



Agenda Report

Item #: 25-555

Meeting Date: 10/6/2026

TITLE: AN APPEAL OF THE PLANNING COMMISSION'S DECISION TO UPHOLD THE ECONOMIC AND DEVELOPMENT SERVICES DIRECTOR'S DECISION TO DENY A REASONABLE ACCOMMODATION REQUEST TO DEVIATE FROM CERTAIN REQUIREMENTS OF THE ZONING CODE TO OPERATE A SOBER LIVING HOME 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:

Staff recommends the City Council:

1. Hold a hearing on the appeal for the limited purpose of remanding this matter to the Community Development Director to reconsider the Reasonable Accommodation request, in light of anticipated revisions to the City's Reasonable Accommodation procedures that would more closely align with those of the most recently adopted California Code of Regulations applicable to housing; and
2. Notice a subsequent hearing for October 20, 2026 to reconsider the denial of the CUP in light of the Director's decision on the Reasonable Accommodation request.

APPLICANT OR AUTHORIZED AGENT:

The applicants are The Ohio House, LLC, George Castaneda, Diego Blake, Garey Miller, Kayl McReynolds, and Robert Palmer.

BACKGROUND:

The Ohio House has operated a sober living home on this property since 2012. This facility houses up to 45 adults and a resident manager, combined in 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-licensed 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 City received a request from the applicant's attorney for Reasonable Accommodation to allow the facility to continue operating without complying with the Zoning Code, including the separation requirement. The Director of Community Development (previously the Economic and Development Services Director) "the Director" denied the request; and on February 11, 2019¹, the Planning Commission voted unanimously to uphold the Director's denial of the Reasonable Accommodation request and to deny CUP PA-17-10.

On August 6, 2019², 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.

Subsequently, on April 24, 2023, the City received a request from the applicant's attorney for a Reasonable Accommodation to allow Ohio House LLC to continue its operation of a sober living home. This was essentially the same request made by Ohio House in 2017. The stated basis for the renewed request was a change in the law resulting from the 2020 revisions to the regulations of the Fair Employment and Housing Commission (FEHC) under the California Fair Employment and Housing Act (FEHA).

On June 21, 2023, the Director denied the Reasonable Accommodation request, noting no new facts or circumstances were presented.

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 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

¹ The February 11, 2019 staff report and meeting video can be viewed links below:
Report: <http://ftp.costamesaca.gov/costamesaca/planningcommission/agenda/2019/2019-02-11/PH-1.pdf>
Video: https://costamesa.granicus.com/player/clip/3324?view_id=10&redirect=true

² The August 6, 2019 staff report and meeting video can be viewed links below:
Report: <http://ftp.costamesaca.gov/costamesaca/council/agenda/2019/2019-08-06/PH-2.pdf>
Video: https://costamesa.granicus.com/player/clip/3436?view_id=10&redirect=true

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, including conflicting properties within 650 feet. 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. As set forth in the Director's denial, the Ninth Circuit recently upheld the City's prior denials after considering the same alleged changes in circumstances, and that decision also has res judicata and collateral estoppel effect. In addition, the requested accommodation would fundamentally alter the City's zoning scheme—which the Ninth Circuit also held is a lawful basis for denial. The City's zoning scheme already provides disabled individuals with equal housing opportunity. Ohio House does not operate as a bona fide single housekeeping unit under the City's code.

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, 2025³, 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 9). An excerpt of the minutes of the Planning Commission meeting of September 22, 2025, is included as Attachment 10.

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 11).

The appeal was agendized 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 February 3, 2026, City Council Meeting. The City Council opened the public hearing and voted (7-0) to continue the item.

The item was then agendized 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 voted (6-0-1) to continue the item (Council Member Buley absent).

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

Subsequently, the item was agendized for the April 21, 2026, City Council Meeting. Prior to the meeting, but before the agenda was publicized, the applicant submitted a request to continue the item to the June 16, 2026, City Council Meeting. The City Council opened the public hearing and voted (7-0) to continue the item.

The item was then agendized for the June 16, 2026, City Council Meeting. Prior to the meeting, but before the agenda was publicized, the applicant requested to continue the item to the September 1, 2026, City Council Meeting. The City Council opened the public hearing and voted (7-0) to continue the item.

Subsequently, the item was agendized for the September 1, 2026, City Council Meeting. Prior to the meeting, but before the agenda was publicized, the applicant requested to continue the item to the October 20, 2026, City Council Meeting. The City Council opened the public hearing and voted (7-0) to continue the item.

Based on staff's recommendation to remand the Reasonable Accommodation request back to the Director and the consent of the applicant, the appeal is now scheduled for consideration at the October 6, 2026, City Council meeting. This appeal hearing is for the limited purpose of making a decision on the remand. Because October 6, 2026, was not a previously noticed or continued date certain, new public noticing was completed. Should the City Council so remand the matter, staff also recommends that the City Council reconsider the applicant's CUP after receipt of the Director's decision after remand. Therefore, staff recommends that a public hearing be noticed for October 20, 2026, to allow the City Council to reconsider the CUP application in light of the Director's determination on the Reasonable Accommodation request.

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 for each 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 below:

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

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 now 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.

Overcrowding

The existing five-unit common interest development houses 30 to 45 adults (up to 40 residents along with live-in managers). The proposed occupancy of 1.3 to 1.5 persons per room constitutes overcrowding pursuant to the Housing Element of the General Plan, page HOU-23, which states:

Overcrowding is defined as a housing unit occupied by more than one person per room. A severely overcrowded housing unit is one with more than 1.5 persons per room. A room is defined as a bedroom, living room, dining room, or finished recreation room, but excludes a kitchen or bathroom.

This definition is consistent with the Federal HUD standards, which generally define “overcrowding” to mean housing units with 1.01 or more persons per room (see 42 USCS § 5302(a)(10)). Under this standard, all five units would be overcrowded.

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 reviewing authority to approve deviations to the separation requirement where the evidence shows that such location will not result in an over-concentration. Should the applicable reviewing authority be unable to make all findings necessary to grant a Reasonable Accommodation, (e.g., if the finding that accommodation is “necessary” and “reasonable” within the meaning of the federal and state fair housing laws cannot be made), the reviewing authority retains the ability to waive the separation requirement if supported by the evidence.

The City has consistently maintained that the 650 foot separation is fundamental to the City's zoning scheme and reducing it would change the essential nature of the scheme, which is already designed to provide a beneficial opportunity to disabled persons and intended to protect the disabled from living in an institutional setting and instead maintain the residential character for all its residents. The applicant contends that in light of its location and particular circumstances, a reduction in the separation requirement would not change the essential nature of the city's zoning plan.

Planning Commission Review

In its review of the project, the Planning Commission considered the Reasonable Accommodation application for relief from certain land use requirement of the zoning code to operate a sober living home.

During deliberations, the Planning Commission inquired about Ohio House's operation, seeking clarification on whether it functions as a business, treatment facility, or sober living home. Commissioners

also questioned staff regarding zoning applicability, the number of city-approved facilities, the historical approval process for similar uses, and what city services might be available to residents if the facility closed. Additionally, the Commission discussed legal considerations such as *res judicata* and whether the application presented new facts compared to prior Reasonable Accommodation requests denied by the City. Staff responded to the Commission's inquiries, clarifying that Ohio House is currently operating the property as a sober living home. The City Attorney's office further explained that the staff's position remains consistent with the prior applications, as the underlying facts (as opposed to legal argument or interpretation) are substantially similar to the previous Reasonable Accommodation requests denied by the City. Nonetheless, each Reasonable Accommodation request must be considered independently from any prior requests.

Nine speakers provided public comments and noted their concerns about the potential closure of the Ohio House, emphasizing its role in supporting recovery, preventing homelessness, and fostering community for men overcoming addiction, while one speaker acknowledged its success but urged the City to uphold its ordinance to prevent overconcentration of sober living homes and avoid legal and financial risks.

The Planning Commission voted 5-1, with one member absent, to uphold the Director's denial of the request for Reasonable Accommodation and adopted Resolution No. PC-2025-19 (Attachment 9). As part of the motion discussion, several commissioners thanked Ohio House residents and supporters for their personal testimonies and recognized the value of their recovery work, but emphasized that the decision was a land use and zoning matter, and that the necessary requirements to operate the property as a sober living home were not in place, and therefore would support the motion to uphold the denial.

Appeal of Planning Commission's Decision

On September 29, 2025, an appeal of the Planning Commission's decision to sustain the Director's denial of the request for Reasonable Accommodation was filed by The Ohio House, LLC, along with several residents living in the sober living home. In summary, the application for appeal noted the following topics/areas of concern:

- Substantive and procedural requirements violate California state law
- Fair Employment and Housing Act protections
- State Planning and Zoning Law standards
- City's duty to affirmatively further fair housing
- Conflicts with City of Costa Mesa General Plan
- Contrary to California Housing and Community Development directives

The submitted appeal and justification are provided as Attachment 11 to this report.

City Council "De Novo" Hearing

Pursuant to CMMC Chapter 9, Appeal and Review Procedures, the City Council shall conduct a new or "de novo" review of the matter. The City Council may exercise its independent judgment and discretion in making a decision, and the appeal hearing is not limited to the grounds stated for the appeal or the evidence that was previously presented to the Planning Commission. The City Council's decision on the matter is the final decision.

Given staff's recommendation to remand the matter to the Director, no resolution upholding or overturning the Planning Commission's action has been provided.

Pursuant to the current provisions of the CMMC, approval of each of the project's applications must be based on evidence in the administrative record that substantially supports the following review criteria and findings:

Required Reasonable Accommodations Findings:

- **The requested accommodation is necessary to provide one or more individuals with a disability an equal opportunity to use and enjoy a dwelling.**
- **The requested accommodation is consistent with surrounding uses in scale and intensity of use.**
- **Whether the existing supply of facilities of a similar nature and operation in the community is sufficient to provide individuals with a disability an equal opportunity to live in a residential setting.**
- **The requested accommodation will not result in a fundamental alteration in the nature of the City's zoning program.**

STAFF RECOMMENDATION ON APPEAL

City staff have determined to recommend revisions to the City's Reasonable Accommodation provisions (CMMC sections 13-200.60 through 13-200.63) to more closely reflect more recent California Code of Regulations (CCR) provisions concerning such requests applicable to housing. Effective 2020, the State adopted regulations specifically applicable to reasonable accommodations in housing, with some amendments effective in 2022 and 2024. See 2 CCR sections 12176 through 12181. Although the City's Reasonable Accommodation provisions were partially revised earlier this year, those changes in state law have not yet been fully incorporated into the CMMC, as staff learned in discussions with the HCD and the Civil Rights Division. Staff is in the process of preparing amendments to the Reasonable Accommodation provisions to address some of these changes. Staff are recommending that the request from Ohio House be remanded to the Director to reconsider the request in light of those anticipated changes, as well as additional information obtained from HCD and the Ohio House operators.

Staff further recommends that the City Council act to reconsider its previous action on the Ohio House's CUP and direct staff to notice a public hearing on October 20, 2026, for reconsideration of the Conditional Use Permit application following the Director's decision on the Reasonable Accommodation request.

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. Remand this matter back to the Planning Commission for further consideration on specific issues as identified by the City Council.
2. Continue the Public Hearing to make a determination on the merits.

FISCAL REVIEW:

The recommended action will not have any impact on the City's budget.

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, September 23, 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, September 24, 2026.
3. **Newspaper publication.** A public notice was published once in the Daily Pilot newspaper on Friday, September 25, 2026.

The appeal was initially scheduled for December 2, 2025, was duly-noticed (as noted above) and subsequently continued five times to dates certain (February 3, 2026, April 21, 2026, June 16, 2026, September 1, 2026, and October 20, 2026). However, the appeal is now scheduled for consideration at the October 6, 2026, City Council meeting, based on the recommendation to remand this matter back to the Director to reconsider the Reasonable Accommodation request, and new public noticing was thus completed. If the matter is remanded, and the Council determines to reconsider the conditional use permit *de novo*, as noted above, staff would recommend noticing a public hearing for the City Council meeting on October 20, 2026 to reconsider the CUP application in light of the Director's action on the Reasonable Accommodation request.

Any public comments received for the October 6, 2026 City Council meeting, may be viewed at this link: [CITY OF COSTA MESA - Calendar \(legistar.com\)](https://legistar.com/CITY_OF_COSTA_MESA)

CONCLUSION:

The applicant has requested a Reasonable Accommodation to allow a sober living home accommodating up to 45 people to be within 650 feet of another property that contains a sober living home. The Planning Commission upheld the Director's decision to deny the Reasonable Accommodation request. However, in light of staff's determination to propose revisions to the City's Reasonable Accommodation procedures, staff recommends that the City Council remand this matter back to the Director to re-consider Ohio House's request accordingly, act to reconsider the applicant's CUP request, and direct staff to notice a public hearing for that purpose on October 20, 2026.