

## PARTIDA, ANNA

**From:** GREEN, BRENDA  
**Sent:** Monday, February 9, 2026 10:18 AM  
**To:** PC Public Comments  
**Subject:** FW: NB-1 Comments  
**Attachments:** Toler Comments NB-1. 2026\_0116pdf.pdf

Respectfully,  
**Brenda Green**  
City Clerk



City Clerk's Office | (714) 754-5221  
77 Fair Drive | Costa Mesa | CA 92626



As City Hall has reopened, we encourage the public to take advantage of our appointment system. Appointments can be made at [www.costamesaca.gov/appointments](http://www.costamesaca.gov/appointments). Please note that it is required that all guests check in with our Concierge Staff, located on the 1<sup>st</sup> Floor Lobby, upon arrival at City Hall.

**From:** Russell Toler <russell.toler@gmail.com>  
**Sent:** Saturday, February 7, 2026 3:01 PM  
**To:** HARLAN, JEFFREY <Jeffrey.Harlan@costamesaca.gov>; MARTINEZ, DAVID <DAVID.MARTINEZ@costamesaca.gov>; DICKSON, ROBERT <Robert.Dickson@costamesaca.gov>; VALLARTA, ANGELY <ANGELY.VALLARTA@costamesaca.gov>; ROJAS, JOHNNY <JOHNNY.ROJAS@costamesaca.gov>; ZICH, JON <JON.ZICH@costamesaca.gov>; KLEPACK, KAREN <KAREN.KLEPACK@costamesaca.gov>; MARR, ANDREA <ANDREA.MARR@costamesaca.gov>; REYNOLDS, ARLIS <ARLIS.REYNOLDS@costamesaca.gov>; CHAVEZ, MANUEL <MANUEL.CHAVEZ@costamesaca.gov>; CITY CLERK <CITYCLERK@costamesaca.gov>; GAMEROS, LOREN <LGAMEROS@costamesaca.gov>; BULEY, MIKE <Mike.Buley@costamesaca.gov>; STEPHENS, JOHN <JOHN.STEPHENS@costamesaca.gov>; PETTIS, JEFF <Jeff.Pettis@costamesaca.gov>  
**Subject:** Fwd: NB-1 Comments

Hello commissioners, please see my attached comments on PH-1 (Amendments to the Zoning Code) for Monday's PC meeting. I'd sent this before the last meeting and it's in my 'sent' box—thought it looks like no one received it.

Thanks!

Russell Toler

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Chair Harlan and Planning Commissioners,

I wanted to share some thoughts on the City's rezoning project.

## 1. What matters most is the public realm

People experience the city from the streets, public plazas ([if we had any!](#)), and parks. These spaces together constitute what is often called the public realm. It is from these areas that the city is seen and felt. People travel the world to visit beautiful cities and villages overseas—and their vantage points are from the public realm.

There are two major roles that *development* plays when it comes to the quality of our public realm: the *distribution* of uses (the proximity of housing and “amenities,” which in turn affects how far we need to travel for daily needs and therefore what type of transportation mode we need to accommodate), and the way that development *physically shapes* the public realm—how it literally forms the “walls of our outdoor rooms.”

The former is very much worth discussing, though a bigger fish to fry. At the moment I just want to emphasize the importance of the latter: we need to ensure that new development *appropriately frames* our public spaces.

On the surface it may seem like *appropriately* is an impossibly subjective term. However, we could all likely take a walking tour of the city and generally agree on which developments are doing a good job at this and which are not—meaning that we could at least in theory extract the characteristics that determine success or failure.

Complicating the task of ensuring appropriate relationships between the public realm and development, however, is that our streets are largely devoted to the accommodation of fast-moving traffic. In the last several decades, we've allowed (or maybe even required?) many developers to orient their projects away from such unpleasant spaces and/or even seal the street off with a wall (see for example, [The Enclave](#), the new houses on [Harbor and Merrimac](#), and the new houses on [Harbor and Hamilton](#)).<sup>1</sup> While it is understandable why developers would want to do this, we need to consider the long-term impact of such a design decision on the beauty, comfort, and even safety of our public spaces.

What I think we should do:

- Recognize that the city has an important role to play in this: we should be ensuring that our streets are desirable to front. Otherwise, what right do we have to insist that new developments engage with it?

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<sup>1</sup> These are just three of many examples, but are especially egregious in that even the edge units—those adjacent to the public right of way—are turned inwards.

- Adopt some minimum standards to ensure appropriate street edges: frequent conspicuous entrances and access to them, minimum glazing, setbacks, ground floor height and elevation, trees in the parkways (not smashed up against buildings), usability of the setback areas (not just caricatures of nice frontages), etc.
- Communicate our expectations clearly to the development community. If we have objective standards requiring this without compelling explanations, they will fail when developers push back.
- Admit that there may arise *some* difficult cases, and work on creative solutions for them.
- Stop allowing low-intensity development on high-intensity streets.

## 2. Reduce or eliminate costly parking mandates

Requiring developers to provide 2.25 on-site parking spaces per residential unit is progress, but still not good enough. Parking is not, as has never been, something that is appropriate for the government to be requiring of private developers. It can only exacerbate the problem of car traffic and car-dependency. Developers should be able to take their own risks and base them on their own analyses of the market demand for parking to be in our area. The government's role in this very specific topic should rather be to ensure that driving is not the only feasible way for new residents to move about the neighborhood.

## 3. Be careful with townhouse projects

I've been trying to articulate this problem for a while now because 1) no one else is, 2) many people haven't grasped this problem, and 3) I haven't heard any good solutions for it yet.

We all generally consider townhouses as great "starter homes" that can line streets with charming front doors and stoops, allow in more families than single-family homes can, and feel like dignified places to live in.

Historically, the townhouse—as an urban building type—had parking in detached garages that took access off an alley, if it had any parking at all.

The projects that we're seeing now in Costa Mesa differ from those traditional townhouses in two ways:

- To fit more units on a piece of land, garages are scooted *under* the living space, taking up the majority of the ground floor and therefore deadening the ground floor environment.

- Deep lots that were originally platted for farming, big backyards, or commercial/industrial uses are being eyed by townhouse developers. Now you have “interior” townhouses that don’t face the street.

Why these projects are so bad:

- Since each unit has attached parking, sites are dominated by access drives, leaving little-to-no room for respectable spaces for interior units to *front*, and little-to-no open/green space.
- The little spaces that units front are often disconnected from each other and from the public right of way, meaning that the true “extension of the public realm” into the site is really the garage-door-dominated access drives.

What I think we should do:

- Building Dept: Enable other housing types to be built under the (less expensive) IRC. North Carolina recently [passed legislation](#) that allowed tri- and quad-plexes to be built under the IRC. [California is being more ambitious](#) and paving the way for up to ten units to be approved under the IRC.
- Building/Fire Dept: [AB-835](#) is paving the way for single-stair construction so we can build simple small buildings of flats the way we used to, and the way the rest of the world still does. L.A. is [already moving forward](#) with this.
- Planning Dept: If we cap a parcel at low densities, we *are* going to get these sorts of townhouse proposals because they make economic sense.
- Planning Dept: Reducing parking requirements can help, but developers and lenders need to know that there is decreasing parking *demand* in Costa Mesa, otherwise they will provide enough to preclude good design.

My humble (and likely impractical) proposal is that we recognize the following statement, base new policy on it, and amend zoning standards in light of it: *Townhouse projects that have a) ample on-site parking and b) interior units can be designed well, but once a density threshold is passed, the quality of design will be degraded. After this density threshold is passed, a more efficient building type (e.g., buildings with flats) is necessary to achieve the quality design that Costa Mesa expects.*

#### 4. Our large sites need to be designed better

Several of our opportunity and Measure K sites are larger than “walkable” city blocks<sup>2</sup> and/or don’t have enough frontage for each new building to front. At a minimum we

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<sup>2</sup> No sides longer than 400 or 500 feet. Conventional suburban developers may gawk, but look at the substantial and beautiful buildings that are able to be achieved in the [Pearl District](#) of Portland—where block sides are ≈225 feet.

should ensure that each new building fronts the existing site frontage or a respectable<sup>3</sup> new “public realm” that is extended into the site. The largest sites should be required to be carved into blocks. Yes—this means new rights of way cutting through, thus creating “more city.” These rights of way need not be dedicated public space, though they would ideally be publicly accessible.

[Here's](#) an example of this done well; [here's](#) an example of this done poorly.

We should have insisted on this with The Enclave, Superior Pointe, and 17 West. Some have tried to codify this: see Section 4.4 of [ABAG's ODDS Handbook](#) (the whole thing is worth looking at) and Chapter F.40 (Large Site Standards, pages 127-134) of [Columbus' Zoning Code](#), though there are a handful more out there.

My thought is that as important as this is, it is very difficult to codify, which leads me to my final point.

## 5. Rather than relying on very detailed ODDS, we should focus on good design *guidelines* and improve communication between staff and applicants

Ever since architects and developers started designing ugly buildings several decades ago, cities have depended on design review boards to ensure better physical outcomes. These boards have a notorious history of creating an unpredictable building environment and protracting entitlement processes, all while managing to not achieve their purpose.

Now in California we can only enforce “objective standards,” prompting many cities to pursue design codes that, in theory, will result in predictable and “aesthetically pleasing” (sorry) new buildings.

If you want to gauge the success of this approach, do an informal survey on which cities have adopted ODDS and Form-Based Codes, and what development in those places has since been like (both in terms of review processes and physical outcomes).

But even if this approach were widely successful, the State has continued to undermine efforts at local control by making waivers and concessions even easier, which take us backwards once again.

In my limited experience, the problem of ugly buildings/projects is not so much a result of goofy planning regulations (though that is sometimes the case) but by a general loss of skill in the professional world. Architects and planners that understand what makes buildings and the spaces around them beautiful are few and far between. How can a code compensate for that without being overwhelmingly prescriptive? And how can a

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<sup>3</sup> “Respectable” is admittedly doing a lot of work here—but what I basically mean is something designed as a front, and is not primarily for vehicle access.

prescriptive code allow for enough development freedom to make complex projects work?

I'll resist a tangent on those questions and get to my point: my feeling is that a wise way forward might be to express *what we physically want to see*, extract the *principles* from such a vision, and then derive *design guidelines* from them. But the guidelines need a guide. Someone with a background in architecture and urban design that can work with applicants on meeting the principles and achieving the spirit of the guidelines.

You're right if you object that such guidelines would not have any teeth and we may therefore end up with ugly development. But by avoiding onerous faux-technical checklists and openly discussing clear, reasonable expectations under the guidance of a good-faith designer, I believe good physical outcomes are more likely. This would be especially useful for the type of larger projects mentioned above.

What I think we should do:

- Establish simple zoning requirements that at least cover the basics (which obviously include much more than the following points):
  - ◆ Require that buildings adjacent to the street must orient towards the street (currently missing from the draft);
  - ◆ Prohibited parking between the street and the building (currently missing from the draft); and
  - ◆ *Not* mandate superficial complexity
- Establish a design manual that is written and used by an on-call or staff architect/urban designer:
  - ◆ It should emphasize simplicity, regularity, proportions, frontage, the human scale/experience, the relationship of buildings to public space, and quality materials;
  - ◆ Rather than seeking to prescribe what buildout should look like in each neighborhood or corridor, it depends on *principles* so that whatever the market ends up producing, buildout makes our city better, not worse;
  - ◆ It should especially address large sites and the frontage conditions of all new buildings; and
  - ◆ It should be heavily informed by great books and resources, such as [Get your House Right](#), [Soft City](#), [A Pattern Language](#), the [Charter for the New Urbanism](#), and [Courtyard Urbanism](#).

Thanks for reading!

Russell Toler

Correspondence  
received

AFTER the 12 NOON

DEADLINE

**HALLIGAN, MICHELLE**

PH-1

**From:** George Sakioka <gmks@sakioka.com>  
**Sent:** Monday, February 9, 2026 12:27 PM  
**To:** HALLIGAN, MICHELLE  
**Cc:** HARLAN, JEFFREY; DICKSON, ROBERT; ZICH, JON; KLEPACK, KAREN; ROJAS, JOHNNY; VALLARTA, ANGELY; MARTINEZ, DAVID; TAI, CARRIE; Mark Sakioka; Forbes, Amy R.; GREEN, BRENDA  
**Subject:** Feb. 9 Planning Commission meeting agenda - Sakioka comments  
**Attachments:** 090616 NCMSP Amendments-SUPPLEMENTAL SR.pdf; Proposed Edits to MUOD and North Costa Mesa Specific Plan JKS and Sakioka.pdf

Hi Michelle: (cc: CM Planning Commission)

We had our land use consultant review the staff report and we want to get these comments to you ASAP. We feel these items can be addressed before it goes to City Council and wanted to give you our thoughts before tonight's meeting.

Let me know if you'd like to discuss further.

Thanks,

George

**From:** Forbes, Amy R. <AForbes@gibsondunn.com>  
**Sent:** Monday, February 9, 2026 11:57 AM  
**To:** George Sakioka <gmks@sakioka.com>; Mark Sakioka <mark@sakioka.com>  
**Subject:** Feb. 9 Planning Commission meeting agenda now available

George and Mark,

I have completed my review of the recently released materials pertaining to the rezoning of property to be consistent with the update Housing Element. The action creates a new Mixed Use Overlay District (MUOD) that would apply to the sites in the North Costa Mesa Specific Plan identified for new housing.

There are some places where I think further cleanup amendments and other changes to ensure that there is internal consistency, consistency with the Housing Element, and compliance with state law. Most importantly, as far as I can tell the specific plan itself is not being updated to include the unit numbers from the General Plan, and the Specific Plan would still have trip budgets, which would make it impossible for anyone to achieve the minimum densities as a practical matter. The only way to get the higher densities would be through the MUOD, but the MUOD has lower height limits than the Specific Plan, so that may not be possible.

I also don't think the strike through text reflects the Specific Plan amendment that was approved by the City Council in September of 2016 for Sakioka Lot 2. (attached).

Here are my other thoughts

1. Trip Budgets Are Still in Place in the Specific Plan; and the Units are inconsistent with the General Plan. Page 11 of the North Costa Mesa Specific Plan still refers to trip budgets. Based upon the trip budgets in place, the new residential development contemplated by the general plan cannot be implemented as a practical matter. The Housing Element provides for 1,200 units on Lot 2....But the text of the specific plan is not being amended to reflect that. At page 12 of the proposed amendment to the North Coast Mesa specific plan, there is language that confirms that there will be an override of conflicting specific plan requirements for any project that meets the mixed-use overlay requirements.

But this language does not expressly apply to trip budgets. The language refers to section 13-83.58(e) for the override language. But that section does not mention trip budgets. Moreover, because they are not changing the units in the Specific Plan text, the only way you can get to the 1,200 units is through the mixed-use overlay zone. The base entitlement in the Specific Plan needs to be consistent with the housing element, allowing for 1,200 units on Lot 2 (not the 528 currently in the NCMSP), 305 on Lot 3 in the Metro Center, and 230 on Lot 2. And, the amendment should expressly do away with trip budgets.

2. Table 1 in the Amended Specific Plan is Confusing: Sakioka Lot 2 and Lots 2 and 3 in Metro Center must be approved for 90 units/acre to be consistent with the General Plan. Table 1 is confusing because it shows Sakioka Lot 2 as being limited to 28 units/acre (see page 15 of the strike through version of the specific plan; page 109 of that pdf) . But, per the 2016 amendment, Lot 2 was changed to 80 /units to the acre, and per housing element, Sakioka Lot 2 and the Metro Center lots should have 90 units/acre to be consistent with the general plan. By only allowing for the increased density in the overlay zone, the specific plan is creating an inconsistency with the general plan. Table 1 should reflect that Sakioka Lot 2 can have 90 units to the acre. And it should also reflect that Lots 2 and 3 in the Metro Center could have 90 units/acre.
3. No shade and shadow study should be required. At page 19 of the strikethrough Specific Plan, page 113 of the pdf) it states: "Any new building proposed at 3 stories or more should require a shade and shadow impact analysis in relation to surrounding land uses." That requirement is inconsistent with the new height limits and the need to remove barriers to the creation of housing. It should be deleted.
4. The Height Limits in the Specific Plan are Higher than the Proposed Mixed-Use Overlay. The maximum heights permitted for Sakioka Lot 2 and Lots 2 and 3 are higher in the NCMSP than they are the Mixed-Use overlay zone. Once again this creates an inconsistency with the General Plan. The specific plan should be amended to permit the number of units shown in the general plan, with the heights limits that are already approved in the Specific Plan. By only allowing the extra units in the Mixed-Use overlay, those extra units can only be built at the lower heights in that zone, and you will not be able to take advantage of the higher heights in the specific plan.

I attach marked pages reflecting my concerns and the edits needed to address them.

Thanks, Amy

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## **CITY COUNCIL**

### **SUPPLEMENTAL MEMORANDUM**

MEETING DATE: SEPTEMBER 6, 2016

ITEM NUMBER:

**SUBJECT:** NORTH COSTA MESA SPECIFIC PLAN AMENDMENT (SP-16-01) RELATED TO HOME RANCH SITE, 3350 AVENUE OF THE ARTS AND SAKIOKA LOT 2

**DATE:** SEPTEMBER 6, 2016

**FROM:** PLANNING DIVISION/DEVELOPMENT SERVICES DEPARTMENT

**PRESENTATION BY:** MINOO ASHABI, PRINCIPAL PLANNER

**FOR FURTHER INFORMATION CONTACT:** MINOO ASHABI (714) 754-5610  
minoo.ashabi@costamesaca.gov

Two (2) resolutions are presented to the City Council as part of this action. One resolution recommends approval of an addendum for Final EIR No. 1054 and amendment to the North Costa Mesa Specific Plan related to the property located at 3350 Avenue of the Arts. The second resolution would allow for amendment to the North Costa Mesa Specific Plan related to the Home Ranch Site and Sakioka Lot 2.



MINOO ASHABI, AIA  
Principal Planner

  
GARY ARMSTRONG, AICP  
Economic Development & Development  
Services Director / Deputy CEO

Attachments: 1. Draft City Council Resolutions

cc: Justin McCusker  
C.J. Segerstrom & Sons  
3315 Fairview Road  
Costa Mesa, CA 92626

George Sakioka  
14850 Sunflower Avenue  
Santa Ana, CA 92707 George Sakioka

Judy Wang  
Wincome Group  
888 Disneyland Dr | Suite 100  
Anaheim, CA 92802

Paul Sanford, Rosanna Inc.  
3350 Avenue of the Arts  
Costa Mesa, CA 92626

**RESOLUTION NO. 16-**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA ADOPTING AN ADDENDUM TO FINAL ENVIRONMENTAL IMPACT REPORT NO. 1054 (STATE CLEARING HOUSE NUMBER 2007011125) AND AMENDMENT TO NORTH COSTA MESA SPECIFIC PLAN (SP-16-01) RELATED TO THE PROPERTY LOCATED AT 3350 AVENUE OF THE ARTS**

**THE CITY COUNCIL OF THE CITY OF COSTA MESA DOES HEREBY RESOLVE AS FOLLOWS:**

WHEREAS, the City Council of the City of Costa Mesa adopted the 2015-2035 General Plan on June 21, 2016;

WHEREAS, the General Plan is a long-range, comprehensive document that serves as a guide for the orderly development of Costa Mesa;

WHEREAS, by its very nature, the General Plan needs to be updated and refined to account for current and future community needs;

WHEREAS, the Planning Commission of the City of Costa Mesa adopted the North Costa Mesa Specific Plan by Resolution No. 94-67 in July 1994 to provide additional planning guidelines and standards for several large development areas located in north Costa Mesa;

WHEREAS, within the North Costa Mesa Specific Plan, General Plan 2015-2035 allowed an increase in the Floor Area Ratio (FAR) for Home Ranch site, an increase in the residential density for Sakioka Lot 2, and development flexibility for 3350 Avenue of the Arts within the trip budgets adopted by the Land Use and Circulation Elements;

WHEREAS, the amendments promote diversity of development options at 3350 Avenue of The Arts are in conformance with the objectives of the North Costa Mesa Specific Plan and General Plan, including the following:

- North Costa Mesa Specific Plan - Recognize the development potential of the planning area and the need to sensitively integrate new development with the surrounding areas, and therefore, promote both resident and business community confidence in the long-term vision for the plan area.
- General Plan Land Use Objective LU-2A: Promote land use patterns and development that contribute to community and neighborhood identity.

- General Plan Land Use Objective LU-6A: Ensure the long term productivity and viability of the community's economic base.
- General Plan Land Use Objective LU-4A: Encourage new development and redevelopment to improve and maintain the quality of the environment.
- General Plan Land Use Objective LU-5A: Ensure availability of adequate community facilities and provision of the highest level of public services possible, taking into consideration budgetary constraints and effects on the surrounding area.

WHEREAS, a Final Environmental Impact Report (EIR) No. 1054 (State Clearinghouse Number 2007011125) was certified on November 20, 2007 for the Wyndham Boutique Hotel / High-Rise and Final Master Plan PA-06-75 for the project that included 200 rooms and 120 for-sale condominium units;

WHEREAS, in accordance with Title 14 of the California Code of Regulations Sections 15162 and 15164, an addendum to the FEIR No. 1054 was prepared by BonTerra Psomas in August 2016 analyzing the environmental impacts associated with the change from residential units to hotel rooms;

WHEREAS, in accordance with Title 14 of the California Code of Regulations Section 15162 and 15164, the Addendum to the EIR determined that the proposed modifications to the project which allows for hotel rooms to replace the residential units does not require preparation of a subsequent EIR because the proposed changes would not result in new significant effects or a substantial increase in the severity of previously identified environmental impacts;

WHEREAS, on August 22, 2016, the Planning Commission held a public hearing and recommended approval of the amendment to the North Costa Mesa Specific Plan;

WHEREAS, a duly-noticed public hearing was held by the City Council on September 6, 2016 to allow for public comment on the proposed project and with all persons having been given the opportunity to be heard both for and against the proposed project.

NOW, THEREFORE, BE IT RESOLVED that, based on the evidence in the record, and the findings contained herein, the City Council adopts the Addendum to the Final Environmental Impact Report No. 1054 and amendment to North Costa Mesa Specific Plan (SP-16-01) consistent with the provisions of the 2015-2035 General Plan attached hereto as Exhibit A to this resolution.

**PASSED AND ADOPTED this 6<sup>th</sup> day of September, 2016**

\_\_\_\_\_  
STEPHEN M. MENSINGER  
Mayor, City of Costa Mesa

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
CITY CLERK OF THE  
CITY OF COSTA MESA

\_\_\_\_\_  
CITY ATTORNEY

STATE OF CALIFORNIA)

COUNTY OF ORANGE )

I, BRENDA GREEN, City Clerk and ex-officio Clerk of the City Council of the City of Costa Mesa, hereby certify that the above Council Resolution Number 16\_\_\_ as considered at a regular meeting of said City Council held on the 6th day of September, 2016, and thereafter passed and adopted as a whole at the regular meeting of said City Council held on the 6th day of September, 2016, by the following roll call vote:

AYES:

NOES:

ABSENT:

IN WITNESS WHEREOF, I have hereby set my hand and affixed the Seal of the City of Costa Mesa this \_\_\_\_ day of \_\_\_\_\_, 2016

Brenda Green  
City Clerk of the City of Costa Mesa

# **EXHIBIT A**

## **North Costa Mesa Specific Plan**

**SP-16-01**

### **REVISED PAGES**

**REVISED 09-06-2016**

The Wyndham Hotel Site: In 2007, Specific Plan Amendment (SP-07-01) was approved for the 3-acre site. The Specific Plan Amendment includes a development option that would allow a mixed-use development consisting of a 200-room boutique hotel and 120-unit high-rise building with approximately 1,740 sq.ft. of retail space and 3,450 sq.ft. for a bar/lounge. This would result in a maximum nonresidential floor area ratio (FAR) with a maximum 120 dwelling units.

| Development Option | Maximum No. of Hotel Rooms | Maximum Allowable Non-Residential FAR | Maximum Allowable Number of High-Rise Residential Units |
|--------------------|----------------------------|---------------------------------------|---------------------------------------------------------|
| Option 1           | 200 rooms                  | 2.12 FAR                              | 120 units                                               |
| <u>Option 2</u>    | <u>388 rooms</u>           | <u>2.29 FAR</u>                       | <u>-0-</u>                                              |

The Specific Plan allows development flexibility with regard to the overall mix of hotel rooms and residential units. This is subject to compliance with the following conditions through the final master plan review process:

- The applicant can demonstrate traffic-generation characteristics comparable to Option 1.
- For mixed use, development may be allowed up to a combined maximum of 320 hotel rooms/dwelling units, provided that the maximum number of hotel rooms in the mixed-use development does not exceed 200 rooms.
- The maximum FAR may be increased to no greater than 2.12 FAR in direct relation to the reduction of the residential density from and 44 du/acre and 2.29 FAR for hotel development.
- The maximum allowable number of high-rise residential units may be increased to no greater than 132 units (44 du/acre) in direct relation to the reduction of the nonresidential FAR from 2.12 FAR.
- The 238 existing hotel rooms may be reduced to allow additional residential units, ~~but any increase in the number of existing hotel rooms is prohibited.~~

As shown above, if the property owner decides not to develop the high-rise residential option and voluntarily demolishes the hotel instead, the maximum allowable nonresidential square footage would remain at 2.08 FAR with a redevelopment potential of 60,000 sq.ft.

**RESOLUTION NO. 16-**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
COSTA MESA ADOPTING AMENDMENT TO NORTH  
COSTA MESA SPECIFIC PLAN (SP-16-01) RELATED TO  
HOME RANCH SITE AND SAKIOKA LOT 2**

**THE CITY COUNCIL OF THE CITY OF COSTA MESA DOES HEREBY RESOLVE AS  
FOLLOWS:**

WHEREAS, the City Council of the City of Costa Mesa adopted the 2015-2035 General Plan on June 21, 2016;

WHEREAS, the General Plan is a long-range, comprehensive document that serves as a guide for the orderly development of Costa Mesa;

WHEREAS, by its very nature, the General Plan needs to be updated and refined to account for current and future community needs;

WHEREAS, the Planning Commission of the City of Costa Mesa adopted the North Costa Mesa Specific Plan by Resolution No. 94-67 in July 1994;

WHEREAS, the North Costa Mesa Specific Plan provides additional planning guidelines and standards for several large development areas located in north Costa Mesa;

WHEREAS, by its very nature, the North Costa Mesa Specific Plan needs to be updated and refined to account for current and future community needs;

WHEREAS, within the North Costa Mesa Specific Plan, General Plan 2015-2035 allowed an increase in the Floor Area Ratio (FAR) for Home Ranch site, an increase in the residential density for Sakioka Lot 2, and development flexibility for 3350 Avenue of the Arts within the trip budgets adopted by the Land Use and Circulation Elements;

WHEREAS, Home Ranch site is located in Area 1 (Subarea 3) of the North Costa Mesa Specific Plan and Sakioka Lot 2 is located in Area 8;

WHEREAS, amendments to North Costa Mesa Specific Plan are required to reflect increased development flexibility for these planning areas as allowed by 2015-2035 General Plan;

WHEREAS, the amendments promote diversity of development options on Home Ranch and Sakioka Lot 2 that are in conformance with the objectives of the North Costa Mesa Specific Plan and General Plan, including the following:

- North Costa Mesa Specific Plan - Recognize the development potential of the planning area and the need to sensitively integrate new development with the surrounding areas, and therefore, promote both resident and business community confidence in the long-term vision for the plan area.
- General Plan Land Use Objective LU-2A: Promote land use patterns and development that contribute to community and neighborhood identity.
- General Plan Land Use Objective LU-6A: Ensure the long term productivity and viability of the community's economic base.
- General Plan Land Use Objective LU-4A: Encourage new development and redevelopment to improve and maintain the quality of the environment.
- General Plan Land Use Objective LU-5A: Ensure availability of adequate community facilities and provision of the highest level of public services possible, taking into consideration budgetary constraints and effects on the surrounding area.

WHEREAS, on August 22, 2016, the Planning Commission held a public hearing and recommended approval of the amendment;

WHEREAS, a duly-noticed public hearing was held by the City Council on September 6, 2016 to allow for public comment on the proposed project and with all persons having been given the opportunity to be heard both for and against the proposed project. The Planning Commission recommended City Council approval of the proposal;

WHEREAS, the project has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines, and the City environmental procedures. The proposal has been found to be less than significant with regard to the development limitations in the General Plan and North Costa Mesa Specific Plan, including trip budgets and development intensity. Therefore, the relevant environmental analysis contained in the following previously-approved environmental documents has been found to be valid, and no further environmental review is required:

- City of Costa Mesa General Plan Environmental Impact Report, SCH No. 2015111053, June 21, 2016.
- Segerstrom Home Ranch Environmental Impact Report, SCH No. 2000071050, November 2001.

NOW, THEREFORE, BE IT RESOLVED that, based on the evidence in the record, and the findings contained herein, the City Council adopts amendment to North Costa Mesa Specific Plan (SP-16-01 A1) related to Home Ranch site and Sakioka Lot 2 consistent with the provisions of the 2015-2035 General Plan attached hereto as Exhibit A to this resolution.

**PASSED AND ADOPTED this 6<sup>th</sup> day of September, 2016**

\_\_\_\_\_  
STEPHEN M. MENSINGER  
Mayor, City of Costa Mesa

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
CITY CLERK OF THE  
CITY OF COSTA MESA

\_\_\_\_\_  
CITY ATTORNEY

STATE OF CALIFORNIA)

COUNTY OF ORANGE )

I, BRENDA GREEN, City Clerk and ex-officio Clerk of the City Council of the City of Costa Mesa, hereby certify that the above Council Resolution Number 16\_\_\_ as considered at a regular meeting of said City Council held on the 6th day of September, 2016, and thereafter passed and adopted as a whole at the regular meeting of said City Council held on the 6th day of September, 2016, by the following roll call vote:

AYES:

NOES:

ABSENT:

IN WITNESS WHEREOF, I have hereby set my hand and affixed the Seal of the  
City of Costa Mesa this \_\_\_\_ day of \_\_\_\_\_, 2016

Brenda Green  
City Clerk of the City of Costa Mesa

# **EXHIBIT A**

## **North Costa Mesa Specific Plan**

**SP-16-01**

### **REVISED PAGES**

**REVISED 09-06-2016**

### 3.0 SUBAREA ANALYSIS

The plan area is composed of eight unique subareas that are analyzed individually as well as in consideration of surrounding land uses.

#### AREA 1-HOME RANCH

##### Existing Land Uses

A portion of This 93-acre site is in agricultural production. Onsite structures include a single-family residence, ~~guesthouse~~, barn, related farm buildings, and an office building located on Fairview Road. ~~This site is~~ These are all owned by C.J. Segerstrom ~~and Sens family~~. The single family home and barn are identified in the 2000-2016 General Plan in the Historical and Cultural Resources Element. The Segerstrom family, who continue to maintain the house, constructed the farmhouse in 1915. The barn was constructed in 1928. Several farm related structures are located near the house.

Single family attached and detached homes, an Emulex industrial park, and a large IKEA retail/warehouse facility also now sit on the original Home Ranch site.

##### General Plan and Zoning

The portions of this site owned by the Segerstrom family and IKEA are ~~is~~ designated as Commercial Center Industrial Park by the General Plan and is zoned PDC ~~PDI~~. The maximum Floor Area Ratio (FAR) is 0.40, which equals 961,060 square feet of building area. The General Plan establishes site specific FAR of 0.37 for the 19.27 acre IKEA site and a site specific FAR of 0.64 for remaining 43.6 acres located south of South Coast Drive. The trip budget is 827 a.m. peak hour trips and 855 p.m. peak hour trips.

In 2001, GP-00-05 was approved for Home Ranch to allow residential, commercial, office, and industrial uses. The overall allowable square footage was increased to 1,351,698 square feet and trip budget adjusted accordingly. In respect to this specific plan, the Home Ranch area was expanded to include the 30.5 acres located north of South Coast Drive. See following Sub-areas discussion.

In 2003, SP-03-02 was approved that reallocated a 2.074-acre portion of Sub-area B to Sub-area A to be used as the IKEA parking lot. This reallocation ~~of acreage reduced~~ extinguished the square footage development rights attributable to the 2.074 acres, increasing the IKEA site to 19.27 acres and reducing the IKEA site FAR to 0.37 and ~~T~~the overall allowable square footage to 1,319,813 ~~351,698~~; the overall trip budget remained unchanged. ~~Table 4A was modified to reflect this change.~~

In 2016, General Plan 2015-2035 was approved adjusting the FAR of Sub-Area B resulting in an increase in the FAR and a maximum development square footage of 1,200,000 SF. Table 4A was modified to reflect this change.

##### Sub-areas

The Segerstrom Home Ranch is divided into four sub-areas. Table 4A provides a statistical summary of the maximum number of dwelling units, floor area ratio, building square footage, and the trip budgets for each sub-area. Figure 11 illustrates the boundaries of the sub-areas.

To facilitate flexibility for Sub-Areas B and C, building square footages and trip budgets may be transferred, provided that the total building square footage, floor area ratio, and trip budget for the combined two sub-areas are not exceeded as delineated in Table 4A. Transfers affecting Sub-Areas A and D are not permitted. Future development in Sub-Area B shall be limited to high quality office, office-related uses, and corporate office/headquarters with subsidiary support functions that may include research and design, minor assembly, light manufacturing and storage. Retail uses in Sub-Area B shall be limited to those that are ancillary to the office development.

Shown below are the development parameters for each distinct sub area.

Table 4A- Segerstrom Home Ranch Sub-Areas

| Land Use                          | Acreage            | Floor Area Ratio/Density | Maximum Units/<br>Square Footage                      | Maximum Stories/Height                     | A.M. Peak Hour Trips             | P.M. Peak Hour Trips             |
|-----------------------------------|--------------------|--------------------------|-------------------------------------------------------|--------------------------------------------|----------------------------------|----------------------------------|
| A. IKEA                           | 19.27              | 0.37 FAR                 | 308,000 sf                                            | 2 stories/45 feet                          | 43                               | 431                              |
| B. Office and Office-related uses | 43.57 <sup>2</sup> | 0.40 <u>64</u>           | <del>759,165</del><br><u>1,200,000 SF</u>             | 2-5 stories/36 - 75 feet<br>See Figure 11b | <del>1,593</del><br><u>1,860</u> | <del>1,569</del><br><u>1,788</u> |
| C. Industrial Park                | 14.5               | 0.40 FAR                 | 252,648 sf                                            | 1-5 stories 45-60 feet<br>See Figure 11b   | <u>376<sup>3</sup></u>           | <u>362<sup>3</sup></u>           |
| D. Medium Density Residential     | 16.0               | 12 units/acre            | 136 single-family attached units                      | 3 stories, 50 feet                         |                                  |                                  |
|                                   |                    |                          | 56 single-family detached units                       | 2 stories/27 feet                          |                                  |                                  |
|                                   |                    |                          | Total Maximum:<br>192 units                           |                                            | 132                              | 130                              |
| TOTAL:                            | 93.34              | NA                       | 192 units<br><del>1,760,648</del> <u>3,198,13</u> -sf |                                            | <del>4,738</del><br><u>2,381</u> | <del>2,130</del><br><u>2,711</u> |

Note:

1. The mix of units is for illustrative purposes only; the precise mix of product types will be determined during master plan review; in no instance shall the 192-unit maximum and/or the morning and evening peak hour trip budget be exceeded.
2. The 1,200,000 maximum square footage is calculated based on the full acreage originally in Home Ranch which includes acreage transferred to the State of California for public improvements. This full square footage intensity may be used for development in Sub-Area B.
- 4-3. See partial Assignment and Assumption of Development Agreement recorded on 02/05/2004 as Instrument No. 2004000089554 in official records Orange County.

## Land Use Compatibility/Integration

The Segerstrom farmhouse provides a unique opportunity for preservation of a small piece of the City's agricultural heritage. This two-story home and accompanying barn are familiar sights in the area and stand as a reminder of the farming community that was evident here in the early 1900's. Although the Segerstrom home and barn are designated as Commercial Center on the General Plan Land Use Map, it would be in keeping with Policy HCR-1A.5 of the General Plan to preserve these historical structures.

Preservation of these structures in their current location ~~could be~~ has been accomplished by ~~transferring the development potential of the area to be preserved to the remainder of the Industrial Park area. At that time, the General Plan would be amended to an appropriate land use designation (e.g., Public-Semi Public) and a land use restriction recorded restrictions which include provisions for the property which recognizes the long-term preservation of these buildings as historical resources. The property covered by the recorded restrictions is a 1.5-acre site shown in Exhibit 11a and includes the home, barn, and two related structures. The boundaries of the property may be modified, as approved by the City's Development Services Director, so long as the site continues to include 1.5 acres and all four historic structures. The barn may be relocated within the site.~~ Ownership of the property could remain with the Segerstrom family until such time they wished to ~~sell~~ transfer the property. At that time, the City, another public agency, or private ~~organization should~~ owner could acquire ~~be given the site subject first right of refusal to purchase the site to the recorded restrictions for preservation of this valuable community resource.~~

The retention of the farmhouse results in a site design consideration. Non-residential buildings should be set back from the farmhouse site so as to not visually encroach into this area. Buffering could include walls/fencing, landscaping, and/or parking areas. Consideration should be given to physically linking the adjacent development to the farmhouse site with pedestrian paths.

~~In conjunction with approval of GP 00-05, a historical preservation area was identified on Home Ranch, as shown in Exhibit 11a. The barn is to be relocated into the preservation area. The Segerstrom Home Ranch development agreement includes provisions for the land dedication, building preservation, and long-term management of this valuable community resource. Mesa Consolidated Water District has also expressed an interest in obtaining land from the property owner in order to place an underground reservoir adjacent to the preservation area. Should this occur, the anticipated office development could not occur over the reservoir site; it would be necessary for it to remain as open space. The development agreement specifies that development potential (square footage and trip budget) of the 1.5-acre site and any future reservoir site can be~~ has been ~~transferred to the portion of the Home Ranch site located south of South Coast Drive and east of the proposed Susan Street.~~

Mesa Consolidated Water District at one time held a ground lease from the Segerestrom family for a small portion of the property in Sub-area B and had expressed an interest in acquiring the site. The Water District has since removed all of its facilities from the site, terminated the lease, and abandoned the site. This leaves this site available for development as a part of Sub-area B.

## Building Heights

The General Plan specifically limits building heights to a maximum of five stories (and only in the project's center) for this site. Five stories approximate a 75-foot height limitation. Exhibit 11b indicates the various height limits for Home Ranch. The actual siting of future buildings shall take into account surrounding development in order to minimize visual impacts. The use

of low- reflective materials for the building's exteriors will minimize glare impacts. In Building Height Area 1 adjacent to Fairview Road, the City of Costa Mesa shall also require a shade/shadow analysis for any building proposed to exceed 30 feet in height in order to ensure that building's shade or shadow does not extend beyond the project site or public rights-of-way.

## **Circulation**

The primary project access/egress points should be aligned with Susan Street and the existing Automobile Club entry to the north. Access to the farmhouse preservation site should be considered from within this area so as to minimize the number of driveways on South Coast Drive.

Freeway access improvements in the immediate area include the widening of the Fairview Road off-ramps, both northbound and southbound, and the construction of the new South Coast Drive off-ramp. Both are completed.

Final Program Environmental Impact Report No. 1048 for Home Ranch included a preliminary analysis of a Susan Street exit from the new South Coast Drive-Fairview Road-Harbor Boulevard collector road included in the 1-405/SR-73 confluence project. Prior to approval of this additional exit by CalTrans, additional environmental documentation would be required. The Susan Street exit is not required for the Home Ranch project.

A future bikeway was shown on the Master Plan of Bikeways traversing this site to South Coast Drive from the 1-405 bikeway undercrossing. However, in conjunction with GP-00-05, this bike trail undercrossing and related linkages were deleted from the Master Plan of Bikeways. This deletion was necessitated by the CalTrans/FHWA freeway improvements in the general area.

## **Parks and Recreation**

The Segerstrom family house and barn may also be considered as meeting a portion of the future park needs for any future residential development north of South Coast Drive. It would not meet any active recreational needs but serve rather as a cultural/historical center.

In conjunction with GP-00-05, the historical reservation area was established. See previous Land Use Compatibility/Integration discussion.

## **Fire Protection Services**

Future development plans and environmental analyses for this site need to assess the future fire station in the North Harbor area, i.e., location and timing of construction.

In conjunction with adoption of GP-00-05, it was determined that Segerstrom Home Ranch (Area 1) increased the demand for City fire suppression services in the City's northwest area. The Segerstrom Home Ranch development agreement includes provisions for the necessary land acquisition, building design, and construction costs. The City of Costa Mesa Fire Department is responsible for determining the timing of land acquisition and fire station construction. If the fire station is ultimately located on Segerstrom Home Ranch, the development agreement allows for transfer of development rights (building square footage and trip budget) to the balance of the Home Ranch project.

## AREA 8- SAKIOKA LOT 2

### Existing Land Uses

This 33 acre area is designated for planned development, including mixed-use, residential, and commercial office development and is currently in agricultural production. Two single family homes are located along Sunflower Avenue. Lot 2 is owned by Roy K. Sakioka & Sons.

### General Plan and Zoning

This site is designated Urban Center Commercial by the General Plan and is zoned PDC.

### Development Standards and Trip Budget

The development intensity for planned development (i.e. master plans) on Sakioka Lot 2 is limited by the following:

- The trip budget for this site is 1,062 a.m. peak hour trips and 1,407 p.m. peak hour trips. The trip budget shall not be exceeded for the aggregate development any master planned development on Sakioka Lot 2.
- Planned Development Standards of the PDC zone are applicable to the site, unless otherwise indicated in the North Costa Mesa Specific Plan.
- A maximum 1.0 Floor-Area-Ratio applies to nonresidential development. Nonresidential development is also subject to the trip budget limitation, applicable development standards of the PDC zone and consistency with the General Plan.
- The maximum residential density (dwelling units per acre) is a maximum of 28 dwelling units per acre for the residential component of a mixed-use development on a single legal parcel (See "Mixed-Use" discussion) or a maximum of 80 20 dwelling units per acre for an independent residential community including development that —affordableincorporates affordable housing (See "Affordable Housing / Density Bonus discussion). An independent residential community development is defined as a development in which a separate legal parcel (or parcels) the site— is entirely developed as a residential use and therefore does not include commercial uses on the same site legal parcel.
- The maximum building height of 8 stories per Airport Land Use Determination dated May 26, 2016 and as reflected in 2015-2035 General Plan.

The projected trip generation for land uses proposed for Sakioka Lot 2 will be based on latest edition of Trip Generation, Institute of Transportation Engineers. The methodology will consider reasonable allowances for trip credits due to internal capture and pass-by trips. Internal capture credit refers to trips for various uses proposed within the parcel that can be accomplished without having to leave the facility.

For example, an office complex could have restaurants and other ancillary uses which may not generate new trips – rather serve tenants within the complex. Other examples include conference room and fitness facilities. Pass-by trips refers to trips that are already on roadway adjacent to the development and use the facilities. Pass-by trip credits are limited to retail uses.

The credits allowed for internal capture and pass-by trips will be determined by the Transportation Services Manager. The net trip generation after credits will be compared to the trip budget to determine if the proposed development is within the limits prescribed in the North Costa Mesa Specific Plan.

### **Land Use Compatibility/Integration**

Future development of this site is anticipated to include mid- and high-rise office buildings as well as support commercial. Shade and shadow impacts for buildings in excess of 2 stories should be considered in relation to surrounding land uses. Site design should limit vehicular access to and from Sunflower Avenue.

New commercial and office buildings are encouraged to be located along the Anton frontage. Encroachment into the building setback on Anton Boulevard for commercial or mixed-use developments can be considered based on how well the project design accommodates pedestrians and if the parking areas and/or structures are located behind the commercial or mixed-use building(s). Parking areas shall not be allowed to encroach into the street setback, unless they are tucked under the commercial development. Parking lots/structures should be located primarily along the eastern edge of the site adjacent to the Costa Mesa Freeway and the new on-ramp. Internal pedestrian linkages to Anton Boulevard should be provided.

### **Mixed-Use**

The PDC zoning does permit mixed-use development including residential and nonresidential uses as complementary uses. The residential component of a mixed-use development shall be limited to a maximum density of 28 dwelling units per acre. This maximum density only applies to residential uses as complementary uses to commercial uses within a mixed-use development. It does not apply to an independent residential community development—that does not include commercial uses on the same site legal parcel. Total building intensity for the entire 33-acre site shall not exceed the maximum allowable development intensity as set forth by the trip budgets. ~~For a mixed-use development,~~ the overall mix of uses, including trips from dwelling units, shall be counted together in determining compliance with the trip budgets. The trip budget shall not be exceeded.

The Costa Mesa Freeway Sunflower Avenue and Main Street represent significant air quality and noise sources that will impact the siting of residential units and other sensitive land uses. Existing ambient air quality may exceed state and federal levels for carbon monoxide; therefore, significant mitigation measures may be required. Acceptable interior and exterior noise levels for residential uses would need to be achieved. An appropriate interface between the office buildings and residential uses would also be required.

## Affordable Housing and Density Bonus

If ~~the entire~~ all or a portion of the site is developed as an independent residential ~~community development that incorporates~~ with affordable housing, the maximum density shall be 2080 dwelling units per acre involving a maximum number of 660 residential units (including any density bonuses, see Table 8.<sup>1</sup> Total building intensity for the entire 33-acre site shall not exceed the maximum allowable development intensity as set forth by the trip budgets.

The maximum number of dwelling units (including any density bonuses) for Sakioka Lot 2 is 660 units. The maximum base density is 528; in order to be granted a 25% density bonus (132 dwelling units), the developer would have to provide affordable housing pursuant to one of the following three options shown in the following table. All affordable housing provisions shall be for a minimum of 30 years.

| Table 8- Sakioka Lot 2 Density Bonus Program<br>North Costa Mesa Specific Plan |                                          |                                                         |                        |
|--------------------------------------------------------------------------------|------------------------------------------|---------------------------------------------------------|------------------------|
| MAXIMUM BASE DENSITY                                                           | AFFORDABLE HOUSING CATEGORY <sup>1</sup> |                                                         | DENSITY BONUS CRITERIA |
| 528 UNITS                                                                      | OPTION 1<br>VERY LOW INCOME <sup>2</sup> | REQUIRED PERCENT OF<br>BASE DENSITY TO BE<br>AFFORDABLE | 10%                    |
|                                                                                |                                          | # OF AFFORDABLE UNITS                                   | 53 UNITS               |
|                                                                                | OPTION 2<br>LOW INCOME                   | REQUIRED PERCENT OF<br>BASE DENSITY TO BE<br>AFFORDABLE | 20%                    |
|                                                                                |                                          | # OF AFFORDABLE UNITS                                   | 106 UNITS              |
|                                                                                | OPTION 3<br>LOW & MODERATE INCOME        | REQUIRED PERCENT OF<br>BASE DENSITY TO BE<br>AFFORDABLE | 10% LOW & 15% MODERATE |
|                                                                                |                                          | # OF AFFORDABLE UNITS                                   | 132 UNITS              |
| 25% DENSITY BONUS                                                              |                                          |                                                         | 132 UNITS              |
| TOTAL UNITS                                                                    |                                          |                                                         | 660                    |

### NOTES:

1. Very Low, Low and Moderate determinations are based on HUD definitions and income limits, adjusted for family size
  2. The total number of units assumes that other criteria of the Planned Development Commercial Zone have been met regarding density increases
- 3.. Density Bonus as provided herein, or as otherwise provided for by state law (Government Code 65915)

\*The maximum number of units (660) in an independent residential community is based on 338.25 acres of land and 20.80 units per acre.

## Building Heights

The maximum building height is 480/120 feet (approximately 42/8 stories) south of the new collector street and 60 feet (approximately 4 stories) north of the new collector street. Commercial or mixed use developments that are allowed to encroach into the street setback of Anton Boulevard shall be limited to 2 stories/ 30 feet within the street setback. Buildings above 173/161 AMSL feet in height will require approval by the FAA.

## Circulation

The Master Plan of Highways includes a new collector street that connects Main Street and Anton Boulevard through this site. A new 1-405 on-ramp from Anton Boulevard is to the south of this site. The Master Plan of Bikeways includes a new bikeway on Sunflower Avenue. ~~As shown on Figure 9, the various alternatives for the urban rail alignment traverse this property and a station is also proposed in the vicinity.~~

Figure 19 provides an overview of the entire plan area and depicts development standards that can be shown graphically. It should be noted that the information is intended to be illustrative and is not to be interpreted as the precise locations for future land uses or structures, or the collector street.

**Table 1- General Plan Designations  
North Costa Mesa Specific Plan**

| GENERAL PLAN DESIGNATION   | TYPICAL USES                                                                                                                                                                                                          | RESIDENTIAL DENSITY                                                                                                                                                                                     | FLOOR AREA RATIO                                                                                                                                                                                                             | COMPATIBLE ZONING                                  |
|----------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------|
| Low Density Residential    | Single family detached and attached units, granny units, accessory apartments, family day care                                                                                                                        | Less than or equal to 8 units per acre.                                                                                                                                                                 | 0.15 high traffic<br>0.25 moderate traffic<br>0.35 low traffic                                                                                                                                                               | R1, POR-LD, I&R                                    |
| Medium Density Residential | Single-family attached units, multiple family units, senior congregate care facilities, convalescent hospitals, and group residential homes. Ancillary commercial uses are permitted in the planned development zone. | Less than or equal to 12 units per acre                                                                                                                                                                 | 0.15 high traffic<br>0.25 moderate traffic<br>0.35 low traffic                                                                                                                                                               | R1, R2-MD, PDR-MD, <del>MUMUOD</del> , I&R         |
| High Density Residential   | Multiple family units, senior congregate care facilities, convalescent hospitals and group residential homes. Ancillary commercial uses are permitted in the planned development zones.                               | Less than or equal to 20 units per acre: except the density in the PDR-NCM zone is 25 to 35 units per acre. See also The Lakes for site-specific density.                                               | 0.15 high traffic<br>0.25 moderate traffic<br>0.35 high traffic                                                                                                                                                              | R2-HD,R3, PDR-HD, PDR-NCM, <del>MUMUOD</del> , I&R |
| Commercial Center          | Major shopping, service, and office facilities designated serve city-wide and regional markets.                                                                                                                       | Less than or equal to 20 units/acre                                                                                                                                                                     | 0.25 high traffic<br>0.35 moderate traffic<br>0.45 low traffic<br>0.75 very low traffic<br><i>Except that Home Ranch has a site-specific FAR</i><br>0.37 for the IKEA portion of the project and 0.64 for the office portion | C1, C2, C1-S, PDC, AP, P, CL                       |
| Regional Commercial        | Regional scale uses including major department stores, specialty retail outlets, restaurants, offices, and hotels.                                                                                                    | Less than or equal to 20 units/acre                                                                                                                                                                     | 0.652 South Coast Plaza (east of Bear Street)<br>0.89 South Coast Plaza (west of Bear Street)                                                                                                                                | PDC                                                |
| Urban Center Commercial    | Intensively developed mixed commercial including offices, retail shops, restaurants, and hotels. Residential uses are also permitted pursuant to the North Costa Mesa Specific Plan                                   | Less than or equal to 20 units/acre. Exceptions: South Coast Metro Center (Area 6) has a site specific density of 100 units per acre; Sakioka Lot 2 may be up to 28 units/ac for mixed-use development. | South Coast Metro Center (Area 6) has a site- specific FAR of 0.79<br>Sakioka Lot 2 (Area 8) has a maximum site- specific FAR of 1.0.                                                                                        | PDC,TC                                             |
| Cultural Arts Center       | Mixed commercial, residential, office and cultural uses.                                                                                                                                                              | —                                                                                                                                                                                                       | 1.77 See also the South Coast Plaza Town Center discussion regarding the FAR.                                                                                                                                                | TC                                                 |
| Industrial Park            | Wide variety of industrial and compatible office and support commercial uses.                                                                                                                                         | Less than or equal to 20 units/acre                                                                                                                                                                     | 0.20 high traffic<br>0.30 moderate traffic<br>0.40 low traffic<br>0.75 very low traffic                                                                                                                                      | MP, POI, CL                                        |
| Public and Semi-Pubic      | Parks, hospitals, schools, religious facilities, fairgrounds, and public facilities.                                                                                                                                  | —                                                                                                                                                                                                       | 0.25                                                                                                                                                                                                                         | I & R, I&R-S, P                                    |
| Mixed Use Overlay          | <u>Housing, such as multifamily dwellings, blending residential uses into key areas that are served by various shopping, convenience, employment, and community-serving uses.</u>                                     | <u>Less than or equal to 90 units/acre</u>                                                                                                                                                              | <u>1.0</u>                                                                                                                                                                                                                   | <u>MUOD</u>                                        |

- (5) **"Prior Housing Element Site"** means any non-vacant Housing Element Site that was identified in the prior Housing Element and any vacant Housing Element Site that was identified in two or more consecutive prior Housing Elements. Such sites are identified in the City's currently adopted Housing Element Sites Inventory, shown as Table B-6: Sites to Accommodate Costa Mesa 2021-2029 RHNA.
- (6) **"Protected Unit"** means any unit that, within the past five years, was occupied by a lower-income household regardless of whether the unit was deed-restricted or that was subject to an affordability covenant or rent control.

(e) **Supersession of Overlay**

(1) **For Lower-Income Housing Element Sites:**

- i. **Supersession of Other Zoning Provisions.** Projects on Lower-Income Housing Element Sites shall be governed by this Section, and the provisions in this Section shall supersede and prevail over any conflicting provisions of the underlying base zone, including, but not limited to, minimum residential floor area, minimum residential capacities and densities, ministerial review and approval requirements, and permitted uses, and all other applicable zoning provisions, such as other urban plans, overlays, and specific plans, and the provisions of this Article that apply to non-Lower-Income Housing Element sites.

- ii. **Ministerial Review and Approval.** Projects on Lower-Income Housing Element Sites shall be a Use by Right pursuant to Subsection (f)(1).

- iii. **Minimum Residential Floor Area.** Projects on Lower-Income Housing Element Sites shall satisfy the minimum residential floor area requirements established in Subsection (g)(3).

- iv. **Minimum Residential Site Capacity and Density.** Projects on Lower-Income Housing Element Sites shall satisfy the minimum residential capacity and density requirements established in Subsection (h)(1)(ii) and (h)(1)(iii).

(f) **Review and Approvals Procedures**

- (1) **Use by Right.** A project on a Lower-Income Housing Element Site that provides at least 20 percent of the total dwelling units affordable to Lower-Income Households shall be processed as a Use by Right, consistent with Government Code Section 65583.2(h) and (i). Such projects shall be subject only to ministerial review to verify compliance with all applicable objective design and development standards in accordance with a Streamlined Development Review process per CMMC Title 13, Chapter III (Planning Applications). A project that does not qualify as a Use by Right shall be processed in accordance with a

trip budgets

Notwithstanding the foregoing if a specific plan allows for more relaxed standards or greater heights, Projects on Lower-Income Housing Element Sites may utilize those standards or heights

Housing Element Sites may utilize those standards or heights

(2) Off-Street Parking Standards

- i. Residential Uses. Minimum off-street parking requirements for multi-family dwellings on Housing Element sites are provided in Table 13-83.58-A. Minimum Off-Street Parking Requirements.
- ii. Non-Residential Uses. Minimum off-street parking requirements for those permitted non-residential uses on Housing Element sites shall be subject to CMMC Title 13, Chapter VI (Off-Street Parking Standards).

**Table 13-83.58-A. Off-Street Parking Standards for Residential Uses**

| TABLE 13-83.58-A. OFF-STREET PARKING STANDARDS |                                               |                                                     |
|------------------------------------------------|-----------------------------------------------|-----------------------------------------------------|
| <u>Dwelling Unit Type</u>                      | <u>Minimum Off-Street Parking Requirement</u> | <u>Minimum Off-Street Guest Parking Requirement</u> |
| Studio or 1-bedroom unit                       | 1 space per unit                              | 0.25 space per unit                                 |
| 2 or more bedrooms per unit                    | 2 spaces per unit                             | 0.25 space per unit                                 |

(3) Development Standards

- i. Minimum and maximum requirements for building height, non-residential intensity, setbacks, lot coverage, and open space are provided in Table 13-83.58-B. Development Standards.

**Table 13-83.58-B. Development Standards.**

| TABLE 13-83.58-B: DEVELOPMENT STANDARDS                  |                                             |                                    |                                     |
|----------------------------------------------------------|---------------------------------------------|------------------------------------|-------------------------------------|
| <u>RESIDENTIAL DENSITY AND BUILDING HEIGHT STANDARDS</u> |                                             |                                    | <u>ADDITIONAL PROVISIONS</u>        |
| <u>Min. Residential Density<sup>1</sup></u>              | <u>Max. Residential Density<sup>2</sup></u> | <u>Max. Building Height</u>        |                                     |
| <u>20 du/ac</u>                                          | <u>40 du/ac</u>                             | <u>60 ft.</u>                      |                                     |
|                                                          | <u>50 du/ac</u>                             |                                    |                                     |
|                                                          | <u>60 du/ac</u>                             | <u>72 ft.</u>                      |                                     |
|                                                          | <u>90 du/ac</u>                             | <u>108 ft.</u>                     | or the applicable Plan whichever is |
| <u>NON-RESIDENTIAL INTENSITY STANDARDS</u>               |                                             |                                    | <u>ADDITIONAL PROVISIONS</u>        |
| <u>Min. FAR</u>                                          | <u>None</u>                                 |                                    |                                     |
| <u>Max. FAR</u>                                          | <u>1.0</u>                                  |                                    |                                     |
| <u>SETBACK STANDARDS<sup>3</sup></u>                     |                                             |                                    | <u>ADDITIONAL PROVISIONS</u>        |
| <u>Front or side abutting a public street</u>            |                                             | <u>Min. 10 ft. and max. 20 ft.</u> |                                     |

### ***Existing General Plan and Zoning Designations***

Figure 3 indicates the General Plan land use designations for the area of the City north of the I-405, and Figure 4 indicates the accompanying zoning designations. Table 1 summarizes the development parameters of the General Plan land use designations, and the compatible zoning districts.

As shown in Table 1, the General Plan establishes Floor Area Ratios (FARs) for all non-residential land use designations. The FAR is used to determine the maximum amount of building that is allowed on a lot or parcel. Several land use categories in the plan area contain stepped FARs which are tied to the traffic characteristics of the proposed land use. Residential density is measured in dwelling units per acre. Trip budgets have also been established for properties in the plan area designated as Urban Center Commercial, Cultural Arts Center, or Regional Commercial in the plan area. The industrial portion of Home Ranch also has a trip budget. When applicable, the FAR, or in the case of residential, dwelling units per acre, and trip budget work in concert to ensure that building intensity and trip generation do not exceed the capacity of the circulation system in the plan area. The trip budget for individual properties is given in Section 3.

The lowest FARs are found in the Neighborhood Commercial designation as well as in the residential, industrial and public-semi land use designations. The highest FARs are allowed in the Regional Commercial, Cultural Arts Center, and Urban Center Commercial land use designations. The General Plan does not allow the established floor area ratio to be exceeded in any instance.

Trip budgets are calculated on a square footage basis for commercial, industrial, residential, and institutional land uses. As with FARs, trip budgets cannot be exceeded. The General Plan, however, does allow for the transfer of trip budgets in the plan area in the following circumstances:

1. The combination and/or transfer of trips shall only be allowed in the area of the City that is north of the I-405 and east of Harbor Boulevard, and shall be limited to parcels within a one-mile radius of each other.
2. Trip budget transfers shall be evaluated in the review and approval of a planned development or master plan project. Sufficient conditions of approval shall be applied to the master plan or development plan to ensure long-range control over subsequent phases of development.
3. The combination and/or transfer of trips shall not result in any greater impacts on the surrounding circulation system than would occur if each Traffic Analysis Zone (TAZ) was developed independently. (Consult with the Planning Division for a figure depicting TAZs)
4. For the combination and/or transfer of trips between TAZs, such combination and/or transfer of trips shall not exceed the total trip budget of all parcels involved if each were developed independently according to the FAR and trip generation rates provided herein.

5. The combination and/or transfer of trips shall not allow development intensities which result in abrupt changes in scale or intensity within the project or between the project and surrounding land uses.
6. Approval of the master plan or development plan shall be conditioned to ensure compliance with the above criteria and to preclude future overdevelopment on portions of the project or properties from which trip budgets were transferred.
7. Trip budget transfers shall be recorded against the properties.

Therefore, if a property is underdeveloped in terms of its trip budget, there is the possibility that the "excess" trips could be transferred to another parcel to augment its trip budget.

It should be noted that all the Planned Development (PD), Town Center (TC), and Shopping Center (C1-S) zones require Planning Commission review and approval of the land use mix and building location.

#### **Mixed-Use Overlay District and Properties identified in the Housing Element**

In 2026, this specific plan was amended for consistency with an amendment to the City's Zoning Map, which resulted in the rezoning of several properties in the plan area to encourage and facilitate residential and mixed-use development. While base zoning districts remain the same, the Mixed-Use Overlay District (MUOD) was applied to several parcels in the PDC, I&R, PDR-HD, TC, C1, and PDI zoning districts within the plan area. The MUOD is an overlay district and shall only apply to the parcels identified in the City's Zoning Map. This specific plan shall continue to apply to a property unless specifically superseded by a MUOD project when a property owner chooses to exercise provisions of Article 11 (Mixed-Use Overlay District) of Chapter V (Development Standards) of Title 13 (Planning and Development) of the Costa Mesa Municipal Code on a qualifying property. However, it should be noted that projects identified on Lower-Income Housing Element Sites shall be governed by Section 13-83.58.e, (Supersession of Overlay) of Article 11, and the provisions of that Section shall supersede and prevail over any conflicting provisions of the underlying base zone, including, but not limited to, minimum residential densities and capacities, minimum residential floor area, ministerial review and approval, and permitted uses, and all other applicable zoning provisions, such as other urban plans, overlays, and specific plans, including this specific plan.

→ trip  
budgets, heights,

Updated Month 2026

### Building Heights

Existing building heights in the plan area vary from single story single family homes to twenty-one story office buildings. Generally, the high-rise office buildings are located in the South Coast Plaza Town Center and South Coast Metro Center areas; the Metro Pointe area has approval for additional buildings that include two fifteen story buildings. The buildings at South Coast Plaza and Crystal Court vary from one to three stories in height.

The General Plan does not establish a general limit on building heights north of the I-405 but rather contains two policies that provide guidelines for determining the appropriate building height. Policy LU-1C.1 permits the construction of buildings over two stories or 30 feet only when it can be shown that the building height will not impact surrounding developments. Policy LU-1C.3 prohibits the construction of buildings that present a hazard to air navigation at John Wayne Airport as determined by the Federal Aviation Agency.<sup>2</sup>

Policy LU-1C.3 is particularly relevant to the plan area, since the portion of the plan area generally east of the Metro Pointe property is within the imaginary horizontal surface of John Wayne Airport. Beyond the horizontal surface for another 4,000 feet is the imaginary conical surface. See Figure 6. These imaginary surfaces are the trigger for requiring special studies and review by the Airport Land Use Commission for Orange County and the FAA. It should be noted that a number of existing buildings in South Coast Plaza Town Center encroach within the imaginary horizontal surface; however, each was determined not to pose a hazard to the airport's operations and were required to install obstruction lighting.

Building heights in North Costa Mesa have created public controversy in the past, especially in the Home Ranch area where high-rise development approvals were overturned by the voters in 1988. Table 2 specifies the maximum building heights for the plan area and shall continue to apply to a property unless specifically superseded by a MUOD project when a property owner chooses to exercise provisions of Article 11 (Mixed-Use Overlay District) of Chapter V (Development Standards) of Title 13 (Planning and Development) of the Costa Mesa Municipal Code on a qualifying property; these building height standards recognized existing patterns and surrounding land uses. Any new building proposed at 3 stories or more should require a shade and shadow impact analysis in relation to surrounding land uses.

It should be noted that Home Ranch has a specific height limitation of five stories and only in the center of the property. Any additional height above five stories (75 feet) would require a General Plan amendment. Exhibit 11b depicts the height limitations for Home Ranch.

<sup>2</sup>See Appendix C for full text of Policies LU-1C.1 and LU-1C.3.

→ in which case  
the the property  
may use the limit  
in the MUOD or this  
Specific Plan, whichever  
is higher.

**AREA 6- SOUTH COAST METRO CENTER****Existing Land Uses**

In 2006, this approximate 45-acre area was developed with several office buildings, a health club, restaurants, and retail uses. At one time, the entire South Coast Metro Center was owned by one property owner (Sakioka Farms) and was leased on a long-term basis to various other parties. In the early 2000s, there was a change of ownership and operation of the area, and it is now owned and managed by several different parties. Some parcels are owned in fee, while others are owned by the Sakioka family and leased on a long-term basis to others. For planning purposes only, this area has been broken into four different sub-areas, as described in the following discussions, and shown in Table 6A and on Figure 16a.

**General Plan and Zoning**

The site is designated Urban Center Commercial by the General Plan and is zoned PDC

In 2000, a site-specific FAR of 0.79 was adopted for this area to allow a maximum square footage of 1,546,180 of non-residential development on the total site area of 44.97 acres (this is the net acreage of the site after all necessary dedications for public improvements).

When the 2000 General Plan was adopted in 2002, the trip budget for South Coast Metro Center was established as 1,886 a.m. peak hour trips and 1,994 p.m. peak hour trips for a strictly non-residential development project.

In 2007, General Plan Amendment (GP-06-02) was approved, and it consisted of a site-specific high-rise residential development option on a 4.86-acre portion of Area 6 (Sub-Area 1) at a density of 100 units per acre with 6,000 square feet of integrated ancillary retail uses. Additionally, for this residential development option, the Area 6 trip budget was modified to 1,931 a.m. peak hour trips and 1,976 p.m. peak hour trips.

See the following section for a discussion of the four sub-areas and the corresponding allocation of the floor area ratio, dwelling units, trip budget, and building square footages.

**Sub-Areas**

The South Coast Metro Center was divided into four sub-areas in conjunction with the approval of GP-06-02. These four sub-areas are under separate ownership and management. Provided in Table 6A is a statistical summary of the maximum floor area ratio, maximum number of residential units, and trip budgets for each sub-area. Figure 16a illustrates the boundaries of the sub-areas.

To facilitate flexibility within a sub-area, building square footages may be transferred, provided that the total building square footage, number of units, floor area ratio, ~~and trip budget~~ for the affected sub-area are not exceeded as delineated in Table 6A. ~~Transfers between the sub-areas are not permitted.~~

**Sub-Area 1:** GP-06-02 amended the 2000 General Plan to create a site-specific residential density of 100 units/acre in the Urban Center Commercial land use designation for this 4.86-acre sub-area with a maximum of 484 residential units. In this sub-area, the 484 high-rise residential units and 6,000 square feet of ancillary retail, known as Symphony Towers, may be constructed at the southeast corner of Avenue of the Arts and Anton Boulevard in conjunction with the demolition of two existing restaurants and the relinquishment of a 300-room hotel (200,950 square feet) entitlement. This would result in a maximum non-residential floor area ratio of 0.03 with a maximum number of 484 high-rise residential units at 100 units per acre (Option 1 in Table 6A).

Should the property owner determine not to develop any or only a portion of the high-rise residential option, then the unbuilt residential uses may be converted to a corresponding non-residential development provided that the maximum allowable non-residential building square footage, floor area ratio, and trip budget are not exceeded for the Option 2 development scenario shown in Table 6A. The Option 2 development scenario represents the maximum amount of non-residential building square footage allowed for this sub-area, which is 216,794 square feet. It is anticipated that this development option would be composed of a 300-room hotel (200,950 square feet) and 15,844 square feet of restaurant uses.

For both Options 1 and 2, Table 6A indicates the a.m. and p.m. trip budgets, maximum number of dwelling units, maximum non-residential building square footage, and associated maximum floor area ratio.

The maximum building height is 306 feet above grade level for Option 1 and 180 feet above grade level for Option 2.

**Sub-Area 2:** For this 2.57-acre sub-area, the maximum allowable building square footage is 4,000 square feet with a corresponding maximum allowable floor area ratio of 0.036. In 2006, this sub-area was developed with a multi-tenant retail building (545 Anton Boulevard). *The Housing Element allows 230 units on the property.*

The maximum building height is 180 feet above grade level. ~~The a.m. and p.m. peak hour trip budget is shown in Table 6A.~~

**Sub-Area 3:** In 2000, GP-99-06 was approved for this 19.5-acre sub-area with a maximum building square footage of 525,000 in four buildings for Experian Information Solutions (475 Anton Boulevard). The corresponding maximum allowable floor area ratio is 0.62. In 2006, the final building was approved for construction. The maximum building height for this sub-area is 180 feet above grade level. The a.m. and p.m. peak hour trip budget is shown in Table 6A.



# North Costa Mesa Specific Plan

**Sub-Area 4:** For this 18.06-acre site the maximum allowable floor area ratio is 1.02 (800,386 square feet of building area). In 2006, this sub-area was built-out with:

Three Office buildings (535, 555, 575 Anton) – 749, 230 square feet

One Health Club (589 Anton) - 51,156 square feet

The maximum building height is 180 feet above grade level. The a.m. and p.m. peak-hour trip budget is shown in Table 6A.

→ The ~~maximum~~ housing Element allows 305 units on a 3.39 acre portion of this sub-area, APN 410-501-31.

| Table 6A- South Coast Metro Center Sub-Area Statistics                                                                                                                                                                                                                                                                                                                                                                                      |                                       |                                                 |                                                         |                                    |                                    |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------|-------------------------------------------------|---------------------------------------------------------|------------------------------------|------------------------------------|
| North Costa Mesa Specific Plan                                                                                                                                                                                                                                                                                                                                                                                                              |                                       |                                                 |                                                         |                                    |                                    |
|                                                                                                                                                                                                                                                                                                                                                                                                                                             | Maximum Allowable Non-Residential FAR | Maximum Non-Residential Building Square Footage | Maximum Allowable Number of High-Rise Residential Units | Maximum A.M. Peak Hour Trip Budget | Maximum P.M. Peak Hour Trip Budget |
| <b>Sub-Area 1 (4.86 acres)</b>                                                                                                                                                                                                                                                                                                                                                                                                              |                                       |                                                 |                                                         |                                    |                                    |
| Option 1                                                                                                                                                                                                                                                                                                                                                                                                                                    | 0.03 <sup>1</sup>                     | 6,000 sq. ft. <sup>1</sup>                      | 484                                                     | 227                                | 290 <sup>1</sup>                   |
| Option 2                                                                                                                                                                                                                                                                                                                                                                                                                                    | 1.0                                   | 216,794 sq. ft.                                 | 0                                                       | 182                                | 308                                |
| <b>Sub-Area 2 (2.57 acres)</b>                                                                                                                                                                                                                                                                                                                                                                                                              |                                       |                                                 |                                                         |                                    |                                    |
|                                                                                                                                                                                                                                                                                                                                                                                                                                             | 0.036                                 | 4,000 sq. ft.                                   | 0                                                       | 5                                  | 14                                 |
| <b>Sub-Area 3 (19.48 acres)</b>                                                                                                                                                                                                                                                                                                                                                                                                             |                                       |                                                 |                                                         |                                    |                                    |
|                                                                                                                                                                                                                                                                                                                                                                                                                                             | 0.62                                  | 525,000 sq. ft.                                 | 0                                                       | 752                                | 704                                |
| <b>Sub-Area 4 (18.06 acres)</b>                                                                                                                                                                                                                                                                                                                                                                                                             |                                       |                                                 |                                                         |                                    |                                    |
|                                                                                                                                                                                                                                                                                                                                                                                                                                             | 1.02                                  | 800,386 sq. ft.                                 | 0                                                       | 947                                | 968                                |
| <b>TOTAL SOUTH COAST METRO CENTER (44.97 acres)</b>                                                                                                                                                                                                                                                                                                                                                                                         |                                       |                                                 |                                                         |                                    |                                    |
| Option 1                                                                                                                                                                                                                                                                                                                                                                                                                                    | 0.69 <sup>2</sup>                     | 1,335,386 sq.ft. <sup>2</sup>                   | 484                                                     | 1931                               | 1976 <sup>2</sup>                  |
| Option 2                                                                                                                                                                                                                                                                                                                                                                                                                                    | 0.79                                  | 1,546,180 sq.ft.                                | 0                                                       | 1886                               | 1994                               |
| 1. This maximum may be increased to no more than the Option 2 maximum for this sub-area in direct relation to the decrease in the maximum number of high-rise residential units. See text for Sub-Area 1 for additional information.<br><br>2. This maximum may be increased to no more than the Option 2 maximum for the total area in direct relation to the decrease in the maximum number of high-rise residential units in Sub-area 1. |                                       |                                                 |                                                         |                                    |                                    |



## AREA 8- SAKIOKA LOT 2

### Existing Land Uses

This 33 acre area is designated for planned development, including mixed-use, residential, and commercial office development and is currently in agricultural production. Two single family homes are located along Sunflower Avenue. Lot 2 is owned by Roy K. Sakioka & Sons.

### General Plan and Zoning

This site is designated Urban Center Commercial by the General Plan and is zoned PDC.

### Development Standards and Trip Budget

The development intensity for planned development (i.e. master plans) on Sakioka Lot 2 is limited by the following:

- The trip budget for this site is 1,062 a.m. peak hour trips and 1,407 p.m. peak hour trips. The trip budget shall not be exceeded for any master planned development on Sakioka Lot 2.
- Planned Development Standards of the PDC zone are applicable to the site, unless otherwise indicated in the North Costa Mesa Specific Plan.
- A maximum 1.0 Floor-Area-Ratio applies to nonresidential development. Nonresidential development is also subject to the trip budget limitation, applicable development standards of the PDC zone, and consistency with the General Plan.
- The maximum residential density (dwelling units per acre) is a maximum of ~~28~~ <sup>90</sup> dwelling units per acre for the residential component of a mixed-use development (See "Mixed-Use" discussion) or a maximum of 20 dwelling units per acre for an independent residential community including affordable housing (See "Affordable Housing / Density Bonus" discussion). An independent residential community is defined as a development in which the site is entirely developed as a residential use and therefore does not include commercial uses on the same site.

The projected trip generation for land uses proposed for Sakioka Lot 2 will be based on latest edition of Trip Generation, Institute of Transportation Engineers. The methodology will consider reasonable allowances for trip credits due to internal capture and pass-by trips. Internal capture credit refers to trips for various uses proposed within the parcel that can be accomplished without having to leave the facility.

For example, an office complex could have restaurants and other ancillary uses which may not generate new trips – rather serve tenants within the complex. Other examples include conference room and fitness facilities. Pass-by trips refers to trips that are



already on roadway adjacent to the development and use the facilities. Pass-by trip credits are limited to retail uses.

The credits allowed for internal capture and pass-by trips will be determined by the Transportation Services Manager. The net trip generation after credits will be compared to the trip budget to determine if the proposed development is within the limits prescribed in the North Costa Mesa Specific Plan.

#### Land Use Compatibility/Integration

Future development of this site is anticipated to include mid- and high-rise office buildings as well as support commercial. Shade and shadow impacts for buildings in excess of 2 stories should be considered in relation to surrounding land uses. Site design should limit vehicular access to and from Sunflower Avenue.

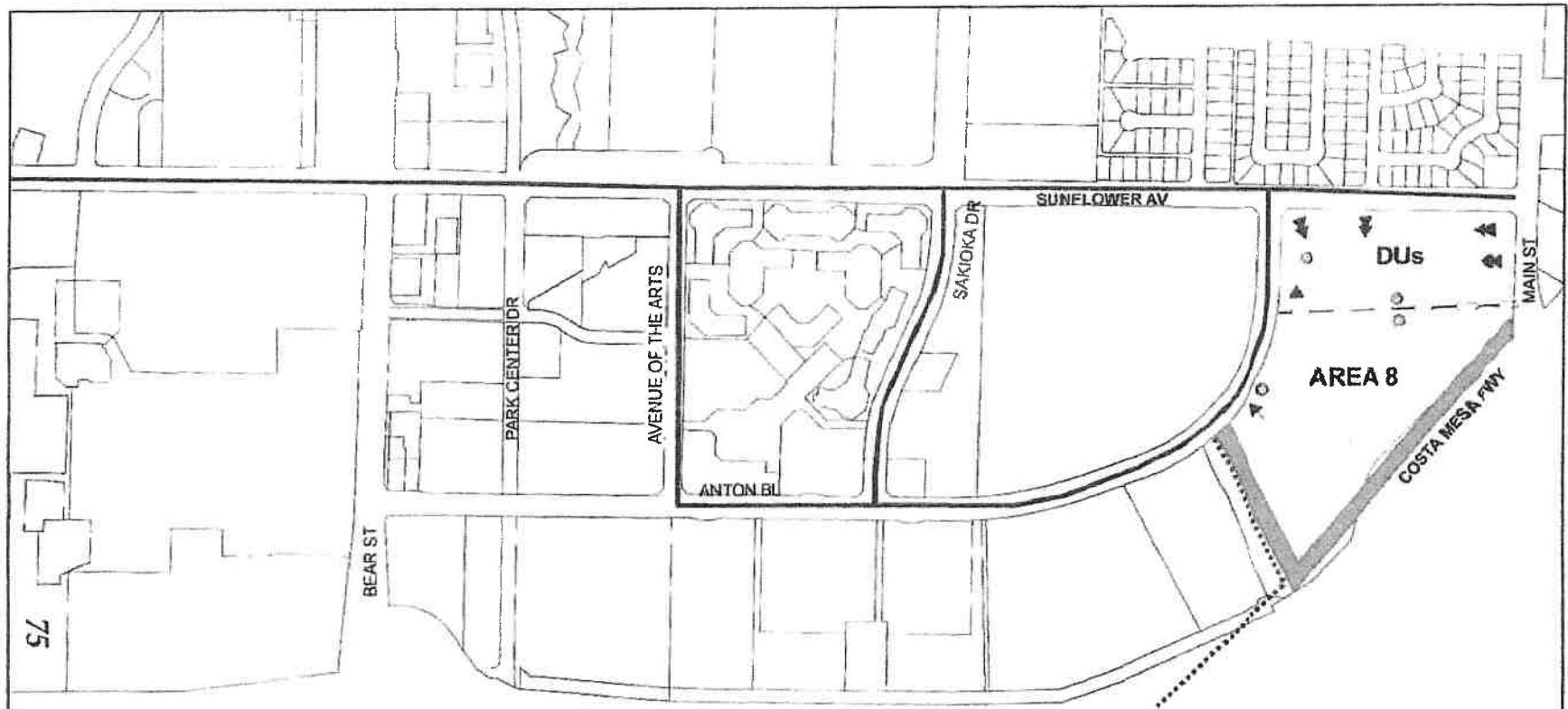
New commercial and office buildings are encouraged to be located along the Anton frontage. Encroachment into the building setback on Anton Boulevard for commercial or mixed-use developments can be considered based on how well the project design accommodates pedestrians and if the parking areas and/or structures are located behind the commercial or mixed-use building(s). Parking areas shall not be allowed to encroach into the street setback, unless they are tucked under the commercial development. Parking lots/structures should be located primarily along the eastern edge of the site adjacent to the Costa Mesa Freeway and the new on-ramp. Internal pedestrian linkages to Anton Boulevard should be provided.

#### Mixed-Use

The PDC zoning does permit mixed-use development including residential and nonresidential uses as complementary uses. ~~The residential component of a mixed-use development shall be limited to a maximum density of 28 dwelling units per acre. This maximum density only applies to residential uses as complementary uses to commercial uses within a mixed-use development. It does not apply to an independent residential community that does not include commercial uses on the same site. Total building intensity for the entire site shall not exceed the maximum allowable development intensity as set forth by the trip budgets.~~ For a mixed-use development, the overall mix of uses, including trips from dwelling units, shall be counted together in determining compliance with the trip budgets. The trip budget shall not be exceeded.

1200  
residential units  
OF FAR  
and  
units

The Costa Mesa Freeway, Sunflower Avenue, and Main Street represent significant air quality and noise sources that will impact the siting of residential units and other sensitive land uses. Existing ambient air quality may exceed state and federal levels for carbon monoxide; therefore significant mitigation measures may be required. Acceptable interior and exterior noise levels for residential uses would need to be achieved. An appropriate interface between the office buildings and residential uses would also be required.



## LEGEND

- Bikeway
- ..... Freeway Ramp
- - - Future Collector Street
- DU's Potential Dwelling Units Location
- Project Entry
- Pedestrian Linkage
- Dwelling Unit Orientation

Note: The information provided in graphic form is intended to be illustrative and is not intended to be interpreted as the precise location for future land uses or structures, unless so specified in Section 4.0 Development Standards

## AREA 8 - SAKIOKA LOT 2 Development Summary

Total Area - 33 acres  
General Plan: Urban Center Commercial  
Zoning: PDC

Maximum Intensity: 0.60 FAR - Retail **1.0 FAR**  
0.60 FAR - Office

**90**  
~~Maximum Square Footage: 863,000 sf~~  
~~Maximum Density: 29 units per acre~~  
~~Trip Budget: 1,062 a.m. peak hour trips~~  
~~1,407 p.m. peak hour trips~~

Maximum Building Height: 12 stories/180 feet (south of the collector street)  
4 stories/60 feet (north of the collector street)  
2 stories/30 feet - Commercial uses that are allowed to encroach into the setback for Anton Blvd.



Figure 18

**Affordable Housing and Density Bonus**

If the entire site is developed as an independent residential community with affordable housing, the maximum density shall be 20 dwelling units per acre involving a maximum number of 660 residential units (including any density bonuses, see Table 8).<sup>1</sup> Total building intensity for the entire site shall not exceed the maximum allowable development intensity as set forth by the trip budgets.

The maximum number of dwelling units (including any density bonuses) for Sakioka Lot 2 is 660 units. The maximum base density is 528; in order to be granted a 25% density bonus (132 dwelling units), the developer would have to provide affordable housing pursuant to one of the following three options shown in the following table. All affordable housing provisions shall be for a minimum of 30 years.

**Table 8- Sakioka Lot 2 Density Bonus Program****North Costa Mesa Specific Plan**

| MAXIMUM BASE DENSITY     | AFFORDABLE HOUSING CATEGORY <sup>1</sup>       |                                                   | DENSITY BONUS CRITERIA |
|--------------------------|------------------------------------------------|---------------------------------------------------|------------------------|
| 528 UNITS                | OPTION 1<br>VERY LOW INCOME <sup>1</sup>       | REQUIRED PERCENT OF BASE DENSITY TO BE AFFORDABLE | 10%                    |
|                          |                                                | # OF AFFORDABLE UNITS                             | 53 UNITS               |
|                          | OPTION 2<br>LOW INCOME <sup>1</sup>            | REQUIRED PERCENT OF BASE DENSITY TO BE AFFORDABLE | 20%                    |
|                          |                                                | # OF AFFORDABLE UNITS                             | 106 UNITS              |
|                          | OPTION 3<br>LOW & MODERATE INCOME <sup>1</sup> | REQUIRED PERCENT OF BASE DENSITY TO BE AFFORDABLE | 10% LOW & 15% MODERATE |
|                          |                                                | # OF AFFORDABLE UNITS                             | 132 UNITS              |
| 25% DENSITY BONUS        |                                                |                                                   | 132 UNITS              |
| TOTAL UNITS <sup>2</sup> |                                                |                                                   | 660                    |

**NOTES:**

1. Very Low, Low, and Moderate determinations are based on HUD definitions and income limits, adjusted for family size.
2. The total number of units assumes that other criteria of the Planned Development Commercial Zone have been met regarding density increases.

\*The maximum number of units (660) in an independent residential community is based on 33 acres of land and 20 units per acre...



### **Building Heights**

The maximum building height is 180 feet (approximately 12 stories) south of the new collector street and 60 feet (approximately 4 stories) north of the new collector street. Commercial or mixed use developments that are allowed to encroach into the street setback of Anton Boulevard shall be limited to 2 stories/30 feet within the street setback. Buildings above 173 feet in height will require approval by the FAA.

### **Circulation**

The Master Plan of Highways includes a new collector street that connects Main Street and Anton Boulevard through this site. A new I-405 on-ramp from Anton Boulevard is to the south of this site. The Master Plan of Bikeways includes a new bikeway on Sunflower Avenue. As shown on Figure 9, the various alternatives for the urban rail alignment traverse this property and a station is also proposed in the vicinity.

Figure 19 provides an overview of the entire plan area and depicts development standards that can be shown graphically. It should be noted that the information is intended to be illustrative and is not to be interpreted as the precise locations for future land uses or structures.

PH-1

**HALLIGAN, MICHELLE**

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**From:** Christopher Brancart <cbrancart@brancart.com>  
**Sent:** Monday, February 9, 2026 12:09 PM  
**To:** HALLIGAN, MICHELLE; MCGILL, ANNA; TAI, CARRIE; PC Public Comments; CITY CLERK; PLANNING INFO  
**Subject:** Public Comment - PC Mtg 02/09/2026, Item PH-1  
**Attachments:** sent letter to City PC re Agenda Item PH1.pdf

PLEASE SEE ATTACHED; THANK YOU

--

Christopher Brancart  
Brancart & Brancart  
(650) 879-0141 (voice)  
(650) 879-1103 (fax)

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February 9, 2026

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**Re: Planning Commission Agenda Item PH-1  
Meeting: February 9, 2026  
Objections, Issues, and Concerns**

Dear Gentilepersons:

I write on behalf of The Ohio House and its residents, along with present and former Group Home owners, operators, and residents to address several issues regarding Agenda Item PH-1 to be heard, considered and acted upon by the Planning Commission at a public hearing on Monday, February 9, 2026. Item PH-1 asks the Planning Commission to approve a resolution recommending the adoption by the City Council of several code amendment purporting to implement specific housing programs set forth in the City's Sixth Cycle (2021-2029) Housing Element.

## **1. Issues Addressed in This Letter**

This letter focuses exclusively on code amendments purporting to implement Housing Programs regarding the regulation of housing for persons with disability; specifically:

1. Program 2O (Definition of Single Housekeeping Unit): That the City will “review and revise the definition of ‘single housekeeping unit’ within the zoning code to provide greater flexibility in consideration of accommodating a variety of household situations for related and unrelated individuals living together.”
2. Program 2P (Group Homes): That the City will “review and adopt revisions to its zoning code applicable to group homes to affirmatively further fair housing and comply with fair housing laws per the [following] objective: Review and revise the City’s zoning code and application procedures applicable to group homes to promote objectivity and greater approval certainty similar to other residential uses.”
3. Program 2N (Reasonable Accommodation): That the City will “review and adopt revisions to its Reasonable Accommodation process to be consistent with State and federal fair housing requirements.”

To implement these programs, the City proposes to amend the following provisions of the City’s zoning code (Title 13), set forth in Exhibit 3 in the Planning Commission Agenda Report:

4. Exhibit A: Chapter 1, Article 2, Definitions
5. Exhibit D: Chapter IV, Citywide Land Use Matrix
6. Exhibit H: Chapter IX, Article 15, Reasonable Accommodations
7. Exhibit K: Chapter XV, Group Homes; and,
8. Exhibit L: Chapter XVI, Group Homes in the R2-MD, R2-HD and R3 Residential Zones and the PDR-LD, PDR-MD, PDR-HD, PDR-NCM,

PDC, and PDI (Planned Development Zones)

and the related Title 9's Group Home Operator's Permit, set forth in Exhibit 5.

These code amendments fail to meet the requirements in Housing Programs 2N, 2O, and 2P, but also, if enacted as presently proposed, each amendment violates three federal laws – the Fair Housing Act, ADA, and Rehabilitation Act – and several state statutes, including the California Government Code §§ 12955, 65008, 8899.50, and 11135 as well as the California Constitution.

**2. The Proposed Amendment of the Definition of Single Housekeeping Unit fails to implement the requirements of the City's Housing Program 2O and promise to violate federal and state fair housing laws.**

The definition of Single Housekeeping Unit (SHU) is the pivotal zoning provisions that governs housing opportunities throughout Costa Mesa's residential districts. Among all Residential Uses listed in the City's Land Use Matrix, CMMC TABLE 13-30, a Single Housekeeping Unit is the only use permitted of right in every residential districts. Thus, if the City chooses to classify an residential occupancy as a SHU, then that household may occupy any dwelling in Costa Mesa pursuant to the zoning code. If the City refuses to classify a residential occupancy as a SHU, then that household is prohibited from the City's residential districts unless specially or conditionally permitted by the City or compelled by state statute.

The City proposes to implement Housing Plan Program 2O ("Definition of Single Housekeeping Unit") by amending the current definition of Single Housekeeping Unit as follows:

~~Single housekeeping unit. The occupants of a dwelling unit have established ties and familiarity with each other, including jointly use of and responsibility for common areas, which includes interaction with each other, shared meals, household activities, and expenses and responsibilities; where residency is mutually agreed by all residents, is not transitory in nature membership in the single housekeeping unit is fairly stable as opposed to transient, members have some control over who becomes a member of the household, and the residential activities of the household are conducted on a nonprofit not-for-profit basis. There is a rebuttable presumption that integral facilities do not constitute single housekeeping units. Additional indicia that a household is not operating as a single housekeeping unit include, but are not limited to: the occupants do not share a lease agreement or ownership of the property; members of the household have separate, private entrances from other members; members of the household have locks on their bedroom doors; members of the household have separate food storage facilities, such as separate refrigerators.~~

We urge the Planning Commission to reject the resolution recommending the adoption of the proposed amended definition of Single Housekeeping Unit (SHU) because it fails to implement Housing Program 2O, invites unlawful and arbitrary enforcement, and violates state and federal fair housing statutes.

*a. The Proposed SHU Definition Perpetuates The City  
Discrimination against Persons with Disabilities*

The City last amended its SHU definition in 2014 as part of Ordinance 14-13, the City's sweeping revision of its zoning code to compel the closure of existing group homes in R1 (SFR) districts – and to prohibit any new group homes there – unless the household qualified for issuance of a specially use permit. (This same framework was enacted by the City in 2015 to group homes in the City's MFR districts, as discussed below.) A fundamental, necessary condition of the City's discriminatory zoning restrictions enacted under Ordinance 14-13 was the simultaneous adoption of the current SHU definition. Given its inclusion in Ordinance 14-13, it should come as no surprise that the City repeatedly has admitted that the purpose of the current SHU definition was to exclude group homes from the definition and privilege afforded households classified as SHUs.

To achieve this result, the City includes a facially discriminatory presumption, a list of subjective, standardless criteria (carried forward in the proposed amendment), and several of observable indicia “that a household is not operating as a single housekeeping unit,” including more than one rental agreement, private, separate entrances, separate food storage and refrigerators. The proposed amendment deletes the facially discriminatory presumption but also deletes the only objective, observable standards (locks, entrance, refrigerators) in the pivotal provisions. While those observable indicia were enacted for a discriminatory purpose, they at least had the virtue of being an objective standard that could be applied to readily observable conditions (lock, entrance, refrigerators). Once observable conditions are stripped from the definition, the proposed amendment devolves into a series of necessary conditions lacking objective standard and impossible to apply without invading a household’s constitutionally protected privacy.

The upshot is chilling: If applied as written, there are few if any households that could qualify as SHUs. ***Worse still, the proposed definition commits the City to police personal relationship among every dwelling’s occupants and to monitor the domestic affair of every household in Costa Mesa.***

*b. The Text and Terms of the Proposed Single Housekeeping Unit Definition Offends Common Sense, Valid Zoning Principles, and Fair Housing Laws*

The proposed SHU amendment lacks valid, measurable, discernable, objective standards to determine whether a household qualifies as a SHU. Moreover, even if it provided valid standards, its application depends on the City’s observations and determination of the nature and quality of personal relationships amongst household members and their domestic affair within the privacy of their dwellings. In sum, the proposed SHU definition is useless in application, invalid on its face, and unconstitutional in effect.<sup>1</sup>

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<sup>1</sup> There are several ways to assess the efficacy of a zoning definition. We can disaggregate its terms into necessary and sufficient conditions. We can evaluate whether its intention (what it connotes) aligns with its extension (what it denotes). But under any test, the ultimate question is whether the text provides objective standards that can be consistently applied to observable facts reflecting conditions that endure over time. Thus, most zoning regulation concern the physical

As drafted, the proposed definition consists of a series of necessary conditions regarding personal relationships that each occupant must satisfy and several domestic affairs that each occupant must perform. Each of these conditions is necessary. In other words, if the City decides that any one occupant fails to meet any one of the following conditions, then the household is disqualified as a Single Housekeeping Unit:

Single housekeeping unit. The occupants of a dwelling unit have [1] **established ties** and [2] **familiarity** with each other, including joint [3] **use** of and [4] **responsibility** for common areas, which includes [5] **interaction** with each other, [6] **shared meals**, [7] **household activities**, and [8] **expenses** and responsibilities; where [9] **residency is mutually agreed** by all residents, is [10] **not transitory** in nature and the residential activities of the household are conducted on a [11] **not-for-profit basis**.

A close examination of these necessary conditions demonstrates why the proposed definition is not only profoundly flawed for purported purpose (implementing Program 2O), but also wholly dependent on the City violating the California Constitution, fair housing law, and sound zoning principles.

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as built environment or readily observable externalities. The proposed amended SHU definition meets none of these criteria under any framework.

| <i>No.</i> | <i>Necessary Condition</i>                                              | <i>Condition's Objective Standards</i>                     | <i>Application</i>                                                                                                                                                                                                                                                                                                                                                                                          | <i>Can City Lawfully Observe and Verify Facts to Determine Condition</i>                                                                                                                                                                                                                                                                                                                                                                               |
|------------|-------------------------------------------------------------------------|------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 01         | <b>Established Ties</b> between each occupant with each other occupant. | No, lacks objective criteria measuring quality or quantity | <p>a. Necessary condition must exist throughout the every persons occupancy at any point in time.</p> <p>b. To determine whether household's "established ties" are sufficient, each one-to-one relationship amongst occupants must be evaluated by the City; thus, in a six member household, there are 15 unique relationships to be evaluated. <math>C(n,r)</math> [i.e., "<math>n</math> chose 2"].</p> | <p>Yes, for some households, but only by proxy, limiting Establish Ties to relationships defined by law (e.g., consanguinity), and thereby discriminating against non-traditional families.</p> <p>No, this conditions lack any objective criteria; moreover, this condition involves personal relationships that are inherently difficult to observe and assess since relationships transpire within sphere of constitutionally protected privacy</p> |
| 02         | <b>Familiarity</b> between each occupant with each other occupant.      | No, id.                                                    | Id.                                                                                                                                                                                                                                                                                                                                                                                                         | No, this conditions lack any objective criteria; moreover, this condition involves personal relationships that are inherently difficult to observe and assess since relationships transpire within sphere of constitutionally protected privacy                                                                                                                                                                                                        |

| <i>No.</i> | <i>Necessary Condition</i>                         | <i>Condition's Objective Standards</i>                                                                                                                 | <i>Application</i> | <i>Can City Lawfully Observe and Verify Facts to Determine Condition</i>                                                                                                                                                                        |
|------------|----------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 03         | <b>Joint use of . . . common areas</b>             | Yes, in part, because - unlike other conditions - common areas are observable.<br>No, since use lacks objective criteria measuring quality or quantity | Id.                | No. This condition lack an objective standard; moreover, it occurs within the privacy of dwelling.                                                                                                                                              |
| 04         | <b>Joint . . . responsibility for common areas</b> | No, lacks objective criteria measuring quality or quantity                                                                                             | Id.                | No. This condition lack an objective standard; moreover, it occurs within the privacy of dwelling.                                                                                                                                              |
| 05         | <b>Interaction with each other</b>                 | No, id.                                                                                                                                                | Id.                | No, this conditions lack any objective criteria; moreover, this condition involves personal relationships that are inherently difficult to observe and assess since relationships transpire within sphere of constitutionally protected privacy |

| <i>No.</i> | <i>Necessary Condition</i>               | <i>Condition's Objective Standards</i> | <i>Application</i>                                                                                                                                                                                                                          | <i>Can City Lawfully Observe and Verify Facts to Determine Condition</i>                                                                                     |
|------------|------------------------------------------|----------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 06         | <b>Shared meals</b>                      | No, id.                                | Id., but measured by participate rate of each occupant. (i.e., Assume five occupant and five "household activities," the City must examine each occupants participation rate in a total of 25 activities.<br><i>Cartesian Product (mxn)</i> | No. The scope, frequency, and participation rate transpires within the privacy of dwelling                                                                   |
| 07         | <b>Shared . . . household activities</b> | No, id.                                | Id.,                                                                                                                                                                                                                                        | No. This condition lacks an objective, reliable standard. Moreover, participation of domestic activities transpires within the privacy of dwelling.          |
| 08         | <b>Shared . . . expenses</b>             | No, Id.                                | Yes, with an administrative subpoena.                                                                                                                                                                                                       | No, unless the City obtains an administrative subpoena to obtain detailed statements of household expenses and contributions by each member of the household |

| <i>No.</i> | <i>Necessary Condition</i>                           | <i>Condition's Objective Standards</i>                                                                                                                                                                                                                                                | <i>Application</i>                                                                      | <i>Can City Lawfully Observe and Verify Facts to Determine Condition</i>                                                                                                                                                                                      |
|------------|------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 09         | <b>Residency is mutually agreed by all residents</b> | No, Id., unless condition is intended to empower any occupant at the time to bar any prospective occupant or oust any existing occupant from a household, regardless of that occupant's age or maturity, consensus of the other occupants, or the basis for the preclusion or ouster. | Id.                                                                                     | Possibility, but if and only if the City obtains confirmation from each occupant who occupied a dwelling during its purported status as a SHU.                                                                                                                |
| 10         | <b>not transitory in nature</b>                      | No., Id.                                                                                                                                                                                                                                                                              | No, without a duration of occupancy specified, this necessary condition cannot applied. | No, unless the City obtains an administrative subpoena, permitting the City to lawfully review records or compel statements that establish the date each occupant joined a household. This information, however, is meaningless without a temporal criterion. |

| <i>No.</i> | <i>Necessary Condition</i>                                                             | <i>Condition's Objective Standards</i> | <i>Application</i>                                                                                                                                                                                                                                                                        | <i>Can City Lawfully Observe and Verify Facts to Determine Condition</i>                                                                                                                                                                                                     |
|------------|----------------------------------------------------------------------------------------|----------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 11         | <b>residential activities of the household are conducted on a not-for-profit basis</b> | No, Id.                                | Yes, with an administrative subpoena, but if and only if the City can verify that the housing provider is either is incorporated as a nonprofit or operates at a loss <i>and</i> that each occupant, regardless of age, infirmity, or capacity pays an equal share of the housing expense | No, unless the City obtains an administrative subpoena, permitting the City to lawfully obtain records showing that a housing provider is a nonprofit or operates at a loss and detailed financial records reflecting household expenses and contributions by each occupant. |

Does the proposed SHU definition provide with the City's zoning and code enforcers (as well as its citizens) with robust, objective standards that can be reliably applied to readily observable facts reflecting conditions that endure over the lifetime of a household? The answer is obvious no. Worse, if you assume that the proposed definition means what it says, and its conditions were uniformly applied to the wide variety of household that exist in Costa Mesa<sup>2</sup>, very few of those households could qualify as Single Housekeeping Unit. Worse still, under the proposed definition, the City is committed to policing the personal relationship and domestic affairs of its citizens, an undertaking that is as unpopular as it is unconstitutional.

We urge the Planning Commission to reject the resolution recommending the adoption of the proposed SHU definition.

**3. The proposed amendments to zoning regulations governing group homes fail to implement the objective of the City's Housing Program 2P, perpetuate discrimination against disabled persons, and promise to violate federal and state fair housing laws.**

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<sup>2</sup> Please refer to the City's demographic profile in the City's Sixth Cycle Housing Element.

The City proposes to implement Housing Plan Program 2P (“Group Homes”) by not making any substantive changes to its current group home regulations, codified as CMMC Title 13, Chaps. XV and XVI, and CMMC Title 9, Chap. II, Art. 23. See Meeting Packet, Exhibit 3. As a result, the City’s group home regulations continue to discriminate against housing for disabled persons, as reflected in Exhibit 1 hereto.

The only substantive change proposed by the City is to import the definition of “operator” into the definition of group home or sober living home. That amendment is deeply flawed and will not cure the problems with the City’s current group home regulations. The operator definition is standardless, circular, and assumes that landlords renting to non-disabled persons do not engage in placement, rule-setting, and behavioral oversight of their tenants—an demonstrably untrue assumption.

We urge the Planning Commission to reject the resolution recommending the adoption of the proposed amendments to the group home regulations because they are insufficient.

**4. The proposed amendments to the City’s RA regulations fail to implement the requirements of the City’s Housing Program 2N, perpetuate discrimination against disabled persons, and promise to continue violating federal and state fair housing laws.**

The City proposes to implement Housing Plan Program 2N (“Reasonable Accommodation”) by making modest changes to the existing regulation that fail to fulfill this Housing Program’s intent and continue a policy in violation of federal and state fair housing laws.

To implement Program 2N, the City must amend the current regulation to address each of the issues raised in DRC’s letter to the City dated January 12, 2026, a copy of which is attached as Exhibit 2. In addition, the City must provide a cogent definition of “institutionalization” if it intends to apply that criterion as a basis for denying RA requests.

We urge the Planning Commission to reject the resolution recommending

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adoption of the proposed RA regulation because it is insufficient.

Thank you for your consideration.

*/s/ Christopher Brancart*  
[cbrancart@brancart.com](mailto:cbrancart@brancart.com)

**Zoning regulations for unlicensed<sup>1</sup> residential uses in Costa Mesa's multi-family zoning districts**

| <b><i>CMMC Regulations Governing Residential Uses in City's Multifamily Districts</i></b> | <b><i>Sober Living Home<sup>2</sup></i></b> | <b><i>Group Home<sup>3</sup></i></b> | <b><i>Boardinghouse, Small &lt; 3 rental rooms<sup>4</sup></i></b> | <b><i>Boardinghouse, Large &lt; 7 rental rooms</i></b> | <b><i>Multi-family Dwelling<sup>5</sup></i></b> |
|-------------------------------------------------------------------------------------------|---------------------------------------------|--------------------------------------|--------------------------------------------------------------------|--------------------------------------------------------|-------------------------------------------------|
| <b><i>Use Definitions</i></b>                                                             |                                             |                                      |                                                                    |                                                        |                                                 |
| Use defined based on disability status of residents, CMMC 13-06                           | Yes, CC 9 <sup>6</sup>                      | Yes, CC 5                            | No, CC 3                                                           | No, CC 3                                               | No CC 4                                         |

<sup>1</sup> Licensed uses are subject to state-mandated zoning entitlements and restrictions. The Costa Mesa Municipal Code (CMMC) defines these uses as ***Residential care facilities***. A residential facility licensed by the state where care, services, or treatment is provided to persons living in a supportive community residential setting. Residential care facilities include, but may not be limited to, the following: intermediate care facilities for the developmentally disabled (Health & Safety Code §§ 1267.8, 1267.9); community care facilities (Health & Safety Code § 1500 et seq.); residential care facilities for the elderly (Health & Safety Code § 1569 et seq.); residential care facilities for the chronically ill (22 C.C.R. § 87801(a)(5); Health & Safety Code § 1568.02); alcoholism and drug abuse facilities (Health & Safety Code §§ 11834.02—11834.30); pediatric day health and respite care facilities (Health & Safety Code § 1760 et seq.); residential health care facilities, including congregate living health facilities (Health & Safety Code §§ 1265—1271.1, 1250(i), 1250(e), (h)); family care home, foster home, group home for the mentally disordered or otherwise handicapped persons or dependent and neglected children (Wel. & Inst. Code §§ 5115—5120).” CMMC 13-06.

<sup>2</sup>***Sober living home*** means a group home for persons who are recovering from a drug and/or alcohol addiction and who are considered handicapped under state or federal law. Sober living homes shall not include the following: (1) residential care facilities; (2) any sober living home that operates as a single housekeeping unit.” CMMC 13-06.

<sup>3</sup>***Group home***. A facility that is being used as a supportive living environment for persons who are considered handicapped under state or federal law. A group home operated by a single operator or service provider (whether licensed or unlicensed) constitutes a single facility, whether the facility occupies one (1) or more dwelling units. Group homes shall not include the following: (1) residential care facilities; (2) any group home that operates as a single housekeeping unit.” CMMC 13-06.

<sup>4</sup> ***Boardinghouse***. A residence or dwelling, other than a hotel, wherein rooms are rented under two (2) or more separate written or oral rental agreements, leases or subleases or combination thereof, whether or not the owner, agent or rental manager resides within the residence. Boardinghouse, small means two (2) or fewer rooms being rented. Boardinghouse, large means three (3) to six (6) rooms being rented. Boardinghouses renting more than six (6) rooms are prohibited.” CMMC 13-06.

<sup>5</sup> ***Dwelling, multi-family*** “Dwelling, multi-family” or “multi-family dwelling” is a building or buildings of permanent character placed on one (1) lot which is designed or used for residential occupancy by two (2) or more families.” CMMC 13-06.

<sup>6</sup> ***“CC #”*** refers to page numbers in the excerpt of the current Costa Mesa Municipal Code [as of 05/09/2021], attached to this Table for reference.

| <b><i>CMMC Regulations Governing Residential Uses in City's Multifamily Districts</i></b>                                                                                    | <b><i>Sober Living Home<sup>2</sup></i></b> | <b><i>Group Home<sup>3</sup></i></b> | <b><i>Boardinghouse, Small &lt; 3 rental rooms<sup>4</sup></i></b> | <b><i>Boardinghouse, Large &lt; 7 rental rooms</i></b> | <b><i>Multi-family Dwelling<sup>5</sup></i></b> |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------|--------------------------------------|--------------------------------------------------------------------|--------------------------------------------------------|-------------------------------------------------|
| Use defined based on nature of the disability of dwelling's residents, CMMC 13-06                                                                                            | Yes, CC 9                                   | No, CC 5                             | No, CC 3                                                           | No, CC 3                                               | No CC 4                                         |
| <b><i>Permitted Zoning District</i></b>                                                                                                                                      |                                             |                                      |                                                                    |                                                        |                                                 |
| Permitted in Residential Zoning District, CMMC 13-30, 13-204                                                                                                                 | No, CC 31                                   | No, CC 31                            | Yes, CC 31                                                         | Yes, if pre-existing, CC 54;<br>No, if new, CC 31      | Yes, CC 31                                      |
| Permitted in Multifamily Zoning Districts (R2-MD, R2-HD, R3), CMMC 13-30                                                                                                     | No, CC 31                                   | No, CC 31                            | Yes, CC 31                                                         | Yes, if pre-existing, CC 54;<br>No, if new, CC 31      | Yes, CC 31                                      |
| Permitted in Planned Development Residential Districts (PDR-LD, PDR-MD, PDR-HD, PRD-NCM, PDC, PDI), CMMC 13-30, 13-204                                                       | No, CC 31                                   | No, CC 31                            | Yes, CC 31                                                         | Yes, if pre-existing, CC 54;<br>No, if new, CC 31      | Yes, CC 31                                      |
| Permitted in Institutional & Recreational (I&R) Zoning District [intended for "recreation, open space, health, public services," 13-20(i), CC 17]                            | Yes, CC 31                                  | Yes, CC 31                           | No, CC 31                                                          | No, CC 31                                              | No, CC 31                                       |
| Specially or Conditionally Permitted in Institutional & Recreational (I&R) Zoning District [intended for "recreation, open space, health, public services," 13-20(i), CC 17] | NA, CC 31                                   | NA, CC 31                            | No, CC 31                                                          | No, CC 31                                              | No, CC 31                                       |
| <b><i>Nonconforming Use Status</i></b>                                                                                                                                       |                                             |                                      |                                                                    |                                                        |                                                 |
| Existing uses required to apply for Special or Conditional Use Permit to                                                                                                     | Yes, CC 67, 59                              | Yes, CC 67, 59                       | No, CC 54                                                          | No, CC 54                                              | NA, CC 31                                       |

| <i>CMMC Regulations Governing Residential Uses in City's Multifamily Districts</i>                                | <i>Sober Living Home<sup>2</sup></i>                                                                                                           | <i>Group Home<sup>3</sup></i>                                                                                                                  | <i>Boardinghouse, Small &lt; 3 rental rooms<sup>4</sup></i>                                                            | <i>Boardinghouse, Large &lt; 7 rental rooms</i>                                                                        | <i>Multi-family Dwelling<sup>5</sup></i> |
|-------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------|------------------------------------------|
| continue existing use, 13-324, 13-207.1 versus 13-204, 13-30                                                      |                                                                                                                                                |                                                                                                                                                |                                                                                                                        |                                                                                                                        |                                          |
| <b>Separation Requirement</b>                                                                                     |                                                                                                                                                |                                                                                                                                                |                                                                                                                        |                                                                                                                        |                                          |
| Separation requirement imposed on existing uses, 13-322, 13-323, 13-324 versus 13-30, 13-204, 13-207.1            | Yes: At least 650 feet between dwelling and any group home, sober living home or state-licensed drug and alcohol treatment facility. CC 66-67  | Yes: At least 650 feet between dwelling and any group home, sober living home or state-licensed drug and alcohol treatment facility. CC 66-67  | No, CC 54                                                                                                              | No, CC 54                                                                                                              | NA, 13-30                                |
| Separation requirement imposed on new uses, 13-322, 13-323, 13-324 versus 13-30 fn 7                              | Yes: At least 650 feet between dwelling and any group home, sober living home, or state-licensed drug and alcohol treatment facility. CC 66-67 | Yes: At least 650 feet between dwelling and any group home, sober living home, or state-licensed drug and alcohol treatment facility. CC 66-67 | Yes: Small boardinghouses shall locate at least six hundred fifty (650) feet from any other small boardinghouse. CC 49 | Yes: Large boardinghouses shall be located at least one thousand (1,000) feet away from any other boardinghouse. CC 49 | NA, 13-30                                |
| <b>Dwelling Operator's Permit Required</b>                                                                        |                                                                                                                                                |                                                                                                                                                |                                                                                                                        |                                                                                                                        |                                          |
| Owner or operator of dwelling must obtain an "Operator's Permit," CMMC 13-323, 9-372, or meet same conditions for | Yes, CC 67, 69 [CUP]; Yes, CC 66, 61-63 [SUP]                                                                                                  | Yes, CC 67, 69 [CUP]; Yes, CC 66, 61-63 [SUP]                                                                                                  | No                                                                                                                     | No                                                                                                                     | No                                       |

| <b><i>CMMC Regulations Governing Residential Uses in City's Multifamily Districts</i></b>                                                                                                                                     | <b><i>Sober Living Home<sup>2</sup></i></b>    | <b><i>Group Home<sup>3</sup></i></b>           | <b><i>Boardinghouse, Small &lt; 3 rental rooms<sup>4</sup></i></b> | <b><i>Boardinghouse, Large &lt; 7 rental rooms</i></b> | <b><i>Multi-family Dwelling<sup>5</sup></i></b> |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------|------------------------------------------------|--------------------------------------------------------------------|--------------------------------------------------------|-------------------------------------------------|
| Operator's Permit under SUP requirements, 13-322, 13-311                                                                                                                                                                      |                                                |                                                |                                                                    |                                                        |                                                 |
| Owner or operator of dwelling must obtain an "operator's permit" as a condition to qualify for a conditional use permit, CMMC 13-323, 9-372, or meet same conditions for Operator's Permit to qualify for SUP, 13-322, 13-311 | Yes, CC 67, 69 [CUP]; Yes, CC 66, 61-63 [SUP]  | Yes, CC 67, 69 [CUP]; Yes, CC 66, 61-63 [SUP]  | No                                                                 | No                                                     | No                                              |
| <b><i>Permit Application Requirements</i></b>                                                                                                                                                                                 |                                                |                                                |                                                                    |                                                        |                                                 |
| Permit Application: Required to list applicant/operator's every general partner and every owner with controlling interest in corporation. CMMC 13-311(a) + 9-374(a) versus CMMC 13-29(a) + City Form 09/2019                  | Yes, CC 61, 69; [CUP]; Yes, CC 66, 61-63 [SUP] | Yes, CC 61, 69; [CUP]; Yes, CC 66, 61-63 [SUP] | No, CC 22                                                          | No, CC 22                                              | No, CC 22                                       |
| Permit Application: Required to provide permit history or operation of similar use at any time anywhere in the United States. CMMC 13-311(a) + 9-374(a) versus CMMC 13-29(a) + City Form 09/2019                              | Yes, CC 61, 69; [CUP]; Yes, CC 66, 61-63 [SUP] | Yes, CC 61, 69; [CUP]; Yes, CC 66, 61-63 [SUP] | No, CC 22                                                          | No, CC 22                                              | No, CC 22                                       |
| Permit Application: Required to provide copy of rules governing conduct of residents occupying dwelling. CMMC 13-311(a) + 9-374(a) versus CMMC 13-29(a) + City Form 09/2019                                                   | Yes, CC 61, 69; [CUP]; Yes, CC 66, 61-63 [SUP] | Yes, CC 61, 69; [CUP]; Yes, CC 66, 61-63 [SUP] | No, CC 22                                                          | No, CC 22                                              | No, CC 22                                       |

| <i>CMMC Regulations Governing Residential Uses in City's Multifamily Districts</i>                                                                                                        | <i>Sober Living Home<sup>2</sup></i>                                                                                                                       | <i>Group Home<sup>3</sup></i>                                                                                                                              | <i>Boardinghouse, Small &lt; 3 rental rooms<sup>4</sup></i>                                                                       | <i>Boardinghouse, Large &lt; 7 rental rooms</i>                                                                                   | <i>Multi-family Dwelling<sup>5</sup></i>                                                                                          |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------|
| Permit Application: Required to identify the name, address, telephone, CDL of onsite dwelling manager. CMMC 13-311(a) + 9-374(a) versus CMMC 13-29(a) + City Form 09/2019                 | Yes, CC 61, 69; [CUP]; Yes, CC 66, 61-63 [SUP]                                                                                                             | Yes, CC 61, 69; [CUP]; Yes, CC 66, 61-63 [SUP]                                                                                                             | No, CC 22                                                                                                                         | No, CC 22                                                                                                                         | No, CC 22                                                                                                                         |
| Permit Application: Required to provide document reflecting criteria for acceptance of resident in dwelling. CMMC 13-311(a) + 9-374(a) versus CMMC 13-29(a) + City Form 09/2019           | Yes, CC 61, 69; [CUP]; Yes, CC 66, 61-63 [SUP]                                                                                                             | Yes, CC 61, 69; [CUP]; Yes, CC 66, 61-63 [SUP]                                                                                                             | No, CC 22                                                                                                                         | No, CC 22                                                                                                                         | No, CC 22                                                                                                                         |
| Permit Application: Required to provide blank copies of all forms that residents of dwelling are required to complete. CMMC 13-311(a) + 9-374(a) versus CMMC 13-29(a) + City Form 09/2019 | Yes, CC 61, 69; [CUP]; Yes, CC 66, 61-63 [SUP]                                                                                                             | Yes, CC 61, 69; [CUP]; Yes, CC 66, 61-63 [SUP]                                                                                                             | No, CC 22                                                                                                                         | No, CC 22                                                                                                                         | No, CC 22                                                                                                                         |
| <b><i>Permit Notice Requirements, July 2017 (17-05) - October 2018 (18-06) time period</i></b>                                                                                            |                                                                                                                                                            |                                                                                                                                                            |                                                                                                                                   |                                                                                                                                   |                                                                                                                                   |
| Public notice of hearing on application for special use permit, CMMC 13-311(b) versus CMMC 13-29(c) [07/2017-09/2018]                                                                     | Notice to be mailed to the <b><i>owner of record and occupants</i></b> of all properties within five hundred (500) feet of the location of the group home. | Notice to be mailed to the <b><i>owner of record and occupants</i></b> of all properties within five hundred (500) feet of the location of the group home. | Notices of the hearing shall be mailed to all <b><i>property owners</i></b> within a five hundred-foot radius of the project site | Notices of the hearing shall be mailed to all <b><i>property owners</i></b> within a five hundred-foot radius of the project site | Notices of the hearing shall be mailed to all <b><i>property owners</i></b> within a five hundred-foot radius of the project site |
| <b><i>Occupancy limit on number of residents per dwelling</i></b>                                                                                                                         |                                                                                                                                                            |                                                                                                                                                            |                                                                                                                                   |                                                                                                                                   |                                                                                                                                   |

| <i><b>CMMC Regulations Governing Residential Uses in City's Multifamily Districts</b></i>                                                                                                              | <i><b>Sober Living Home<sup>2</sup></b></i> | <i><b>Group Home<sup>3</sup></b></i> | <i><b>Boardinghouse, Small &lt; 3 rental rooms<sup>4</sup></b></i> | <i><b>Boardinghouse, Large &lt; 7 rental rooms</b></i> | <i><b>Multi-family Dwelling<sup>5</sup></b></i> |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------|--------------------------------------|--------------------------------------------------------------------|--------------------------------------------------------|-------------------------------------------------|
| Occupancy limitation                                                                                                                                                                                   | City Housing Element                        | City Housing Element                 | State Housing Law/UHC                                              | State Housing Law/UHC                                  | State Housing Law/UHC                           |
| <b><i>On-Site Manager Requirements</i></b>                                                                                                                                                             |                                             |                                      |                                                                    |                                                        |                                                 |
| Dwelling must have a 24/7 onsite manager. CMMC 13-311(a)(4) + CMMC 9-274(b)(1) versus State Housing Law                                                                                                | Yes, CC 62, 70                              | Yes, CC 62, 70                       | No, State Housing Law                                              | No, State Housing Law                                  | No, State Housing Law                           |
| <b><i>Vehicle Restrictions</i></b>                                                                                                                                                                     |                                             |                                      |                                                                    |                                                        |                                                 |
| Each dwelling resident limited to one vehicle that must be used as resident's primary form of transportation, 13-311(a)(5) + CMMC 9-274(b)(2)                                                          | Yes, CC 62, 70                              | Yes, CC 62, 70                       | No                                                                 | No                                                     | No                                              |
| <b><i>Resident Parking Restrictions</i></b>                                                                                                                                                            |                                             |                                      |                                                                    |                                                        |                                                 |
| Each dwelling resident must park her vehicle on dwelling premises or within 500 feet of dwelling, 13-311(a)(5) + CMMC 9-274(b)(2) versus CMMC Title 10, Ch X (Stopping, Standing and Parking)          | Yes, CC 62, 70                              | Yes, CC 62, 70                       | No                                                                 | No                                                     | No                                              |
| <b><i>Eviction requirements</i></b>                                                                                                                                                                    |                                             |                                      |                                                                    |                                                        |                                                 |
| Landlord/operator must notify resident's emergency contact, OCHA OC Links Referral Line, and Costa Mesa's Network for Homeless Solutions before an evicting resident, CMMC 13-311(a)(10) + 9-374(b)(6) | Yes, CC 62, 70                              | Yes, CC 62, 70                       | No                                                                 | No                                                     | No                                              |
| Landlord/operator must provide transportation to alternative housing to any resident evicted from dwelling, CMMC 13-311(a)(11) + 9-374(b)(7)                                                           | Yes, CC 62, 70                              | Yes, CC 62, 70                       | No                                                                 | No                                                     | No                                              |

| <b><i>CMMC Regulations Governing Residential Uses in City's Multifamily Districts</i></b>                                                                                                                                                        | <b><i>Sober Living Home<sup>2</sup></i></b> | <b><i>Group Home<sup>3</sup></i></b> | <b><i>Boardinghouse, Small &lt; 3 rental rooms<sup>4</sup></i></b> | <b><i>Boardinghouse, Large &lt; 7 rental rooms</i></b> | <b><i>Multi-family Dwelling<sup>5</sup></i></b> |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------|--------------------------------------|--------------------------------------------------------------------|--------------------------------------------------------|-------------------------------------------------|
| Landlord/operator must maintain eviction records for one year resident's eviction from dwelling, CMMC 13-311(a)(12) + 9-374(b)(8)                                                                                                                | Yes, CC 62, 70                              | Yes, CC 62, 70                       | No                                                                 | No                                                     | No                                              |
| <b><i>Regulation of Residents within Dwelling</i></b>                                                                                                                                                                                            |                                             |                                      |                                                                    |                                                        |                                                 |
| Each resident of dwelling must actively participate in a legitimate self-improvement program (e.g., 12-step program), CMMC 13-311(a)(14)(i) + 9-374(b)(10)(i)                                                                                    | Yes, CC 63, 71                              | No                                   | No                                                                 | No                                                     | No                                              |
| Landlord/operator must maintain records showing that resident is actively participating in a legitimate self-improvement program (e.g., 12-step program), CMMC 13-311(a)(14)(i) + 9-374(b)(10)(i)                                                | Yes, CC 63, 71                              | No                                   | No                                                                 | No                                                     | No                                              |
| Landlord/operator must promulgate a rule warning that if a resident refuse to actively participating in a legitimate self-improvement program (e.g., 12-step program), then the resident may be evicted. CMMC 13-311(a)(14)(i) + 9-374(b)(10)(i) | Yes, CC 63, 71                              | No                                   | No                                                                 | No                                                     | No                                              |
| Landlord/Operator must prohibit residents from use of any non-prescription drugs. CMMC 13-311(a)(14)(ii) + 9-374(b)(10)(ii)                                                                                                                      | Yes, CC 63, 71                              | No                                   | No                                                                 | No                                                     | No                                              |

| <b><i>CMMC Regulations Governing Residential Uses in City's Multifamily Districts</i></b>                                                                                                                                                                                                                                                        | <b><i>Sober Living Home<sup>2</sup></i></b> | <b><i>Group Home<sup>3</sup></i></b> | <b><i>Boardinghouse, Small &lt; 3 rental rooms<sup>4</sup></i></b> | <b><i>Boardinghouse, Large &lt; 7 rental rooms</i></b> | <b><i>Multi-family Dwelling<sup>5</sup></i></b> |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------|--------------------------------------|--------------------------------------------------------------------|--------------------------------------------------------|-------------------------------------------------|
| Landlord/operator must evict any resident caught using any non-prescription drug. CMMC 13-311(a)(14)(ii) + 9-374(b)(10)(ii)                                                                                                                                                                                                                      | Yes, CC 63, 71                              | No                                   | No                                                                 | No                                                     | No                                              |
| Landlord/operator must promulgate a good neighbor policy directing residents "to be considerate of neighbors, including refraining from engaging in excessively loud, profane or obnoxious behavior that would unduly interfere with a neighbor's use and enjoyment of their dwelling unit." CMMC 13-311(a)(14)(vi) + 9-374(b)(10)(v)            | Yes, CC 63, 71                              | No                                   | No                                                                 | No                                                     | No                                              |
| Landlord/operator must promulgate written protocol for onsite manager to follow in response to a neighbor's complaint. CMMC protocol for 13-311(a)(14)(vi) + 9-374(b)(10)(v)                                                                                                                                                                     | Yes, CC 63, 71                              | No                                   | No                                                                 | No                                                     | No                                              |
| <b><i>Owner, Landlord, Operator, and Employee Qualification Requirements</i></b>                                                                                                                                                                                                                                                                 |                                             |                                      |                                                                    |                                                        |                                                 |
| Owner, landlord, or operator of a dwelling is barred from obtaining a Special or Condition Use Permit for that dwelling if she was terminated from a job for sexual harassment, embezzlement, or illegally furnishing alcohol within two years of applying to the City for that zoning permit. CMMC 13-311(b)(2), 9-374(e)(2) versus 13-29(g)(2) | Yes, CC 63, 71                              | Yes, CC 63, 71                       | No, CC 25                                                          | No, CC 25                                              | No, CC 25                                       |

| <b><i>CMMC Regulations Governing Residential Uses in City's Multifamily Districts</i></b>                                                                                                                                                                                                                                                                                       | <b><i>Sober Living Home<sup>2</sup></i></b> | <b><i>Group Home<sup>3</sup></i></b> | <b><i>Boardinghouse, Small &lt; 3 rental rooms<sup>4</sup></i></b> | <b><i>Boardinghouse, Large &lt; 7 rental rooms</i></b> | <b><i>Multi-family Dwelling<sup>5</sup></i></b> |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------|--------------------------------------|--------------------------------------------------------------------|--------------------------------------------------------|-------------------------------------------------|
| Owner, landlord, or operator of a dwelling is barred from obtaining a Special or Condition Use Permit for that dwelling if she employs any person who was terminated from a job alcohol for sexual harassment, embezzlement, or illegally furnishing alcohol within two years of applying to the City for that zoning permit. CMMC 13-311(b)(2), 9-374(e)(2) versus 13-29(g)(2) | Yes, CC 63, 71                              | Yes, CC 63, 71                       | No, CC 25                                                          | No, CC 25                                              | No, CC 25                                       |
| Owner, landlord, or operator of a dwelling is barred from obtaining a Special or Condition Use Permit for that dwelling if she was convicted or pleaded nolo contendere to any PC 290 sex offense or PC 667.5 felony within 10 years of applying to the City for that zoning permit. CMMC 13-311(b)(2), 9-374(e)(2) versus 13-29(g)(2)                                          | Yes, CC 63-64, 71-72                        | Yes, CC 63-64, 71-72                 | No, CC 25                                                          | No, CC 25                                              | No, CC 25                                       |
| Owner, landlord, or operator of a dwelling barred from obtaining a Special or Condition Use Permit for that dwelling if she employs any person who was convicted or pleaded nolo contendere to any PC 290 sex offense or PC 667.5 felony within 10 years of applying to the City for that zoning permit. CMMC 13-311(b)(2), 9-374(e)(2) versus 13-29(g)(2)                      | Yes, CC 63-64, 71-72                        | Yes, CC 63-64, 71-72                 | No, CC 25                                                          | No, CC 25                                              | No, CC 25                                       |

| <b><i>CMMC Regulations Governing Residential Uses in City's Multifamily Districts</i></b>                                                                                                                                                                                                                                                                                       | <b><i>Sober Living Home<sup>2</sup></i></b> | <b><i>Group Home<sup>3</sup></i></b> | <b><i>Boardinghouse, Small &lt; 3 rental rooms<sup>4</sup></i></b> | <b><i>Boardinghouse, Large &lt; 7 rental rooms</i></b> | <b><i>Multi-family Dwelling<sup>5</sup></i></b> |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------|--------------------------------------|--------------------------------------------------------------------|--------------------------------------------------------|-------------------------------------------------|
| Owner, landlord, or operator of a dwelling barred from obtaining a Special or Condition Use Permit for that dwelling if he was convicted or pleaded nolo contendere to any PC 290 sex offense or PC 667.5 felony within 10 years of applying to the City for that zoning permit. CMMC 13-311(b)(2), 9-374(e)(2) versus 13-29(g)(2)                                              | Yes, CC 63-64, 71-72                        | Yes, CC 63-64, 71-72                 | No, CC 25                                                          | No, CC 25                                              | No, CC 25                                       |
| Owner, landlord, or operator of a dwelling barred from obtaining a Special or Condition Use Permit for that dwelling if she employs any person who was convicted or pleaded nolo contendere to any PC 451 arson offense or furnishing any controlled substance within 7 years of applying to the City for that zoning permit. CMMC 13-311(b)(2), 9-374(e)(2) versus 13-29(g)(2) | Yes, CC 63-64, 71-72                        | Yes, CC 63-64, 71-72                 | No, CC 25                                                          | No, CC 25                                              | No, CC 25                                       |
| Owner, landlord, or operator of a dwelling barred from obtaining a Special or Condition Use Permit for that dwelling if she is in recovery from abuse of drugs or alcohol and has been abstained for less than one year before applying to the City for that zoning permit. CMMC 13-311(b)(6), 9-374(e)(2) versus 13-29(g)(2)                                                   | Yes, CC 64, 72                              | No                                   | No, CC 25                                                          | No, CC 25                                              | No, CC 25                                       |



**LEGAL ADVOCACY UNIT**

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[www.disabilityrightsca.org](http://www.disabilityrightsca.org)

January 12, 2026

VIA EMAIL

Kimberly Hall Barlow  
Jones Mayer  
3777 N. Harbor Blvd.  
Fullerton, CA 92835  
[khb@jones-mayer.com](mailto:khb@jones-mayer.com)

RE: Costa Mesa's Proposed Revisions to RA Ordinance

Dear Ms. Barlow:

Thank you for the opportunity to review and comment on Costa Mesa's proposed revisions to the City's reasonable accommodation ordinance pursuant to the settlement agreement in the *Insight v. Costa Mesa* case.

In your December 19, 2025 email to us, you said that Costa Mesa was proposing to delete subsection (7) of Section 13-200.62(f) of the City's reasonable accommodation ordinance. You explained that the deletion is proposed because "it is operationally difficult for staff or the applicants to make this determination given lack of information and the difficulties in ensuring that any facilities adequately allow individual(s) with said disability(ies) to live in a residential setting. Furthermore, this subsection is unnecessary given the other provisions of the Reasonable Accommodation Ordinance." We support the deletion of subsection (7) from Section 13-200.62, which requires a finding that "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."

EXHIBIT 2

The deletion of subsection (7) is an important first step in bringing Costa Mesa's reasonable accommodation ordinance into compliance with state and federal fair housing requirements. However, in order to bring the entire reasonable accommodation regulation into compliance, Costa Mesa will need to make additional changes. Given the structure of the current ordinance, it will be difficult to do that by simply editing or rewording the text. Instead, we propose that the City repeal sections of the ordinance in their entirety and replace them with new ones.

To begin with, Section 13-200.62 (f) has problems that cannot be remedied without restructuring. That section is a list of findings "all of which are required for approval" of a reasonable accommodation request. But the list combines factors that the person or entity requesting the accommodation must establish in order to be entitled to an accommodation, i.e., the topics of Findings (1) and (2), with factors that are the City's burden to establish if it is going to deny the accommodation, i.e., the topics of Findings (3), (5), and (8). These two types of topics need to be separated to clearly delineate who – the person or entity making the request, or the City – bears the burden of proof.

As written, Findings (3), (5), and (8) require affirmative findings that there is no undue financial or administrative burden, no direct threat, and no fundamental alteration for the approval of a reasonable accommodation request. In other words, they require that the City affirmatively find that those factors are *not* present. This has the effect of putting the burden on the person or entity making the request to establish the absence of an undue burden or fundamental alteration. That is contrary to fair housing law, which makes it the City's burden to establish that there *is* an undue burden, direct threat, or fundamental alteration before denying a reasonable accommodation request. Fair housing law does not permit the City to make the establishment of the *absence* of those factors a requirement.

Undue burden, direct threat, and fundamental alteration can properly be in the reasonable accommodation ordinance, but the regulation needs to be structured in a way that makes clear that if the person or entity making the request establishes the factors addressed in Findings (1) and (2), the City must grant the accommodation unless it finds that granting the

accommodation *will* impose an undue financial or administrative burden, *will* result in a direct threat, or *will* result in a fundamental alteration (i.e., the inverse of the current language regarding findings). It does not work to combine them in the same list as the elements that the person or entity making the request has the burden to establish. The two types of findings must be bifurcated.

Moreover, the current structure of the reasonable accommodation ordinance also makes it difficult for the ordinance to adequately reflect the law governing the findings that the City must establish to deny an otherwise valid reasonable accommodation request. For example, where the ordinance authorizes the City to deny a reasonable accommodation request based on a direct threat finding, it must also state that in such a case the City must find that the threat cannot be mitigated by reasonable accommodation. 28 C.F.R. §35.139. A finding that granting a reasonable accommodation would be an undue burden or fundamental alteration must also be made “after considering all resources available for use in the funding and operation of the service, program, or activity, and must be accompanied by a written statement of the reasons for reaching that conclusion.” 28. C.F.R. §35.150(a)(3). It will be difficult to add such clarifications in a clear way unless the two types of findings under Section 13-200.62(f) are separated and the findings for which the City bears the burden are written in the affirmative.

Section 13-200.62 (f) also includes factors that do not fall within either the burden of the person or entity making the accommodation request or the allowable reasons for the City to deny a request, but instead layer on additional obligations that are not permitted under fair housing law. Finding (4) requires a finding that the “requested accommodation is consistent with surrounding uses in scale and intensity of use.” The City cannot apply different occupancy, use, or development standards to shared housing for people with disabilities as compared to other forms of housing, nor can it require a household of people with disabilities to be limited to fewer people than a single housekeeping unit would be allowed to have. To the extent that a requested accommodation would result in housing that was vastly different from permitted housing uses, City staff could evaluate whether granting the request would constitute a fundamental alteration to a City program or would result in an undue burden or direct threat. But simply having the same number of people that a single housekeeping unit would

be allowed to have, or failing to meet another occupancy or development standard that was not also applied to single housekeeping units, could never fall within one of those permitted reasons for denying an accommodation request. Consistency with other uses should therefore not be listed as a separate required finding.

Likewise, Finding (6) requires in some instances “a finding that the requested accommodation is necessary to make facilities of a similar nature or operation economically viable in light of the particularities of the relevant market and market participants generally.” For the same reasons that the City is removing Finding (7), which also focuses on “facilities of a similar nature and operation” rather than on the specific housing that is at issue for a particular reasonable accommodation request, the City should remove Finding (6). It is just as true that it will be “operationally difficult for staff or the applicants to make this determination given lack of information” for Finding (6) as for Finding (7). Moreover, providing a feasibility study or market study about other housing does not fall within the burden of someone making a reasonable accommodation request. Making such a study a condition of approving a disability-related accommodation is therefore a discriminatory housing practice. This should likewise not be listed as a required finding.

The deletion of Finding (7) should also be accompanied by a revision to the language of Finding (2), which states that, “[t]he requested accommodation is necessary to provide one or more individuals with a disability an equal opportunity to use and enjoy a dwelling.” To ensure that City staff interpret Finding (2) consistent with fair housing laws, by focusing on the housing at issue in the request rather than “facilities of a similar nature and operation” elsewhere, Finding (2) should be revised to refer to an equal opportunity to use and enjoy “their dwelling,” “the dwelling at issue in the accommodation request,” or something similar.

In order to bring the reasonable accommodation ordinance into compliance with federal and state fair housing law, the City will also need to revise other portions of the ordinance. As reflected in the settlement agreement, we would welcome the opportunity to work with the City during that portion of its review of the reasonable accommodation ordinance and to provide feedback on any draft revisions of those other sections.

For those portions of the ordinance as well, it would be most effective for the City to repeal and replace language rather than try to work within the existing structure. For example, Section 13-200.62(b) loads burdensome and irrelevant requirements onto people or entities making reasonable accommodation requests. A lay homeowner who needs an accommodation due to disability should be able to comply with application requirements without having to hire an attorney or other expert to help them understand what they need to do. The City should limit the application to information that is necessary for the City to evaluate whether the person or entity making the request has met their burden, such as the location of the dwelling at issue, the existence of the disability, the nature of the accommodation that is being requested, and the connection between the disability and the requested accommodation. The provisions in Section 13-200.62(b) that require people or entities making reasonable accommodation requests to provide “[a]ny other information that the director reasonably determines is necessary for evaluating the request for reasonable accommodation” ((b)(3)) and “[a]ny other information that the hearing officer reasonably concludes is necessary to determine whether the findings required by subsection (e) of this section can be made” ((b)(7)) are particularly problematic because they are not limited to the information necessary to establish that a person or entity is entitled to a reasonable accommodation.

Section 13-200.62(d) provides that appeals of reasonable accommodation requests will be handled through the same procedures as “any other discretionary permit.” However, the appeals process pertaining to reasonable accommodation requests needs to be navigable and manageable by lay people with disabilities. This provision should be repealed and replaced with new language that requires a prompt, clear statement of the reasons for any denial, establishes a simple procedure for requesting an appeal, provides a reasonable deadline for making requests for an appeal, and eliminates the need for individuals or entities to pay for the City’s review of their reasonable accommodation determination.

Most importantly, the section of the reasonable accommodation ordinance addressing appeals must exempt them from the review procedures that govern general zoning matters in order to respect the privacy of people’s disabilities and disability-related needs during any review process. Hearings regarding reasonable accommodations requests should not be

made by legislative bodies, and no public notice should be made regarding reasonable accommodation reviews. Public hearings create an opening for members of the public to express animus against people with disabilities, which imposes an improper barrier to people seeking such accommodations. For example, at the hearings regarding Insight's reasonable accommodation request, a member of the public told the Planning Commission that a person who is "mentally disabled does not belong in a neighborhood next door to me or any of us in this room," and someone testified to the City Council that the "mentally ill cannot associate with our children, neighbors." As you know, hearing those types of comments was traumatic for our client Ms. Doe, who spoke about her own experiences with mental illness, and the ways that staying at Insight's housing had helped her, at a hearing on Insight's reasonable accommodation request. Not only is the City not obligated to provide the public with a forum to intimidate and humiliate people like Ms. Doe, but the City cannot put people like her through such an ordeal as a condition of having their accommodation request reviewed. Nor can such animus play any part in the City's review of an accommodation request. For similar reasons, the ordinance should also make clear that only the person or entity making the request can appeal a decision regarding a reasonable accommodation, in contrast to the current language which permits virtually anyone – including neighbors with an animus against people with disabilities – to appeal.

Finally, Sections 13-200.62(e) and (g), regarding "considerations," overlap with the required "findings" in Section 13-200.62(f) in a way that impedes consistency with fair housing law. Like Section 13-200.62(f), these sections fail to make clear which elements are the burden of the person making the reasonable accommodation request to establish and which are the City's burden. Many of them are also improper considerations. For example, the City cannot take into account "whether granting the request would be consistent with the City's General Plan." By definition, any reasonable accommodation request pertaining to zoning will be inconsistent with the zoning scheme. "Requiring public entities to make exceptions to their rules and zoning policies is exactly what the FHAA does." *Anderson v. City of Blue Ash*, 798 F.3d 338, 363 (6th Cir. 2015); *City of Edmonds v. Washington State Bldg. Code Council*, 18 F.3d 802, 806 (9th Cir. 1994) (FHA imposes an affirmative duty to reasonably accommodate disabled persons). The question is not whether a requested disability

accommodation is inconsistent with the City's General Plan, but whether granting it would fundamentally alter the General Plan. To take another example, the City cannot take into consideration whether "the accommodation would result in a substantial increase in traffic or insufficient parking" (§ 13-200.62(g)(2)) or "create an institutionalized environment due to the number of and distance between facilities that are similar in nature or operation" (§ 13-200.62(g)(4)) unless it is also doing so with respect to single housekeeping units. Again, the City cannot impose more stringent development or occupancy standards on housing occupied by people with disabilities than on single housekeeping units, nor can it use vague or undefined conditions as a basis for denial of a reasonable accommodation request. These are examples, and not an exhaustive list, of the issues with subsections (e) and (g) of Costa Mesa's reasonable accommodation ordinance. We would be happy to provide additional comments or to discuss with you and with City staff in more detail our further thoughts on bringing the ordinance into compliance with state and federal fair housing requirements.

We appreciate your time and attention to our comments and look forward to working with you and the City further on these important access issues for Costa Mesa residents with disabilities. Please let us know if you would like to discuss any of these issues further.

Sincerely,



Autumn M. Elliott  
Law Office of Autumn Elliott

Jia Min Cheng  
Managing Attorney  
Disability Rights California

**From:** TAI, CARRIE  
**Sent:** Monday, February 9, 2026 9:38 AM  
**Cc:** PARTIDA, ANNA; MCGILL, ANNA; DACEY, MELINDA; HALLIGAN, MICHELLE; Tarquin Preziosi  
**Subject:** CJ Segerstrom & Sons: February 9 PC Agenda Item PH-1  
**Attachments:** CJ Segerstrom & Sons Letter to Planning Commission 020726(19234784.5).pdf

*bcc: Planning Commission*

Chair Harlan and Members of the Planning Commission,

Please find attached a letter from C.J. Segerstrom & Sons pertaining to the public hearing agenda item on tonight's Planning Commission agenda. C.J. Segerstrom & Sons is requesting that their properties be excluded from the rezoning item, in concert with a request to remove their properties from the housing element sites inventory (which will be considered at a future meeting). The reason for these requests relates to how cities must apply overlays given the findings of a recent case law.



Carrie Tai, AICP  
Director

**City of Costa Mesa** | Economic and Development Services Department  
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77 Fair Drive | Costa Mesa | CA 92626

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February 7, 2026

Jeffrey Harlan, Chair  
Jon Zich, Vice Chair  
Karen Klepack, Commissioner  
Johnny Rojas, Commissioner  
Angely Andrade Vallarta, Commissioner  
David Martinez, Commissioner  
Robert Dickson, Commissioner

c/o Carrie Tai  
Director of Economic and Development Services  
City of Costa Mesa  
77 Fair Drive  
Costa Mesa, CA 92626

Sent by Email to: [Carrie.Tai@costamesaca.gov](mailto:Carrie.Tai@costamesaca.gov)

Re: C.J. Segerstrom & Sons Properties in Zoning Ordinance

Chair Harlan and Members of the Planning Commission:

This letter serves as the adamant objection by C.J. Segerstrom & Sons ("CJS") to the adoption in its current form of the proposed Zoning Code Amendment which is Item Number PH-1 on your February 9 meeting agenda. As an overriding theme of this objection, we ask that you keep in mind that the purpose of the statewide RHNA-driven Housing Element update process is to heavily incentivize residential development, not to compel it.

In a letter to the City Council from our office on January 30, 2026, CJS requested that the City take "all actions necessary" to remove from the City's Housing Element the identification of fourteen properties owned by CJS (the "CJS Properties") as "Housing Element sites" with mixed-use overlays. All Planning Commissioners were copied on that letter. Today, we are asking the Planning Commission to recommend to the City Council that the CJS Properties be expressly exempted from the proposed zoning amendment's MUOD requirements.

The basis for this request is straightforward: In 2022, CJS was assured by the City that the mixed-use overlays in the subsequently adopted Housing Element would not jeopardize existing zoning designations on the CJS Properties, leaving CJS the option to pursue residential uses if, when, and to the extent consistent with CJS's business planning. As noted in our letter to the City Council,

through no fault of the City, changing circumstances have lessened that assurance. The ongoing proliferation of new housing laws and uncertainty created by court rulings have delivered the reality of “unintended consequences.” If adopted as now written, the zoning code amendment before your Commission will effectively reverse the commitment made by the City to CJS in 2022.

HCD’s methodology for the preparation of an inventory of properties suitable and available for residential development includes factors related to ownership, existing uses, encumbrances, applicable development agreements, the landowner’s intent (or not) to pursue residential development, and much more. In hindsight, the cooperation of CJS in allowing the City to place the CJS Properties in mixed-use overlay districts based upon the good faith assurance that residential development would not be required may have limited the perceived need for a thorough evaluation of these factors. What understandably was not foreseen by the City was that the courts would upset HCD’s statewide practice of accepting Housing Element mixed-use overlays which allowed, but did not require, residential development.

By effectively requiring some residential in the City’s MUOD Housing Element sites, the zoning amendment before you appears to be an understandable strategic reaction to a court decision that did not involve the City. This change in course, however, negates the good faith assurance that the City had given CJS and, in our view, is not a strategy that should be applied to the CJS Properties. If needed to protect CJS’s critical commercial interests, we will provide appropriate clarification directly to HCD to demonstrate that the CJS Properties are not appropriate Housing Element sites.

There is, however, a better approach. A simple modification of the proposed zoning amendment would resolve our concern with that amendment. A similar provision already is included for another property. Article 11, Section 13-83.58(b)(3) of the proposed zoning amendment (see Exhibit E of the Staff Report) now states:

***“Exception. The provisions of this Section shall not apply to residential projects or mixed-use projects having residential units located within the boundaries of the Fairview Development Center Specific Plan.”***

CJS requests the Commission to include in its recommendation to the City Council that the following language be added to the proposed zoning amendment as Section 13-83.58(b)(4):

***“Exception. The provisions of this Section shall not apply to residential, mixed-use, or other projects located within the boundaries of any of the following properties identified in Table B-6 of the Housing Element:***

Chair Harlan and Members of the Planning Commission  
c/o Carrie Tai  
February 7, 2026  
Page 3

| <b>HE Site No.</b> | <b>CJS Site ID</b> |
|--------------------|--------------------|
| 134                | Harbor Associates  |
| 136                | Harbor Associates  |
| 137                | Home Ranch         |
| 138                | Home Ranch         |
| 198                | Home Ranch         |
| 139                | Town Center        |
| 140                | Town Center        |

| <b>HE Site No.</b> | <b>CJS Site ID</b> |
|--------------------|--------------------|
| 141                | Town Center        |
| 205                | Town Center        |
| 145                | South Coast Plaza  |
| 146                | South Coast Plaza  |
| 147                | South Coast Plaza  |
| 203                | US Post Office     |
| 204                | US Post Office     |

This narrowly tailored exemption would honor the representations made to CJS and, when combined with the requested removal of the CJS properties from the list of Housing Element sites, would avoid adverse consequences to long-standing, actively operated commercial properties which greatly benefit the community and the City.

CJS appreciates the Commission's consideration of this request and respectfully urges the Commission to recommend this amendment to the City Council. Please reach out to either me or Justin McCusker if you have any questions.

Thank you.

COX, CASTLE & NICHOLSON LLP



By: Tim Paone  
Partner

cc: Costa Mesa City Council  
Costa Mesa City Manager Cecilia Gallardo-Daly



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[tpaone@coxcastle.com](mailto:tpaone@coxcastle.com)

January 30, 2026

Mayor John Stephens  
Mayor Pro Tem Manuel Chavez  
Council Member Jeff Pettis  
Council Member Andrea Marr  
Council Member Loren Gameros  
Council Member Mike Buley  
Council Member Arlis Reynolds

c/o Carrie Tai  
Director of Economic and Development Services  
City of Costa Mesa  
77 Fair Drive  
Costa Mesa, CA 92626

Sent by Email to: [Carrie.Tai@costamesaca.gov](mailto:Carrie.Tai@costamesaca.gov)

Re: CJS Properties in Housing Element

Mayor Stephens and Members of the City Council:

As you know, C.J. Segerstrom & Sons ("CJS") has deep roots in the City of Costa Mesa. The City and CJS not only have significantly benefited from each other's continued success, but also have a demonstrated history of cooperation to further that success. It was with that cooperative spirit that CJS agreed to the City's request that fourteen properties owned by CJS (the "CJS Properties") be identified "Housing Element sites" with mixed-use overlays as part of the City's Housing Element update process. CJS's cooperation relied on the City's assurance that these overlays would not jeopardize existing zoning designations, but instead would give CJS the option to pursue residential uses if and when consistent with CJS's business planning. Standing alone, the Housing Element as adopted by the City Council in 2022 reflected that assurance.

Through no fault of the City, however, changing circumstances have lessened that assurance. Since 2022, new State housing laws have continued to proliferate, with the prospect of more to come. Both the City and the State's Department of Housing and Community Development ("HCD") have had to adapt not only to evolving State housing laws, but also to court decisions interpreting those laws, often with unexpected results. Concurrently, the City has been working to reconcile the various implications of Measure Y, Measure K, the "Neighborhoods Where We

All Belong” program, planning for the Fairview Developmental Center, and HCD’s rezoning requirements. As a result, the risk of “unintended consequences” has become significant.

Unlike many landowners, CJS is neither in a hurry to develop its properties nor, at this time, focused upon residential development of the CJS Properties. To the contrary, the common reputational and economic interests of CJS and the City are to a significant degree tied to CJS’s thoughtfully planned and highly successful commercial development. While these shared interests do not preclude residential development in the future, CJS is not ready to commit the CJS Properties to residential development at this time, whether directly or inadvertently.

As we have communicated since before the holidays, it has become clear that sooner or later CJS will need to request the removal of the CJS Properties from the Housing Element. Therefore, CJS is formally requesting the City to take all actions necessary to remove the CJS Properties from the Housing Element.

| HE Site No. | CJS Site ID       |
|-------------|-------------------|
| 134         | Harbor Associates |
| 136         | Harbor Associates |
| 137         | Home Ranch        |
| 138         | Home Ranch        |
| 198         | Home Ranch        |
| 139         | Town Center       |
| 140         | Town Center       |

| HE Site No. | CJS Site ID       |
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Please reach out to either me or Justin McCusker if you have any questions or if there are further steps which CJS must take to facilitate the near-term removal of the CJS Properties from the City’s updated Housing Element.

Thank you.

COX, CASTLE & NICHOLSON LLP



By: Tim Paone  
Partner

cc: Costa Mesa City Manager Cecilia Gallardo-Daly  
Costa Mesa Planning Commissioners

January 30, 2026

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Please reach out to either me or Justin McCusker if you have any questions or if there are further steps which CJS must take to facilitate the near-term removal of the CJS Properties from the City’s updated Housing Element.

Thank you.

COX, CASTLE & NICHOLSON LLP



By: Tim Paone  
Partner

cc: Costa Mesa City Manager Cecilia Gallardo-Daly  
Costa Mesa Planning Commissioners

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February 9, 2026

*Via Email and Facsimile*

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planninginfo@costamesaca.gov*

**Re: Planning Commission Agenda Item PH-1  
Meeting: February 9, 2026  
Objections, Issues, and Concerns**

Dear Gentlepersons:

I write on behalf of The Ohio House and its residents, along with present and former Group Home owners, operators, and residents to address several issues regarding Agenda Item PH-1 to be heard, considered and acted upon by the Planning Commission at a public hearing on Monday, February 9, 2026. Item PH-1 asks the Planning Commission to approve a resolution recommending the adoption by the City Council of several code amendment purporting to implement specific housing programs set forth in the City's Sixth Cycle (2021-2029) Housing Element.

## **1. Issues Addressed in This Letter**

This letter focuses exclusively on code amendments purporting to implement Housing Programs regarding the regulation of housing for persons with disability; specifically:

1. Program 2O (Definition of Single Housekeeping Unit): That the City will “review and revise the definition of ‘single housekeeping unit’ within the zoning code to provide greater flexibility in consideration of accommodating a variety of household situations for related and unrelated individuals living together.”
2. Program 2P (Group Homes): That the City will “review and adopt revisions to its zoning code applicable to group homes to affirmatively further fair housing and comply with fair housing laws per the [following] objective: Review and revise the City’s zoning code and application procedures applicable to group homes to promote objectivity and greater approval certainty similar to other residential uses.”
3. Program 2N (Reasonable Accommodation): That the City will “review and adopt revisions to its Reasonable Accommodation process to be consistent with State and federal fair housing requirements.”

To implement these programs, the City proposes to amend the following provisions of the City’s zoning code (Title 13), set forth in Exhibit 3 in the Planning Commission Agenda Report:

4. Exhibit A: Chapter 1, Article 2, Definitions
5. Exhibit D: Chapter IV, Citywide Land Use Matrix
6. Exhibit H: Chapter IX, Article 15, Reasonable Accommodations
7. Exhibit K: Chapter XV, Group Homes; and,
8. Exhibit L: Chapter XVI, Group Homes in the R2-MD, R2-HD and R3 Residential Zones and the PDR-LD, PDR-MD, PDR-HD, PDR-NCM,

PDC, and PDI (Planned Development Zones)

and the related Title 9's Group Home Operator's Permit, set forth in Exhibit 5.

These code amendments fail to meet the requirements in Housing Programs 2N, 2O, and 2P, but also, if enacted as presently proposed, each amendment violates three federal laws – the Fair Housing Act, ADA, and Rehabilitation Act – and several state statutes, including the California Government Code §§ 12955, 65008, 8899.50, and 11135 as well as the California Constitution.

**2. The Proposed Amendment of the Definition of Single Housekeeping Unit fails to implement the requirements of the City's Housing Program 2O and promise to violate federal and state fair housing laws.**

The definition of Single Housekeeping Unit (SHU) is the pivotal zoning provisions that governs housing opportunities throughout Costa Mesa's residential districts. Among all Residential Uses listed in the City's Land Use Matrix, CMMC TABLE 13-30, a Single Housekeeping Unit is the only use permitted of right in every residential districts. Thus, if the City chooses to classify an residential occupancy as a SHU, then that household may occupy any dwelling in Costa Mesa pursuant to the zoning code. If the City refuses to classify a residential occupancy as a SHU, then that household is prohibited from the City's residential districts unless specially or conditionally permitted by the City or compelled by state statute.

The City proposes to implement Housing Plan Program 2O ("Definition of Single Housekeeping Unit") by amending the current definition of Single Housekeeping Unit as follows:

~~Single housekeeping unit. The occupants of a dwelling unit have established ties and familiarity with each other, including jointly use of and responsibility for common areas, which includes interaction with each other, shared meals, household activities, and expenses and responsibilities; where residency is mutually agreed by all residents, is not transitory in nature membership in the single housekeeping unit is fairly stable as opposed to transient, members have some control over who becomes a member of the household, and the residential activities of the household are conducted on a nonprofit-not-for-profit basis. There is a rebuttable presumption that integral facilities do not constitute single housekeeping units. Additional indicia that a household is not operating as a single housekeeping unit include, but are not limited to: the occupants do not share a lease agreement or ownership of the property; members of the household have separate, private entrances from other members; members of the household have locks on their bedroom doors; members of the household have separate food storage facilities, such as separate refrigerators.~~

We urge the Planning Commission to reject the resolution recommending the adoption of the proposed amended definition of Single Housekeeping Unit (SHU) because it fails to implement Housing Program 2O, invites unlawful and arbitrary enforcement, and violates state and federal fair housing statutes.

*a. The Proposed SHU Definition Perpetuates The City  
Discrimination against Persons with Disabilities*

The City last amended its SHU definition in 2014 as part of Ordinance 14-13, the City's sweeping revision of its zoning code to compel the closure of existing group homes in R1 (SFR) districts – and to prohibit any new group homes there – unless the household qualified for issuance of a specially use permit. (This same framework was enacted by the City in 2015 to group homes in the City's MFR districts, as discussed below.) A fundamental, necessary condition of the City's discriminatory zoning restrictions enacted under Ordinance 14-13 was the simultaneous adoption of the current SHU definition. Given its inclusion in Ordinance 14-13, it should come as no surprise that the City repeatedly has admitted that the purpose of the current SHU definition was to exclude group homes from the definition and privilege afforded households classified as SHUs.

To achieve this result, the City includes a facially discriminatory presumption, a list of subjective, standardless criteria (carried forward in the proposed amendment), and several of observable indicia “that a household is not operating as a single housekeeping unit,” including more than one rental agreement, private, separate entrances, separate food storage and refrigerators. The proposed amendment deletes the facially discriminatory presumption but also deletes the only objective, observable standards (locks, entrance, refrigerators) in the pivotal provisions. While those observable indicia were enacted for a discriminatory purpose, they at least had the virtue of being an objective standard that could be applied to readily observable conditions (lock, entrance, refrigerators). Once observable conditions are stripped from the definition, the proposed amendment devolves into a series of necessary conditions lacking objective standard and impossible to apply without invading a household’s constitutionally protected privacy.

The upshot is chilling: If applied as written, there are few if any households that could qualify as SHUs. ***Worse still, the proposed definition commits the City to police personal relationship among every dwelling’s occupants and to monitor the domestic affair of every household in Costa Mesa.***

*b. The Text and Terms of the Proposed Single Housekeeping Unit Definition Offends Common Sense, Valid Zoning Principles, and Fair Housing Laws*

The proposed SHU amendment lacks valid, measurable, discernable, objective standards to determine whether a household qualifies as a SHU. Moreover, even if it provided valid standards, its application depends on the City’s observations and determination of the nature and quality of personal relationships amongst household members and their domestic affair within the privacy of their dwellings. In sum, the proposed SHU definition is useless in application, invalid on its face, and unconstitutional in effect.<sup>1</sup>

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<sup>1</sup> There are several ways to assess the efficacy of a zoning definition. We can disaggregate its terms into necessary and sufficient conditions. We can evaluate whether its intention (what it connotes) aligns with its extension (what it denotes). But under any test, the ultimate question is whether the text provides objective standards that can be consistently applied to observable facts reflecting conditions that endure over time. Thus, most zoning regulation concern the physical

As drafted, the proposed definition consists of a series of necessary conditions regarding personal relationships that each occupant must satisfy and several domestic affairs that each occupant must perform. Each of these conditions is necessary. In other words, if the City decides that any one occupant fails to meet any one of the following conditions, then the household is disqualified as a Single Housekeeping Unit:

Single housekeeping unit. The occupants of a dwelling unit have [1] **established ties** and [2] **familiarity** with each other, including joint [3] **use** of and [4] **responsibility** for common areas, which includes [5] **interaction** with each other, [6] **shared meals**, [7] **household activities**, and [8] **expenses** and responsibilities; where [9] **residency is mutually agreed** by all residents, is [10] **not transitory** in nature and the residential activities of the household are conducted on a [11] **not-for-profit basis**.

A close examination of these necessary conditions demonstrates why the proposed definition is not only profoundly flawed for purported purpose (implementing Program 2O), but also wholly dependent on the City violating the California Constitution, fair housing law, and sound zoning principles.

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as built environment or readily observable externalities. The proposed amended SHU definition meets none of these criteria under any framework.

| <i>No.</i> | <i>Necessary Condition</i>                                              | <i>Condition's Objective Standards</i>                     | <i>Application</i>                                                                                                                                                                                                                                                                                                                                                                                          | <i>Can City Lawfully Observe and Verify Facts to Determine Condition</i>                                                                                                                                                                                                                                                                                                                                                                               |
|------------|-------------------------------------------------------------------------|------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 01         | <b>Established Ties</b> between each occupant with each other occupant. | No, lacks objective criteria measuring quality or quantity | <p>a. Necessary condition must exist throughout the every persons occupancy at any point in time.</p> <p>b. To determine whether household's "established ties" are sufficient, each one-to-one relationship amongst occupants must be evaluated by the City; thus, in a six member household, there are 15 unique relationships to be evaluated. <math>C(n,r)</math> [i.e., "<math>n</math> chose 2"].</p> | <p>Yes, for some households, but only by proxy, limiting Establish Ties to relationships defined by law (e.g., consanguinity), and thereby discriminating against non-traditional families.</p> <p>No, this conditions lack any objective criteria; moreover, this condition involves personal relationships that are inherently difficult to observe and assess since relationships transpire within sphere of constitutionally protected privacy</p> |
| 02         | <b>Familiarity</b> between each occupant with each other occupant.      | No, id.                                                    | Id.                                                                                                                                                                                                                                                                                                                                                                                                         | No, this conditions lack any objective criteria; moreover, this condition involves personal relationships that are inherently difficult to observe and assess since relationships transpire within sphere of constitutionally protected privacy                                                                                                                                                                                                        |

| <i>No.</i> | <i>Necessary Condition</i>                         | <i>Condition's Objective Standards</i>                                                                                                              | <i>Application</i> | <i>Can City Lawfully Observe and Verify Facts to Determine Condition</i>                                                                                                                                                                        |
|------------|----------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 03         | <b>Joint use of . . . common areas</b>             | Yes, in part, because - unlike other conditions - common areas are observable. No, since use lacks objective criteria measuring quality or quantity | Id.                | No. This condition lack an objective standard; moreover, it occurs within the privacy of dwelling.                                                                                                                                              |
| 04         | <b>Joint . . . responsibility for common areas</b> | No, lacks objective criteria measuring quality or quantity                                                                                          | Id.                | No. This condition lack an objective standard; moreover, it occurs within the privacy of dwelling.                                                                                                                                              |
| 05         | <b>Interaction with each other</b>                 | No, id.                                                                                                                                             | Id.                | No, this conditions lack any objective criteria; moreover, this condition involves personal relationships that are inherently difficult to observe and assess since relationships transpire within sphere of constitutionally protected privacy |

| <i>No.</i> | <i>Necessary Condition</i>               | <i>Condition's Objective Standards</i> | <i>Application</i>                                                                                                                                                                                                                          | <i>Can City Lawfully Observe and Verify Facts to Determine Condition</i>                                                                                     |
|------------|------------------------------------------|----------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 06         | <b>Shared meals</b>                      | No, id.                                | Id., but measured by participate rate of each occupant. (i.e., Assume five occupant and five "household activities," the City must examine each occupants participation rate in a total of 25 activities.<br><i>Cartesian Product (mxn)</i> | No. The scope, frequency, and participation rate transpires within the privacy of dwelling                                                                   |
| 07         | <b>Shared . . . household activities</b> | No, id.                                | Id.,                                                                                                                                                                                                                                        | No. This condition lacks an objective, reliable standard. Moreover, participation of domestic activities transpires within the privacy of dwelling.          |
| 08         | <b>Shared . . . expenses</b>             | No, Id.                                | Yes, with an administrative subpoena.                                                                                                                                                                                                       | No, unless the City obtains an administrative subpoena to obtain detailed statements of household expenses and contributions by each member of the household |

| <i>No.</i> | <i>Necessary Condition</i>                           | <i>Condition's Objective Standards</i>                                                                                                                                                                                                                                                 | <i>Application</i>                                                                      | <i>Can City Lawfully Observe and Verify Facts to Determine Condition</i>                                                                                                                                                                                      |
|------------|------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 09         | <b>Residency is mutually agreed by all residents</b> | No, Id., unless condition is intended to empowers any occupant at the time to bar any prospective occupant or oust any existing occupant from a household, regardless of that occupant's age or maturity, consensus of the other occupants, or the basis for the preclusion or ouster. | Id.                                                                                     | Possibility, but if and only if the City obtains confirmation from each occupant who occupied a dwelling during its purported status as a SHU.                                                                                                                |
| 10         | <b>not transitory in nature</b>                      | No., Id.                                                                                                                                                                                                                                                                               | No, without a duration of occupancy specified, this necessary condition cannot applied. | No, unless the City obtains an administrative subpoena, permitting the City to lawfully review records or compel statements that establish the date each occupant joined a household. This information, however, is meaningless without a temporal criterion. |

| <i>No.</i> | <i>Necessary Condition</i>                                                             | <i>Condition's Objective Standards</i> | <i>Application</i>                                                                                                                                                                                                                                                                        | <i>Can City Lawfully Observe and Verify Facts to Determine Condition</i>                                                                                                                                                                                                     |
|------------|----------------------------------------------------------------------------------------|----------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 11         | <b>residential activities of the household are conducted on a not-for-profit basis</b> | No, Id.                                | Yes, with an administrative subpoena, but if and only if the City can verify that the housing provider is either is incorporated as a nonprofit or operates at a loss <i>and</i> that each occupant, regardless of age, infirmity, or capacity pays an equal share of the housing expense | No, unless the City obtains an administrative subpoena, permitting the City to lawfully obtain records showing that a housing provider is a nonprofit or operates at a loss and detailed financial records reflecting household expenses and contributions by each occupant. |

Does the proposed SHU definition provide with the City's zoning and code enforcers (as well as its citizens) with robust, objective standards that can be reliably applied to readily observable facts reflecting conditions that endure over the lifetime of a household? The answer is obvious no. Worse, if you assume that the proposed definition means what it says, and its conditions were uniformly applied to the wide variety of household that exist in Costa Mesa<sup>2</sup>, very few of those households could qualify as Single Housekeeping Unit. Worse still, under the proposed definition, the City is committed to policing the personal relationship and domestic affairs of its citizens, an undertaking that is as unpopular as it is unconstitutional.

We urge the Planning Commission to reject the resolution recommending the adoption of the proposed SHU definition.

**3. The proposed amendments to zoning regulations governing group homes fail to implement the objective of the City's Housing Program 2P, perpetuate discrimination against disabled persons, and promise to violate federal and state fair housing laws.**

---

<sup>2</sup> Please refer to the City's demographic profile in the City's Sixth Cycle Housing Element.

The City proposes to implement Housing Plan Program 2P (“Group Homes”) by not making any substantive changes to its current group home regulations, codified as CMMC Title 13, Chaps. XV and XVI, and CMMC Title 9, Chap. II, Art. 23. See Meeting Packet, Exhibit 3. As a result, the City’s group home regulations continue to discriminate against housing for disabled persons, as reflected in Exhibit 1 hereto.

The only substantive change proposed by the City is to import the definition of “operator” into the definition of group home or sober living home. That amendment is deeply flawed and will not cure the problems with the City’s current group home regulations. The operator definition is standardless, circular, and assumes that landlords renting to non-disabled persons do not engage in placement, rule-setting, and behavioral oversight of their tenants—an demonstrably untrue assumption.

We urge the Planning Commission to reject the resolution recommending the adoption of the proposed amendments to the group home regulations because they are insufficient.

**4. The proposed amendments to the City’s RA regulations fail to implement the requirements of the City’s Housing Program 2N, perpetuate discrimination against disabled persons, and promise to continue violating federal and state fair housing laws.**

The City proposes to implement Housing Plan Program 2N (“Reasonable Accommodation”) by making modest changes to the existing regulation that fail to fulfill this Housing Program’s intent and continue a policy in violation of federal and state fair housing laws.

To implement Program 2N, the City must amend the current regulation to address each of the issues raised in DRC’s letter to the City dated January 12, 2026, a copy of which is attached as Exhibit 2. In addition, the City must provide a cogent definition of “institutionalization” if it intends to apply that criterion as a basis for denying RA requests.

We urge the Planning Commission to reject the resolution recommending

Planning Commission  
February 9, 2026  
Page 13

adoption of the proposed RA regulation because it is insufficient.

Thank you for your consideration.

*/s/ Christopher Brancart*  
[cbrancart@brancart.com](mailto:cbrancart@brancart.com)

## **Zoning regulations for unlicensed<sup>1</sup> residential uses in Costa Mesa's multi-family zoning districts**

| <b><i>CMMC Regulations Governing Residential Uses in City's Multifamily Districts</i></b> | <b><i>Sober Living Home<sup>2</sup></i></b> | <b><i>Group Home<sup>3</sup></i></b> | <b><i>Boardinghouse, Small &lt; 3 rental rooms<sup>4</sup></i></b> | <b><i>Boardinghouse, Large &lt; 7 rental rooms</i></b> | <b><i>Multi-family Dwelling<sup>5</sup></i></b> |
|-------------------------------------------------------------------------------------------|---------------------------------------------|--------------------------------------|--------------------------------------------------------------------|--------------------------------------------------------|-------------------------------------------------|
| <b><i>Use Definitions</i></b>                                                             |                                             |                                      |                                                                    |                                                        |                                                 |
| Use defined based on disability status of residents, CMMC 13-06                           | Yes, CC 9 <sup>6</sup>                      | Yes, CC 5                            | No, CC 3                                                           | No, CC 3                                               | No CC 4                                         |

EXHIBIT 1

<sup>1</sup> Licensed uses are subject to state-mandated zoning entitlements and restrictions. The Costa Mesa Municipal Code (CMMC) defines these uses as **Residential care facilities**. A residential facility licensed by the state where care, services, or treatment is provided to persons living in a supportive community residential setting. Residential care facilities include, but may not be limited to, the following: intermediate care facilities for the developmentally disabled (Health & Safety Code §§ 1267.8, 1267.9); community care facilities (Health & Safety Code § 1500 et seq.); residential care facilities for the elderly (Health & Safety Code § 1569 et seq.); residential care facilities for the chronically ill (22 C.C.R. § 87801(a)(5); Health & Safety Code § 1568.02); alcoholism and drug abuse facilities (Health & Safety Code §§ 11834.02—11834.30); pediatric day health and respite care facilities (Health & Safety Code § 1760 et seq.); residential health care facilities, including congregate living health facilities (Health & Safety Code §§ 1265—1271.1, 1250(i), 1250(e), (h)); family care home, foster home, group home for the mentally disordered or otherwise handicapped persons or dependent and neglected children (Wel. & Inst. Code §§ 5115—5120). CMMC 13-06.

<sup>2</sup> **Sober living home** means a group home for persons who are recovering from a drug and/or alcohol addiction and who are considered handicapped under state or federal law. Sober living homes shall not include the following: (1) residential care facilities; (2) any sober living home that operates as a single housekeeping unit." CMMC 13-06.

<sup>3</sup> **Group home**. A facility that is being used as a supportive living environment for persons who are considered handicapped under state or federal law. A group home operated by a single operator or service provider (whether licensed or unlicensed) constitutes a single facility, whether the facility occupies one (1) or more dwelling units. Group homes shall not include the following: (1) residential care facilities; (2) any group home that operates as a single housekeeping unit." CMMC 13-06.

<sup>4</sup> **Boardinghouse**. A residence or dwelling, other than a hotel, wherein rooms are rented under two (2) or more separate written or oral rental agreements, leases or subleases or combination thereof, whether or not the owner, agent or rental manager resides within the residence. Boardinghouse, small means two (2) or fewer rooms being rented. Boardinghouse, large means three (3) to six (6) rooms being rented. Boardinghouses renting more than six (6) rooms are prohibited." CMMC 13-06.

<sup>5</sup> **Dwelling, multi-family** "Dwelling, multi-family" or "multi-family dwelling" is a building or buildings of permanent character placed on one (1) lot which is designed or used for residential occupancy by two (2) or more families." CMMC 13-06.

<sup>6</sup> **"CC #"** refers to page numbers in the excerpt of the current Costa Mesa Municipal Code [as of 05/09/2021], attached to this Table for reference.

| <i>CMMC Regulations Governing Residential Uses in City's Multifamily Districts</i>                                                                                           | <i>Sober Living Home<sup>2</sup></i> | <i>Group Home<sup>3</sup></i> | <i>Boardinghouse, Small &lt; 3 rental rooms<sup>4</sup></i> | <i>Boardinghouse, Large &lt; 7 rental rooms</i> | <i>Multifamily Dwelling<sup>5</sup></i> |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------|-------------------------------|-------------------------------------------------------------|-------------------------------------------------|-----------------------------------------|
| Use defined based on nature of the disability of dwelling's residents, CMMC 13-06                                                                                            | Yes, CC 9                            | No, CC 5                      | No, CC 3                                                    | No, CC 3                                        | No CC 4                                 |
| <b>Permitted Zoning District</b>                                                                                                                                             |                                      |                               |                                                             |                                                 |                                         |
| Permitted in Residential Zoning District, CMMC 13-30, 13-204                                                                                                                 | No, CC 31                            | No, CC 31                     | Yes, CC 31                                                  | Yes, if pre-existing, CC 54;                    | Yes, CC 31                              |
| Permitted in Multifamily Zoning Districts (R2-MD, R2-HD, R3), CMMC 13-30                                                                                                     | No, CC 31                            | No, CC 31                     | Yes, CC 31                                                  | No, if new, CC 31                               |                                         |
|                                                                                                                                                                              |                                      |                               |                                                             | Yes, if pre-existing, CC 54;                    | Yes, CC 31                              |
|                                                                                                                                                                              |                                      |                               |                                                             | No, if new, CC 31                               |                                         |
| Permitted in Planned Development Residential Districts (PDR-LD, PDR-MD, PDR-HD, PRD-NCM, PDC, PDI), CMMC 13-30, 13-204                                                       | No, CC 31                            | No, CC 31                     | Yes, CC 31                                                  | Yes, if pre-existing, CC 54;                    | Yes, CC 31                              |
|                                                                                                                                                                              |                                      |                               |                                                             | No, if new, CC 31                               |                                         |
| Permitted in Institutional & Recreational (I&R) Zoning District [intended for "recreation, open space, health, public services," 13-20(i), CC 17]                            | Yes, CC 31                           | Yes, CC 31                    | No, CC 31                                                   | No, CC 31                                       | No, CC 31                               |
| Specialty or Conditionally Permitted in Institutional & Recreational (I&R) Zoning District [intended for "recreation, open space, health, public services," 13-20(i), CC 17] | NA, CC 31                            | NA, CC 31                     | No, CC 31                                                   | No, CC 31                                       | No, CC 31                               |
| <b>Nonconforming Use Status</b>                                                                                                                                              |                                      |                               |                                                             |                                                 |                                         |
| Existing uses required to apply for Special or Conditional Use Permit to                                                                                                     | Yes, CC 67, 59                       | Yes, CC 67, 59                | No, CC 54                                                   | No, CC 54                                       | NA, CC 31                               |

| <i><b>CMMC Regulations Governing Residential Uses in City's Multifamily Districts</b></i>                         | <i><b>Sober Living Home<sup>2</sup></b></i>                                                                                                    | <i><b>Group Home<sup>3</sup></b></i>                                                                                                           | <i><b>Boardinghouse, Small &lt; 3 rental rooms<sup>4</sup></b></i>                                                     | <i><b>Boardinghouse, Large &lt; 7 rental rooms</b></i>                                                                 | <i><b>Multi-family Dwelling<sup>5</sup></b></i> |
|-------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------|
| continue existing use, 13-324, 13-207.1 versus 13-204, 13-30                                                      |                                                                                                                                                |                                                                                                                                                |                                                                                                                        |                                                                                                                        |                                                 |
| <b>Separation Requirement</b>                                                                                     |                                                                                                                                                |                                                                                                                                                |                                                                                                                        |                                                                                                                        |                                                 |
| Separation requirement imposed on existing uses, 13-322, 13-323, 13-324 versus 13-30, 13-204, 13-207.1            | Yes: At least 650 feet between dwelling and any group home, sober living home or state-licensed drug and alcohol treatment facility. CC 66-67  | Yes: At least 650 feet between dwelling and any group home, sober living home or state-licensed drug and alcohol treatment facility. CC 66-67  | No, CC 54                                                                                                              | No, CC 54                                                                                                              | NA, 13-30                                       |
| Separation requirement imposed on new uses, 13-322, 13-323, 13-324 versus 13-30 fn 7                              | Yes: At least 650 feet between dwelling and any group home, sober living home, or state-licensed drug and alcohol treatment facility. CC 66-67 | Yes: At least 650 feet between dwelling and any group home, sober living home, or state-licensed drug and alcohol treatment facility. CC 66-67 | Yes: Small boardinghouses shall locate at least six hundred fifty (650) feet from any other small boardinghouse. CC 49 | Yes: Large boardinghouses shall be located at least one thousand (1,000) feet away from any other boardinghouse. CC 49 | NA, 13-30                                       |
| <b>Dwelling Operator's Permit Required</b>                                                                        |                                                                                                                                                |                                                                                                                                                |                                                                                                                        |                                                                                                                        |                                                 |
| Owner or operator of dwelling must obtain an "Operator's Permit," CMMC 13-323, 9-372, or meet same conditions for | Yes, CC 67, 69 [CUP]; Yes, CC 66, 61-63 [SUP]                                                                                                  | Yes, CC 67, 69 [CUP]; Yes, CC 66, 61-63 [SUP]                                                                                                  | No                                                                                                                     | No                                                                                                                     | No                                              |

| <i><b>CMMC Regulations Governing Residential Uses in City's Multifamily Districts</b></i>                                                                                                                                     | <i><b>Sober Living Home<sup>2</sup></b></i>    | <i><b>Group Home<sup>3</sup></b></i>           | <i><b>Boardinghouse, Small &lt; 3 rental rooms<sup>4</sup></b></i> | <i><b>Boardinghouse, Large &lt; 7 rental rooms</b></i> | <i><b>Multifamily Dwelling<sup>5</sup></b></i> |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------|------------------------------------------------|--------------------------------------------------------------------|--------------------------------------------------------|------------------------------------------------|
| Operator's Permit under SUP requirements, 13-322, 13-311                                                                                                                                                                      |                                                |                                                |                                                                    |                                                        |                                                |
| Owner or operator of dwelling must obtain an "operator's permit" as a condition to qualify for a conditional use permit, CMMC 13-323, 9-372, or meet same conditions for Operator's Permit to qualify for SUP, 13-322, 13-311 | Yes, CC 67, 69 [CUP]; Yes, CC 66, 61-63 [SUP]  | Yes, CC 67, 69 [CUP]; Yes, CC 66, 61-63 [SUP]  | No                                                                 | No                                                     | No                                             |
| <b><i>Permit Application Requirements</i></b>                                                                                                                                                                                 |                                                |                                                |                                                                    |                                                        |                                                |
| Permit Application: Required to list applicant/operator's every general partner and every owner with controlling interest in corporation. CMMC 13-311(a) + 9-374(a) versus CMMC 13-29(a) + City Form 09/2019                  | Yes, CC 61, 69; [CUP]; Yes, CC 66, 61-63 [SUP] | Yes, CC 61, 69; [CUP]; Yes, CC 66, 61-63 [SUP] | No, CC 22                                                          | No, CC 22                                              | No, CC 22                                      |
| Permit Application: Required to provide permit history or operation of similar use at any time anywhere in the United States. CMMC 13-311(a) + 9-374(a) versus CMMC 13-29(a) + City Form 09/2019                              | Yes, CC 61, 69; [CUP]; Yes, CC 66, 61-63 [SUP] | Yes, CC 61, 69; [CUP]; Yes, CC 66, 61-63 [SUP] | No, CC 22                                                          | No, CC 22                                              | No, CC 22                                      |
| Permit Application: Required to provide copy of rules governing conduct of residents occupying dwelling. CMMC 13-311(a) + 9-374(a) versus CMMC 13-29(a) + City Form 09/2019                                                   | Yes, CC 61, 69; [CUP]; Yes, CC 66, 61-63 [SUP] | Yes, CC 61, 69; [CUP]; Yes, CC 66, 61-63 [SUP] | No, CC 22                                                          | No, CC 22                                              | No, CC 22                                      |

| <b><i>CMMC Regulations Governing Residential Uses in City's Multifamily Districts</i></b>                                                                                                 | <b><i>Sober Living Home<sup>2</sup></i></b>                                                                                                         | <b><i>Group Home<sup>3</sup></i></b>                                                                                                                | <b><i>Boardinghouse, Small &lt; 3 rental rooms<sup>4</sup></i></b>                                                         | <b><i>Boardinghouse, Large &lt; 7 rental rooms</i></b>                                                                     | <b><i>Multifamily Dwelling<sup>5</sup></i></b>                                                                             |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------|
| Permit Application: Required to identify the name, address, telephone, CDL of onsite dwelling manager. CMMC 13-311(a) + 9-374(a) versus CMMC 13-29(a) + City Form 09/2019                 | Yes, CC 61, 69; [CUP]; Yes, CC 66, 61-63 [SUP]                                                                                                      | Yes, CC 61, 69; [CUP]; Yes, CC 66, 61-63 [SUP]                                                                                                      | No, CC 22                                                                                                                  | No, CC 22                                                                                                                  | No, CC 22                                                                                                                  |
| Permit Application: Required to provide document reflecting criteria for acceptance of resident in dwelling. CMMC 13-311(a) + 9-374(a) versus CMMC 13-29(a) + City Form 09/2019           | Yes, CC 61, 69; [CUP]; Yes, CC 66, 61-63 [SUP]                                                                                                      | Yes, CC 61, 69; [CUP]; Yes, CC 66, 61-63 [SUP]                                                                                                      | No, CC 22                                                                                                                  | No, CC 22                                                                                                                  | No, CC 22                                                                                                                  |
| Permit Application: Required to provide blank copies of all forms that residents of dwelling are required to complete. CMMC 13-311(a) + 9-374(a) versus CMMC 13-29(a) + City Form 09/2019 | Yes, CC 61, 69; [CUP]; Yes, CC 66, 61-63 [SUP]                                                                                                      | Yes, CC 61, 69; [CUP]; Yes, CC 66, 61-63 [SUP]                                                                                                      | No, CC 22                                                                                                                  | No, CC 22                                                                                                                  | No, CC 22                                                                                                                  |
| <b><i>Permit Notice Requirements, July 2017 (17-05) - October 2018 (18-06) time period</i></b>                                                                                            |                                                                                                                                                     |                                                                                                                                                     |                                                                                                                            |                                                                                                                            |                                                                                                                            |
| Public notice of hearing on application for special use permit, CMMC 13-311(b) versus CMMC 13-29(c) [07/2017-09/2018]                                                                     | Notice to be mailed to the <b>owner of record and occupants</b> of all properties within five hundred (500) feet of the location of the group home. | Notice to be mailed to the <b>owner of record and occupants</b> of all properties within five hundred (500) feet of the location of the group home. | Notices of the hearing shall be mailed to all <b>property owners</b> within a five hundred-foot radius of the project site | Notices of the hearing shall be mailed to all <b>property owners</b> within a five hundred-foot radius of the project site | Notices of the hearing shall be mailed to all <b>property owners</b> within a five hundred-foot radius of the project site |
| <b><i>Occupancy limit on number of residents per dwelling</i></b>                                                                                                                         |                                                                                                                                                     |                                                                                                                                                     |                                                                                                                            |                                                                                                                            |                                                                                                                            |

| <i><b>CMMC Regulations Governing Residential Uses in City's Multifamily Districts</b></i>                                                                                                              | <i><b>Sober Living Home<sup>2</sup></b></i> | <i><b>Group Home<sup>3</sup></b></i> | <i><b>Boardinghouse, Small &lt; 3 rental rooms<sup>4</sup></b></i> | <i><b>Boardinghouse, Large &lt; 7 rental rooms</b></i> | <i><b>Multi-family Dwelling<sup>5</sup></b></i> |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------|--------------------------------------|--------------------------------------------------------------------|--------------------------------------------------------|-------------------------------------------------|
| Occupancy limitation                                                                                                                                                                                   | City Housing Element                        | City Housing Element                 | State Housing Law/UHC                                              | State Housing Law/UHC                                  | State Housing Law/UHC                           |
| <b><i>On-Site Manager Requirements</i></b>                                                                                                                                                             |                                             |                                      |                                                                    |                                                        |                                                 |
| Dwelling must have a 24/7 onsite manager. CMMC 13-311(a)(4) + CMMC 9-274(b)(1) versus State Housing Law                                                                                                | Yes, CC 62, 70                              | Yes, CC 62, 70                       | No, State Housing Law                                              | No, State Housing Law                                  | No, State Housing Law                           |
| <b><i>Vehicle Restrictions</i></b>                                                                                                                                                                     |                                             |                                      |                                                                    |                                                        |                                                 |
| Each dwelling resident limited to one vehicle that must be used as resident's primary form of transportation, 13-311(a)(5) + CMMC 9-274(b)(2)                                                          | Yes, CC 62, 70                              | Yes, CC 62, 70                       | No                                                                 | No                                                     | No                                              |
| <b><i>Resident Parking Restrictions</i></b>                                                                                                                                                            |                                             |                                      |                                                                    |                                                        |                                                 |
| Each dwelling resident must park her vehicle on dwelling premises or within 500 feet of dwelling, 13-311(a)(5) + CMMC 9-274(b)(2) versus CMMC Title 10, Ch X (Stopping, Standing and Parking)          | Yes, CC 62, 70                              | Yes, CC 62, 70                       | No                                                                 | No                                                     | No                                              |
| <b><i>Eviction requirements</i></b>                                                                                                                                                                    |                                             |                                      |                                                                    |                                                        |                                                 |
| Landlord/operator must notify resident's emergency contact, OCHA OC Links Referral Line, and Costa Mesa's Network for Homeless Solutions before an evicting resident, CMMC 13-311(a)(10) + 9-374(b)(6) | Yes, CC 62, 70                              | Yes, CC 62, 70                       | No                                                                 | No                                                     | No                                              |
| Landlord/operator must provide transportation to alternative housing to any resident evicted from dwelling, CMMC 13-311(a)(11) + 9-374(b)(7)                                                           | Yes, CC 62, 70                              | Yes, CC 62, 70                       | No                                                                 | No                                                     | No                                              |

| <i><b>CMMC Regulations Governing Residential Uses in City's Multifamily Districts</b></i>                                                                                                                                                        | <i><b>Sober Living Home<sup>2</sup></b></i> | <i><b>Group Home<sup>3</sup></b></i> | <i><b>Boardinghouse, Small &lt; 3 rental rooms<sup>4</sup></b></i> | <i><b>Boardinghouse, Large &lt; 7 rental rooms</b></i> | <i><b>Multifamily Dwelling<sup>5</sup></b></i> |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------|--------------------------------------|--------------------------------------------------------------------|--------------------------------------------------------|------------------------------------------------|
| Landlord/operator must maintain eviction records for one year resident's eviction from dwelling, CMMC 13-311(a)(12) + 9-374(b)(8)                                                                                                                | Yes, CC 62, 70                              | Yes, CC 62, 70                       | No                                                                 | No                                                     | No                                             |
| <i><b>Regulation of Residents within Dwelling</b></i>                                                                                                                                                                                            |                                             |                                      |                                                                    |                                                        |                                                |
| Each resident of dwelling must actively participate in a legitimate self-improvement program (e.g., 12-step program), CMMC 13-311(a)(14)(i) + 9-374(b)(10)(i)                                                                                    | Yes, CC 63, 71                              | No                                   | No                                                                 | No                                                     | No                                             |
| Landlord/operator must maintain records showing that resident is actively participating in a legitimate self-improvement program (e.g., 12-step program), CMMC 13-311(a)(14)(i) + 9-374(b)(10)(i)                                                | Yes, CC 63, 71                              | No                                   | No                                                                 | No                                                     | No                                             |
| Landlord/operator must promulgate a rule warning that if a resident refuse to actively participating in a legitimate self-improvement program (e.g., 12-step program), then the resident may be evicted. CMMC 13-311(a)(14)(i) + 9-374(b)(10)(i) | Yes, CC 63, 71                              | No                                   | No                                                                 | No                                                     | No                                             |
| Landlord/Operator must prohibit residents from use of any non-prescription drugs. CMMC 13-311(a)(14)(ii) + 9-374(b)(10)(ii)                                                                                                                      | Yes, CC 63, 71                              | No                                   | No                                                                 | No                                                     | No                                             |

| <b><i>CMMC Regulations Governing Residential Uses in City's Multifamily Districts</i></b>                                                                                                                                                                                                                                                        | <b><i>Sober Living Home<sup>2</sup></i></b> | <b><i>Group Home<sup>3</sup></i></b> | <b><i>Boardinghouse, Small &lt; 3 rental rooms<sup>4</sup></i></b> | <b><i>Boardinghouse, Large &lt; 7 rental rooms</i></b> | <b><i>Multi-family Dwelling<sup>5</sup></i></b> |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------|--------------------------------------|--------------------------------------------------------------------|--------------------------------------------------------|-------------------------------------------------|
| Landlord/operator must evict any resident caught using any non-prescription drug. CMMC 13-311(a)(14)(ii) + 9-374(b)(10)(ii)                                                                                                                                                                                                                      | Yes, CC 63, 71                              | No                                   | No                                                                 | No                                                     | No                                              |
| Landlord/operator must promulgate a good neighbor policy directing residents "to be considerate of neighbors, including refraining from engaging in excessively loud, profane or obnoxious behavior that would unduly interfere with a neighbor's use and enjoyment of their dwelling unit." CMMC 13-311(a)(14)(vi) + 9-374(b)(10)(v)            | Yes, CC 63, 71                              | No                                   | No                                                                 | No                                                     | No                                              |
| Landlord/operator must promulgate written protocol for onsite manager to follow in response to a neighbor's complaint. CMMC protocol for 13-311(a)(14)(vi) + 9-374(b)(10)(v)                                                                                                                                                                     | Yes, CC 63, 71                              | No                                   | No                                                                 | No                                                     | No                                              |
| <b><i>Owner, Landlord, Operator, and Employee Qualification Requirements</i></b>                                                                                                                                                                                                                                                                 |                                             |                                      |                                                                    |                                                        |                                                 |
| Owner, landlord, or operator of a dwelling is barred from obtaining a Special or Condition Use Permit for that dwelling if she was terminated from a job for sexual harassment, embezzlement, or illegally furnishing alcohol within two years of applying to the City for that zoning permit. CMMC 13-311(b)(2), 9-374(e)(2) versus 13-29(g)(2) | Yes, CC 63, 71                              | Yes, CC 63, 71                       | No, CC 25                                                          | No, CC 25                                              | No, CC 25                                       |

| <b><i>CMMC Regulations Governing Residential Uses in City's Multifamily Districts</i></b>                                                                                                                                                                                                                                                                                       | <b><i>Sober Living Home<sup>2</sup></i></b> | <b><i>Group Home<sup>3</sup></i></b> | <b><i>Boardinghouse, Small &lt; 3 rental rooms<sup>4</sup></i></b> | <b><i>Boardinghouse, Large &lt; 7 rental rooms</i></b> | <b><i>Multifamily Dwelling<sup>5</sup></i></b> |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------|--------------------------------------|--------------------------------------------------------------------|--------------------------------------------------------|------------------------------------------------|
| Owner, landlord, or operator of a dwelling is barred from obtaining a Special or Condition Use Permit for that dwelling if she employs any person who was terminated from a job alcohol for sexual harassment, embezzlement, or illegally furnishing alcohol within two years of applying to the City for that zoning permit. CMMC 13-311(b)(2), 9-374(e)(2) versus 13-29(g)(2) | Yes, CC 63, 71                              | Yes, CC 63, 71                       | No, CC 25                                                          | No, CC 25                                              | No, CC 25                                      |
| Owner, landlord, or operator of a dwelling is barred from obtaining a Special or Condition Use Permit for that dwelling if she was convicted or pleaded nolo contendere to any PC 290 sex offense or PC 667.5 felony within 10 years of applying to the City for that zoning permit. CMMC 13-311(b)(2), 9-374(e)(2) versus 13-29(g)(2)                                          | Yes, CC 63-64, 71-72                        | Yes, CC 63-64, 71-72                 | No, CC 25                                                          | No, CC 25                                              | No, CC 25                                      |
| Owner, landlord, or operator of a dwelling barred from obtaining a Special or Condition Use Permit for that dwelling if she employs any person who was convicted or pleaded nolo contendere to any PC 290 sex offense or PC 667.5 felony within 10 years of applying to the City for that zoning permit. CMMC 13-311(b)(2), 9-374(e)(2) versus 13-29(g)(2)                      | Yes, CC 63-64, 71-72                        | Yes, CC 63-64, 71-72                 | No, CC 25                                                          | No, CC 25                                              | No, CC 25                                      |

| <b><i>CMMC Regulations Governing Residential Uses in City's Multifamily Districts</i></b>                                                                                                                                                                                                                                                                                       | <b><i>Sober Living Home<sup>2</sup></i></b> | <b><i>Group Home<sup>3</sup></i></b> | <b><i>Boardinghouse, Small &lt; 3 rental rooms<sup>4</sup></i></b> | <b><i>Boardinghouse, Large &lt; 7 rental rooms</i></b> | <b><i>Multifamily Dwelling<sup>5</sup></i></b> |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------|--------------------------------------|--------------------------------------------------------------------|--------------------------------------------------------|------------------------------------------------|
| Owner, landlord, or operator of a dwelling barred from obtaining a Special or Condition Use Permit for that dwelling if he was convicted or pleaded nolo contendere to any PC 290 sex offense or PC 667.5 felony within 10 years of applying to the City for that zoning permit. CMMC 13-311(b)(2), 9-374(e)(2) versus 13-29(g)(2)                                              | Yes, CC 63-64, 71-72                        | Yes, CC 63-64, 71-72                 | No, CC 25                                                          | No, CC 25                                              | No, CC 25                                      |
| Owner, landlord, or operator of a dwelling barred from obtaining a Special or Condition Use Permit for that dwelling if she employs any person who was convicted or pleaded nolo contendere to any PC 451 arson offense or furnishing any controlled substance within 7 years of applying to the City for that zoning permit. CMMC 13-311(b)(2), 9-374(e)(2) versus 13-29(g)(2) |                                             | Yes, CC 63-64, 71-72                 | No, CC 25                                                          | No, CC 25                                              | No, CC 25                                      |
| Owner, landlord, or operator of a dwelling barred from obtaining a Special or Condition Use Permit for that dwelling if she is in recovery from abuse of drugs or alcohol and has been abstained for less than one year before applying to the City for that zoning permit. CMMC 13-311(b)(6), 9-374(e)(2) versus 13-29(g)(2)                                                   | Yes, CC 64, 72                              | No                                   | No, CC 25                                                          | No, CC 25                                              | No, CC 25                                      |



**LEGAL ADVOCACY UNIT**

1831 K Street  
Sacramento, CA 95811  
Tel: (916) 504-5800  
Fax: (916) 504-5801  
TTY: (800) 719-5798  
Intake Line: (800) 776-5746  
[www.disabilityrightsca.org](http://www.disabilityrightsca.org)

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January 12, 2026

VIA EMAIL

Kimberly Hall Barlow  
Jones Mayer  
3777 N. Harbor Blvd.  
Fullerton, CA 92835  
[khb@jones-mayer.com](mailto:khb@jones-mayer.com)

RE: Costa Mesa's Proposed Revisions to RA Ordinance

Dear Ms. Barlow:

Thank you for the opportunity to review and comment on Costa Mesa's proposed revisions to the City's reasonable accommodation ordinance pursuant to the settlement agreement in the *Insight v. Costa Mesa* case.

In your December 19, 2025 email to us, you said that Costa Mesa was proposing to delete subsection (7) of Section 13-200.62(f) of the City's reasonable accommodation ordinance. You explained that the deletion is proposed because "it is operationally difficult for staff or the applicants to make this determination given lack of information and the difficulties in ensuring that any facilities adequately allow individual(s) with said disability(ies) to live in a residential setting. Furthermore, this subsection is unnecessary given the other provisions of the Reasonable Accommodation Ordinance." We support the deletion of subsection (7) from Section 13-200.62, which requires a finding that "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."

|           |
|-----------|
| EXHIBIT 2 |
|-----------|

The deletion of subsection (7) is an important first step in bringing Costa Mesa's reasonable accommodation ordinance into compliance with state and federal fair housing requirements. However, in order to bring the entire reasonable accommodation regulation into compliance, Costa Mesa will need to make additional changes. Given the structure of the current ordinance, it will be difficult to do that by simply editing or rewording the text. Instead, we propose that the City repeal sections of the ordinance in their entirety and replace them with new ones.

To begin with, Section 13-200.62 (f) has problems that cannot be remedied without restructuring. That section is a list of findings "all of which are required for approval" of a reasonable accommodation request. But the list combines factors that the person or entity requesting the accommodation must establish in order to be entitled to an accommodation, i.e., the topics of Findings (1) and (2), with factors that are the City's burden to establish if it is going to deny the accommodation, i.e., the topics of Findings (3), (5), and (8). These two types of topics need to be separated to clearly delineate who – the person or entity making the request, or the City – bears the burden of proof.

As written, Findings (3), (5), and (8) require affirmative findings that there is no undue financial or administrative burden, no direct threat, and no fundamental alteration for the approval of a reasonable accommodation request. In other words, they require that the City affirmatively find that those factors are *not* present. This has the effect of putting the burden on the person or entity making the request to establish the absence of an undue burden or fundamental alteration. That is contrary to fair housing law, which makes it the City's burden to establish that there *is* an undue burden, direct threat, or fundamental alteration before denying a reasonable accommodation request. Fair housing law does not permit the City to make the establishment of the *absence* of those factors a requirement.

Undue burden, direct threat, and fundamental alteration can properly be in the reasonable accommodation ordinance, but the regulation needs to be structured in a way that makes clear that if the person or entity making the request establishes the factors addressed in Findings (1) and (2), the City must grant the accommodation unless it finds that granting the

accommodation *will* impose an undue financial or administrative burden, *will* result in a direct threat, or *will* result in a fundamental alteration (i.e., the inverse of the current language regarding findings). It does not work to combine them in the same list as the elements that the person or entity making the request has the burden to establish. The two types of findings must be bifurcated.

Moreover, the current structure of the reasonable accommodation ordinance also makes it difficult for the ordinance to adequately reflect the law governing the findings that the City must establish to deny an otherwise valid reasonable accommodation request. For example, where the ordinance authorizes the City to deny a reasonable accommodation request based on a direct threat finding, it must also state that in such a case the City must find that the threat cannot be mitigated by reasonable accommodation. 28 C.F.R. §35.139. A finding that granting a reasonable accommodation would be an undue burden or fundamental alteration must also be made “after considering all resources available for use in the funding and operation of the service, program, or activity, and must be accompanied by a written statement of the reasons for reaching that conclusion.” 28. C.F.R. §35.150(a)(3). It will be difficult to add such clarifications in a clear way unless the two types of findings under Section 13-200.62(f) are separated and the findings for which the City bears the burden are written in the affirmative.

Section 13-200.62 (f) also includes factors that do not fall within either the burden of the person or entity making the accommodation request or the allowable reasons for the City to deny a request, but instead layer on additional obligations that are not permitted under fair housing law. Finding (4) requires a finding that the “requested accommodation is consistent with surrounding uses in scale and intensity of use.” The City cannot apply different occupancy, use, or development standards to shared housing for people with disabilities as compared to other forms of housing, nor can it require a household of people with disabilities to be limited to fewer people than a single housekeeping unit would be allowed to have. To the extent that a requested accommodation would result in housing that was vastly different from permitted housing uses, City staff could evaluate whether granting the request would constitute a fundamental alteration to a City program or would result in an undue burden or direct threat. But simply having the same number of people that a single housekeeping unit would

be allowed to have, or failing to meet another occupancy or development standard that was not also applied to single housekeeping units, could never fall within one of those permitted reasons for denying an accommodation request. Consistency with other uses should therefore not be listed as a separate required finding.

Likewise, Finding (6) requires in some instances “a finding that the requested accommodation is necessary to make facilities of a similar nature or operation economically viable in light of the particularities of the relevant market and market participants generally.” For the same reasons that the City is removing Finding (7), which also focuses on “facilities of a similar nature and operation” rather than on the specific housing that is at issue for a particular reasonable accommodation request, the City should remove Finding (6). It is just as true that it will be “operationally difficult for staff or the applicants to make this determination given lack of information” for Finding (6) as for Finding (7). Moreover, providing a feasibility study or market study about other housing does not fall within the burden of someone making a reasonable accommodation request. Making such a study a condition of approving a disability-related accommodation is therefore a discriminatory housing practice. This should likewise not be listed as a required finding.

The deletion of Finding (7) should also be accompanied by a revision to the language of Finding (2), which states that, “[t]he requested accommodation is necessary to provide one or more individuals with a disability an equal opportunity to use and enjoy a dwelling.” To ensure that City staff interpret Finding (2) consistent with fair housing laws, by focusing on the housing at issue in the request rather than “facilities of a similar nature and operation” elsewhere, Finding (2) should be revised to refer to an equal opportunity to use and enjoy “their dwelling,” “the dwelling at issue in the accommodation request,” or something similar.

In order to bring the reasonable accommodation ordinance into compliance with federal and state fair housing law, the City will also need to revise other portions of the ordinance. As reflected in the settlement agreement, we would welcome the opportunity to work with the City during that portion of its review of the reasonable accommodation ordinance and to provide feedback on any draft revisions of those other sections.

For those portions of the ordinance as well, it would be most effective for the City to repeal and replace language rather than try to work within the existing structure. For example, Section 13-200.62(b) loads burdensome and irrelevant requirements onto people or entities making reasonable accommodation requests. A lay homeowner who needs an accommodation due to disability should be able to comply with application requirements without having to hire an attorney or other expert to help them understand what they need to do. The City should limit the application to information that is necessary for the City to evaluate whether the person or entity making the request has met their burden, such as the location of the dwelling at issue, the existence of the disability, the nature of the accommodation that is being requested, and the connection between the disability and the requested accommodation. The provisions in Section 13-200.62(b) that require people or entities making reasonable accommodation requests to provide “[a]ny other information that the director reasonably determines is necessary for evaluating the request for reasonable accommodation” ((b)(3)) and “[a]ny other information that the hearing officer reasonably concludes is necessary to determine whether the findings required by subsection (e) of this section can be made” ((b)(7)) are particularly problematic because they are not limited to the information necessary to establish that a person or entity is entitled to a reasonable accommodation.

Section 13-200.62(d) provides that appeals of reasonable accommodation requests will be handled through the same procedures as “any other discretionary permit.” However, the appeals process pertaining to reasonable accommodation requests needs to be navigable and manageable by lay people with disabilities. This provision should be repealed and replaced with new language that requires a prompt, clear statement of the reasons for any denial, establishes a simple procedure for requesting an appeal, provides a reasonable deadline for making requests for an appeal, and eliminates the need for individuals or entities to pay for the City’s review of their reasonable accommodation determination.

Most importantly, the section of the reasonable accommodation ordinance addressing appeals must exempt them from the review procedures that govern general zoning matters in order to respect the privacy of people’s disabilities and disability-related needs during any review process. Hearings regarding reasonable accommodations requests should not be

made by legislative bodies, and no public notice should be made regarding reasonable accommodation reviews. Public hearings create an opening for members of the public to express animus against people with disabilities, which imposes an improper barrier to people seeking such accommodations. For example, at the hearings regarding Insight's reasonable accommodation request, a member of the public told the Planning Commission that a person who is "mentally disabled does not belong in a neighborhood next door to me or any of us in this room," and someone testified to the City Council that the "mentally ill cannot associate with our children, neighbors." As you know, hearing those types of comments was traumatic for our client Ms. Doe, who spoke about her own experiences with mental illness, and the ways that staying at Insight's housing had helped her, at a hearing on Insight's reasonable accommodation request. Not only is the City not obligated to provide the public with a forum to intimidate and humiliate people like Ms. Doe, but the City cannot put people like her through such an ordeal as a condition of having their accommodation request reviewed. Nor can such animus play any part in the City's review of an accommodation request. For similar reasons, the ordinance should also make clear that only the person or entity making the request can appeal a decision regarding a reasonable accommodation, in contrast to the current language which permits virtually anyone – including neighbors with an animus against people with disabilities – to appeal.

Finally, Sections 13-200.62(e) and (g), regarding "considerations," overlap with the required "findings" in Section 13-200.62(f) in a way that impedes consistency with fair housing law. Like Section 13-200.62(f), these sections fail to make clear which elements are the burden of the person making the reasonable accommodation request to establish and which are the City's burden. Many of them are also improper considerations. For example, the City cannot take into account "whether granting the request would be consistent with the City's General Plan." By definition, any reasonable accommodation request pertaining to zoning will be inconsistent with the zoning scheme. "Requiring public entities to make exceptions to their rules and zoning policies is exactly what the FHAA does." *Anderson v. City of Blue Ash*, 798 F.3d 338, 363 (6th Cir. 2015); *City of Edmonds v. Washington State Bldg. Code Council*, 18 F.3d 802, 806 (9th Cir. 1994) (FHA imposes an affirmative duty to reasonably accommodate disabled persons). The question is not whether a requested disability

accommodation is inconsistent with the City's General Plan, but whether granting it would fundamentally alter the General Plan. To take another example, the City cannot take into consideration whether "the accommodation would result in a substantial increase in traffic or insufficient parking" (§ 13-200.62(g)(2)) or "create an institutionalized environment due to the number of and distance between facilities that are similar in nature or operation" (§ 13-200.62(g)(4)) unless it is also doing so with respect to single housekeeping units. Again, the City cannot impose more stringent development or occupancy standards on housing occupied by people with disabilities than on single housekeeping units, nor can it use vague or undefined conditions as a basis for denial of a reasonable accommodation request. These are examples, and not an exhaustive list, of the issues with subsections (e) and (g) of Costa Mesa's reasonable accommodation ordinance. We would be happy to provide additional comments or to discuss with you and with City staff in more detail our further thoughts on bringing the ordinance into compliance with state and federal fair housing requirements.

We appreciate your time and attention to our comments and look forward to working with you and the City further on these important access issues for Costa Mesa residents with disabilities. Please let us know if you would like to discuss any of these issues further.

Sincerely,

A handwritten signature in black ink, appearing to read 'Autumn M. Elliott', with a stylized, flowing script.

Autumn M. Elliott  
Law Office of Autumn Elliott

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