

ANALYSIS:

Facility Description

This development was approved as a five-unit common interest development in 2003. Each individual lot is separately owned; however, each individual lot owner is also part owner of a commonly-held lot and is part of a joint homeowner's association. In addition, the application is for the operation of one facility by a single operator. Each lot contains a two-story residence. This facility serves up to 40 residents with a resident manager per unit, for a total of up to 45 residents in the five-unit facility.

With the exception of the lot width, this project satisfied all residential development standards when it was approved in 2003; those same development standards still apply. As currently required for detached units, a two-car garage with space for two open parking spaces in the driveway leading to the garage exists for each of the five units, for a total of 20 parking spaces (10 covered and 10 open). Consequently, with the exception of the non-conforming minimum lot width requirements, all applicable standards for developing five common interest, multiple family residential units are met on this property.

Each of the five units contains four bedrooms and three bathrooms, as well as a kitchen, family room, and living/dining room. Pursuant to previous reports, it appears that each of the five units houses up to eight residents and one manager; however, the applicant's submitted information has been inconsistent (as noted below). The number of bedrooms, beds, bathrooms, and persons per room for each unit is provided in Table 1:

Table 1 – Unit Breakdown

Unit	Bedrooms	Beds ¹	Bathrooms	Total Rooms ²	Persons per room ³
A	4	8 to 9	3	6	1.3 to 1.5
B	4	8 to 9	3	6	1.3 to 1.5
C	4	8 to 9	3	6	1.3 to 1.5
D	4	8 to 9	3	6	1.3 to 1.5
E	4	8 to 9	3	6	1.3 to 1.5
Totals:	20	40 to 45	15	30	1.3 to 1.5

¹ Applicant's information is incomplete; cannot confirm if 8 or 9 beds per unit are provided

² Number of bedrooms combined with family room and living/dining room

³ Based on eight residents plus one bed for live-in manager per unit

Conditional Use Permit

A Conditional Use Permit (CUP) is required pursuant to CMMC section 13-323, as the project proposes a sober living home with seven or more occupants within the R2-MD (Multiple-Family Residential, Medium Density) zoning district.

If the City Council approves the CUP request for the subject property, the applicant will be required to maintain compliance with the Operator's Permit requirements, and adopted conditions of approval. The Operator's Permit may be revoked for violations following a hearing, subject to an appeal. Failure to maintain an Operator's Permit may also subject the CUP to revocation.

Required Separation

CMMC Title 13 Chapter XVI established requirements for sober living homes, group homes, and licensed drug and alcohol treatment facilities in multi-family zoning districts that would otherwise be treated as more restricted boardinghouses. The City Council reduced the higher separation standard applicable to boardinghouses (1,000 feet) to a lesser 650 feet between group homes, sober living homes, and licensed drug and alcohol treatment facilities. Part of the intent of these requirements is to ensure that businesses such as group homes, sober living homes and licensed drug and alcohol treatment facilities do not occupy a disproportionate number of homes in any residential neighborhood, and to avoid overconcentration in any area.

The City also sought to ensure that disabled persons, including those recovering from addiction, can reside in a comfortable residential environment versus in an institutional setting. The City determined that congregating group homes, sober living homes and licensed drug and alcohol treatment facilities in close proximity to each other does not provide the disabled with an opportunity to "live in normal residential surroundings" but, rather, places them into living environments bearing more in common with the types of institutional/campus/dormitory living from which the state and federal laws were designed to provide disabled persons relief.

The subject property is within 650 feet of a sober living home approved by the City in 2016 under CUP PA-16-03. Therefore, the proposed facility does not meet the separation standards required by the Zoning Code.

Separation Conflict Map

The CMMC requires a separation of 650 feet between group homes, sober living homes, residential care facilities and state-licensed drug and alcohol treatment facilities, unless the reviewing authority determines that a closer location will not result in an over-concentration of similar uses.

The attached separation map indicates that there is one facility within 650 feet of the subject property. The sober living home at 165 East Wilson Street was approved by the City in 2016 under PA-16-03. For further details, please refer to Table 2 below.

Table 2 – Separation Map Summary

Location	Status
165 East Wilson Street	Sober living home approved by the City in 2016 as PA-16-03, serving 11 residents, including one live-in house manager. This facility is shown as a separation conflict on the map.

Overconcentration Pursuant to CMMC 13-323(b)

Pursuant to section 13-323(b) of the CMMC, a group home, residential care facility or state-licensed drug and alcohol treatment facility shall be located a minimum of 650 feet from another property containing a similar use, as measured from property line to property line, unless the reviewing authority determines that such location will not result in an over-concentration of similar uses.

This section allows the approving authority to approve deviations to the separation requirement where the evidence shows that such location will not result in an over-concentration. Following the City Council's remand to the Director, the Director issued a determination on the Reasonable Accommodation request, finding that an accommodation is "necessary" and "reasonable" within the meaning of the federal and state fair housing laws, and allowing a deviation from the separation requirement based on the determination that approval of this location will not result in an over-concentration. A copy of the Director's determination is provided as Attachment 7.

General Plan Conformance

The provision of a variety of housing types, including housing for the disabled, is consistent with the Land Use and Housing Elements of the City's General Plan.

Policy LU-3.1: *Protect existing stabilized residential neighborhoods, including mobile home parks (and manufactured housing parks) from the encroachment of incompatible or potentially disruptive land uses and/or activities.*

Consistent: The proposed use would not encroach upon an established residential neighborhood, as the sober living home has operated at the property for more than 10 years and would continue the existing residential use without substantially altering its established character.

Policy HOU-2.1: *Facilitate the development of housing that meets the needs of all segments of the population including affordable housing and households with specialized needs.*

Consistent: The proposed request provides for a supportive living environment for persons who are considered disabled under state and federal law.

FINDINGS

Pursuant to CMMC section 13-29(g), Findings, in order to approve the project, the City Council must find that the evidence presented in the administrative record substantially meets specified findings to approve each application.

Conditional Use Permit

Pursuant to CMMC section 13-29(g)(2), in order to approve the Conditional Use Permit, the City Council must find that the evidence presented in the administrative record substantially meets the following applicable required Conditional Use Permit findings:

1. *The proposed development or use is substantially compatible with developments in the same general area and would not be materially detrimental to other properties within the area.*

Consistent. The facility consists of five units on five parcels with a common lot constituting a common interest development and accommodates up to 45 adults. The site satisfies all applicable development standards, with the exception of minimum lot width requirements. The site is surrounded by multi-family residential development and is adjacent to the commercial corridor along Newport Boulevard and the 55 Freeway; therefore, the proposed use is substantially compatible with development in the area and is not expected to be materially detrimental to surrounding properties.

2. *Granting the conditional use permit or minor conditional use permit will not be materially detrimental to the health, safety and general welfare of the public or otherwise injurious to property or improvements within the immediate neighborhood.*

Consistent. The sober living home has operated at the subject property for more than 10 years without materially altering the surrounding neighborhood, and the use is subject to applicable regulations, Operator's Permit requirements, and conditions of approval intended to address potential operational impacts. Accordingly, granting the CUP is not expected to be materially detrimental to the health, safety, or general welfare of the public or injurious to property or improvements in the immediate neighborhood.

3. *Granting the conditional use permit or minor conditional use permit will not allow a use, density or intensity which is not in accordance with the general plan designation and any applicable specific plan for the property.*

Consistent. The proposed use is consistent with the General Plan designation for the property, which supports residential development and associated residential uses. The CUP would allow the continued operation of an existing residential use within the established residential development and would not introduce a use, density, or intensity inconsistent with the General

Plan or any applicable specific plan.

Review Criteria

Pursuant to CMMC section 13-29(e), all planning applications shall be reviewed for consistency with the following review criteria. Below is a summary of the project's conformity with each criterion:

- 1) Compatible and harmonious relationship between the proposed building and site development, and use(s), and the building and site developments, and uses that exist or have been approved for the general neighborhood.

The facility consists of five units on five parcels with a common lot constituting a common interest development and accommodates up to 45 adults. The site satisfies all applicable development standards, with the exception of minimum lot width requirements. The site is surrounded by multi-family residential development and is adjacent to the commercial corridor along Newport Boulevard and the 55 Freeway; therefore, the proposed use is substantially compatible with and is not expected to be materially detrimental to the general neighborhood.

- 2) Safety and compatibility of the design of buildings, parking area, landscaping, luminaries and other site features which may include functional aspects of the site development such as automobile and pedestrian circulation.

The sober living home has operated at the subject property for more than 10 years without materially altering the surrounding neighborhood, and the use is subject to applicable regulations, Operator's Permit requirements, and conditions of approval intended to address potential operational impacts. Accordingly, granting the CUP is not expected to be materially detrimental to the health, safety, or general welfare of the public or injurious to property or improvements in the immediate neighborhood.

- 3) Compliance with any performance standards as prescribed in the Zoning Code.

In accordance with Zoning Code standards, the sober living home has provided Group Home Rules and Regulations, Written Intake Procedures, Relapse Policy, and requisite forms for residents to complete. This, coupled with obtaining a Conditional Use Permit, demonstrates compliance with the Zoning Code.

- 4) Consistency with the General Plan and any applicable specific plan.

The sober living home is consistent with the General Plan in that it complies with Zoning Code regulations that implement the Residential designation of the General Plan.

- 5) The planning application is for a project-specific case and is not to be construed to be setting a precedent for future development.

The Conditional Use Permit for the sober living home is specific to the properties at 115 E. Wilson, Units A and E and does not extend rights to other properties.

- 6) When more than one planning application is proposed for a single development, the cumulative effect of all the planning applications shall be considered.

The Conditional Use Permit for the sober living home is specific to the properties at 115 E. Wilson, Units A and E. The cumulative effect of the five units has been considered and determined to be consistent with the above mentioned criteria for planning applications.

Conditions of Approval

Proposed conditions of approval are included with the draft Resolution. The applicant objected to the typical indemnification language included as a condition of approval in most discretionary actions. Staff have suggested alternative language, which is included in the draft Resolution.

In addition, a public comment was received by the City on October 12, 2026 concerning smoking and second-hand smoke. As a result, the applicant has stated they will take the following steps to address that concern:

Consistent with The Ohio House policies and procedures, The Ohio House has/will:

1. Purchase 5 "smoke eaters," to utilize technology to solve concerns about second hand smoke drifting onto adjacent properties
2. Review the "designated area" as outlined in House Rules below, to determine if a different location can contribute to a better outcome
3. Reach out to all neighbors who share a fence and confirm they have The Ohio House's current contact information to facilitate a more immediate communication process, if they so choose.

ENVIRONMENTAL DETERMINATION:

The project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) under CEQA Guidelines Section 15301, Existing Facilities.

ALTERNATIVES:

City Council alternatives include the following:

1. **Approve the request with additional conditions.** The City Council may suggest additional conditions that are necessary to alleviate concerns. However, these conditions may not discriminate against the residents of the sober living home by denying them privileges enjoyed by other residents in the neighborhood. Significant modifications may trigger the need to continue the hearing to allow a revised resolution to be prepared and considered at a subsequent meeting.
2. **Deny the request.** If the City Council believes that there are insufficient facts to support the findings for approval, the City Council must deny the application and provide facts in support of denial. In this case, the hearing should be continued to allow staff to prepare a resolution to be presented at a subsequent meeting.

FISCAL REVIEW:

There is no fiscal impact associated with the recommended action.

LEGAL REVIEW:

This report has been approved as to form by the City Attorney's Office.

PUBLIC NOTICE:

Pursuant to Title 13, Section 13-29(d), of the Costa Mesa Municipal Code, three types of public notification have been completed no less than 10 days prior to the date of the public hearing:

1. **Mailed notice.** A public notice was mailed to all property owners and occupants within a 500-foot radius of the project site on Wednesday, October 8, 2026. The required notice radius is measured from the external boundaries of the property.
2. **On-site posting.** A public notice was posted on each street frontage of the project site on Thursday, October 8, 2026.
3. **Newspaper publication.** A public notice was published once in the Daily Pilot newspaper on Friday, October 9, 2026.

CONCLUSION:

Approval of the CUP for the continued operation of a group home on the property with 45 occupants, including one live-in house manager in each unit, will provide housing opportunities to individuals defined as disabled under federal and state law. The use is consistent with the General Plan and Zoning Code. The applicant has demonstrated an ability to operate this facility in a manner consistent with the neighborhood over the past ten-plus years. Staff recommends approval of this request.