



Planning Commission Meeting of October 13, 2025; Objection to Public Hearing Item 2: Amendment to the Land Use Element Of the City's General Plan

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Bcc [REDACTED]

Commissioners:

I respectfully object to the inclusion of this item on tonight's Planning Commission Agenda due to noncompliance with the City's noticing requirements as outlined in **Title 13, Article 3, Section 13-29(d) (1)** of the Municipal Code.

This section clearly states that notice must be **mailed to all property owners and occupants within a 500-foot radius of the project site**, with an **expanded radius required for buildings 150 feet or taller**, as detailed in the ordinance's accompanying table. Furthermore, the ordinance specifies:

"The required notice radius shall be measured from the external boundaries of the property described in the application. The notice shall be mailed no less than 10 days prior to the hearing or determination on the application. The planning division shall require mailing labels from the project applicant for this purpose. The mailing labels shall reflect the last known name and address of owner(s) as shown on the last equalized county assessment roll or by a more current listing."

In this case, the City is proposing to increase allowable building heights on properties listed in the **Housing Element Sites Inventory Table**, effectively granting new entitlements. As such, **individual mailed notices should have been sent to all affected property owners**, particularly those within the expanded radius required for taller buildings. This applies to nearly every property listed in the inventory.

The Agenda Report claims:

"Additionally, public notices were published throughout the processing of the Sixth Cycle Housing Element update, where the individual properties identified as housing opportunity sites within the sites inventory received proper legal notifications."

However, notices sent in 2021 are insufficient. Many properties have since changed ownership, and current owners have not received notice of the proposed changes to the Land Use Element of the General Plan. Moreover, the notices issued did not mention the proposed increase in building height, rendering them **incomplete and deficient**.

Property owners deserve the opportunity to provide public comment on changes that may significantly impact their neighborhoods. Therefore, I respectfully request that this item be **removed from the Planning Commission Agenda** until proper mailed notification is provided to all affected parties in accordance with the City's legal requirements.

Thank you for your attention to this matter.

Cynthia McDonald

Title 13. Planning, Zoning and Development

Chapter III. PLANNING APPLICATIONS

§ 13-29. Planning application review process.

(a) *Application.*

- (1) Application for any planning application shall be made to the planning division on the forms provided. Plans and information reasonably needed to analyze the application may be required. A list of required plans and information shall be available from the planning division.
- (2) All applications shall be signed by the record owner of the real property to be affected. This requirement may be waived upon presentation of evidence substantiating the right of another person to file the application.

(b) *Fees.* The application shall be accompanied by all applicable processing fees as established by resolution of the city council.

(c) *Public hearing.* Upon receipt of a complete application for a planning application, the planning division shall fix a time and place of the public hearing if one is required pursuant to Table 13-29(c). For planning applications which require review by both the planning commission and city council or redevelopment agency, pursuant to Table 13-29(c), the final review authority shall hold a public hearing no more than 45 days from the receipt of the planning commission's recommendation.

TABLE 13-29(c)
PLANNING APPLICATION REVIEW PROCESS

Planning Applications	Public Notice Required	Public Hearing Required	Recommending Authority	Final Review Authority	Notice of Decision
Development Review Minor Modification	No	No	None	Planning Division	No
Reasonable Accommodation	No	No	None	Planning Division	No
Lot Line Adjustment	No	No	None	Planning Division	No
Special Use Permit	Yes	Yes	None	Planning Division	No
Administrative Adjustment Minor Conditional Use Permit Minor Design Review Planned Signing Program	Yes	No	None	Zoning Administrator	Yes
Design Review Mobile Home Park Conversion Common Interest Development Conversion (Residential or Nonresidential) Specific Plan Conformity Review Tentative Parcel Map	Yes	Yes	Planning Division	Planning Commission	Yes

**TABLE 13-29(c)
PLANNING APPLICATION REVIEW PROCESS**

Planning Applications	Public Notice Required	Public Hearing Required	Recommending Authority	Final Review Authority	Notice of Decision
Tentative Tract Map Variance					
Conditional Use Permit Density Bonus Master Plan Master Plan—Preliminary	Yes	Yes	Planning Division	Planning Commission (excepted where noted otherwise in this zoning code)	Yes
Redevelopment Action	Yes	Yes	Planning Commission	Redevelopment Agency	Yes
Rezone	Yes	Yes	Planning Commission; and, if located in a redevel- opment project area, the Redevelopment Agency	City Council	No
Local Register of Historic Places	No	No	Planning Commission or other commission/committ ee as designated by the City Council	City Council	Yes
Certificate of Appropriateness	No	No	Planning Commission or other commission/ commit- tee as designated by the City Council	Planning Commission or other commis- sion/ committee as designated by the City Council	No

(d) *Public notice.* When required pursuant to Table 13-29(c), public notice shall be given as described in the following subsections. Public notices shall contain a general explanation of the proposed planning application and any other information reasonably needed to give adequate notice of the matter to be considered.

- (1) *Mailed notice required.* Notices of the hearing shall be mailed to all property owners and occupants within a 500 foot radius of the project site, except for applications for the construction of a building(s) 150 feet or more in height; these applications shall require a greater notice radius:

Building Height in Feet	Notice Requirement
More than 150 and less than or equal to 225	700-foot radius
More than 225 and less than or equal to 300	900-foot radius
More than 300	1,100-foot radius

The required notice radius shall be measured from the external boundaries of the property described in the application. The notice shall be mailed no less than 10 days prior to the hearing or determination on the application. The planning division shall require mailing labels from the project applicant for this purpose. The mailing labels shall reflect the last known name and address of owner(s) as shown on the last equalized county assessment roll or by a more current listing.

- (2) *On-site posting required.* Additional notice shall be provided by posting a notice on each street frontage of the project site, no less than 10 days prior to the date set for the hearing or determination on the application.
- (3) *Newspaper publication.* When a public hearing is required, notice shall also be published once in the city in a newspaper of general circulation, no less than 10 days prior to the date set for the public hearing.

(e) *Review criteria.* Review criteria for all planning applications shall consist of the following:

- (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.
 - (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.
 - (3) Compliance with any performance standards as prescribed elsewhere in this Zoning Code.
 - (4) Consistency with the general plan and any applicable specific 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.
 - (6) When more than one planning application is proposed for a single development, the cumulative effect of all the planning applications shall be considered.
 - (7) For residential developments, consistency with any applicable design guidelines adopted by city council resolution.
 - (8) For affordable multi-family housing developments which include a minimum of 16 affordable dwelling units at no less than 20 dwelling units per acre, the maximum density standards of the general plan shall be applied, and the maximum density shall be permitted by right and not subject to discretionary review during the design review or master plan application process.
- (f) *Conditions.* The final review authority pursuant to Table 13-29(c), may impose reasonable conditions to assure compliance with the applicable provisions of this Zoning Code, and to assure compatibility with surrounding properties and uses and to protect the public health, safety and general welfare. The final review authority may also require such written guarantees, cash deposits, recorded land use restrictions, etc., as may be necessary to assure compliance with the conditions.
- (g) *Findings.* When granting an application for any of the planning applications specified below, the final review authority shall find that the evidence presented in the administrative record substantially meets any required conditions listed below. Other findings may also be required pursuant to other provisions of this Zoning Code.
- (1) Administrative adjustment and variance findings:
 - a. Because of special circumstances applicable to the property, the strict application of development standards deprives such property of privileges enjoyed by others in the vicinity under identical zoning classifications.
 - b. The deviation granted shall be subject to such conditions as will assure that the deviation authorized shall not constitute a grant of special privileges inconsistent with the limitation upon other properties in the vicinity and zone in which the property is situated.
 - c. The granting of the deviation 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.
 - (2) Conditional use permit and minor conditional use permit findings:
 - a. 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.
 - b. 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.
 - c. 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.
 - (3) Density bonus and concession or incentive findings:
 - a. The request is consistent with State **Government Code** section 65915 et. seq. regarding density bonuses and other incentives, the general plan, any applicable specific plan, and Chapter IX special regulations, Article 4 density bonuses and other incentives.

- b. The requested density bonus and incentive or concession constitute the minimum amount necessary to provide housing at the target rents or sale prices and/or a child care facility.
 - c. The granting of the incentive or concession is required in order to provide for affordable housing costs, as defined in Health and Safety Code section 50052.5 or for rents for the targeted units.
 - d. The granting of the incentive or concession and/or the waiver or reduction of development standards does not have a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Government Code section 65589.5 upon health, safety, or the physical environment, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact.
 - e. The granting of the incentive or concession and/or the waiver or reduction of development standards does not have an adverse impact on any real property that is listed in the California Register of Historical Resources.
- (4) Lot line adjustment findings: The lot line adjustment and improvements are consistent with the general plan, any applicable specific plan and this Zoning Code.
- (5) Master plan findings:
- a. The master plan meets the broader goals of the general plan, any applicable specific plan, and the Zoning Code by exhibiting excellence in design, site planning, integration of uses and structures and protection of the integrity of neighboring development.
 - b. Master plan findings for mixed-use development projects in the mixed-use overlay district are identified in Chapter V, Article 11, mixed-use overlay district.
 - c. As applicable to affordable multi-family housing developments, the project complies with the maximum density standards allowed pursuant to the general plan and provides affordable housing to low or very-low income households, as defined by the California Department of Housing and Community Development. The project includes long-term affordability covenants in compliance with state law.
- (6) Minor modification findings:
- a. The improvement will not be materially detrimental to the health, safety and general welfare of persons residing or working within the immediate vicinity of the project or to property and improvements within the neighborhood.
 - b. The improvement is compatible and enhances the architecture and design of the existing and anticipated development in the vicinity. This includes the site planning, land coverage, landscaping, appearance, scale of structures, open space and any other applicable features relative to a compatible and attractive development.
- (7) Mobile home park conversion findings:
- a. The impacts of the conversion on the residents of the mobile home park have been duly considered as required by the State Government Code.
 - b. The proposed conversion project is consistent with the general plan, any applicable specific plan and this Zoning Code.
- (8) Planned signing program findings:
- a. The proposed signing is consistent with the intent of Chapter VIII, Signs, and the General Plan.
 - b. The proposed signs are consistent with each other in design and construction taking into account sign style and shape, materials, letter style, colors and illumination.
 - c. The proposed signs are compatible with the buildings and developments they identify taking into account materials, colors and design motif.
 - d. Approval does not constitute a grant of special privilege or allow substantially greater overall visibility than the standard sign provisions would allow.
- (9) Reasonable Accommodation findings: Refer to Chapter IX, Article 15.
- (10) Common interest development conversion findings:

- a. The applicant has submitted an adequate and legally binding plan which addresses the displacement of long-term residents, particularly senior citizens and low- and moderate-income families and families with school-age children; and
 - b. The proposed common interest development conversion project conforms to adopted general plan policies and any applicable specific plan or urban plan, and if applicable, increases the supply of lower cost housing in the city and/or that the proposed conversion project fulfills other stated public goals.
 - c. The establishment, maintenance, or operation of the project will not be detrimental to the health, safety, peace, comfort, and general welfare of persons residing or working in the surrounding neighborhood, nor will the project be detrimental or injurious to property and improvements in the neighborhood or the general welfare of the city.
 - d. The overall design and physical condition of the common interest development conversion project achieves a high standard of appearance, quality, and safety.
 - e. The proposed common interest development conversion project conforms to the Costa Mesa Zoning Code requirements.
 - f. For a proposed common interest development conversion project that does not conform to the zoning code requirements, the project due to its proportions and scale, design elements, and relationship to the surrounding neighborhood, is of continued value to the community and it contributes to defining and improving the community as a whole. Deviations from zoning code requirements are acceptable because it would be impracticable or physically impossible without compromising the integrity of the overall project to implement features that could result in conformance with current code requirements.
 - g. For a proposed common interest development conversion project located in an urban plan area, the proposed conversion is consistent with the applicable mixed-use overlay zoning district. Specifically, the proposed non-residential conversion project supports a mixed-use development or a similar land use that is not allowed in the base zoning district, or the proposed conversion project is a residential common interest development that is permitted by either the base or overlay zoning district.
- (11) Rezone findings: The proposed rezone is consistent with the Zoning Code and the general plan and any applicable specific plan.
- (12) Specific plan conformity review findings: Refer to the applicable specific plan text.
- (13) Tentative parcel or tract map findings:
- a. The creation of the subdivision and related improvements is consistent with the general plan, any applicable specific plan, and this Zoning Code.
 - b. The proposed use of the subdivision is compatible with the general plan.
 - c. The subject property is physically suitable to accommodate the subdivision in terms of type, design and density of development, and will not result in substantial environmental damage nor public health problems, based on compliance with the Zoning Code and general plan, and consideration of appropriate environmental information.
 - d. The design of the subdivision provides, to the extent feasible, for future passive or natural heating and cooling opportunities in the subdivision, as required by State **Government Code** section 66473.1.
 - e. The division and development will not unreasonably interfere with the free and complete exercise of the public entity and/or public utility rights-of-way and/or easements within the tract.
 - f. The discharge of sewage from this land division into the public sewer system will not violate the requirements of the State Regional Water Quality Control Board pursuant to Division 7 (commencing with State **Water Code** section 13000).
- (14) Design review and minor design review findings:
- a. The project complies with the City of Costa Mesa Zoning Code and meets the purpose and intent of the residential design guidelines, which are intended to promote design excellence in new residential construction, with consideration being given to compatibility with the established residential community. This design review includes site planning, preservation of overall open space, landscaping, appearance, mass and scale of structures, location of windows, varied roof forms and roof plane breaks, and any other applicable design features.

- b. The visual prominence associated with the construction of a two-story house or addition in a predominantly single-story neighborhood has been reduced through appropriate transitions between the first and second floors and the provision of second floor offsets to avoid unrelieved two-story walls.
- c. As applicable to affordable multi-family housing developments, the project complies with the maximum density standards allowed pursuant to the general plan and provides affordable housing to low or very-low income households, as defined by the California Department of Housing and Community Development. The project includes long-term affordability covenants in compliance with state law.

(h) *Decision.*

- (1) After the public hearing, if required, the final review authority may approve, conditionally approve or deny any application for the planning application based upon the standards and intent set forth in the applicable provisions of this Zoning Code. In the case of a denial, the applicant shall be notified of the circumstances of the denial.
- (2) For planning applications which require the planning commission to make a recommendation to the final review authority, the authority shall not approve any major change or additions in any proposed planning application until the proposed change or addition has been referred to the planning commission for a report, unless the change or addition was previously considered by the planning commission. It shall not be necessary for the planning commission to hold a public hearing to review the referral. Failure of the planning commission to report to the final review authority within 40 days after the referral shall be deemed approval of the proposed change or addition.

(i) *Notice of decision.*

- (1) Notice of the zoning administrator's decision shall be given within five days of the decision to the city council, planning commission and to any affected party requesting the notice. Any member of the planning commission or city council may request review of a zoning administrator's decision within seven days of the notice of the decision. No fee shall be charged for such review.
- (2) Notice of the planning commission's and/or redevelopment agency's decision shall be given within five days to the city council and to any affected party requesting the notice. Any member of the city council may request review of the decision within seven days of the notice of the decision. No fee shall be charged for such review.

(j) *Appeals.* Appeals of the final review authority shall be filed within seven days of the public hearing or the date of the notice of decision according to the procedures set forth in Title 2, Chapter IX, Appeal, Rehearing and Review Procedure.

(k) *Time limits and extensions.*

- (1) Planning applications shall run with the land until revoked, except as provided in this section or in a condition imposed at the time of granting the planning application.
- (2)
 - a. Unless otherwise specified by condition of approval, any permit or approval not exercised within 24 months from the actual date of review authority approval shall expire and become void, unless an extension of time is approved in compliance with paragraph (4) of this subsection;
 - b. The permit shall not be deemed "exercised" until at least one of the following has first occurred:
 - 1. A building permit has been issued and construction has commenced, and has continued to maintain a valid building permit by making satisfactory progress as determined by the building official.
 - 2. A certificate of occupancy has been issued.
 - 3. The use is established and a business license has been issued.
 - 4. A time extension has been granted in compliance with paragraph (3) of this subsection.
- (3) The time limits specified in paragraph (2) of this subsection shall not apply to preliminary master plans, except that the first phase of the final master plan must be approved within 24 months of the approved preliminary master plan. Time limits regarding the construction of improvements authorized by the approved final master plan for each phase of the project shall comply with the time limits established in paragraph (2).

(4) *Extension of time.*

- a. *Filing and review of request.* No less than 30 days or more than 60 days before the expiration date of the permit, the applicant shall file a written request for an extension of time with the department, together with the filing fee established by resolution of the city council.
- b. For extension requests not to exceed 180 days: The director of development services may extend the time for an approved permit or approval to be exercised. Only one request for an extension of 180 days may be approved by the director. Any subsequent extension requests shall be considered by the original approval authority.
- c. For extensions requests of more than 180 days: The review authority for the original project shall consider the request to extend the time for an approved permit or approval to be exercised. A public hearing shall only be held if it was required on the original application. If notice was required for the original application, notice of the public hearing shall be given according to the procedures set forth in this chapter.

(5) Fees for extensions of time for planning applications may be established by resolution of the city council.

(6) *Action on extension request.* A permit or approval may be extended beyond the expiration of the original approval provided the director or the review authority finds that there have been no changes in the conditions or circumstances of the site, such as Zoning Code or General Plan amendment or other local and statewide regulations affecting the approved development standards, or project so that there would have been ground for denial of the original project or any changes to the General Plan and/or Zoning Code that would preclude approval of the same project at the time of the requested extension.

(7) *Effect of expiration.* After the expiration of the permit or approval, no further work shall be done on the site and no further use of the site shall occur until a new permit or approval, or other city permits or approvals are first obtained. Fees for extensions of time for planning applications may be established by resolution of the city council.

(l) *Building permits/authority to proceed.* No building permit or authority to proceed shall be granted until all required review and approval has been obtained and all applicable appeal periods have expired.

(m) *Compliance.* Final occupancy shall not be granted unless the site development conforms to the approved set of building plans, applicable conditions of approval and code requirements.

(n) *Reapplication.* Upon final denial of any planning application, a new application for substantially the same planning application may not be filed within six months of the date of the denial. The development services director shall determine whether the new application is for a planning application which is substantially the same as a previously denied application. No decision of the development services director shall be effective until a period of seven days has elapsed following the written notice of a decision; an appeal of the decision shall be filed according to the procedures set forth in Title 2, Chapter IX, Appeal, Rehearing and Review Procedure.

(o) *Enforcement authority.*

(1) The planning commission may require the modification or revocation of any planning application and/or pursue other legal remedies as may be deemed appropriate by the city attorney, if the planning commission finds that the use as operated or maintained:

- a. Constitutes a public nuisance as defined in State **Civil Code** Sections 3479 and 3480; or
- b. Does not comply with the conditions of approval.

(2) The modification or revocation of any permit by the planning commission under this subsection shall comply with the notice and public hearing requirements set forth in subsections (c) and (d). The development services director may require notice for a development review or minor modification, if deemed appropriate.

(p) *Amendment to a planning application.* Any approved planning application may be amended by following the same procedure and fee schedule as required for the initial approval, with the exception of the following two instances:

(1) Minor amendments to conditional use permits shall be processed as minor conditional use permits; and

(2) Amendments to master plans which comply with section 13-28(f)(1) may be authorized by the planning division.

(q) *Concurrent processing.* Unless otherwise stated in this Zoning Code, applications for proposed projects which require two or more planning application approvals may be processed concurrently. Final project approval shall not be granted until all necessary approvals have been obtained.

(Ord. No. 97-11, § 2, 5-5-97; Ord. No. 98-5, § 5—7, 3-2-98; Ord. No. 99-17, § 4, 11-15-99; Ord. No. 01-11, § 1a., 3-5-01; Ord. No. 01-16, §§ 1c.—e., 6-18-01; Ord. No. 03-8, § 3, 9-2-03; Ord. No. 05-2, § 1d., e., 2-22-05; Ord. No. 06-7, § 1a., 4-18-06; Ord. No. 06-9, § 1c., 4-18-06; Ord. No. 07-17, § 1c., d., 10-2-07; Ord. No. 09-13, § 1, 11-17-09; Ord. No. 17-12, § 1, 9-19-17; Ord. No. 18-06, § 1, 9-4-18; Ord. No. 21-20, § 1, 12-7-21)