



# **CITY COUNCIL AGENDA REPORT**

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MEETING DATE: SEPTEMBER 4, 2007

ITEM NUMBER: \_\_\_\_\_

**SUBJECT: ZONING CODE AMENDMENT CO-07-01 REGARDING DEVELOPMENT STANDARDS AND REVIEW PROCEDURES FOR CONVERSIONS OF APARTMENTS TO RESIDENTIAL COMMON INTEREST DEVELOPMENTS AND NON-RESIDENTIAL PROJECTS TO COMMON INTEREST DEVELOPMENTS**

**DATE: AUGUST 23, 2007**

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

**PRESENTATION BY: KIMBERLY BRANDT, AICP, PRINCIPAL PLANNER**

**FOR FURTHER INFORMATION CONTACT: KIMBERLY BRANDT (714) 754-5604**

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## **RECOMMENDATION:**

The Planning Commission recommends that City Council give first reading to the attached ordinance, which modifies the Zoning Code review procedures and development standards for common interest development conversions.

## **BACKGROUND:**

On March 20, 2007, City Council adopted a 45-day urgency ordinance that established a moratorium on the conversion of industrial projects to condominiums; on May 1, 2007, Council extended the moratorium for an additional 6 months. Also on April 3, 2007, City Council adopted a similar urgency ordinance that established a 45-day moratorium on the approval of the conversion of any apartment complexes to residential condominiums (common interest developments). Council extended the urgency ordinance for 6 months on May 15, 2007. Both moratoriums will expire in November, unless extended by Council.

The moratoriums reflect Council's concern regarding the inadequacy of the City's existing Zoning Code regulations for conversion projects and desire to adopt new standards and review requirements.

On June 11, 2007, Planning Commission considered the draft ordinance on common interest development conversion requests and continued the public hearing to July 9, 2007 and also requested a study session on June 26th. On July 9, 2007, Commission continued the draft ordinance to July 23, 2007 in order to discuss it with Council at a joint study session that was held on July 10<sup>th</sup>.

On July 23, 2007, Commission took a series of preliminary votes to modify the ordinance, and on August 13, 2007, they made their final recommendations. The attached ordinance reflects the Commission's actions as discussed in the following section.

Attachments 2 and 3 contain the Planning Commission meeting minutes and staff reports, respectively. Attachment 3 contains a summary of the City Council and Planning Commission comments from the joint study session.

## **ANALYSIS:**

The proposed ordinance strengthens the City's existing review procedures and development standards for residential common interest development conversions and establishes review procedures and standards for non-residential conversions. In developing the ordinance, staff considered conversion ordinances of other cities, giving particular attention to life safety concerns and nonconformity issues.

Detailed analyses of the various aspects of the ordinance are contained in the Planning Commission staff reports (Attachment 3). Provided below is a summary of Commission's key recommendations.

### ***RESIDENTIAL CONVERSION REQUESTS***

*Minimum Parking Standard for Nonconforming Projects:* For proposed conversions where the existing parking does not meet current Code requirements, the Commission recommends that a minimum amount of parking be provided at a rate of 1.5 spaces for a studio or 1 bedroom unit and 2.5 spaces for a unit with 2 bedrooms or more. See Section 13-42(h)(4).

*Minimum Open Space Standard for Nonconforming Projects:* As with projects with insufficient parking, the Commission also is concerned with projects that do not meet the City's open space requirement. Therefore, the Commission recommends that at a minimum, 30% of the total development lot must qualify as open space (which compares to the City's current requirement of 40% open space). See Section 13-42(h)(4).

*Four-Year Sunset Clause:* The Commission recommends that residential conversions only be allowed for the next four years. Section 13-42(b)(4) states that the residential conversion provisions will terminate on December 31, 2011.

Since Commission's recommendation, staff has determined that this termination provision is potentially inconsistent with the *Mesa West Residential Ownership Urban Plan*, which specifically encourages the conversion of existing apartments to residential common interest developments in its plan area. To resolve this inconsistency, the termination provision could read as follows:

- "(4) The City Council further finds that these regulations that allow for the conversions of occupied or previously occupied apartments to residential common interest developments shall terminate on December 31, 2011, unless extended by action of the City Council. Exception: The regulations shall remain in place for any residential common interest development conversion application for property located within the "Mesa West Residential Ownership Urban Plan."

*Property age restrictions removed:* The original draft ordinance contained a maximum 40-year old standard for a residential conversion project. The Commission has replaced this requirement with numerous additional restoration and refurbishing requirements that are intended to ensure quality projects. Please see Sections 13-42(e) and 13-42(h)(5).

*Prescriptive Standards:* The “required documents” section has been modified to include specific standards that need to be achieved for the various aspects of the residential structures. Similar modifications were made to the provisions for non-residential conversions (See Sections 13-42(e) and Section 13-54.53).

*Park Impact Fee:* The Commission recommends that park impact fees be assessed for all conversion projects unless the fee was paid at the time of the original apartment’s construction. See Section 13-42(h)(8).

### **NON-RESIDENTIAL CONVERSION REQUESTS**

*Non-Residential Condominium Conversions in Urban Plan Areas:* Within the City’s mixed-use urban plan areas (19 West, SoBECA, and Mesa West Bluffs), Commission recommends that non-residential common interest development conversions only be allowed if the conversion is consistent with applicable mixed-use overlay district and supports a mixed-use development, or the proposed conversion project is a residential common interest development that is permitted by either the base or overlay zoning district. See Sections 13-29(g)(10)(g) and Section 13-54.53(b).

### **ALTERNATIVES CONSIDERED:**

Council may choose to do any of the following:

1. Give first reading to the ordinance as recommended by Planning Commission;
2. Modify any portion of the ordinance; in conjunction with giving the ordinance first reading. Staff recommends that Section 13-42(b)(4) be modified as follows:

“(4) The City Council further finds that these regulations that allow for the conversions of occupied or previously occupied apartments to residential common interest developments shall terminate on December 31, 2011, unless extended by action of the City Council. Exception: The regulations shall remain in place for any residential common interest development conversion application for property located within the “Mesa West Residential Ownership Urban Plan.””

3. Retain the City’s existing zoning provisions.

### **ENVIRONMENTAL DETERMINATION:**

The project has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines, and the City’s environmental procedures, and has been found to be exempt pursuant to Section 15061(b)(3) (general rule) of the CEQA Guidelines.

### **FISCAL REVIEW:**

This ordinance does not require any fiscal review.

### **LEGAL REVIEW:**

This ordinance has been reviewed by the City Attorney and approved as to form.

**CONCLUSION:**

The draft ordinance amends the City's review requirements and development standards for conversion requests for both residential and non-residential projects to common interest developments. Council adoption of the ordinance will terminate the two 7½-month moratoriums that are currently in effect for these types of applications.

  
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DISTRIBUTION: City Manager  
Asst. City Manager  
City Attorney  
Deputy City Manager – Dev. Svs. Dir.  
Public Services Director  
City Clerk (2)  
Staff (4)  
File (2)

ATTACHMENTS: 1 Draft Ordinance (strike-through version)  
2 Planning Commission Meeting Minutes  
3 Planning Commission Staff Reports  
4 Summary of City Council/Planning Commission  
Joint Study Session on July 10, 2007

File Name: 090407CIDOrd	Date: 082007	Time: 9:00 a.m.
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**ATTACHMENT 1**  
**DRAFT ORDINANCE**

## ORDINANCE NO. 07-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA ADOPTING ZONING CODE AMENDMENT CO-07-01, WHICH AMENDS TITLE 13 OF THE COSTA MESA MUNICIPAL CODE REGARDING THE REVIEW PROCEDURES AND DEVELOPMENT STANDARDS FOR THE CONVERSION OF EXISTING RESIDENTIAL AND NON-RESIDENTIAL DEVELOPMENTS TO COMMON INTEREST DEVELOPMENTS.

THE CITY COUNCIL OF THE CITY OF COSTA MESA DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Title 13 of the Costa Mesa Municipal Code is hereby amended to read as follows:

a. Amend Section 13-28 to include the following subsection:

“(b)(1) Common interest development conversion. For residential projects, a proposal to convert an occupied or previously occupied apartment complex to a residential common interest development project. To request a conversion for a newly constructed project, the apartment complex shall have received final building approval for occupancy. For non-residential projects, a proposal to convert an occupied or previously occupied non-residential complex to a non-residential common interest development. Non-residential includes industrial, commercial, office, and/or mixed-use project.”

b. Modify Section 13-28 (n) as follows:

“(n) Residential common interest development conversion. A proposal to convert an occupied or previously occupied apartment complex to a residential common interest development project. Reserved.”

c. Modify Section 13-29(g)(10) as follows:

“(10) Residential Common interest development conversion findings:

a. The critical vacancy rate for apartments is more than the rate established in Section 13-42(e), RESIDENTIAL COMMON INTEREST DEVELOPMENT CONVERSIONS and, therefore, approval of the residential common interest development conversion will not diminish the supply of rental housing; or

ba. The critical vacancy rate for apartments is equal to or less than the rate established in Section 13-42(e) RESIDENTIAL COMMON INTEREST DEVELOPMENT CONVERSIONS, however, the The applicant has submitted an adequate and legally binding plan which mitigates addresses

the displacement of long-term residents, particularly senior citizens and low- and moderate-income families and families with school-age children; and

- eb. The proposed common interest development conversion project conforms to adopted General Plan policies and any applicable specific plan or urban plan, and if applicable, ~~to~~ increases the supply of lower cost housing in the City and/or that the proposed conversion project fulfills other stated public goals.
- c. The establishment, maintenance, or operation of the project will not be detrimental to the health, safety, peace, comfort, and general welfare of persons residing or working in the surrounding neighborhood, nor will the project be detrimental or injurious to property and improvements in the neighborhood or the general welfare of the City.
- d. The overall design and physical condition of the common interest development conversion project achieves a high standard of appearance, quality, and safety.
- e. The proposed common interest development conversion project conforms to the Costa Mesa Zoning Code requirements.
- f. For a proposed common interest development conversion project that does not conform to the Zoning Code requirements, the project due to its proportions and scale, design elements, and relationship to the surrounding neighborhood, is of continued value to the community and it contributes to defining and improving the community as a whole. Deviations from Zoning Code requirements are acceptable because it would be impracticable or physically impossible without compromising the integrity of the overall project to implement features that could result in conformance with current code requirements.
- g. For a proposed common interest development conversion project located in an urban plan area, the proposed conversion is consistent with the applicable mixed-use overlay zoning district. Specifically, the proposed non-residential conversion project supports a mixed-use development or a similar land use that is not allowed in the base zoning district, or the proposed conversion project is a residential common interest development that is permitted by either the base or overlay zoning district. ”

- d. Modify the following row of Table 13-29(c) to read as follows:

TABLE 13-29(c) PLANNING APPLICATION REVIEW PROCESS					
PLANNING APPLICATIONS	PUBLIC NOTICE REQUIRED	PUBLIC HEARING REQUIRED	RECOMMENDING AUTHORITY	FINAL REVIEW AUTHORITY	NOTICE OF DECISION REQUIRED
Design Review Mobile Home Park Conversion Residential-Common Interest Development Conversion (Residential or Non-residential) Specific Plan Conformity Review Tentative Parcel Map Tentative Tract Map Variance	Yes	Yes	Planning Division	Planning Commission	Yes

- f. Modify Article 2 to read as follows:

**“ARTICLE 2. RESIDENTIAL COMMON INTEREST DEVELOPMENTS**

**Sec. 13-39. PURPOSE**

The purpose of this article is to regulate the placement of residential common interest development projects and the conversion of existing apartments to common interest developments consistent with the form of ownership and occupancy of such projects pursuant to applicable laws for the general health, safety and welfare of the public.

**Sec. 13-40. PLANNING APPLICATION REQUIRED**

- (a) Residential ~~Common~~ interest development projects are permitted in appropriate residential or planned development zones, subject to the approval of the following planning application, as applicable. This requirement is in addition to other permits or certificates required by law.

- (1) All new residential common interest development projects shall be processed according to the design review procedures contained in CHAPTER III PLANNING APPLICATIONS.
- (2) Conversion of occupied or previously occupied apartment complexes to residential common interest development projects shall be subject to Sections 13-41 RESIDENTIAL COMMON INTEREST DEVELOPMENT STANDARDS AND REQUIREMENTS and 13-42 RESIDENTIAL COMMON INTEREST DEVELOPMENT CONVERSIONS and shall be processed according to the residential common interest development conversion procedures contained in CHAPTER III PLANNING APPLICATIONS.

~~(3) Conversion of newly constructed residential complexes, that have never been occupied, to residential common interest development projects shall be subject to Section 13-41 NEW RESIDENTIAL COMMON INTEREST DEVELOPMENTS and shall be processed according to the design review procedures contained in CHAPTER III PLANNING APPLICATIONS-Reserved.~~

(4) All residential common interest development projects require the approval of tentative or final tract or parcel maps as required by law. A tentative tract map or parcel map shall not be required until either a development design review or residential common interest development conversion has been approved; however, the map may be processed concurrently.

(b) No person shall construct, sell, lease, convey, maintain or use a residential common interest development project within the City without first complying with the provisions of this article.

**Sec. 13-41. NEW RESIDENTIAL COMMON INTEREST DEVELOPMENTS STANDARDS AND REQUIREMENTS**

(a) **Applicability.** The provisions of this section shall apply to all proposed new residential common interest development projects and the conversion of existing apartments to residential common interest developments.

(b) **Development standards.** Table 13-41(b) identifies the development standards for residential common interest developments. See also ARTICLE 9 GENERAL SITE IMPROVEMENT STANDARDS of this chapter for additional requirements. Projects shall comply with all applicable standard plans and specifications and adopted City and State codes, as well as the following provisions:

(1) The location and orientation of all buildings shall be designed and arranged to preserve natural features by minimizing the disturbance to the natural environment. Natural features such as trees, groves, waterways, scenic points, historic spots or landmarks, bluffs or slopes shall be delineated on the site plan and considered when planning the location and orientation of buildings, open spaces, underground services, walks, paved areas, playgrounds, parking areas and finished grade elevations.

(2) All structures proposed to be constructed within a project shall conform to the following requirements:

a. Structures having dwelling units attached side by side shall avoid the long-row effect by being composed of no more than 6 dwelling units. Alternative designs which accomplish the same purpose may be approved by the Planning Division final review authority.

b. Structures having dwelling units attached side by side shall avoid the long-row effect with a break in the facade by having an offset in the front building line of at least 4 feet for every 2 dwelling units within such structure. Alternate designs which accomplish the same purpose may be approved by the Planning Division final review

authority.

- c. Consideration shall be given to the effect of proposed development on the light, air and privacy of adjacent properties.
- (3) Outside uncovered and unenclosed storage of boats, trailers, recreational vehicles and other similar vehicles shall be prohibited unless specifically designated areas for the exclusive storage of such vehicles are set aside on the final master plan and provided for in the association's covenants, conditions, and restrictions. Where such areas are provided, they shall be enclosed and screened from view on a horizontal plane from adjacent areas by a combination of 6-foot high opaque fences and permanently maintained landscaping.
- (4) For high-rise residential projects, see the North Costa Mesa Specific Plan for additional development standards.
- (5) The developer shall install an on-site lighting system in all parking areas, vehicular access ways, and along major walkways. The lighting shall be directed onto driveways and walkways within the project and away from dwelling units and adjacent properties, and shall be of a type approved by the Development Services Department.
- (6) Reserved. The development shall comply with the provisions of CHAPTER XI. SUBDIVISIONS, which may include, but are not limited to land dedication and improvements, such as drainage improvements and payment of fees.

**TABLE 13-41(b)**  
**RESIDENTIAL COMMON INTEREST DEVELOPMENT STANDARDS**

STANDARDS	SINGLE-FAMILY UNITS (located on individual dwelling unit lots and excluding townhouses)	OTHER UNITS
Individual Dwelling Unit Minimum Lot Area	All zones: 3,000 square feet with an overall average of 3,500 square feet. The required common lot shall not be included in the calculation of lot area. Note: Lot sizes may be reduced proportionately if other useable open space is provided within the overall development.	No minimum requirement.
Common lot required	All projects shall be designed with a minimum of one lot to be held in common ownership and maintained by a homeowners association. This lot shall be used for common driveways, parking areas, and at least 10 feet of street setback landscaped areas.	
Maximum Number of Stories & Building Height	2 stories/ 27 feet, except as allowed in the Planned Development or Town Center zoning districts. Note: Lofts, as defined in section 13-6, without exterior access and having only clerestory windows will not be regarded as a story. See also Attic discussion below.	
Attics	Attics shall not be heated or cooled, nor contain any electrical outlets or operable windows. In zoning districts where the maximum number of stories is two stories, attics above second stories shall be an integral part of the second story roofline and not appear as a 3 <sup>rd</sup> story on any building elevation. Windows in any attic space above the second story shall be incidental and limited to a dormer style.	
Maximum Density (based on gross acreage)	Same as underlying zoning district or as specified in an applicable specific plan.	
Minimum Open Space Development Lot:	40% of total lot area. <i>Exception:</i> For high-rise residential projects, see the North Costa Mesa Specific Plan.	
Individual Dwelling Unit Lot:	40% overall, with a minimum 400 square-foot area with no dimension less than 15 feet.	Not applicable.
Private Open Space:	Same as individual dwelling unit lot above.	An adjoining patio required with no dimension less than 10 feet. <i>Exception:</i> Not applicable to high-rise residential projects in the North Costa Mesa Specific Plan.
Common Open Space	Common open space areas shall be designed and located within the development to allow maximum use by all residents. Enclosed buildings used for recreation or leisure facilities should not be used to satisfy more than 15 per cent of required open space.	
Distance between buildings	10-foot minimum between main buildings 6-foot minimum between main buildings and accessory structures	
Driveway width	10-foot minimum, except 16-foot minimum driveway is required if the driveway serves tenants and/or guest parking for more than one dwelling unit.	
Driveway length	Straight-in driveways to garages shall have a minimum length of 19-feet from the ultimate property line.	
Storage	Not applicable.	Each unit shall be provided with 200 cubic feet of securable storage exterior to the unit. If this storage is provided within the garage or carport it shall be located at the front of the parking area so as not to obstruct the required clear dimensions of the covered parking space (per the City of Costa Mesa Parking Design Standards) at any point less than 4 feet above the finished surface level of the parking stall. <i>Exception:</i> Not applicable to high-rise residential projects in the North Costa Mesa Specific Plan.

**TABLE 13-41(b)**  
**RESIDENTIAL COMMON INTEREST DEVELOPMENT STANDARDS**

STANDARDS	SINGLE-FAMILY UNITS (located on individual dwelling unit lots and excluding townhouses)	OTHER UNITS
Mechanical equipment, excluding antennas and flush-mounted solar panels on roofs .	Roof-top location is prohibited.	Screening required from public rights-of-way and adjacent properties.
<b>SETBACKS FOR MAIN BUILDINGS AND ACCESSORY BUILDINGS AND STRUCTURES (Minimum distances given, unless otherwise noted. All setbacks from streets to development lots are measured from the ultimate property line shown on the Master Plan of Highways).</b>		
Front Development Lot:	20 feet	20 feet
Individual Dwelling Unit Lot:	None	Not applicable
Side (interior) Development Lot:	5 feet	
Side (street side, if applicable) Development Lot:	10 feet Note: Driveways providing straight-in access from a public street to a garage shall be at least 19 feet long, as measured from the property line.	
Rear (not abutting a publicly dedicated alley) Development Lot:	20 feet for 2 story structures in R2-MD and R2-HD zones; 15 feet for 2 story structures in the R-3 zone. 10 feet for 1 story structures (15-foot maximum height) provided that maximum rear yard coverage is not exceeded. <i>Exception:</i> Rear yard coverage does not apply to the R-3 zone. <i>Note:</i> Accessory structures that do not exceed 15 feet in height may have a zero rear yard setback, except on corner lots. Corner lots in the R2-MD, R2-HD & R3 zones: a. Where the rear property line of a corner lot adjoins the side property line of another lot, no detached accessory structure shall be allowed on the corner lot, except within the rear quarter of the corner lot farthest from the side street. b. Where the rear property line of a corner lot abuts a public or private street, accessory structures shall maintain setbacks for main structures.	
Rear Yard Coverage (Maximum) in the R2-MD and R2-HD zones	Main Buildings: 25% of rear yard area.* Accessory Buildings: 50% of rear yard area.* * Rear yard area equals lot width, measured from side property line to side property line, multiplied by 20 feet.	
Rear Abutting a Publicly Dedicated Alley	5 feet; however, garages may be required to set back further to ensure adequate back up distance. Rear Yard Coverage does not apply. Note: Accessory structures that do not exceed 15 feet in height may have a zero rear yard setback, except on corner lots where accessory structures shall maintain setbacks for main structures.	
Bluff Top Setback	No building or structure closer than 10 feet from bluff crest (see Section 13-34 BLUFF-TOP DEVELOPMENT).	

**TABLE 13-41(b)**  
**RESIDENTIAL COMMON INTEREST DEVELOPMENT STANDARDS**

STANDARDS	SINGLE-FAMILY UNITS (located on individual dwelling unit lots and excluding townhouses)	OTHER UNITS
<b>PROJECTIONS (maximum depth of projections given)</b>		
Roof or Eaves Overhang; Awning	2 feet 6 inches into required side setback or building separation area. 5 feet into required front or rear setback.	
Open, unenclosed stairways.	2 feet 6 inches into required setback or building separation area.	
<b>Chimneys</b>	2 feet above maximum building height.	
Fireplaces	2 feet into required setback or building separation area.	
<b>PARKING (See CHAPTER VI).</b>		
2-car garage required.	Yes	Not required.
Automatic roll-up garage door with remote controlled door opener required.	Yes	Yes, if garages are provided.
<u>Location of Covered Parking</u>	<u>Required covered tenant parking shall be located within a reasonable distance of the unit it serves. Detached garages that are not located within a reasonable distance to the units they are intended to serve are prohibited.</u>	
<b>LANDSCAPING</b>		
A detailed landscape plan prepared pursuant to CHAPTER VII LANDSCAPING STANDARDS shall be approved by the Planning Division prior to issuance of any building permits.		
Landscape parkways with a combined width of 10 feet, but not less than 3 feet on one side, shall be provided along the sides of interior private streets and/or common driveways. The parkway on the house side of private streets or common driveways shall be a minimum of 5 feet in width.		
<b>SIGNS (See CHAPTER VIII).</b>		
<b>POOLS AND SPAS</b>		
Above-ground pools and spas shall not be located in the required front yard setback from a public street and are subject to 5-foot side and 10-foot rear yard setbacks for main structures. Additional setbacks may be applicable pursuant to building code requirements.		
<b>FENCES AND WALLS</b>		
Fences and walls placed between the property line and required setback line for main buildings shall conform to the City's walls, fences, and landscaping standards. See ARTICLE 9 GENERAL SITE IMPROVEMENT STANDARDS of this chapter for further information.		

**(c) Documents required.**

- (1) A project may be approved subject to submission of all organizational documents setting forth a plan or manner of permanent care and maintenance of open spaces, recreational areas, and common facilities pursuant to State law (Civil Code 1350-1359). No such documents shall be acceptable until approved by the City Attorney as to legal form and effect, and by the Planning Division as to suitability for the proposed use of the open areas.
- (2) The developer shall file a declaration of covenants to be submitted with the application for ~~approval~~, that approval, which will govern the association. The provisions shall include, but not be limited to, the following:
  - a. The homeowners' association shall be established prior to the sale of any unit(s).
  - b. Membership shall be mandatory for each ~~buyer-owner~~ and any successive buyer owner.
  - c. Provisions to restrict parking upon other than approved and developed parking spaces and to require that garages be kept ~~open~~ and available for tenant parking shall be written into the covenants, conditions and restrictions for each project.
  - d. If the development is constructed in increments or phases which require one or more final maps, reciprocal covenants, conditions, and restrictions and reciprocal management and maintenance agreements shall be established which will cause a merging of increments as they are completed, and embody one homeowners' association with common areas for the total development.
  - e. The declaration of covenants shall contain language or provisions substantially as follows:
    - i. "The covenants, conditions and restrictions of this declaration shall run to the City of Costa Mesa insofar as they shall apply to the maintenance of the "common areas" as herein defined.
    - ii. "In the event the association or other legally responsible person(s) fail to maintain the common area in such manner as to cause same to constitute a public nuisance, the City may, upon proper notice and hearing, institute summary abatement procedures and impose a lien for the costs of such abatement upon the common area, individual units or the whole thereof as provided by law.

**Sec. 13-42. RESIDENTIAL COMMON INTEREST DEVELOPMENT CONVERSIONS-ADDITIONAL STANDARDS**

**(a) Applicability.** The provisions of this section shall apply to all conversions of occupied or previously occupied apartments ~~or other similar existing developments~~ to residential common interest developments proposed on a real property within the appropriately zoned districts. These provisions are in addition to those set forth in Section 13-41 ~~NEW RESIDENTIAL COMMON INTEREST DEVELOPMENTS STANDARDS AND REQUIREMENTS~~. To request a conversion, the applicant must provide evidence that the proposed project complies with the following requirement:

(1) If new or recent construction, the apartment complex has received final building permit approvals from the City.

**(b) City Council Findings and critical vacancy rate applicable.**

~~(1) The City Council finds and declares that, when the vacancy rate for apartments being offered for rent or lease in the City is equal to or less than the critical vacancy rate as established in subsection (c), that a housing shortage exists. A housing shortage is inconsistent with the declared goals and objectives of the Housing Subelement of the General Plan.~~

(21) The City Council finds and declares that~~The City Council further finds~~ that the conversion of existing apartment buildings into common interest development projects may diminish the supply of rental housing and displace residents unreasonably.

(32) The City Council further finds ~~To~~ to avoid the foregoing problems and to reduce the displacement of long-term residents, particularly senior citizens and low- and moderate-income families and families with school-age children, the City Council finds and declares it necessary and proper to regulate such conversions by the provisions herein for the health, safety, and welfare of the general public. The Planning Division shall present to the Planning Commission vacancy statistics from the most recent data compiled by either the U.S. Department of Housing and Urban Development or other governmental agency. The Planning Commission shall determine the apartment vacancy rate for the City based on the most current data available.

(3) The City Council further finds it is the intent of these regulations to protect the interests of the community and prospective purchasers by requiring the applicant to provide certain information regarding the condition of the structure and to require reasonable improvements to ensure quality and to protect the health, safety, and general welfare of the public.

(4) The City Council further finds that these regulations that allow for the conversions of occupied or previously occupied apartments to residential common interest developments shall terminate on December 31, 2011, unless extended by action of the City Council.

~~(c) **Critical vacancy rate.** The City Council hereby establishes that the critical vacancy rate is 3 per cent. Reserved.~~

~~(d) **Inspection fee.** ~~There shall be~~The applicant shall pay an inspection fee, established by the Building Division City Council, to determine compliance of the existing units with all appropriate building codes as noted in Section 13-42(f)(2).~~

~~(e) **Documents required.** The applicant shall submit the following documents are required in addition to those set forth in Section 13-41(c) NEW RESIDENTIAL COMMON INTEREST DEVELOPMENTS. To the extent applicable, the following report requirements may be satisfied by submission of copies of similar reports filed with State agencies. The reports shall include information on what improvements, if any, shall be accomplished by the applicant and when such improvements shall be completed. All improvements cited in the reports, whether required or voluntary, shall be placed as conditions of approval in conjunction with the approval of the request to convert apartments to a common interest development and shall be completed prior to recordation of the subdivision map.~~

~~(1) **Tenant rights.** ~~Applicant shall provide w~~Written proof of compliance with the requirements of applicable State statutes regarding the rights of existing tenants of the project.~~

~~(2) **Structural report.** A detailed structural report by a California-registered structural or civil engineer identifying the following information:~~

~~a. Date of original construction of all structures.~~

~~b. Any evidence of soils problems.~~

~~c. The condition of the building foundations, walls, ceilings, windows, doors, recreational facilities, parking facilities, and drainage facilities.~~

~~d. The condition of refuse disposal facilities; swimming pools, saunas/spas, fountains; fireplaces; and exterior lighting~~

~~e. Compliance of all bedroom windows with the current California Building Code dimensions for emergency egress. Non-compliant windows shall be identified for replacement or other appropriate remediation.~~

- f. Certification that all walls and floor/ceiling assemblies comply with current code requirements for sound transmission. Non-compliant walls and floor/ceiling assemblies shall be identified for replacement or other appropriate remediation.
  - g. Certification that the building's wood frames, sill plates, anchor bolts, connections, and foundation have been inspected and have a minimum life of 25 years and that all substandard elements have been identified for replacement or other appropriate remediation.
- (3) Pest report. The applicant shall submit a structural pest report prepared and certified by a licensed structural pest control operator. A report by a California-licensed structural termite and pest control specialist certifying whether or not all attached or detached structures are free of infestation and structural damage caused by pests and/or dry rot. The report shall describe what procedures are necessary to eliminate infestation or damage, if present. (see State Business and Professions Code Section 8516).
- (4) Paint report. A report by a California-licensed painting contractor verifying the condition of the paint on all building interior and exterior surfaces. A statement that new paint will be applied on all building interior and exterior surfaces may take place of the paint report. The statement shall include the brand name of the paint and the exterior colors to be used. For exterior surfaces, a minimum of three colors should be applied.
- (5) Mold report. A report by a California-licensed mold specialist certifying whether or not all attached or detached structures are free of mold. The report shall describe what procedures are necessary to eliminate mold, if present.
- (6) Mechanical equipment report. A report by a California-registered mechanical engineer certifying that all appliances and mechanical equipment for heating and cooling comply with the current California Mechanical Code. The proper measures to remediate any noncompliant appliances and mechanical equipment shall be identified.
- (7) Electrical report. A report by a California-registered electrical engineer certifying that all electrical systems comply with the California Electrical Code. The proper measures to remediate the noncompliant system components shall be identified.
- (8) Plumbing report. A report by a California-licensed plumbing contractor certifying that all plumbing systems comply with the current California Plumbing Code. All above ground plumbing that does not comply with the current code shall be identified for replacement. Included in this report shall be plumbing systems

associated with any swimming pool, sauna, spa, and/or fountain. A camera test of the sewer lateral shall also be conducted under the direction of the applicable sanitary district, and any substandard sewer laterals shall be identified for replacement by the sanitary district. Onsite sewer clean-outs shall be indicated for installation pursuant to the direction of the applicable sanitary district.

(9) Roof report. A report by a California-licensed roofing contractor verifying that the roofs of all structures have an estimated remaining physical life of at least 25 years. A statement that new roof material will be applied may take place of the roof report. The statement shall include the specifications of the proposed roofing material.

(10) Asbestos report. A report by a California-licensed asbestos specialist indicating that the property does not pose any health hazards related to asbestos. The proper measures to remediate asbestos shall be identified, if necessary. This report is only required for buildings that were constructed prior to 1980.

(f) **Review procedures.** The following are processing requirements in addition to those set forth in CHAPTER III PLANNING APPLICATIONS.

- (1) Upon receipt of the application and all required documents, the Planning Division shall submit copies of applicable reports or documents to the Fire Department, Building Safety Division and other appropriate departments.
- (2) The Development Services Director shall require an inspection of all buildings and structures in the existing development. An inspection report shall be prepared at or under his/her direction identifying all items found to be in violation of current code requirements for such buildings or structures, or found to be hazardous.
- (3) The Fire Marshal shall may inspect the project to determine the sufficiency of fire protection systems serving the project and report on any deficiencies.
- (4) The Planning Division may submit copies of such documents required in subsections ~~(2)~~ and ~~(3)(e)~~ to other departments for their review and requirements.
- (5) The Planning Division shall review the property report submitted by the applicant and may require its revision and resubmission if found inadequate in providing the required information.
- (6) The Planning Division shall keep and maintain the copies of all required reports, as public records, for no less than 5 years, and shall send copies to the California Real Estate Commissioner as may be required by law.
- (7) A final inspection report shall be made by the Building Official, upon request of the applicant, indicating the compliance with all the imposed requirements.

**(g) Approval criteria.**

- (1) The ~~Planning Commission~~final review authority shall utilize the development standards and requirements of this article as criteria in the approval of the conversion as herein provided.
- (2) No residential common interest development conversion shall be approved until all required documents have been submitted, reviewed and found to comply with the provisions of applicable State law and this Zoning Code.
- (3) All dwelling units ~~may~~shall be required to comply with current requirements for energy insulation, sound transmission control, and fire detection systems.
- (4) The City Council may adopt general standards that may be applied to residential common interest development conversion applications on a case-by-case basis. The final review authority may use these standards to impose conditions of approval on residential common interest development conversion applications to achieve the purpose of this article.

**(h) Conversion Standards.** The project shall be brought into compliance with the following minimum construction standards, unless the Building Official approves an alternate method of construction. Prior to recordation of the subdivision map, applicable building permits shall be obtained, and all improvements shall be constructed, inspected, and receive final City approval for the required improvements in this section and for any health and safety code violations.

- (1) Life Safety Standards. The following improvements shall be provided in accordance with the provisions of the California Building Code or any successor statute or regulation, unless otherwise noted.
  - a. Draft stops shall be installed in conformance with the current California Building Code.
  - b. Each unit shall have access to the electrical branch circuits that serve the unit, and each unit shall have a minimum a 100-amp service.
  - c. Smoke detectors shall be installed and operating. All existing hard-wired units shall be in working order and any additional smoke detectors that are required by code shall be installed.
  - d. Ground fault circuit interrupter protection shall be provided where required by the currently adopted electrical code.
  - e. Buildings that contain three or more stories or 16 or more dwelling units shall be provided with both a manual and an

automatic fire alarm system in public areas.

- f. Doors opening into public corridors shall conform to code requirements, including being self-closing and latching.
- g. Interior doors opening into enclosed stairways shall be fire rated and self-closing and latching.
- h. All public corridors shall have illuminated exit signs indicating the path of travel along the exit system and emergency backup power shall be provided for the exit signs.
- i. Emergency backup power shall be provided for egress lighting in all public areas, including corridors, stairways, lobbies, attached parking garages and elevator cabs and shall provide a minimum illumination of one foot-candle at the floor level
- j. When applicable, a means of two-way communication shall be provided between all elevator cabs and the outside of the elevator.
- k. Portable fire extinguishers shall be provided in accordance with the California Fire Code or any successor statute or regulation.

(2) Plumbing Requirements. The following improvements shall be provided in accordance with the provisions of the California Plumbing Code or any successor statute or regulation.

- a. A temperature and pressure relief valve shall be provided for all water heaters.
- b. Water heaters shall be seismically braced with a minimum of two straps.
- c. Water heaters shall be properly vented to the outside and shall be provided with sufficient combustion air.
- d. Potable water shall have a backflow protection where necessary to prevent potential cross connection.
- e. Dishwashers shall be connected to the drainage system through an approved air gap fitting.

(3) Security Requirements. The following improvements shall be provided in accordance with the provisions of the California Building Code or any successor statute or regulation.

- a. Openings into individual dwelling units shall comply with the security provisions.
- b. Doors will be equipped with appropriate deadbolt locks.
- c. Required egress windows in sleeping rooms shall not be blocked by a security grill or grate, unless it has an approved

release device.

- (4) Compliance with Zoning Code provisions. With the exception of density standards, the project shall comply with all requirements of this Zoning Code, including but not limited to building setbacks, distance between buildings, parking, open space, and landscaping requirements, unless any Zoning Code requirement is superceded by an adopted specific plan or urban plan. The final review authority may approve a deviation from a Zoning Code standard in conjunction with the review of the conversion request, in conformance with the findings in Section 13-29(g)(10) and provided that the following minimum standards are met.
- a. If existing onsite parking does not conform to current requirements, at a minimum 2.5 parking spaces for every 2 to 3 bedroom units, and 1.5 parking spaces for every studio and/or 1 bedroom unit shall be provided. Additionally, one covered space shall be assigned to each unit. In no circumstance shall approval of a conversion application result in fewer onsite parking spaces than the number of spaces that existed onsite prior to the application submittal.
  - b. If existing onsite open space does not conform to current requirements for the development lot, at a minimum 30% of the total lot area shall qualify as open space.
- (5) Refurbishing and Restorations. All main buildings, structures, walls, fences, patio enclosures, carports, accessory buildings, sidewalks, driveways, landscaped areas, and additional elements as required by the final review authority shall be refurbished and restored as appropriate for a high standard of appearance, quality, and safety. Specific improvements include:
- a. Installation of all remedial improvements identified in the reports submitted pursuant to by Section 13-42(e) Documents Required.
  - b. Installation of appropriate improvements that ensure acceptable sound transmission levels between units in each building and between units and parking facilities in conformance with the current California Building Code.
  - c. Installation of insulation in all walls and ceilings that has a minimum value of R-13 for walls and R-30 for ceilings.
  - d. Replacement of all gas lines (both interior and exterior) that do not comply with current code and conduct appropriate pressure test.
  - e. Provision of individual washer/dryer hook-ups for each unit.

- f. Installation of double-glazed, low-E windows and exterior doors.
- g. Installation of new sinks, faucets, toilets, and tubs/showers. Low water flow plumbing fixtures are recommended.
- h. Installation of new appliances. Energy-efficient appliances are recommended.
- i. Install new stucco, paint, and flooring as needed.
- j. Waterproofing all exterior landings, staircases, and balconies.
- k. Installation of roof-top solar energy panels is encouraged.

- (6) Condition of Equipment and Appliances. The developer shall provide a one-year warranty to the buyer of each unit at the close of escrow on any appliance included in the unit as a condition of sale, including, but not limited to, dishwasher, garbage disposal, stove, oven, refrigerator, hot water tank, forced air unit, and air conditioner. At such time as the homeowners' association takes over management of the project, the developer shall provide written certification to the association that any improvements that are to be owned in common by the association, such as pools, spas, pool/spa equipment and any other appliances and mechanical equipment are in operable working condition. The developer shall also provide a one-year warranty on these appliances and mechanical equipment.
- (7) Public Report. Prior to the submittal of the recorded subdivision map with the State Department of Real Estate, the developer shall submit to the Planning Division a copy of the preliminary public report, which shall list all structural and site improvements that were made to the conversion project.
- (8) Payment of In-Lieu Park Impact Fees. The developer shall pay the City's in-lieu of land dedication park impact fee prior to recordation of the subdivision map, unless it can be documented that the City's in-lieu fee was paid at the time of the original apartment construction.
- (9) Onsite Utilities. The developer shall underground all onsite utilities. In addition, all onsite utilities, such as gas, electricity, and water, shall be separately metered for each unit. Common areas may also require separate utility meters pursuant to the utility agency requirements."

- f. Add to Chapter V. the following article:

**“ARTICLE 5.5 NON-RESIDENTIAL COMMON INTEREST DEVELOPMENTS**

**Sec. 13-54.50. PURPOSE**

The purpose of this article is to regulate the placement of non-residential common interest development projects and the conversion of existing non-residential developments to common interest developments consistent with the form of ownership and occupancy of such projects pursuant to applicable laws for the general health, safety, and welfare of the public.

**Sec. 13-54.51. PLANNING APPLICATION REQUIRED**

(a) Non-residential common interest development projects are permitted in appropriate commercial, industrial, or planned development zones, subject to the approval of the following planning application, as applicable. This requirement is in addition to other permits or certificates required by law.

(1) All new non-residential common interest development projects shall be processed according to the design review procedures contained in CHAPTER III PLANNING APPLICATIONS.

(2) Conversion of occupied or previously occupied non-residential developments to common interest development projects shall be subject to Sections 13-54.52 NON-RESIDENTIAL COMMON INTEREST DEVELOPMENT STANDARDS AND REQUIREMENTS and 13-54-53 NON-RESIDENTIAL COMMON INTEREST DEVELOPMENT CONVERSIONS – ADDITIONAL STANDARDS and shall be processed according to the non-residential common interest development conversion procedures contained in CHAPTER III PLANNING APPLICATIONS.

(3) All non-residential common interest development projects require the approval of tentative or final tract or parcel maps as required by law. A tentative tract map or parcel map shall not be required until either a design review or non-residential common interest development conversion has been approved; however, the map may be processed concurrently.

(b) No person shall construct, sell, lease, convey, maintain or use a non-residential common interest development project within the City without first complying with the provisions of this article.

**Sec. 13-54.52. NON-RESIDENTIAL COMMON INTEREST DEVELOPMENT STANDARDS AND REQUIREMENTS**

**(a) Applicability.** The provisions of this section shall apply to all proposed new non-residential common interest development projects and the conversion of existing non-residential to common interest developments.

**(b) City Council Finding.** The City Council finds and declares it is the intent of these regulations to protect the interests of the community and prospective purchasers by requiring the applicant to provide certain information regarding the condition of the structure and to require reasonable improvements to ensure quality and to protect the health, safety, and general welfare of the public.

**(c) Development standards.** The development standards of the applicable zoning district shall be applied to the common interest development, including the conversion of occupied or previously occupied projects (see Section 13-54.53(h)(3)). Exception: Newly created individual unit lots shall be exempt from the development standard for minimum lot area for newly subdivided lots. See also ARTICLE 9 GENERAL SITE IMPROVEMENT STANDARDS of this chapter for additional requirements. Projects shall comply with all applicable standard plans and specifications and adopted City and State codes, as well as the following provisions:

- (1) All projects shall be designed with a minimum of one lot to be held in common ownership and maintained by a property owners association. This lot shall be used for common driveways, parking areas, and street setback landscaped areas.
- (2) A detailed landscape plan prepared pursuant to CHAPTER VII LANDSCAPING STANDARDS shall be approved by the Planning Division prior to issuance of any building permits.
- (3) Parking shall conform to CHAPTER VI OFF-STREET PARKING STANDARDS, a parking space allocation plan shall be submitted to the Planning Division in conjunction with application for a non-residential common interest development.
- (4) The development shall comply with the provisions of CHAPTER XI. SUBDIVISIONS, which may include, but are not limited to land dedication and improvements, such as drainage improvements, and payment of fees.

**(d) Documents required.**

- (1) A project may be approved subject to submission of all organizational documents setting forth a plan or manner of permanent care and maintenance of open spaces, parking areas and common facilities pursuant to State law. No such documents shall be acceptable until approved by the City Attorney as to legal

form and effect, and by the Planning Division as to suitability for the proposed use of the open areas.

(2) The developer shall file a declaration of covenants to be submitted with the application for approval, which will govern the association. The provisions shall include, but not be limited to, the following:

a. The property owners' association shall be established prior to the sale of any unit(s).

b. Membership shall be mandatory for each owner and any successive owner.

c. Provisions to restrict parking upon other than approved a parking spaces shall be written into the covenants, conditions and restrictions for each project. Additionally, a clear designation of parking and signage rights shall be included and a method to resolving disagreements. The provisions shall include the following:

i. "The City of Costa Mesa Zoning Code regulates the uses of property, allowable signage, and required parking. The City shall not issue a building permit or a sign permit unless it is first authorized by the property owner's association. This authorization shall be submitted with any application to the City. This provision may not be modified without the written consent of the City."

d. If the development is constructed in increments or phases which require one or more final maps, reciprocal covenants, conditions, and restrictions and reciprocal management and maintenance agreements shall be established which will cause a merging of increments as they are completed, and embody one property owners' association with common areas for the total development.

e. The declaration of covenants shall contain language or provisions substantially as follows:

i. "The covenants, conditions and restrictions of this declaration shall run to the City of Costa Mesa insofar as they shall apply to the maintenance of the "common areas" as herein defined.

ii. "In the event the association or other legally responsible person(s) fail to maintain the common area in such manner as to cause same to constitute a public nuisance, the City may, upon proper notice and hearing, institute summary abatement procedures and impose a lien for the costs of such abatement upon the

common area, individual units or the whole thereof as provided by law."

**Sec. 13-54.53. NON-RESIDENTIAL COMMON INTEREST DEVELOPMENT CONVERSIONS- ADDITIONAL STANDARDS**

- (a) **Applicability.** The provisions of this section shall apply to all conversions of occupied or previously occupied non-residential developments to common interest developments proposed on a real property within the appropriately zoned districts. These provisions are in addition to those set forth in Section 13-54.52 NON-RESIDENTIAL COMMON INTEREST DEVELOPMENTS.
- (b) **Restrictions in Urban Plan areas.** Conversions of occupied or previously occupied non-residential developments to common interest developments shall only be permitted in an urban plan area if the final review authority finds and determines that the proposed conversion is consistent with the applicable mixed-use overlay zoning district. Specifically, the proposed conversion supports a mixed-use development or a similar land use that is not allowed in the base zoning district, or the proposed conversion project is a residential common interest development that is permitted by either the base or overlay zoning district.
- (c) **Inspection fee.** The applicant shall pay an inspection fee, established by the City Council, to determine compliance of the existing units with all appropriate building codes, as noted in subsection (f)(2).
- (d) **Documents required.** The applicant shall submit the following documents in addition to those set forth in Section 13-54.52(c) NON-RESIDENTIAL COMMON INTEREST DEVELOPMENTS. To the extent applicable, the following report requirements may be satisfied by submission of copies of similar reports filed with State agencies. The reports shall include information on what improvements, if any, shall be accomplished by the applicant and when such improvements shall be completed. All improvements cited in the reports, whether required or voluntary, shall be placed as conditions of approval in conjunction with the approval of the request to convert to a common interest development, and the improvements shall be completed prior to recordation of the subdivision map.
- (1) **Structural report.** A detailed structural report by a California-registered structural or civil engineer identifying the following information:
- a. Date of original construction of all structures.
  - b. Any evidence of soils problems.
  - c. The condition of the building foundations, walls, ceilings, windows, doors, parking facilities, drainage facilities, refuse disposal facilities; and exterior lighting.

d. Certification that all walls and floor/ceiling assemblies comply with current code requirements for sound transmission. Non-compliant walls and floor/ceiling assemblies shall be identified for replacement or other appropriate remediation.

e. Certification that the building's wood frames, sill plates, anchor bolts, connections, and foundation have been inspected and have a minimum life of 25 years and that all substandard elements have been identified for replacement or other appropriate remediation.

(2) Pest report. A report by a California-licensed structural termite and pest control specialist certifying whether or not all attached or detached structures are free of infestation and structural damage caused by pests and/or dry rot. The report shall describe what procedures would be necessary to eliminate infestation or damage, if present.

(3) Paint report. A report by a California-licensed painting contractor verifying the condition of the paint on all building interior and exterior surfaces and an estimate of the remaining physical life of the paint. A statement that new paint will be applied on all building interior and exterior surfaces may take place of the paint report. The statement shall include the brand name of the paint and the exterior colors to be used. For exterior surface, a minimum of three colors should be applied.

(4) Mold report. A report by a California-licensed mold specialist certifying whether or not all attached or detached structures are free of mold. The report shall describe what procedures would be necessary to eliminate mold, if present.

(5) Mechanical equipment report. A report by a California-registered mechanical engineer certifying that all appliance and mechanical equipment for heating and cooling comply with the current California Mechanical Code. The proper measures to remediate any noncompliant appliances and mechanical equipment shall be identified.

(6) Electrical report. A report by a California-registered electrical engineer certifying that all electrical systems comply with the California Electrical Code. The proper measures to remediate the noncompliant system components shall be identified.

(7) Plumbing report. A report by a California-licensed plumbing contractor certifying that all plumbing systems comply with the current California Plumbing Code. All above ground plumbing that does not comply with the current code shall be identified for replacement. A camera test of the sewer lateral shall also be conducted under the direction of the applicable sanitary district, and

any substandard sewer laterals shall be identified for replacement by the sanitary district. Onsite sewer clean-outs shall be indicated for installation pursuant to the direction of the applicable sanitary district.

- (8) Roof report. A report by a California-licensed roofing contractor verifying that the roofs of all structures have an estimated remaining physical life of at least 25 years. A statement that new roof material will be applied may take place of the roof report. The statement shall include the specifications of the proposed roofing material.
  - (9) Asbestos report. A report by a California-licensed asbestos specialist indicating that the property does not pose any health hazards related to asbestos. The proper measures to remediate asbestos shall be identified, if necessary. This report is only required for buildings that were constructed prior to 1980.
- (e) Review procedures. The following are processing requirements in addition to those set forth in CHAPTER III PLANNING APPLICATIONS.
- (1) Upon receipt of the application and all required documents, the Planning Division shall submit copies of applicable reports or documents to the Fire Department, Building Safety Division and other appropriate departments.
  - (2) The Development Services Director shall require an inspection of all buildings and structures in the existing development. An inspection report shall be prepared at or under his/her direction identifying all items found to be in violation of current code requirements for such buildings or structures, or found to be hazardous.
  - (3) The Fire Marshal may inspect the project to determine the sufficiency of fire protection systems serving the project and report on any deficiencies.
  - (4) The Planning Division may submit copies of such documents required in subsection (e) to other departments for their review and requirements.
  - (5) The Planning Division shall review the property report submitted by the applicant and may require its revision and resubmission if found inadequate in providing the required information.
  - (6) The Planning Division shall keep and maintain the copies of all required reports, as public records, for no less than 5 years, and shall send copies to the California Real Estate Commissioner as may be required by law.
  - (7) A final inspection report shall be made by the Building Official, upon request of the applicant, indicating the compliance with all the imposed requirements.

**(f) Approval criteria.**

- (1) The final review authority shall utilize the development standards and requirements of this article as criteria in the approval of the conversion as herein provided.
- (2) No non-residential common interest development conversion shall be approved until all required documents have been submitted, reviewed and found to comply with the provisions of applicable State law and this Zoning Code.
- (3) All units shall be required to comply with current requirements for vibration transmission, energy insulation, sound transmission control (both interior and exterior), and fire detection systems.
- (4) Each unit shall be separately metered for gas, electricity, and water, unless the declaration of covenants provides for the association to take responsibility of the utilities.
- (5) The City Council may adopt general standards that may be applied to non-residential common interest development conversion applications on a case-by-case basis. The final review authority may use these standards to impose conditions of approval on non-residential common interest development conversion applications to achieve the purpose of this article.

**(g) Conversion Standards.** The project shall be brought into compliance with the following minimum construction standards, unless the Building Official approves an alternate method of construction. Prior to recordation of the subdivision map, applicable building permits shall be obtained, and all improvements shall be constructed, inspected, and receive final City approval for the required improvements in this section and for any health and safety code violations.

- (1) Life Safety Standards. The following improvements shall be provided in accordance with the provisions of the California Building Code or any successor statute or regulation, unless otherwise noted.

  - a. Each unit shall have access to the electrical branch circuits that serve the unit.
  - b. Smoke detectors shall be installed and operating. All existing hard-wired units shall be in working order and any additional smoke detectors that are required by code shall be located and installed.
  - c. Ground fault circuit interrupter protection shall be provided where required by the currently adopted electrical code.
  - d. Portable fire extinguishers shall be provided in accordance with the California Fire Code or any successor statute or regulation.

- (2) Plumbing Requirements. The following improvements shall be provided in accordance with the provisions of the California Plumbing Code or any successor statute or regulation.
- a. A temperature and pressure relief valve shall be provided for all water heaters.
  - b. Water heaters shall be seismically braced with a minimum of two straps.
  - c. Water heaters shall be properly vented to the outside and shall be provided with sufficient combustion air.
  - d. Potable water shall have a backflow protection where necessary to prevent potential cross connection.
- (3) Compliance with Zoning Code provisions. With the exception of building intensity (floor area ratio) standards, the project shall comply with all requirements of this Zoning Code, including but not limited to building setbacks, distance between buildings, parking, open space, and landscaping requirements, unless any Zoning Code requirement is superceded by an adopted specific plan or urban plan. The final review authority may approve a deviation from a Zoning Code standard in conjunction with the review of the conversion request, in conformance with the findings in Section 13-29(g)(10).
- (4) Refurbishing and Restorations. All main buildings, structures, walls, fences, carports, accessory buildings, sidewalks, driveways, landscaped areas, and additional elements as required by the final review authority shall be refurbished and restored as appropriate for a high standards of appearance, quality, and safety. Specific improvements include:
- a. Installation of all remedial improvements identified in the reports submitted pursuant to by Section 13-54.53(d) Documents Required.
  - b. Installation of appropriate improvements that ensure acceptable sound transmission levels between units in each building in conformance with the current California Building Code.
  - c. Replacement of all gas lines (both interior and exterior) that do not comply with current code and conduct appropriate pressure test.
  - d. Installation of double-glazed, low-E windows and exterior doors.
  - e. Installation of new sinks, faucets, and toilets. Low water flow plumbing fixtures are recommended.
  - f. Waterproof all exterior landings and staircases."

Section 2. Termination of Moratoriums. Upon the effective date of this ordinance as described below in Section 6, Urgency Ordinance 07-9 and Urgency Ordinance 07-11 regarding moratoriums for common interest development conversion requests shall terminate.

Section 3. Environmental Determination. The project has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines, and the City's environmental procedures, and has been found to be exempt pursuant to Section 15061(b)(3) of the CEQA Guidelines.

Section 4. Inconsistencies. Any provision of the Costa Mesa Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to the extent necessary to affect the provisions of this Ordinance.

Section 5. Severability. If any chapter, article, section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance, or the application thereof to any person, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portion of this Ordinance or its application to other persons. The City Council hereby declares that it would have adopted this Ordinance and each chapter, article, section, subsection, subdivision, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more subsections, subdivisions, sentences, clauses, phrases, or portions of the application thereof to any person, be declared invalid or unconstitutional. No portion of this Ordinance shall supersede any local, State, or Federal law, regulation, or codes dealing with life safety factors.

Section 6: This Ordinance shall take effect and be in full force thirty (30) days from and after the passage thereof and prior to the expiration of fifteen (15) days from its passage shall be published once in the ORANGE COAST DAILY PILOT, a newspaper of general circulation, printed and published in the City of Costa Mesa or, in the alternative, the City Clerk may cause to be published a summary of this Ordinance and a certified copy of the text of this Ordinance shall be posted in the office of the City Clerk five (5) days prior to the date of adoption of this Ordinance, and within fifteen (15) days after adoption, the City Clerk shall cause to be published the aforementioned summary and shall post in the office of the City Clerk a certified copy of this Ordinance together with the names and member of the City Council voting for and against the same.

**PASSED AND ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2007**

\_\_\_\_\_  
Mayor

ATTEST:

APPROVED AS TO FORM:

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City Clerk of the  
City of Costa Mesa  
STATE OF CALIFORNIA)  
COUNTY OF ORANGE) ss  
CITY OF COSTA MESA)

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City Attorney

I, Julie Folcik, City Clerk and ex-officio clerk of the City Council of the City of Costa Mesa, hereby certify that the above and foregoing Ordinance No. 07-\_\_ was introduced and considered section by section at a regular meeting of said City Council held on the \_\_\_\_ day of \_\_\_\_\_, 2007, and thereafter passed and adopted as a whole at a regular meeting of said City Council held on the \_\_\_\_ day of \_\_\_\_\_, 2007, by the following roll call vote:

AYES:

NOES:

ABSENT:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of the City of Costa Mesa this \_\_\_\_ day of \_\_\_\_\_, 2007.

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City Clerk and ex-officio  
Clerk of the City Council of the  
City of Costa Mesa

**ATTACHMENT 2**

**PLANNING COMMISSION MINUTES**

08-13-07 PC Minute Excerpt for CO-07-01 - Unofficial Until Approved

1. From the meeting of July 23, 2007, Zoning Code Amendment CO-07-01, regarding development standards and review procedures for conversions of apartments to residential common interest developments and non-residential projects to common interest developments. Environmental determination: exempt.

Principal Planner Kimberly Brandt suggested that four additional small changes be made to the working draft ordinance pursuant to their earlier dinner study session discussion, as follows:

Handwritten Page 6, Section 1.c.a: ~~The critical vacancy rate for apartments is more than the rate established in Section 13-42(c), RESIDENTIAL COMMON INTEREST DEVELOPMENT CONVERSIONS and, therefore, approval of the residential common interest development conversion will not diminish the supply of rental housing; or~~

~~The critical vacancy rate for apartments is equal to or less than the rate established in Section 13-42(c) RESIDENTIAL COMMON INTEREST DEVELOPMENT CONVERSIONS, however, the~~ The applicant has submitted an adequate and legally binding plan which mitigates addresses the displacement of long-term residents, particularly senior citizens and low- and moderate-income families and families with school-age children; and

Handwritten Page 14, Section 13-41(c)(2)b: Membership shall be mandatory for each ~~buyer~~ owner and any successive ~~buyer~~ owner.

Handwritten Page 14, Section 13-41(c)(2)c: Provisions to restrict parking upon other than approved and developed parking spaces and to require that garages be kept open and available for tenant parking shall be written into the covenants, conditions and restrictions for each project.

Handwritten Page 16, Section 13-42(d): Inspection fee. ~~There~~ The applicant shall be pay an inspection fee, established by the Building Division City Council, to determine compliance of the existing units with all appropriate building codes as noted in Section 13-42(f)(2).

Handwritten Page 25, Section 13-54.52(2)b: Membership shall be mandatory for each ~~buyer~~ owner and any successive ~~buyer~~ owner.

Commissioner Egan noted, and Ms. Brandt agreed, that the inspection fee wording on Page 26, Section 13-54.53(c) should also be changed, as follows:

Handwritten Page 26, Section 13-54.53(c): Inspection fee. ~~There~~ The applicant shall be pay an inspection fee, established by the City Council, to determine compliance of the existing units with all appropriate building codes, as noted in subsection (f)(2).

Harvey Berger, Berger Development Company, spoke about parking requirements (one parking space for each additional bedroom); private open space (use outdoor area space instead of parks); and fast-tracking for Planning Applications (bring application before the Planning Commission within six weeks of receipt of completed application). No one else wished to speak and the Chair closed the public hearing.

The Chair, Commissioner Righeimer, Commissioner Egan, Commissioner Clark, and Ms. Brandt discussed parking carports; the circumstances for a variance; and the requirement for covered parking.

The Chair, Vice Chair Fislser, and Ms. Brandt discussed common open space; the justification needed for a variance; and application processing time.

The Chair closed the public hearing.

**MOTION: Recommend City Council give first reading to ordinance with the following modifications:**

**Handwritten Page 6, Section 1.c.a: ~~The critical vacancy rate for apartments is more than the rate established in Section 13-42(c), RESIDENTIAL COMMON INTEREST DEVELOPMENT CONVERSIONS and, therefore, approval of the residential common interest development conversion will not diminish the supply of rental housing; or~~ The critical vacancy rate for apartments is equal to or less than the rate established in Section 13-42(c) RESIDENTIAL COMMON INTEREST DEVELOPMENT CONVERSIONS, however, the The applicant has submitted an adequate and legally binding plan which mitigates addresses the displacement of long-term residents, particularly senior citizens and low- and moderate-income families and families with school-age children; and**

**Handwritten Page 14, Section 13-41(c)(2)b: Membership shall be mandatory for each buyer owner and any successive buyer owner.**

**Handwritten Page 14, Section 13-41(c)(2)c: Provisions to restrict parking upon other than approved and developed parking spaces and to require that garages be kept open and available for tenant parking shall be written into the covenants, conditions and restrictions for each project.**

**Handwritten Page 16, Section 13-42(d): Inspection fee. ~~There~~ The applicant shall be pay an inspection fee, established by the Building Division City Council, to determine compliance of the existing units with all appropriate building codes as noted in Section 13-42(f)(2).**

**Handwritten Page 25, Section 13-54.52(2)b: Membership shall be mandatory for each buyer owner and any successive buyer owner.**

**Handwritten Page 26, Section 13-54.53(c): Inspection fee. There~~The~~  
applicant shall be pay an inspection fee, established by the City Council, to  
determine compliance of the existing units with all appropriate building  
codes, as noted in subsection (f)(2).**

**Moved by Commissioner Sam Clark, seconded by Vice Chair James Fisler.**

The motion carried by the following roll call vote:

Ayes: Chair Donn Hall, Vice Chair James Fisler, Commissioner Sam Clark,  
Commissioner Eleanor Egan, and Commissioner James Righeimer

Noes: None.

Absent: None.



## **CITY OF COSTA MESA**

CALIFORNIA 92626-1200

P.O. BOX 1200

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