



## Community and Economic Development Department

# Memorandum

**DATE:** SEPTEMBER 16, 2025

**TO:** CITY COUNCIL / SUCCESSOR AGENCY

**FROM:** SUNAYANA THOMAS, DIRECTOR OF COMMUNITY AND ECONOMIC DEVELOPMENT  
CHRIS SCHAEFER, AICP, PLANNING MANAGER

**SUBJECT:** SUPPLEMENTAL INFORMATION REGARDING ADOPTION OF OBJECTIVE DEVELOPMENT STANDARDS FOR MULTIPLE FAMILY RESIDENTIAL ZONES

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### SUMMARY

This memo provides responses to City Council's questions and community comments regarding the update of the Fullerton Municipal Code to remove subjective and replace them with objective development standards for multi-family residential zones.

As submitted for the City Council public hearing on August 19, 2025, the consideration for the proposed revised objective development standards were continued to a date certain (September 16, 2025) to allow Staff to provide responses to questions and requests submitted prior to the meeting. These questions and comments (Attachments 1 and 2) are listed and responses to each one are below.

### CONSIDERATIONS

The request to adopt an Ordinance amending the FMC for the creation of objective development standards for the various residential zones is based on several overlapping requirements. These include the following:

- Regional Housing Needs Assessment for the 6<sup>th</sup> Cycle (RHNA). The State of California through the Southern California Association of Governments (SCAG) assessed Fullerton with a requirement for providing new housing totaling 13,209 units between 2021 and 2029. As of December 31, 2024, Fullerton has received credit for 1,452 units towards the RHNA and at the current rate of development, will not meet its assessment.
- No Net Loss. The No Net Loss Law, codified in Government Code Section 65863, was enacted to ensure that cities and counties in California do not reduce the potential capacity for new housing development. This law mandates that local governments maintain sufficient sites in their Housing Element inventories to accommodate

their RHNA, particularly for lower- and moderate-income households. Key requirements of this include:

- Maintain Adequate Sites: Local jurisdictions must ensure that they have enough available sites to meet their remaining unmet RHNA for each income category at all times during the planning period. This means that if a jurisdiction approves a development that results in fewer units than anticipated, it must either demonstrate that remaining sites can accommodate the unmet need or identify additional sites to make up for the shortfall.
- No Reduction in Density: Jurisdictions cannot take actions that would reduce the residential density of a parcel unless they can prove that the remaining sites in their inventory can still meet the RHNA. This includes zoning changes or land use decisions that would decrease the number of potential housing units.
- Monitoring and Compliance: Local governments are required to continuously monitor their housing capacity and make adjustments as necessary to comply with the No Net Loss Law. If a development proposal is approved that does not align with the anticipated capacity in the Housing Element, the jurisdiction has 180 days to identify and make available additional adequate sites.
- State laws requiring objective development standards. Recent state laws in California have mandated the adoption of Objective Development Standards (ODS) for certain housing and mixed-use projects. These standards require local governments to make decisions based on objective criteria rather than subjective assessments, streamlining the approval process and providing predictability for developers. Key laws include SB 35, SB 330 and AB 2011, which require that for specific types of projects, jurisdictions may only consider ODS that are in place at the time of application. ODS are designed to be measurable, verifiable and uniformly applicable, ensuring that development decisions are clear and consistent.
- Fullerton Housing Element for the 6<sup>th</sup> Cycle. The City Council adopted the Housing Element on January 7, 2025, via Resolution 2025-003 which was certified by the California Department of Housing and Community Development (HCD) on February 27, 2025. The Housing Element contains 18 policies with approximately 100 subtasks that call out actions that Staff is required to complete with related deadlines. The City is required to show compliance with the Housing Element via the Annual Progress Report that is submitted to HCD on an annual basis. Cities that are shown to be in violation with their Housing Element or General Plan face potential repercussions such as loss of state funding, ineligibility for grants and levy of fines. The City is required to complete the FMC code updates for objective development standards by December 2025.

The first portion of the objective development standards were approved by the City Council on January 21, 2025, when the Housing Incentive Overlay Zone (HIOZ) was adopted via Ordinance No. 3335 with a minor adjustment made via Ordinance No. 3337. The City Council is now considering the multiple family residential objective standards and those standards for single-family residential properties are in progress; however, have not yet been reviewed by the Planning Commission.

## RESPONSE TO COMMENTS

The following comments in italics were provided prior to the August 19, 2025, City Council meeting with responses following each item.

1. *The proposed multi-family zoning wholesale overhaul to the R-G, R-3R, R-3, R-3P, R-4, R-5, and R-MH zoning classifications should be studied more closely so the City Council and/or Planning Commission (if you send it back to them) can fully understand all the development standards that are being completely erased! A comprehensive table should be prepared comparing the existing multi-family standards with the proposed standards! Maybe some should remain?*

Response: As part of HCD's review of the Housing Incentive Overlay Zone (HIOZ) and the Housing Element Update, all multi-family standards were reviewed, revised with HCD's input, and finalized. The standards now before Council mirror those HCD has already approved, which means the City has limited flexibility to make further changes without risking compliance.

Where existing standards were written subjectively but could be converted into clear, objective language, staff has done so. Where provisions did not reflect best practices, those sections were removed and necessary standards were reinserted in ways that maintain local preference while meeting State requirements. Because these subjective provisions were dispersed across multiple code sections, the update consolidates them into a clearer, streamlined format.

2. *The PC staff report and the CC report do not go into much detail other than the purpose which is to eliminate subjective standards. However, there are numerous objective standards being eliminated too. Why?*

Response: In many cases, what may seem like "removal" is actually reorganization. Standards that could be written in clear, objective terms were carried forward into the updated sections. Provisions that relied on subjective language or outdated approaches, such as broad design "intent" statements or photographs without accompanying rules, were replaced with measurable standards and annotated diagrams to provide the same direction in a more consistent way.

Sections 15.10 and 15.12 attempted a form-based form-based code approach addressing building and frontage types but relied heavily on subjective criteria. They do not meet state requirements for objectivity. The use of non-annotated photographs to illustrate design guidance is not consistent with best practices. It was therefore decided to eliminate these sections and move appropriate existing objective standards into the overhauled MF developmental standards sections (15.07.075 and 15.07.070). This was a cleanup step to simplify and streamline the code for users.

15.07.075 and 15.07.070 now incorporate all objective standards for future MF developments (HIOZ and non- HIOZ respectively). New and easy-to-understand diagrams and graphics, with clear annotations are added to clarify and support the code language.

15.07.075 and 15.07.070 are consistent with state law, best practices for user-friendliness, and incorporate standards that had previously existed in the original

15.07.070. Any topics that deviate in detail or approach from the current standards do so for the above reasons or to not intrude into or conflict with the city's building code.

3. *Put a "2-story height limit" for structures within the 100' buffer on multi-family zoning classifications (in addition to the 30' height limit). This would be more consistent with the current multi-family zoning standards.*

Response: Staff understands the intent to maintain compatibility with adjacent neighborhoods. The difficulty is that imposing a two-story limit would affect more than 500 parcels and reduce housing capacity, which under the State's No Net Loss law would require the City to zone additional sites elsewhere within 180 days. Because Fullerton did not build in a buffer when the Housing Element and HIOZ were approved, there is very little flexibility to reduce capacity now without creating compliance risks.

To balance compatibility, building massing is already constrained through Floor Area Ratio (FAR) requirements, which cap overall bulk and intensity regardless of building height.

4. *Put a height limit of 65' when beyond the 100' buffer, instead of "unlimited" height. This would be identical to the recently HIOZ height limit adopted by the City Council.*

Response: This change would be considered a violation of the No Net Loss Law due to the loss of potential buildable area. In practice, building height in this situation is limited by Floor Area Ratio (FAR) requirements which caps the amount of building area that can be constructed. FAR information is contained within The Fullerton Plan.

5. *It's unfortunate that my communication with attachments to the PC back in Feb. 2025 regarding this zoning amendment was not included in the CC staff report this evening. As a result, you have not received the entire PC public hearing record in your packet. All you have received is the PC minutes.*

Response: These comments were provided to the Planning Commission for consideration and the Commission decided not to incorporate them into the final approved resolution.

6. *We appreciate the Planning Commission including R1P in what you see tonight but would also like to see R2P and R3P since they also pertain to historic structures, and of course, landmarked buildings.*

Response: Expanding to R2P and R3P would affect more than 75 parcels and reduce housing capacity, which could create compliance issues under the No Net Loss law. Without a buffer in the Housing Element, such reductions must be replaced by identifying other sites within 180 days.

It is important to note that historic resources in these zones are still subject to CEQA review and protections under the City's Local Register, ensuring that historic considerations remain part of project review.

7. *CEQA should still kick in if a building is historic-designation eligible, even if not landmarked or in a preservation zone.*

Response: Staff agrees. All development proposals are checked against State, National, and local historic registers. For properties over 50 years old or potentially significant, staff consults with preservation experts and Fullerton Heritage and applies CEQA requirements where eligibility may exist. While property owner rights must also be respected, staff works to preserve historic resources whenever feasible.

8. *Please revise this sentence on p. 56 so the City is not agreeing to more than the State requires and removing parking requirements where public transit is not robust enough to easily use:*

Current phrasing: *Exception: For projects within ½ mile of public transit per California Government Code Section 65863.2, off-street parking minimum requirements shall be waived.*

Suggested phrasing: *Exception: For projects within ½ mile of a major transit stop as defined in Section 21064.3 of the California Public Resources Code, off-street parking minimum requirements shall be waived. A "major transit stop" means a site containing any of the following:*

- (a) An existing rail or bus rapid transit station.*
- (b) A ferry terminal served by either a bus or rail transit service.*
- (c) The intersection of two or more major bus routes with a frequency of service interval of 20 minutes or less during the morning and afternoon peak commute periods.*

Response: California Government Code Section 65863.2 prohibits public agencies from imposing or enforcing minimum automobile parking requirements on residential, commercial or other development projects located within one-half mile of public transit. The legislature recognizes that mandatory parking minimums can increase housing costs, limit available units and contribute to greenhouse gas emissions. This section is part of a broader effort to promote sustainable development and reduce reliance on automobiles.

Staff does not recommend changing the language in the proposed FMC amendment. Because the Government Code is already referenced directly, the definition of “public transit” will always default to the current statutory meaning. Adding a second reference to Section 21064.3 would be redundant and could require unnecessary code amendments each time the State modifies its definitions. If Council prefers the alternate phrasing, staff can incorporate it at this time.

We are available to answer any questions you may have on this analysis.

Attachments:

- Attachment 1 – Email from Scott Hess
- Attachment 2 – Email from Jane Reifer

cc: Interim City Manager Eddie Manfro

## Chris Schaefer

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**From:** Lucinda Williams  
**Sent:** Tuesday, August 19, 2025 3:00 PM  
**To:** Chris Schaefer  
**Subject:** FW: [EXTERNAL MAIL]CITY COUNCIL CORRESPONDENCE ITEM 19

More fyi

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**From:** [REDACTED]  
**Sent:** Tuesday, August 19, 2025 2:53 PM  
**To:** City Clerk's Office <CityClerksOffice@cityoffullerton.com>  
**Subject:** [EXTERNAL MAIL]CITY COUNCIL CORRESPONDENCE ITEM 19

### **CAUTION: BE CAREFUL WITH THIS MESSAGE**

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Mayor and City Council Members,

The PROPOSED MULTI-FAMILY ZONING wholesale overhaul to the R-G, R-3R, R-3, R-3P, R-4, R-5, and R-MH zoning classifications should be studied more closely so the City Council and/or Planning Commission (if you send it back to them) can fully understand all the development standards that are being completely erased! A comprehensive table should be prepared comparing the existing multi-family standards with the proposed standards!

Maybe some should remain?

The PC staff report and the CC report do not go into much detail other than the purpose which is to eliminate subjective standards. However, there are numerous objective standards being eliminated too. Why?

If the Council moves forward to approve the proposed changes tonight, here are two recommendations regarding building height to please consider:

1. Put a "2-story height limit" for structures within the 100' buffer on multi-family zoning classifications (in addition to the 30' height limit). This would be more consistent with the current multi-family zoning standards.
2. Put a height limit of 65' when beyond the 100' buffer, instead of "unlimited" height. This would be identical to the recently HIOZ height limit adopted by the City Council.

It's unfortunate that my communication with attachments to the PC back in Feb. 2025 regarding this zoning amendment was not included in the CC staff report this evening. As a result, you have not received the entire PC public hearing record in your packet. All you have received is the PC minutes.

Thank you for your consideration,

Scott Hess

(Long Time Fullerton Resident)



## Chris Schaefer

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**From:** Lucinda Williams  
**Sent:** Tuesday, August 19, 2025 3:00 PM  
**To:** Chris Schaefer  
**Subject:** FW: [EXTERNAL MAIL]RE: FULLERTON MUNICIPAL CODE TITLE 15 AMENDMENTS - Public Hearing Item 19

FYI

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**From:** Jane Reifer [REDACTED]  
**Sent:** Tuesday, August 19, 2025 2:52 PM  
**To:** Council Members <CouncilMembers@ci.fullerton.ca.us>; City Clerk's Office <CityClerksOffice@cityoffullerton.com>  
**Subject:** [EXTERNAL MAIL]RE: FULLERTON MUNICIPAL CODE TITLE 15 AMENDMENTS - Public Hearing Item 19

### CAUTION: BE CAREFUL WITH THIS MESSAGE

This email came from outside City of Fullerton. Do not open attachments, click on links, or respond unless you expected to.

August 19, 2025

Subject: **FULLERTON MUNICIPAL CODE TITLE 15 AMENDMENTS – Public Hearing Item 19**

Dear Mayor Jung and Councilmembers,

We appreciate the Planning Commission including R1P in what you see tonight but would also like to see R2P and R3P since they also pertain to historic structures, and of course, landmarked buildings. Separately, CEQA should still kick in if a building is historic-designation eligible, even if not landmarked or in a preservation zone.

Also, please revise this sentence on p. 56 so the City is not agreeing to more than the State requires and removing parking requirements where public transit is not robust enough to easily use:

Current phrasing: Exception: For projects within ½ mile of public transit per California Government Code Section 65863.2, off-street parking minimum requirements shall be waived.

Suggested phrasing: Exception: For projects within ½ mile of a major transit stop as defined in Section 21064.3 of the California Public Resources Code, off-street parking minimum requirements shall be waived. A “major transit stop” means a site containing any of the following:

- (a) An existing rail or bus rapid transit station.
- (b) A ferry terminal served by either a bus or rail transit service.
- (c) The intersection of two or more major bus routes with a frequency of service interval of 20 minutes or less during the morning and afternoon peak commute periods

References:



“Public transit” means a major transit stop as defined in [Section 21155 of the Public Resources Code](#).  
Link to California Government Code Section 65863.2: <https://codes.findlaw.com/ca/government-code/gov-sect-65863-2/>  
A major transit stop is as defined in Public Resources Code [Section 21064.3](#) :  
<https://codes.findlaw.com/ca/public-resources-code/prc-sect-21064-3/> :

Thank you for the opportunity to comment on this important issue,

Jane Reifer  
