Item #: **Meeting Date: 3/17/2026**

TITLE: ADOPTION OF A RESOLUTION TO AMEND THE SIXTH CYCLE HOUSING ELEMENT (2021-2026) OF THE CITY OF COSTA MESA GENERAL PLAN (PCTY-26-0001) IN CONJUNCTION WITH THE HOUSING ELEMENT SITES REZONING (PCTY-25-0008 AND PSPA-26-0001) AND FINDING THE PROJECT EXEMPT FROM ENVIRONMENTAL REVIEW UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

DEPARTMENT: ECONOMIC AND DEVELOPMENT SERVICES DEPARTMENT/ PLANNING DIVISION

PRESENTED BY: MICHELLE HALLIGAN, SENIOR PLANNER, ANNA MCGILL, ADVANCE PLANNING MANAGER, AND CATHY TANG SAEZ, DUDEK

CONTACT INFORMATION: MICHELLE HALLIGAN, SENIOR PLANNER, (714) 754-5608

RECOMMENDATION:

The Planning Commission recommends the City Council adopt Resolution No. 2026-XX to adopt the amendments to the Housing Element of the City's General Plan to add two Housing Element Opportunity Sites and remove 17 Housing Element Opportunity Sites from Appendix B and the associated Environmental Quality Act environmental determination (Attachment 1).

Proposed sites to be added to the Housing Element Sites Inventory

HE Site	Address or APN	HE Site	Address or APN
209*	2000 Harbor Blvd.	210*	418-181-11 (address to be assigned)

* Proposed Housing Element Site Unique ID

Proposed sites to be removed from the Housing Element Sites Inventory

HE Site	Address or APN	HE Site	Address or APN	HE Site	Address or APN
96	610 W. 18th St.	140	685 Sunflower Ave.	195	2180 Harbor Blvd.
134	3390 Harbor Blvd.	141	3410 Bristol St.	198	APN: 140-041-83
136	3390 Harbor Blvd.	145	3333 Bristol St.	203	1590 Adams Ave.
137	3315 Fairview Rd.	146	APN: 412-491-11	204	1590 Adams Ave.
138	1201 S. Coast Dr.	147	3333 Bristol St.	205	3420 Bristol St.
139	3400 Bristol St.	194	2180 Harbor Blvd.		

BACKGROUND:

Many California jurisdictions, including the City of Costa Mesa, are using overlay districts as a mechanism for implementing their Housing Elements. An overlay district is a type of zoning that allows for supplemental or additive uses (such a residential or commercial uses) in addition to the base zoning allowed uses. In the case of Housing Element implementation, and as was intended by the proposed City's Mixed Use Overlay District (MUOD), the City could meet its Regional Housing Needs Assessment (RHNA) by adding an overlay district on top of base the base zoning to allow for residential and mixed use (residential + commercial) development (see Figure 1 below). Overlays were meant to be flexible and additive for property owners, whereby a property owner could continue to develop under base zoning or utilize the overlay for additional development opportunities. Under this assumption, several property owners expressed interest in being added to the City's Housing Element Sites Inventory as a means of obtaining additional development opportunities. As part of the overall Neighborhoods Where We All Belong (NWWAB) rezoning efforts, the City is studying additionally applying a Mixed-Use Overlay District to Measure K sites that are not Housing Element Inventory Sites (see Attachment 5). Wider community visioning and an Environmental Impact Report (EIR) is being conducted as part of this wider effort.

Figure 1. Overlay District and Base Zoning Functionality

On October 10, 2025, the California Court of Appeal (Second Appellate District), in *New Commune DTLA LLC v. City of Redondo Beach*, held that a residential overlay on Housing Element sites cannot satisfy a jurisdiction's RHNA if the underlying zoning allows development without residential uses. The California Supreme Court declined to review the decision.

The opinion held that in order to meet the RHNA, the zoning or an overlay district on Housing Element sites must require:

1. At least 50 percent of new development on each site to be residential; and
2. A minimum density of 20 units per acre, which is also consistent with another court case, *Martinez v. City of Clovis (2023)*, concluding that an overlay to establish residential development on Housing Element sites shall have a minimum density of 20 units per acre to meet the intent of state law.

Staff determined that the Court of Appeal's opinion means that any overlay on Housing Element sites would need to supersede the base zoning and require new development to include a minimum of 50 percent residential at a minimum of 20 units per acre. This opinion represented a large shift in how jurisdictions previously understood and utilized overlays for Housing Element implementation. Put simply, this opinion represented a potential loss of flexibility.

Following the Court of Appeal decision, the City sent a letter to property owners on the Housing Element sites inventory, informing them of the court opinion and that it may affect property for future development, as well as request for their contact information to keep them informed on the Neighborhoods Where We All Belong (NWWAB) effort and any other associated regulations that may affect their property. In response to this letter, the City received a several calls, emails, and meeting requests from Housing Element site property owners. These inquiries ranged from general questions to requests to be added to the NWWAB project's interest parties list, to concerns about remaining on the sites inventory. Concurrently, staff have also been fielding calls/meetings from property owners that have expressed interest in being added to the sites inventory.

On February 9, 2026, the Planning Commission held a public hearing on amendments to the Zoning Code, Zoning Map and North Costa Mesa Specific Plan (NCMSP) to rezone the Housing Element Sites and implement programs of the City of Costa Mesa Sixth Cycle (2021-2029) Housing Element. The Planning Commission recommended that the City Council find that the project is statutorily exempt from CEQA pursuant to Public Resources Code section 21080.085(a) (SB 131), adopt an Ordinance amending chapters in Title 13 of the Costa Mesa Municipal Code (Zoning Code), and recommend that the City Council adopt a Resolution or Ordinance approving an amendment to the NCMSP for consistency with the Mixed-Use Overlay District (MUOD) on Housing Element Opportunity Sites. The Planning Commission received public comments from property owners requesting to be removed/added to the Housing Element Sites Inventory to also exclude those sites from the MUOD. As part of their motion, the Planning Commission directed staff to revise the MUOD to reflect the request.

- February 9, 2026, Agenda Report and Attachments: https://costamesa.legistar.com/LegislationDetail.aspx?ID=7869925&GUID=46ADE2E0-93B1-4307-BB85-FCF45BA3A0C2

At their February 23, 2026, meeting, the Planning Commission considered and recommended the City Council approve an amendment to the Housing Element of the General Plan to add two sites and remove 17 sites (listed in Tables 1 and 2 below) at the request of their respective owners. This targeted amendment to Appendix B simply added text references to two Measure K sites joining the inventory and removed text references regarding the 17 sites. If adopted by the City Council, the amendment of the sites inventory will trigger a 180-day time period wherein the City must conduct a "no net loss" analysis, identify adequate sites to maintain capacity to meet the RHNA, and obtain

approval from the California Department of Housing and Community Development (HCD) prior to the City Council adopting revisions to the Housing Element. The Planning Commission voted 6-1 to approve a resolution recommending City Council approval of the amendments (Attachment 7). Public comments pertaining to the Planning Commission agenda item from the February 23, 2026 are provided in Attachment 8.

- February 23, 2026, Agenda Report and Attachments: https://costamesa.legistar.com/LegislationDetail.aspx?ID=7922544&GUID=692D0434-F1D3-4FC7-A9F2-21B75AC2D44B

DESCRIPTION:

Staff received letters from three property owners requesting to have their sites removed and letters from two property owners requesting to have their sites added to the City of Costa Mesa Sixth Cycle (2021-2029) Housing Element Sites Inventory (see Attachment 4). In their letters, property owners noted long-term nonresidential uses and concern about the *New Commune DTLA LLC v. City of Redondo Beach* court opinion and its potential impacts on their property, including potentially reducing future development flexibility. To maintain transparency while implementing the Housing Element, including evolving state legislation and court decisions, and in alignment with the Planning Commission direction at the February 9, 2026, public hearing, the City initiated a General Plan Amendment to honor these requests by proposing to add two and remove 17 Housing Element Opportunity Sites listed in Tables 1 and 2:

Table 1. Proposed sites to be added to the Housing Element Sites Inventory

HE Site	Address or APN	HE Site	Address or APN
209*	2000 Harbor Blvd.	210*	418-181-11 (address to be assigned)

* Proposed Housing Element Site unique ID

Table 2. Proposed sites to be removed from the Housing Element Sites Inventory

HE Site	Address or APN	HE Site	Address or APN	HE Site	Address or APN
96	610 W. 18th St.	140	685 Sunflower Ave.	195	2180 Harbor Blvd.
134	3390 Harbor Blvd.	141	3410 Bristol St.	198	APN: 140-041-83
136	3390 Harbor Blvd.	145	3333 Bristol St.	203	1590 Adams Ave.
137	3315 Fairview Rd.	146	APN: 412-491-11	204	1590 Adams Ave.
138	1201 S. Coast Dr.	147	3333 Bristol St.	205	3420 Bristol St.
139	3400 Bristol St.	194	2180 Harbor Blvd.		

The proposed targeted amendments to the City of Costa Mesa Sixth Cycle (2021-2029) Housing Element are limited to revisions to Appendix B to add or remove the proposed Housing Element Sites. Note that these amendments represent simplified updates at this time, with more comprehensive and thorough amendments to be completed throughout the Housing Element at a later date as the City engages in the No Net Loss analysis process described later in this report. The proposed amendments to Appendix B are included in Attachment 2 (Exhibit A). A strikethrough version of the proposed targeted amendments is included in Attachment 3.

ANALYSIS:

Staff is proposing targeted amendments in response to the requests received from property owners to either be added to or removed from the Housing Element. To date, staff has received letters from two property owners requesting two sites be added to the Housing Element Sites Inventory as well as letters from three property owners requesting a total of 17 sites to be removed (Attachment 4). The full breakdown of sites proposed to be added and removed from the Housing Element Sites Inventory is included in Attachment 6.

For sites proposed to be added to the Housing Element Sites Inventory, the City must assign a unique ID and make appropriate assumptions for the density and distribution of income levels for the site. This information is summarized in Table 1 of Attachment 6. The proposed Housing Element site with unique ID 210 (APN 418-181-11 adjacent to 2821 Bristol Street) is an active planning entitlement application (PRZN-26-0001), and the assumptions for this proposed site are consistent with the proposed entitlement request. In the case of the 2000 Harbor site, staff have been in conversation with the anticipated owner/developer and have included assumptions for this site based on pre-application discussions. Including realistic assumptions is intended to help prevent the City from having to make future no net loss findings for these specific sites.

For the 17 sites requested to be removed from the Housing Element Sites Inventory (as summarized in Table 2 of Attachment 6), proposed revisions include removing the site from the Appendix B Sites Inventory table and any additional references to that site within the Housing Element. While these sites will not be proposed to be rezoned as part of the proposed actions to City Council on March 17, they are still Measure K sites and will become part of the overall considerations of the longer term NWWAB process (as identified on the Attachment 5 Updated Housing Element Opportunity and Measure K Sites Map).

Overall, this request would result in a net loss of 15 sites and 5,431 housing units from the City's Housing Element Sites Inventory. Table 3 shows the total net unit loss and the loss in each income category. Given these net losses, the City will need to make No Net Loss findings and determination and begin a process to reopen its Housing Element.

Table 3. Total net units lost from the Housing Element Sites Inventory

	Net Units	Very Low	Low	Moderate	Above Moderate
Total	5,431	843	455	869	3,264

No Net Loss

The "No Net Loss" provisions of state Planning and Zoning Law (Government Code section 65863) provide that if housing developments are approved on these sites with fewer lower income units than projected in the Housing Element, the City must demonstrate within 180 days that it still has enough sites designated in the Housing Element to accommodate the City's remaining need for lower income housing. State law provides that the City must make the findings whenever it "allows development … by administrative, quasi-judicial, legislative, or other action" that results in fewer units by income category than identified in the City's Housing Element. When approving development projects with fewer lower income units than shown in the Housing Element, the City must make the findings and determination for No Net Loss per Government Code section 65863. If after the identified action, insufficient sites remain, the City must identify within 180 days and "make available" additional sites to accommodate the City's RHNA at the appropriate income levels.

While there is no specific legal requirement to maintain a buffer and part of the Housing Element, jurisdictions typically plan for and maintain a healthy "buffer" (usually 10-20 percent) as part of their RHNA cycle, so that they can continue to process entitlements for development projects and still make the needed findings and determination for No Net Loss, without the need to continually reopen the Housing Element during the planning period (2021-2029). The City's adopted Housing Element includes a 45 percent buffer, accommodating 17,042 units when the RHNA is 11,760.

The proposed amendments to the Sixth Cyle (2021-2029) Housing Element constitute a legislative action removing net 15 sites and 5,431 net units. This action will essentially remove the entire RHNA buffer and remove some of the sites needed to meet RHNA in certain income categories (such as low and very low income). As such, the City must make the necessary No Net Loss findings and determination and will have 180 days to identify new Housing Element sites to accommodate the City's RHNA. Following City Council action on these amendments, staff will be initiating a Housing Element update to increase housing capacity and/or identify additional sites necessary to maintain capacity for RHNA and an appropriate buffer (typically 10-20 percent).

GENERAL PLAN CONFORMANCE

The proposed amendments to the City of Costa Mesa Sixth Cycle (2021-2029) Housing Element comply with Government Code section 65863 and are consistent with Program 3A, which requires the City to maintain an inventory of vacant and underutilized sites and provide this inventory to interested developers. The City must monitor the Housing Element throughout the planning period and ensure that the City has adequate sites available to accommodate its RHNA. According to Government Code section 65863, a local jurisdiction shall not "permit or cause its inventory of sites identified in the housing element to be insufficient to meet its remaining unmet share of the regional housing need for lower and moderate-income households." As part of the City Council's action tonight, the City makes the findings and determination for No Net Loss per Government Code section 65863 and will then have 180 days to identify and "make available" additional sites to accommodate the City's RHNA at the appropriate income levels.

ENVIRONMENTAL DETERMINATION

On November 15, 2022, the Costa Mesa City Council adopted Resolution No. 2022-67, certifying the Mitigated Negative Declaration (MND) and adopting the Mitigation Monitoring and Reporting Program (MMRP) that analyzed the candidate housing sites for the 6th Cycle (2021-2029) Housing Element. The Mitigated Negative Declaration provided environmental clearance for the adoption of the Housing Element, which included the overall Regional Housing Needs Allocation (RHNA) and additional capacity to maintain a buffer. The action to add/remove Housing Element sites falls within the capacity studied under this MND and MMRP. Additionally, pursuant to SB 131, on July 1, 2025, a new statutory CEQA exemption, Public Resources Code section 21080.085(a), went into effect, providing an exemption for actions needed to implement Housing Elements, including implementation of Program 3A, which requires the City to continue to maintain an inventory of sites to meet RHNA. The City's proposed amendments implement a schedule of actions contained in the approved Housing Element pursuant to Government Code section 65583 and do not allow the construction of a distribution center, or oil and gas infrastructure. Therefore, the proposed amendments are statutorily exempt from CEQA pursuant to Public Resources Code section 21080.085(a).

ALTERNATIVES:

The City Council has the following alternatives:

1. **Approval with modifications.** The City Council may approve with modifications to the proposed amendments the City of Costa Mesa Sixth Cycle (2021-2029) Housing Element of the City's General Plan to add two Housing Element Opportunity Sites provided that the revisions are internally consistent and consistent with the General Plan and State law.

2. **Continue the Resolution review to a date certain.** The City Council may continue the item to a date certain with direction for staff to return with additional information, changes, and/or clarifications for City Council consideration.

FISCAL REVIEW:

There are no fiscal impacts associated with this action; contingency budget approved for the Housing Element rezoning program will be allocated to updating the Housing Element to identify adequate sites within HCD's 180-day requirement. Funding for Housing Element Rezoning Program is available in the Housing Authority Fund (Fund 222). The project has a budget of $2.4 million, of which $500,000 is available in the project balance at the time of the City Council hearing date.

LEGAL REVIEW:

The proposed Resolution, draft General Plan Amendment, and report have been prepared in conjunction with and review by the City Attorney's Office.

PUBLIC NOTICE:

Pursuant to California Government Code section 65854 (amended by Assembly Bill 2904 in 2025) public notification for amending the Housing Element of the General Plan has been completed no less than 10 days prior to the date of the public hearing:

1. On-site posting. A public notice was posted at City Hall and on the City's website on March 6, 2026.
2. Newspaper publication. A public notice was published in the Daily Pilot newspaper on March 6, 2026.

Additionally, information about the meeting and associated actions was posted to the NWWAB webpage (https://www.costamesaneighborhoods.com) and distributed via email to the project interest list on February 17, 2026, February 20, 2026, and March 9, 2026. Finally, as noted in the background section, the City sent a letter to Housing Element site property owners in December 2025 regarding the potential impacts of the *New Commune DTLA LLC v. City of Redondo Beach* court decision and since this time have been fielding telephone calls and holding meetings with property owners to answer questions and further discuss potential concerns. City staff have been in contact with the property owners that made requests to be added to or removed from the City of Costa Mesa Sixth Cycle (2021-2029) Housing Element. These property owners have been notified of the public hearing via telephone, email, and received a hard copy notice of the public hearing in the mail.

Any public comments received for the March 17, 2026 City Council meeting, may be viewed at this link: CITY OF COSTA MESA - Calendar (legistar.com)

CITY COUNCIL GOALS AND PRIORITIES:

The targeted update to the Housing Element Sites Inventory (Appendix B) will trigger comprehensive revisions to the Housing Element to support the following City Council Goal:

1. Diversity, stabilize and increase housing to reflect community needs.

CONCLUSION:

Following City Council action on these amendments, staff anticipate initiating a Housing Element update to increase housing capacity and/or identify additional sites necessary to maintain capacity for RHNA and 10-20 percent buffer.

Community engagement on the Measure K sites, as part of the NWWAB, is still actively and concurrently underway. Round 2 community workshops were held in the first week of March and stakeholder focus group meetings are scheduled for March 19th. City staff is also continuing the analysis of potential impacts of Measure K property development opportunities on the environment through the Environmental Impact Report process. Staff will continue to update the Planning Commission, City Council, and community on project progress through the project website, www.costamesaneighborhoods.com, emails to the interest list, and study sessions.