



# **PLANNING COMMISSION**

## **AGENDA REPORT**

MEETING DATE: JANUARY 27, 2014

ITEM NUMBER **PH-2**

SUBJECT: CODE AMENDMENT C0-13-04 – SMALL LOT SUBDIVISION ORDINANCE

DATE: JANUARY 16, 2014

FROM: PLANNING DIVISION/DEVELOPMENT SERVICES DEPARTMENT

PRESENTATION BY: MINOO ASHABI, PRINCIPAL PLANNER

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### **DESCRIPTION**

Code Amendment CO-13-04 is a zoning code amendment to add new regulations for small lot subdivisions in multiple family residential zones which involves amending Title 13, the Zoning Code as follows:

- Chapter I – Add new definitions related to small lot subdivisions;
- Chapter IV, Table 13-30 (Land Use Matrix) – Allowing small lot subdivisions of up to 15 dwelling units in multiple family residential zones;
- Chapter V, Article 2.5 – add new development standards for small lot subdivisions.

It should be noted that the proposed standards will **NOT**:

- Increase the density in any of the multiple family residential zones;
- Decrease required number of parking spaces; or
- Change the entitlement process for small subdivisions

### **RECOMMENDATION**

- Recommend that the City Council approve the ordinance and give first reading; and,
- Review and comment on the draft standard conditions of approval.

## **BACKGROUND**

On September 10, 2013, a study session was held with the City Council and Planning Commission that was attended by the public and homebuilders. Staff was directed to prepare a "Small Lot Subdivision" ordinance with photos of potential development for consideration by Planning Commission.

On December 9, 2013, Planning Commission reviewed the first draft of the ordinance, discussed the following issues, and continued the item to January 27, 2014 meeting:

- **Perimeter side and rear setback** – Vice Chair Dickson recommended that the rear and side setbacks include provisions similar to the City of Los Angeles ordinance that notes, pre-existing development should guide the setbacks and new development should preserve the existing character of the neighborhood. A minimum side and rear setback of 10 feet was suggested. This setback would be applied to the perimeter of the development lot and not individual parcels within the development.

Response – staff revised Table 13-42 of the ordinance to include a minimum 10-foot side and rear setback for two-story and three-story development. New language was added related to the compatibility with the neighboring properties.

- **Design Guidelines** – Chair Fitzpatrick recommended including design guidelines with the ordinance similar to the City of Los Angeles ordinance. The merits of preparing a guideline was discussed and staff noted that the City of Los Angeles ordinance allows development that meet the guidelines without a discretionary review, whereas in Costa Mesa all development of two or more units within R2-MD zoning district is subject to approval of a design review by the Planning Commission. In addition, staff works with the developers to recommend the most practical site and architectural plans to the Planning Commission for review and approval. In any case, the Planning Commission has the final approval authority in terms of site planning and architectural design.

Response – Given that the City has Residential Guidelines in place, staff did not prepare a separate design guidelines for the small lot subdivision ordinance. The City of Los Angeles ordinance is applicable to all small lot subdivisions regardless of the number of units versus Costa Mesa's ordinance that would apply only to subdivisions of up to 15 units. The practical written provisions of the Los Angeles ordinance were included in the draft ordinance. In addition, all residential developments are subject to the City's Residential Design Guidelines that includes appropriate site planning and architectural articulation.

- **Recommendation to City Council** – Commissioner McCarthy noted that the report to the City Council should be a comprehensive report and include all information so that provisions of the proposed ordinance are clearly communicated. The ordinance is intended to encourage development of detached small lot single family units for ownership. The City of Costa Mesa is a good candidate for this type of development, which promotes homeownership and provides affordable options to younger families and individuals.

Response – staff included a side by side comparison of the new requirements with the existing provisions. It should be noted that the ordinance will not allow a higher density or lower parking standards.

- **Standard Conditions of Approval** – Planning Commission requested that standard conditions of approval be prepared and adopted with the ordinance to address all issues including provisions for trash pick up and storage.

Response – staff included a list of standard conditions of approval for the Commission’s review and comment. Staff recommends that these conditions be applied as part of our administrative process so that changes if necessary to address unique site specific circumstances will not require prior Council approval.

A full discussion of the background information was included in the December 9<sup>th</sup> staff report available at the following link:

<http://www.costamesaca.gov/ftp/planningcommission/agenda/2013/2013-12-09/PH-9.pdf>

### ***Current Requirements - Common Interest Development***

The City currently has regulations in place for residential subdivisions referred to as “common interest development standards.” Common Interest Developments are permitted in all multi-family residential zoning districts. The standards include various provisions such as requirement of a common lot (typically a landscape street setback and common drive), minimum lot size and average lot size standards, as well as regulations related to formation of a homeowners association. The current requirements are applicable to both detached and attached products. While these standards have been practical for larger developments; they have been challenging for smaller subdivisions. Most small subdivisions require approval of several variance and administrative adjustments to allow development of detached units on small lots. The following is a list of development standards and required documents that are proposed to be revised with the proposed Small Lot Subdivision Ordinance:

- *Common lot requirement* - The current common interest development standards require that all projects be designed with a minimum of one common lot, in common ownership and maintained by a homeowners association. This lot is required to contain common driveways, parking areas, and the front 10 feet of the landscaped street setback.
- *Minimum distance between buildings* - A 10-foot minimum between main buildings and a 6-foot minimum separation between main buildings and accessory structures is required.
- *Minimum open space* - All subdivisions are required to provide a minimum 40% of total lot area as open space. Open space excludes driveways and common hardscape areas. In addition, each individual lot is required to provide a minimum of 400 square-foot open space area with no dimension less than 15 feet.
- *Minimum Lot size* – The minimum lot size is 3,000 square feet with an overall average of 3,500 square feet. The required common lot is not included in the calculation of lot area.

- *Rear yard setback* – A 20- foot minimum rear setback is required for the second floor of two-story structures in medium density and a minimum 15- foot for high density zones.

Parking regulations are proposed to be revised; however, the required number of parking spaces will not be decreased. Subdivisions of five or more units are required to provide some open parking spaces accessible to all residents in the community and not in front of the garages.

In addition, the Common Interest Development Standards include specific provisions with respect to maintenance requirements and homeowners associations are proposed to be revised. All subdivisions are required to record CC&Rs that would include a plan for permanent care and maintenance of open spaces, recreational areas, and common facilities pursuant to State law (Civil Code 1350-1359).

**ANALYSIS**

The purpose and intent of the small lot ordinance is to promote affordable ownership housing by providing more flexible development standards and maintenance mechanisms for underutilized multi-family residential lots within the densities allowed by the General Plan. This proposed code amendment will add a new section to the zoning code applicable to detached residential development of up to 15 units without modifying the current “Common Interest Development” standards. The amendment is not intended to increase the current densities or decrease the parking standards.

***Proposed New Development Standards - Small Lot Subdivisions***

The following includes a comparison of the existing and proposed development standards applicable to subdivisions of up to 15 dwellings. The development standards are proposed to allow the most flexibility in development standards and maintenance requirements without any increase in the density requirements or decrease in the parking standards:

<b>Common Interest Development Subdivisions of 16 or more units (Existing – No Change)</b>	<b>Small Lot Subdivisions Subdivisions of up to 15 units (New)</b>
Common lot required – typically includes the main drive and street landscape setback	Common lot not required – common areas are divided among the individual parcels and reciprocal access and parking is provided by an easement recorded with the parcel/tract map
Minimum open space (development lot) – 40% (not including porches of over 6 feet in depth and balconies)	Minimum open space (development lot) – 30%* (includes porches, covered patios, roof decks and balconies)
Minimum open space (individual lot) - 400 square feet with no dimension less than 15 feet.	Minimum open space (individual lot) - 250 square feet with no dimension less than 12 feet. **
Minimum rear yard setback – 10 feet for one story and 20 feet for two stories	Minimum rear yard setback – all setbacks are treated as side setbacks with a minimum <b>10- foot</b> separation from the property line.
Minimum lot size of 3,000 square feet and average lot size of 3,500 square feet; no minimum lot width	No minimum standards for lot area Minimum lot width – 20 feet
Maximum height – two-stories or 27 feet maximum unless otherwise allowed by a	Maximum height – two-stories or 27 feet maximum unless otherwise allowed by a specific plan or urban

specific plan or urban plan	plans.
Minimum distance between buildings – 10 feet	No minimum distance required as long as the structures are completely separated, do not share a common wall, and meet Building and Fire Code standards.
Homeowner's association required	City will require that the homeowners be responsible for maintenance of all areas subject to access and/or maintenance easements (i.e., access, drainage and utilities, and landscape setbacks) and carry insurance policies for the homeowners. A maintenance agreement can be executed for subdivision of 4 or less in lieu of requiring an association when each unit has an independent access to the public street and there is no common drive or other amenities.
Covenants, Conditions, and Restrictions (CC&Rs) – required to be recorded prior to final inspection	Covenants, Conditions, and Restrictions (CC&Rs) – required to be recorded prior to final inspection

\* Decorative paving will be required for all interior roadways and parking to balance the reduction in open space.  
 \*\* The private open space area is included in the overall open space calculations.

It should be noted that the threshold for the maximum number of parcels (15 parcels under small lot subdivision) was proposed based on a typical lot size in R2-MD zone and a manageable development without a homeowners association; this is an arbitrary number and can be modified as Planning Commission may deem appropriate.

**Homeowners and Maintenance Associations**

With the cost of homeownership rising, developers are proposing an alternative mechanism for maintenance of small lot subdivisions that will reduce the monthly cost to the homeowners and reduce the administrative requirements of a subdivision. While a condominium association may be the best alternative for most subdivisions, to provide compliance with the requirements of Davis-Stirling Act (i.e., 10-year homebuilder warranty and lien rights); in cases where there is no common area and where permissible under state law, a maintenance association could be a less costly alternative. In either alternative the City would require recordation of CC&Rs to ensure a certain level of maintenance standards and enforcement procedures.

The following is a comparison of the two alternative types with respect to maintenance and regulatory standards:

Applicable Regulations	Common Interest Development HOA	Small Lot Subdivision
Davis Stirling Act requirement for HOA to manage	Yes	No. Common interest developments could be exempt but determination of applicability is left to Developer. City will establish minimum maintenance standards for small lot subdivisions that association must be responsible to maintain.
Business & Professions Code	Yes	No, if less than 5 units. However

Public Reporting Requirements (public documents)		determination of applicability is left to Developer.
CC&Rs	Yes	Yes
Lien Rights	Yes	No
Common areas Reciprocal Easements, etc.	Yes	Yes/No
Budget	Required by BRE	Advisable but not required
Standard of Maintenance	Required by BRE	Advisable but not require
Conditions of Approval	Yes	Yes
Dispute Resolution	Maybe subject to arbitration	Maybe subject to arbitration
Construction Defects	Subject to Davis Stirling – builder is liable for 10 years	Unknown - subject to litigation*

\* Homeowner and maintenance associations have the right to sue others as one entity; however, individual homeowners not part of a HOA or maintenance association would have to sue as individuals.

Common interest developments with a common lot are required to submit public reports to BRE and provide certain disclosures to the homebuyers under the Business & Professions Code. Small lot subdivisions under 5 parcels may avoid these requirements. However, staff is recommending establishing a minimum standard of disclosure by the developers prior to entering into sales agreement with the potential homebuyers for the sale of properties within a small lot subdivision, even if the developer is exempted from disclosure requirements under state law. These requirements are noted below and included in the draft ordinance under Section 13-42.2 (c).

- The type, thickness, and R-value of the insulation that has been installed in the home
- Any potential hazards or lead-based paint (24 CFR Part 35 and 40 CFR Part 745)
- Uses other than residential and any unusual zoning in proximity to the project
- Distance to airport if within two miles
- Any special costs that will be incurred by the lot buyer as a result of the installation of a building foundation or any other construction due to unusual soil/geological conditions
- If there is fill in excess of 2 feet
- Schools servicing subdivision and any special conditions
- Any unusual flooding conditions
- Conditions of approval by the City and any resale restrictions
- Dedications and easements
- Project phasing plan
- CC&Rs

**GENERAL PLAN CONFORMITY**

The proposed ordinance is consistent with the following goals and policies of the General Plan:

- LU -1 A.1, LU -1A.4, LU -10.4, HOU -1.9, HOU -2.4, HOU -4.4, CD -7A.1 and CD -7A.2.

**PUBLIC NOTICE**

Code requires publication of a display AD in the local newspaper (Daily Pilot) for Title 13 Code Amendments. At the time of publication of this report, no public comments have been

received. Any correspondence will be forwarded to the Planning Commission under separate cover. In addition to the newspaper ad, all property owners within PDI zoning, homeowners associations and other neighboring cities and government agencies were notified by mail.

### 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, in that it can be seen with certainty that there is no possibility that the proposed amendment to the Zoning Code will have a significant effect on the environment.

### LEGAL REVIEW

The staff report and the draft ordinance has been reviewed and approved by the City Attorney.

### CONCLUSION

Given the request from local developers and the City's desire to stimulate for sale housing development in the City, staff believes there is support for the creation of innovative programs to increase housing development and home ownership opportunities within the allowed densities of the City's General Plan. The following summarizes key aspects of the proposed ordinance.

- If adopted this will be the first of such ordinance in the County. Similar ordinances, in other jurisdictions, have not been implemented long enough to determine all the potential benefits and consequences;
- A few jurisdictions have adopted design guidelines related to site and building design including City of Los Angeles; however, in Costa Mesa, these subdivisions will be subject to discretionary process (Design review) which allows site planning and architectural review of the projects. Design guidelines are a helpful tool; however, may not be necessary. In all cases, residential developments are subject to the City's Residential Design Guidelines.
- Small lot ordinance would be applicable to all multi-family residential zoning districts and urban plan residential development and live/work projects.
- While all small lot subdivision would be subject to CC&Rs, small subdivisions of up to four parcels with no common areas could be exempt from a homeowner's or maintenance association and subject to only a maintenance agreement.
- Small lot subdivision will allow development within the allowed densities of the zoning code and general plan.

  
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Director/ Deputy CEO

- Attachments:
1. Draft Ordinance
  2. List of other California Cities with adopted small lot ordinance
  3. Draft Standard Conditions
  4. Examples of Recent Projects
  5. Public Comments

Distribution:

- Director of Economic & Development Services/Deputy CEO
- Senior Deputy City Attorney
- Public Services Director
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ORDINANCE NO. 14-

AN ORDINANCE OF THE CITY COUNCIL OF COSTA MESA, CALIFORNIA ADOPTING ZONING CODE AMENDMENT CO-13-04 AMENDING TITLE 13, CHAPTERS I, IV, AND V RELATED TO DEFINITIONS, LAND USE MATRIX AND NEW ARTICLE 13-42

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

SECTION 1: FINDINGS.

City of Costa Mesa recognizes that homeownership is an important aspect of community building. The City of Costa Mesa is promoting homeownership by providing the opportunity for development of a variety of housing types at various price ranges. The small lot ordinance will allow development of detached or townhome style residential units on individual parcels instead of condominium ownership.

SECTION 2: Title 13 of the Costa Mesa Municipal Code is hereby amended as follows:

A. Section 13-6 "Definitions" of Article 2 "Definitions" of Chapter I "General" is hereby amended to insert the following definition:

**Small Lot Subdivision.** A residential development containing a maximum of 15 detached or townhome style units with no common walls where each unit is independently constructed on an individual parcel and the land is subdivided into fee simple parcels containing each unit. Each individual lot is provided with either a direct access to public street/ alley or an easement access through a recorded subdivision map.

B. Chapter IV; Table 13-30, Citywide Land Use Matrix is hereby amended as follows:

Add Small Lot Subdivisions as Land Use No. 2.2 to Table 13-30 as permitted use in multi-family residential zones.

TABLE 13-30 CITY OF COSTA MESA LAND USE MATRIX																					
LAND USES	Z O N E S																				
	R1	R2 M D	R2 HD	R3	A P	CL	C 1	C 2	C 1 S <sup>1</sup>	T C <sup>1</sup>	M G	M P	P D R L D <sup>1</sup>	P D R M D <sup>1</sup>	P D R H D <sup>1</sup>	P D R N C M <sup>1</sup>	P D C <sup>1</sup>	P D I <sup>1</sup>	I & R <sup>1</sup>	I & R <sup>1</sup> S <sup>1</sup>	P
<b>RESIDENTIAL USES</b>																					
1. Single-family dwellings (single housekeeping units)	P <sup>1</sup>	P	P	P	•	•	•	•	•	•	•	P	P	P	P	P	P	P	•	•	•
2. Multi-family dwellings	•	P	P	P	•	•	•	•	•	P	•	•	P	P	P	P	P	P	•	•	•
2.1 Common interest developments, residential	•	P	P	P	•	•	•	•	•	P	•	•	P	P	P	P	P	P	•	•	•
2.2 Small lot subdivisions, residential	•	P	P	P	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•
3. Mobile home parks	•	C	C	C	•	•	•	•	•	•	•	•	C	C	C	C	C	C	•	•	•

- C. Article 2.5. "Residential Small Lot Subdivision" of Chapter V "Development Standards" is hereby created to read as follows:

## **ARTICLE 2.5 RESIDENTIAL SMALL LOT SUBDIVISIONS**

### **SECTION 13-42.1 PURPOSE**

The purpose of this article is to regulate development and subdivision of small lots within residential zoning districts and overlay districts where residential and live/work projects are permitted. The ownership and occupancy of these developments shall be subject to applicable laws for the general health, safety and welfare of the public. This type of subdivision is intended to provide flexible development standards and to promote a wider range of homeownership of individual lots in multiple-family residential and overlay zoning districts.

### **SECTION 13-42.2 PLANNING APPLICATION REQUIRED**

- a) Small lot subdivisions are permitted in appropriate residential or urban plan overlay districts, subject to approval of the following planning application as may be applicable. This requirement is in addition to other permits or certificated required by law.
- 1) All new small lot development projects shall be processed according to the design review procedures contained in Section 13-29.
  - 2) All small lot development projects require approval of a tentative tract or parcel map as required by law. A tentative tract map or parcel map shall not be required until a design review has been approved; however, the map may be processed concurrently.
- b) No person shall construct, sell, lease, convey, maintain or use a lot in a small lot subdivision project within the City without first complying with the provisions of this article.

### **SECTION 13-42.3 DEVELOPMENT STANDARDS AND REQUIREMENTS:**

- a) **Applicability.** The provisions of this section shall apply to all new residential small lot subdivisions of 15 lots or less in multi-family zones and overlay zones where residential and live/work development are permitted.
- b) **Development standards.** Table 13-42 identifies the development standards for small lot subdivision 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. The site design must consider both the design elements to each unit and how these designs will enhance the overall neighborhood character and vitality of the street and sidewalk. Building setbacks and site planning must relate to surrounding built form, respecting the overall neighborhood character and existing topography. Additionally, each unit must exhibit a high level of design quality with well articulated entries and facades, proportionate windows, quality building materials and contextual landscaping.
3. All structures proposed to be constructed within a project shall conform to the following requirements:
  - a. Each unit shall be provided with direct pedestrian and vehicular access to a public street, or an alley or a common drive connecting to a public street/ alley.
  - b. Structures having dwelling units attached side by side shall be composed of no more than 4 dwelling units.
  - c. Structures having dwelling units attached side by side shall include a break in the facade by having an offset in the front building line.
  - d. Structure shall be constructed to minimize impact of the proposed development on the light, air and privacy of adjacent properties.
4. On-site lighting shall be provided 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.
5. 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.
6. 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 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.

**TABLE 13-42  
SMALL LOT SUBDIVISION STANDARDS**

<b>STANDARDS</b>	<b>SINGLE-FAMILY UNITS (located on individual dwelling unit lots and excluding townhouses)</b>
Maximum Number of Stories & Building Height	2 stories/ 27 feet, except as allowed in the Westside Overlay 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	30% of total lot area. No asphalt shall be permitted for paved areas. Parking and driveways shall consist of decorative concrete, pavers or other materials as deemed appropriate by the Development Services Director.
Minimum Open Space (individual unit)	250 square feet with no dimension less than 12 feet.
Development Lot	Separately owned private property interests or any portion thereof, necessary or desirable for common use, are subject to recordation of an easement for reciprocal access and maintenance. All areas of a development with 5 or more parcels, subject to a reciprocal access and/or maintenance easement shall be maintained by an association that may be incorporated or unincorporated. The association may be referred to as a maintenance association.
Parking	<ul style="list-style-type: none"> <li>• Three bedroom or more units (including a den or home office) – two garage spaces and two open parking spaces</li> <li>• Two bedrooms or less units (including a den) – one garage space and two open parking</li> <li>• Tandem garage and parking (two spaces max.) are permitted for each individual unit with a maximum of 50% of the overall units with tandem parking.</li> <li>• No tandem parking is permitted for open or guest parking spaces.</li> <li>• For developments with 5 or more units (up to 10 units) where open/guest parking spaces are provided in driveways in front of garages for exclusive use of that unit, one additional on-site guest parking shall be provided. Two additional open guest-parking shall be provided for developments with more than 10 units.</li> </ul>
Distance between buildings	No minimum distance required subject to compliance with Building and Fire Code standards.
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 right-of-way of any street or drive aisle use to access the lot, if parking is provided. No driveways shall be more than 5 feet in length if parking is not provided in front of garage.
Mechanical equipment, excluding antennas and flush-mounted solar panels on roofs	Roof-top location is prohibited unless completely screened from public rights-of-way and adjacent properties.
Front Development Lot:	20 feet
Side and rear (interior)	10 feet for two-stories and three-story development
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.

**TABLE 13-42  
SMALL LOT SUBDIVISION STANDARDS**

<b>STANDARDS</b>	<b>SINGLE-FAMILY UNITS (located on individual dwelling unit lots and excluding townhouses)</b>
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.
Bluff Top Setback	No building or structure closer than 10 feet from bluff crest (see Section 13-34 BLUFF-TOP DEVELOPMENT).
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.	Not permitted
Chimneys	May extend 2 feet above maximum building height.
Automatic roll-up garage doors	Yes
Location of Open Parking	Guest 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.
Trash Storage	All units shall be provided with a small alcove inside or outside the unit to allow storage of at least two trash carts without encroaching into the garage space. All efforts shall be made to provide on-site trash service. Trash carts shall be stored on-site for trash pick up to the greatest extent possible.
Above-Ground Pools and Spas	Prohibited in front yards and subject to 5-foot side and rear setback from the main structures.
<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.	
<b>SIGNS (See Chapter VIII).</b>	
<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) Project approval is subject to submission of complete organizational documents setting forth a plan or manner of permanent care and maintenance of any open spaces, recreational areas and commonly used areas/facilities. 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) Prior to entering into a sales agreement for any property within a small lot subdivision, the developer shall disclose general information regarding the property to the future homebuyers, including but not limited to the following:
  - a. The type, thickness, and R-value of the insulation that has been installed in the home
  - b. Any exposed hazards during and after construction (Lead-based paint, asbestos, etc.)
  - c. Uses other than residential in proximity to the project

- d. Unusual adjacent zoning
  - e. Distance to airport if within two miles
  - f. Where soils, filled ground and geologic information is available
  - g. Any special costs that will be incurred by the lot buyer as a result of the installation of a building foundation or any other construction due to unusual soil/geological conditions
  - h. If there is fill in excess of 2 feet
  - i. Schools servicing subdivision and any special conditions.
  - j. Any unusual flooding conditions
  - k. Conditions of approval by the City and any resale restrictions
  - l. Dedications and easements
  - m. Project phasing plan
  - n. CC&Rs
- (3) All small lot subdivisions shall file a declaration of covenants to be submitted with the application for approval. The declaration of covenants shall include, but not be limited to, the following provisions.
- a. The homeowners' association or a maintenance association (as applicable) shall be established prior to the sale of any unit(s).
  - b. Membership in the homeowners or maintenance association shall be mandatory for each owner and any successive owner.
  - c. Provisions to restrict parking upon other than approved and developed parking spaces and to require that garages be kept 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."

**SECTION 2: 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, in that the City Council hereby finds that it can be seen with certainty that there is no possibility that the passage of this ordinance amending the zoning code will have a significant effect on the environment..

**SECTION 3: 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 or further, is hereby repealed or modified to the extent necessary to affect the provisions of this ordinance.

**SECTION 4: SEVERABILITY.** If any provision or clause of this ordinance or the application thereof to any person or circumstances is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other provisions or clauses or applications of this ordinance which can be implemented without the invalid provision, clause or application; and to this end, the provisions of this ordinance are declared to be severable.

**SECTION 5: PUBLICATION.** 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 \_\_\_\_\_ 2014.**

\_\_\_\_\_

Mayor of the City of Costa Mesa

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
City Clerk of the City of Costa Mesa

\_\_\_\_\_  
City Attorney



### ***Survey of Other Jurisdictions***

In addition to city of Los Angeles, a number of northern and central California jurisdictions (see below) have adopted a small lot subdivision ordinance.

<b>Local Jurisdiction</b>	<b>Summary of Small Lot Subdivision Program</b>
Los Angeles, CA	<ul style="list-style-type: none"> <li>• Allowed in multi-family and commercially zoned properties.</li> <li>• Minimum lot area, 600 sq. ft. and minimum lot width, 12 feet</li> <li>• 80 percent lot coverage</li> <li>• Design Guidelines address site planning, building design, and materials.</li> <li>• No discretionary review required</li> </ul>
Marysville, CA	<ul style="list-style-type: none"> <li>• Allows minimum lot size of 3,000 sq. ft. in designated areas.</li> </ul>
Merced, CA	<ul style="list-style-type: none"> <li>• Allowed in Planned Development zones.</li> <li>• Minimum lot area 1,950 sq. ft. and 3,000 sq. ft.</li> <li>• Two sets of design guidelines based on lot width and area.</li> <li>• Sixty percent lot coverage</li> </ul>
Modesto, CA	<ul style="list-style-type: none"> <li>• Allowed in specific plan areas and planned development zones</li> <li>• Design guidelines for lot areas of 5,000, 3,000 and less than 3,000 sq. ft.</li> <li>• Requires discretionary review</li> </ul>
Napa, CA	<ul style="list-style-type: none"> <li>• Permitted in single family residential zones that allow single family and duplex</li> <li>• No minimum lot area and width requirement</li> <li>• Subject to approval of a conditional use permit</li> </ul>
Oakland, CA	<ul style="list-style-type: none"> <li>• Minimum lot area of 4,000 sq. ft. and minimum lot width of 25 feet</li> <li>• Subject to approval of a conditional use permit</li> </ul>
Santa Rosa, CA	<ul style="list-style-type: none"> <li>• Allowed in single-family and multi-family zones.</li> <li>• Minimum lot area of 2,000 sq. ft. and density of 18 du/acre</li> <li>• Subject to approval of a conditional use permit</li> </ul>

## DRAFT STANDARD CONDITIONS OF APPROVAL

1. The expiration of Planning Application PA-XX shall coincide with the expiration of the approval of the Tentative Tract Map No. XX which is valid for two years. An extension request is needed to extend the expiration for each additional year after the initial 2-year period.
2. The conditions of approval for PA-12-XX shall be blueprinted on the face of the site plan as part of the plan check submittal package.
3. Address assignment shall be requested from the Planning Division prior to submittal of working drawings for plan check. The approved address of individual units, buildings, etc, shall be blueprinted on the site plan and on all floor plans in the working drawings.
4. No modification(s) of the approved building elevations including, but not limited to, change of architectural type, changes that increase the building height, removal of building articulation, or a change of the finish material(s), shall be made during construction without prior Planning Division written approval. Failure to obtain prior Planning Division approval of the modification could result in the requirement of the applicant to (re)process the modification through a discretionary review process or a variance, or be required to modify the construction to reflect the approved plans.
5. Two (2) sets of detailed landscape and irrigation plans, consistent with the preliminary plans, which meet the requirements set forth in Costa Mesa Municipal Code Sections 13-101 through 13-108, shall be required as part of the project plan check review and approval process. Plans shall be forwarded to the Planning Division for final approval prior to issuance of building permits.
6. Landscaping and irrigation shall be installed in accordance with the approved plans prior to final inspection or occupancy clearance.
7. Two (2) sets of landscape and irrigation plans, approved by the Planning Division, shall be attached to two of the final building plan sets.
8. Street trees in the landscape parkway shall be selected from Appendix D of the Streetscape and Median Development Standards and appropriately sized and spaced (e.g. 15-gallon size planted at 30' on centers), or as determined by the Development Services Director once the determination of parkway size is made. The final landscape concept plan shall indicate the design and material of these areas, and the landscape/hardscape plan shall be approved by the Planning Division prior to issuance of building permits.
9. Transformers, backflow preventers, and any other approved above-ground utility improvement shall be located outside of the required street setback area and shall be screened from view, under direction of Planning staff. Any deviation from this requirement shall be subject to review and approval of the Development Services Director.
10. No exterior roof access ladders, roof drain scuppers, or roof drain downspouts are permitted. This condition relates to visually prominent features of scuppers or downspouts that not only detract from the architecture but may be spilling water from overhead without an integrated gutter system which would typically channel the rainwater from the scupper/downspout to the ground. An integrated downspout/gutter system which is painted to match the building would comply with the condition. This condition shall be completed under the direction of the Planning Division.
11. Prior to issuance of certificate of occupancy, the applicant shall construct a minimum 6-foot tall decorative block wall around the perimeter of the project site, unless otherwise approved by the Developer Services Director. Where walls on adjacent properties already exist, the applicant shall work with the adjacent property owner(s) to prevent

- side-by-side walls with gaps in between them and/or provide adequate privacy screening by trees and landscaping.
12. The subject property's ultimate finished grade level may not be filled/raised in excess of 30 inches above the finished grade of any abutting property. If additional fill dirt is needed to provide acceptable on-site storm water flow to a public street, an alternative means of accommodating that drainage shall be approved by the City's Building Official prior to issuance of any grading or building permits. Such alternatives may include subsurface tie-in to public storm water facilities, subsurface drainage collection systems and/or sumps with mechanical pump discharge in-lieu of gravity flow. If mechanical pump method is determined appropriate, said mechanical pump(s) shall continuously be maintained in working order. In any case, development of subject property shall preserve or improve the existing pattern of drainage on abutting properties. Applicant is advised that recordation of a drainage easement across the private street may be required to fulfill this requirement.
  13. To avoid an alley-like appearance, the private street shall not be developed with a center concrete swale. The private street shall be complemented by stamped concrete or pervious pavers. The final landscape concept plan shall indicate the landscape palette and the design/material of paved areas, and the landscape/hardscape plan shall be approved by the Planning Division prior to issuance of building permits.
  14. Prior to issuance of building permits, the developer shall provide the Conditions, Covenants, and Restrictions (CC&Rs), or maintenance agreement to the Development Services Director and City Attorney's office for review. The CC&Rs or maintenance agreement must be in a form and substance acceptable to, and shall be approved by the Development Services Director and City Attorney's office. The CC&Rs or maintenance agreement shall contain provisions that effectively implement the following requirements: (1) require effective management of parking. If onsite parking is not appropriately managed, the Development Services Director shall require implementation of corrective measure(s) to address onsite parking problems in the future; (2) require that the maintenance association, unless no maintenance association is required, contract with a towing service to enforce the parking regulations; (3) Allow third party intervention by the City of Costa Mesa; (4) Any subsequent revisions to the CC&Rs or maintenance agreement related to these provisions must be reviewed and approved by the City Attorney's office and the Development Services Director before they become effective.
  15. Applicant shall provide proof of establishment of a maintenance association prior to release of any utilities, unless exempted from association requirement.
  16. The project entrance is not designed for vehicular gates. A buyer notification shall be provided to future buyers that the community will not be able to accommodate gates without physical changes to the proposed ingress and egress configuration.
  17. If the project is constructed in phases, the perimeter wall, landscaping along the frontages and irrigation shall be installed prior to the release of utilities for the first phase.
  18. The applicant shall submit a Buyer's Disclosure Form to the Development Services for review/approval prior to issuance of building permits. The disclosure notice shall indicate that the most significant implication of no HOA for the City is the lack of an enforcement body for conditions which the City has an interest in maintaining and/or which City required as a condition of approval. For example, cross lot parking, access, or drainage easements or maintenance requirements may not be enforced over time by private individuals. The buyer's notice shall specify that the CC&R's includes a statement that the City is a third party beneficiary of the CC&R's and that the City may,

but is not required, to enforce such provisions. Both the buyer's notice and the CC&Rs shall be approved by the City Attorney's office prior to issuance of the first certificate of occupancy.

19. All units shall be provided with a small alcove inside or outside the unit to allow storage of at least two trash carts without encroaching into the garage space.
20. The applicant and future homeowners shall contract with a private waste disposal company that will provide full on-site trash and recyclable collection. There shall be no storage of trash bins or cans on public streets with the exception of temporary use of the right-of-way for rolling containers or loading to larger trash trucks.
21. The applicant shall disclose the following information to the future homebuyers prior to execution of a sale agreement:
  - The type, thickness, and R-value of the insulation that has been installed in the home
  - Any potential hazards or lead-based paint
  - Uses other than residential and any unusual zoning in proximity to the project
  - Distance to airport if within two miles
  - Any special costs that will be incurred by the lot buyer as a result of the installation of a building foundation or any other construction due to unusual soil/geological conditions
  - If there is fill in excess of 2 feet
  - Schools servicing subdivision and any special conditions
  - Any unusual flooding conditions
  - Conditions of approval by the City and any resale restrictions
  - Dedications and easements
  - Project phasing plan
  - Recorded CC&Rs
22. The applicant shall contact the Planning Division to arrange a Planning inspection of the site prior to the release of occupancy/utilities. This inspection is to confirm that the conditions of approval and code requirements have been satisfied.
23. Prior to issuance of grading permits, developer shall identify to the Development Services Director a construction relations officer to act as a community liaison concerning on-site activity, including resolution of issues related to dust generation from grading/paving activities.
24. Open parking spaces be designated as unreserved, available, open guest parking for all visitors to the site. Signage will be posted to indicate that these spaces are available to all visitors. The CC&Rs shall contain restrictions prohibiting parking in the driveway and in front of garage doors.
25. Residents shall park vehicles in garage spaces. Storage of other items may occur only to the extent that vehicles may still be parked within the require garage spaces.
26. The applicant and each successor in interest to the property which is the subject of this project approval, shall defend, indemnify and hold harmless the City of Costa Mesa and its agents, officers and employees from any claim, action or proceeding against the City or its agents, officers or employees (i) to attack, set aside, void or annul any approval, permit or land use entitlement of the City, City Council, or City Planning Commission concerning the herein use, application or project, or (ii) regarding the applicability of federal and state laws governing common-interest developments to the applicant or the subject property.
- 27.\* A "Notice to Buyers" shall disclose that the project is located within an area designated as Light Industry in the City of Costa Mesa General Plan and is subject to existing and

potential annoyances or inconveniences associated with industrial land uses. The Notice shall disclose the existing surrounding industrial land uses, including but not limited to, operational characteristics such as hours of operation, delivery schedules, outdoor activities, and noise and odor generation. In addition, the Notice shall state that the existing land use characteristics are subject to change in the event that new businesses move or existing businesses change ownership. The Buyer's Notice shall be reviewed/approved by the City Attorney's office and Development Services Director prior to recordation. The Buyer's Notice shall serve as written notice of the then existing noise environment and any odor generating uses within the mixed-use development and within a 500-foot radius of the mixed use development, as measured from the legal property lines of the development lot. The Buyer's Notice shall be remitted to any prospective purchaser or tenant at least 15 days prior to close of escrow, or within three days of the execution of a real estate sales contract or rental/lease agreement, whichever is longer. The Buyer's Notice shall also indicate that business operations in the live/work units shall be consistent with the land use matrix of the Mesa West Bluffs Urban Plan subject to zoning authorization and obtaining a business license.

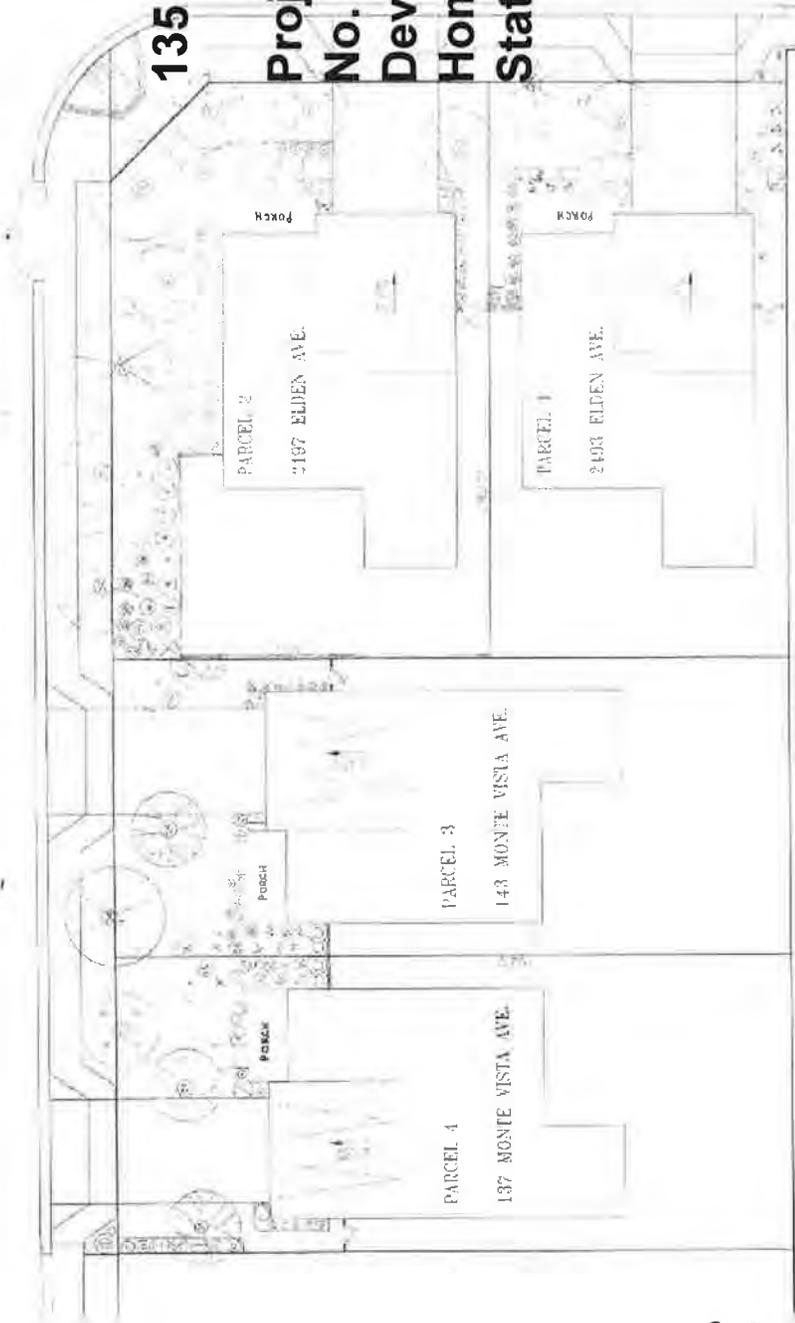
- 28.\* Prior to the issuance of Building Permits, the Applicant shall submit a Lighting Plan and Photometric Study for the approval of the City's Development Services Department. The Lighting Plan shall demonstrate compliance with the following:
- The mounting height of lights on light standards shall not exceed 18 feet in any location on the Project site unless approved by the Development Services Director.
  - The intensity and location of lights on buildings shall be subject to the Development Services Director's approval.
  - All site lighting fixtures shall be provided with a flat glass lens. Photometric calculations shall indicate the effect of the flat glass lens fixture efficiency.
  - Lighting design and layout shall limit spill light to no more than 0.5 footcandle at the property line of the surrounding neighbors, consistent with the level of lighting that is deemed necessary for safety and security purposes on site.
  - Glare shields may be required for select light standards.

\* Applicable to projects in urban plan areas.

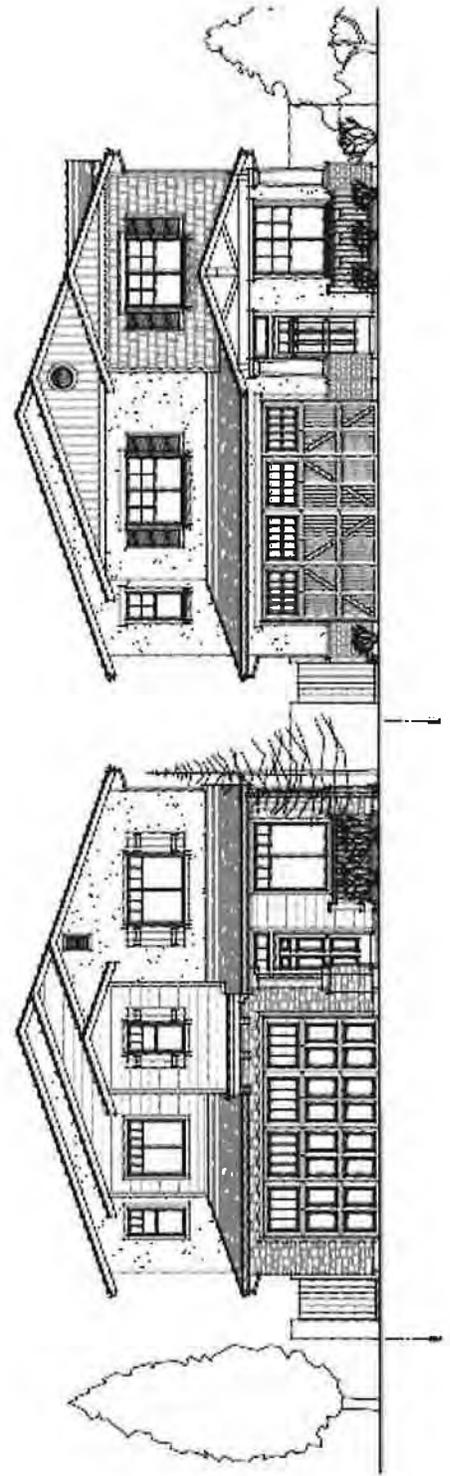
MONTE VISTA AVENUE

135 Monte Vista Ave.

Project Site Area: 0.21 Acre  
No. of Units: 4  
Developer: Harbinger Homes, Inc.  
Status: Under Construction



VENUE



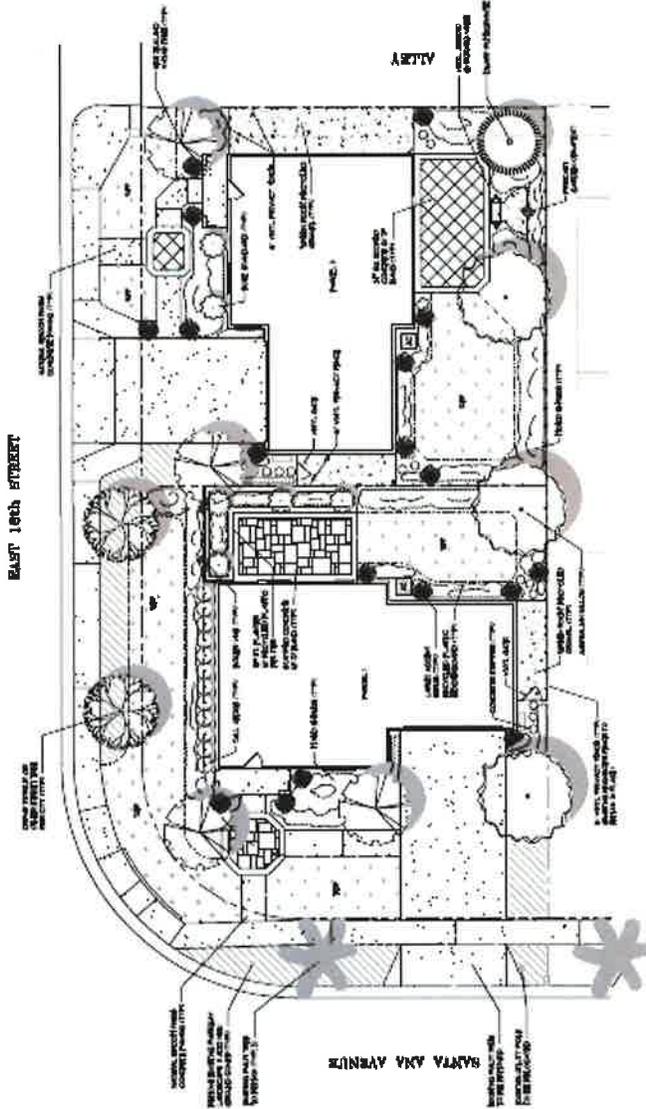
1596 Santa Ana Ave.

Project Site Area: 0.194 Acre

No. of Units: 2

Developer: RSI

Status: Construction Completed

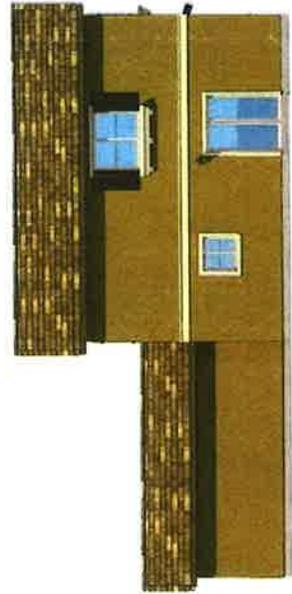


- Conc. Flat Tile Typical
- Wood Trim Typical
- Stucco Typical
- Wood Trim Typical
- Stacked Stone Typical

Front Elevation



Right Elevation



Rear Elevation



Left Elevation

**2157 Tustin Ave.**

**Project Site Area: 1.2 Acres**

**No. of Units: 14**

**Developer: Matt White**

**Status: Approved**



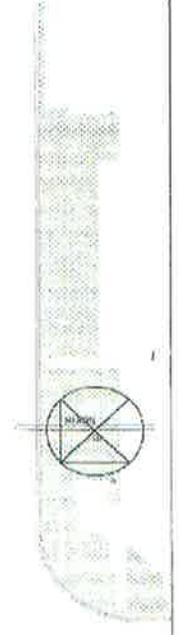
**2590 Orange Ave.**

**Project Site Area: 0.20 Acre**

**No. of Units: 2**

**Developer: Jim Marino,  
Marino Investments**

**Status:**



December 5, 2013

Chairman Jim Fitzpatrick  
 Planning Commission  
 City of Costa Mesa  
 77 Fair Drive  
 Costa Mesa, CA

**Re: Support for Agenda Item #9 Amendment to Title 13 Related to Small Lot Ordinance**

Dear Chairman Fitzpatrick,

**On behalf of our membership, I write to urge your recommendation to City Council to approve the proposed small lot development ordinance.** Small lot development represents an important new land use tools to help meet market demand in established communities, support regional housing policy, and stimulate the local economy. For many individuals and families, small lot communities represent a cost attainable home-ownership opportunity.

The Building Industry Association of Southern California, Orange County Chapter (BIA/OC) is a non-profit trade association of over 1,000 companies employing over 100,000 people affiliated with the home building industry. The Orange County Chapter represents the largest member base within BIA Southern California. Our mission is to champion housing as the foundation of vibrant and sustainable communities.

**Meeting Population Growth and Housing Need**

The Southern California Association of Governments (SCAG) projects Orange County's population growth to be 417,000 new residents over the next 20 to 25 years.<sup>1</sup> Presently, there is a housing shortage in Orange County. Conversely, home prices have appreciated 21% in one year. The combination of population growth and limited supply will continue to complicate the challenge of housing accessibility and affordability for the City and the region. For this reason, regional housing policy under Senate Bill 375 supports the practice of infill development. Small lot development represents one of many housing strategies that the City may use to alleviate demand for housing, revitalize areas, and fulfill a fair share of regional housing goals.

<sup>1</sup> Southern California Association of Governments. Regional Forecast Appendix.  
[http://rtpscsc.scag.ca.gov/Documents/2012/final/SR/2012IRTP\\_GrowthForecast.pdf](http://rtpscsc.scag.ca.gov/Documents/2012/final/SR/2012IRTP_GrowthForecast.pdf)



**Orange County  
 Chapter**

Building Industry Association  
 of Southern California

17744 Sky Park Circle  
 Suite 170  
 Irvine, California 92614  
 949.553.9500  
 fax 949.769.8943  
[www.biaoc.com](http://www.biaoc.com)

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CHIEF EXECUTIVE OFFICER  
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**Economic Benefits of Housing**

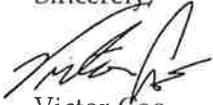
In an annual study of 100 metropolitan markets, the National Association of Home Builders found that three jobs and over \$90,000 in government revenue are initially generated by every home built. Developer fees are often earmarked specifically for maintaining quality of life through the improvements of schools, parks, roads, police and fire services.

On average, over three-fifths of a household's income is spent in the local economy. In a hypothetical situation where 50 homes are built in Costa Mesa, approximately \$2.0 million will be spent on local businesses and over \$157,000 will be generated in sales tax annually. By providing tools to redevelop underutilized and under-performing properties, the City's Small Lot Ordinance would help foster economic development and infrastructure improvement that contributes directly to the quality of life of Costa Mesa residents.

**For these reasons, we support urge your recommendation to City Council to approve the Small Lot Ordinance.** We commend the City for the extensive outreach and research on how small lot development can benefit the community of Costa Mesa. We believe the proposed ordinance will streamline planning and building processes, and establish guidelines for homes to integrate with the community fabric. As always, we remain a resource to the City on important issues that are related to the well-being of our local communities.

Thank you for your time and thoughtful consideration.

Sincerely,



Victor Cao  
Government Affairs Manager

Cc: Mr. Gary Armstrong, Deputy CEO  
Ms. Claire Flynn, Asst. Dev. Services Director

**ASHABI, MINOO**

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**From:** Sheila Pfafflin [spfafflin@gmail.com]

**Sent:** Wednesday, September 11, 2013 10:49 AM

**To:** ASHABI, MINOO

**Subject:** Opposition to proposed zoning ordinance for small lot single family developments

Dear Ms. Ashabi;

I am strongly opposed to the proposed zoning ordinance. The obvious solution to repeated variance requests is not to grant them, except in a special (and unusual) set of circumstances.

This ordinance seems to wipe out numerous protections provided by our current zoning, which should not be wiped out, but respected. If a developer cannot conform to current requirements, the development should not be built.

Sheila Pfafflin