



THE CITY OF SAN DIEGO

REPORT TO THE PLANNING COMMISSION

DATE ISSUED: April 22, 2011 **REPORT NO.** PC-11-035

ATTENTION: Planning Commission, Agenda of April 28, 2011

SUBJECT: AMENDMENTS TO THE REGULATIONS FOR COMMUNITY GARDENS (PROCESS 5)

SUMMARY

Issue: Should the Planning Commission recommend to the City Council approval of amendments to the regulations for community gardens in the Land Development Code (Chapter 12, Article 3, Division 6; Chapter 13, Article 1, Divisions 4 and 5; Chapter 14, Article 2; Chapter 15, Article 1, Division 4; and Chapter 15, article 5, Division 2) and the City's Local Coastal Program to increase the number of locations in the City where community gardens may be developed as a limited use?

Staff Recommendation: Recommend that the City Council APPROVE the amendments to the Land Development Code and the City's Local Coastal Program.

City Council: On January 14, 2011 the City Council voted 8-0 to initiate the zoning action for the amendments to the Planned District Ordinances consistent with Section 151.0202(a) of the Municipal Code.

Land Use & Housing Committee of the City Council (LU&H): LU&H has held three hearings on the issue of community gardens; January 21, 2009, March 3, 2010, and February 1, 2011. In general the hearings focused on the approval process, the associated costs, and the length of time to process a community garden project.

Code Monitoring Team (CMT): On March 9, 2011 the CMT voted 10-0 to recommend approval of the amendments to the community garden regulations with the following modifications as approved by separate motions (votes in parenthesis):

- Allow as a limited use in residential and commercial zones through a Process One "Community Garden Permit" valid for five years with renewable extension available subject to NCC tracking. (10-0)
- Permit only the sale of products grown onsite. Allow onsite sales in residential, commercial, and industrial zones. (7-3)
- Require storage, refuse, and composting facilities to be centrally located. (10-0)

- Prohibit growing of medical marijuana in community gardens. Request the City Council direct the City Attorney's Office to address this in the public safety medical marijuana ordinance. (10-0)
- Delete requirement for an onsite water meter. (7-3)
- Delete requirement for fencing and locking garden. (10-0)

Community Planners Committee (CPC): On February 22, 2011 the CPC discussed community gardens and provided comments on potential amendments to the regulations. Staff modified the regulations in an effort to address the comments provided. On March 22, 2011 the CPC 16-5-1 to recommend approval of the amendments to the community garden regulations with the following modifications as approved by separate motions (votes in parenthesis):

- Require a (no fee) Process Two permit in residential and commercial zones valid for three years with renewable extension available subject to NCC tracking. (16-5-1)
- Permit only the sale of fresh unprocessed products grown onsite. Allow onsite sales only in commercial and industrial zones. (18-2-1)
- Require storage, refuse, and composting facilities to be centrally located. (21-0-1)
- Prohibit growing of medical marijuana in community gardens. Request the City Council direct the City Attorney's Office to address this in the public safety medical marijuana ordinance. (21-0-1)
- Delete requirement for an onsite water meter. (20-0-2)
- Delete requirement for fencing and locking garden. (16-5-1)

City Heights Area Committee: On April 4, 2011 the City Heights Area Committee voted 10-0 to 1 to recommend approval of the amendments to the community garden regulations with the following recommendations:

- That community planning groups receive notification when an application is made for process 1 community garden permit
- That community gardens adjacent to environmentally sensitive lands be subject to Process 3.

Uptown Planners: On April 5, 2011 the Uptown Planners voted 11-4-1 to recommend approval of the amendments to the community garden regulations.

Additional Public Outreach: The proposed amendment to the community garden regulations of the Municipal Code and Local Coastal Program was made available to all individuals and organizations on the City Planning and Community Investment Department's interested party's list for a two week review and comment period beginning on March 24, 2011. The list contains approximately 3,000 contacts including the members of the City's community planning groups. The draft amendment has also been posted on the Development Services Department's website with instruction on how to comment.

Environmental Review: The City of San Diego, as lead Agency, has reviewed the project in accordance with CEQA Section 15162 and has determined that no additional impacts and/or mitigation measures are required beyond those that were analyzed in the original Environmental Impact Report No. 96-0333, SCH 96081056, certified on November 18, 1997, by the City Council, Resolution No. 98-288.

Fiscal Impact Statement: Amendments to the Municipal Code for the Community Garden Regulations are being funded by the Southeastern Development Corporation and as an overhead expense in the Development Services Department's budget as a part of the Land Development Code Update Program.

Code Enforcement Impact: The amended regulations would not result in an impact on Neighborhood Code Enforcement.

Housing Impact Statement: The proposed amendment would not affect provision of housing units.

BACKGROUND

Community gardens are identified in the San Diego Municipal Code as a separately regulated use. Separately regulated uses are those uses that, without use-specific regulation, have the potential to impact surrounding properties. The Municipal Code includes those use-specific regulations, that when implemented, reduce impacts enough to permitted the use as a limited use (by-right) or with an approved discretionary permit. The current separately regulated use regulations for community gardens generally address requirements to fence and secure the garden, prohibit onsite sales, provide water access and drainage, locate storage facilities, and limit hours of operation.

Table 1 identifies how community gardens are regulated throughout the City's base zones. Depending on the zone they are either a permitted as a limited use, permitted subject to an approved discretionary permit, or prohibited. Most notable are that in all residential zones (except for a prohibition in RM-5-12) community gardens require a Process Two Neighborhood Use Permit and that in all commercial zones community gardens are prohibited. It should also be understood that community gardens are subject to any other permit that may be required, such as a Site Development Permit on a site with environmentally sensitive lands.

The costs and time associated with processing a community garden in the City of San Diego has been the subject of several hear public hearings and new articles in the past two. The initial response to the issues was two-fold. First, the review time and costs were to be reduced by limiting the number of staff reviewers to only those that were absolutely necessary. Second a Community Garden Information Bulletin was created and focused on describing the process, clarifying the submittal requirements, and identifying types of locations to avoid.

**Table 1
Existing Zoning - Community Gardens**

Zone	Limited Use	NUP*	Prohibited
Open Space			
OP-1-1			X
OP-2-1		N	
OC-1-1			X
OR-1-1 & OR-1-2		N	
OF-1-1	L		
Agricultural			
AG-1-1 & AG-1-2			X
AR-1-1 & AR-1-2	L		
Residential			
All Single Family		N	
RM-1-1 → RM-4-11		N	
RM-5-12			X
Commercial			
All Commercial			X
Industrial			
IP-1-1 & IP-2-1			X
IL-1-1 & II-3-1		N	
IL-2-1			X
IH-1-1 & IH-2-1		N	
IS-1-1		N	

* Process 2 Neighborhood Use Permit

In recent hearings the City Council stated they would like the process of developing a community garden simplified to increase the number of locations that would allow community gardens as a limited use. In particular the City Council would like to see community gardens permitted as a limited use in all commercial zones (inclusive of planned district ordinances) and in residential zones if the regulations could be modified to address any potential impacts or conflicts with residential use. The Mayor's Office has directed to staff to make revisions to the regulations consistent with the wishes of the City Council.

DISCUSSION

Across the country community gardens and urban farms are rapidly gaining recognition as a potentially significant means of providing a local sustainable food source. The City of San Diego General Plan also recognizes this opportunity and identifies community gardens as having the ability to “contribute to community development, environmental awareness, positive social interaction, community education, and general health.” The benefits of community gardens include but are not limited to:

- Producing nutritious food
- Conserving resources
- Reducing food budgets,

- Providing a catalyst for neighborhood and community advancement
- Reducing urban heat island affects
- Beautifying neighborhoods
- Creating opportunities for recreation, exercise, and education
- Stimulating social interaction
- Providing opportunities for intergenerational and cross-cultural connections
- Improving the quality of life for people in the garden

The proposed amendment to the City’s regulations for community gardens expands the number of zones where a community garden may develop by-right (as a limited use). It is proposed that community gardens be allowed as a limited use in all residential zones and commercial zones throughout the City; including within all planned district ordinances. This means that community gardens will be a by-right use providing the garden complies with the separately regulated use requirements for community gardens is Section 142.0203 of the Municipal Code.

The amendment also modifies the regulations for developing and operating a community garden. These modifications were developed to address concerns raised by the CPC, the CMT, and the community garden advocates. The CPC raised concerns related dealing with gardens that are not maintained, onsite sales, and growing of medical marijuana. The CMT generally acted to reduce restrictions on community gardens but was concerned with the issue of onsite cultivation medical marijuana. Advocates for community gardens were concerned with the requirements for onsite water meters and fencing, limiting onsite sales to commercial and industrial zones only, and locational requirements for storage and other onsite facilities.

The amended regulations address a mixture of the concerns raised by each of these groups. Generally, the stakeholders are in agreement with the ordinance. The two areas of disagreement are the process (Process One versus Process Two) and where onsite sales can occur (residential, commercial and industrial zones versus commercial and industrial zones). Staff reviewed these differences and drafted the regulations based on the specific direction provided to staff by the City Council and the Mayor’s Office, compromise solutions between opposing positions, and potential for land use conflicts. Table 2 identifies the concerns and how they were addressed in the draft amendment.

**Table 2
How Concerns are Addressed**

	Concern	How Addressed	Section	Support by
1	No method to remove a garden that doesn’t comply with the regulations.	<ul style="list-style-type: none"> • Requires responsible Party contact information to be posted • Requires ministerial Community Garden Permit • Permit is good for 3 years • Revocable if two or more violations within 12 month period 	142.0203(e) 142.0203(a) 123.0605(a) 123.0606	CMT CGA
2	Potential impacts i.e. traffic and parking due to onsite sales in residential zones.	Onsite sales are limited to commercial and industrial zones.	141.0203(b)(1)	CPC

**Table 2
How Concerns are Addressed**

	Concern	How Addressed	Section	Support by
3	Sales of merchandise & produce from other locations and selling prepared foods.	Only unprocessed, non value-added products grown onsite may be sold at the garden.	141.0203(b)(2)	CMT CPC CGA
4	Individuals may attempt to cultivate medical marijuana onsite.	Not addressed in these regulations. The CMT and CPC requested the City Council direct the City Attorney to address this in the Public Safety Ordinance for Medical Marijuana.	N/A	CGA CMT CPC
5	Some vacant sites have no water meter & the cost to install starts at \$14,000.	The requirement has been deleted. Gardeners will evaluate each location to determine if it is feasible to garden using other methods including agreements with adjacent property owners to pay fixed fees and or/submeter.	N/A	CGA CMT CPC
6	Delete fence & locking requirement. Fences deter members of the community from enjoying gardens & are costly.	The requirement for fencing has been deleted. Gardens may erect fences as they choose consistent with citywide fence regulations.	N/A	CGA CMT CPC
7	The requirements to locate storage, compost, and waste facilities at the center and rear of the property do not make operational sense.	Requires storage, compost, and waste facilities be located as close to the center of the property as possible.	141.0203(f) 141.0203(g) 141.0203(h)(1)(D)	CGA CMT CPC

CGA - Community Garden Advocates
CMT - Code Monitoring Team
CPC - Community Planners Committee


CONCLUSION

The proposed amendment to the community gardens regulations will permit community gardens in all commercial and residential zones as a limited use with sales of unprocessed, non value-added products grown onsite permitted in only commercial and industrial zones. In order to address potential impacts and community concerns the separately regulated regulations for community gardens have been modified and a new ministerial Community Garden Permit has been created. Community Garden Information Bulletin 550 will be modified accordingly should the community garden regulations be adopted.


ALTERNATIVE

Recommend that the City Council approve the amendment to the Community Gardens regulations of the Municipal Code and the City's Local Coastal Program with modification(s).

Respectfully submitted,



Dan Joyce
Senior Planner,
Development Services Department



Kelly G. Broughton
Director,
Development Services Department

BROUGHTON/DJ

Attachments:

1. Draft Amendments to the Regulations for Community Gardens in
strikeout/underline
2. CEQA 15162 Evaluation Memo

Article 3: Zoning

Division 6: Community Garden Permit

§123.0601 Purpose of Community Garden Permit

The purpose of these procedures is to provide a review of community garden proposals for conformance with the applicable zoning regulations by ensuring compliance with the regulations and minimizing impacts to surrounding properties.

§123.0602 When a Community Garden Permit is Required

A Community Garden Permit is required for a community garden that is proposed in a zone that identifies community gardens as a limited use.

§123.0603 How to Apply for a Community Garden Permit

Prior to *development* of a community garden an *applicant* shall apply for a Community Garden Permit in accordance with Section 112.0102.

§123.0604 Decision on a Community Garden Permit

- (a) A decision on an application for a Community Garden Permit shall be approved in accordance with Process One.
- (b) The *applicant* shall demonstrate on submitted plans that the community garden will comply with the requirements of Section 141.0203.

§123.0605 Issuance of a Community Garden Permit

- (a) The City Manager shall issue a Community Garden Permit when the permit has been approved.
- (b) A Community Garden Permit shall not be issued to a property with a pending code violation case.
- (c) The permit shall be valid for a 3 year period.

§123.0606 Enforcement and Administrative Remedies

Violations of this Division may also result in the revocation of a previously approved Community Garden Permit, in the event that two or more code violations, within a twelve month period, have been determined to exist either prior to or pursuant to the final adjudication of any of the enforcement remedies available under Section 123.0311 of this Code.

Article 1: Base Zones

Division 4: Residential Base Zones

§131.0401 through §131.0420 [No Change]

§131.0422 Use Regulations Table for Residential Zones

The uses allowed in the residential zones are shown in the Table 131-04B.

Table 131-04B
Use Regulations Table of Residential Zones

Use Categories/ Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones																						
	1st & 2nd >>	RE-			RS-										RX-		RT-							
	3rd >>	1-			1-										1-		1-							
	4th >>	1	2	3	1	2	3	4	5	6	7	8	9	10	11	12	13	14	1	2	1	2	3	4
Open Space [No Change]																								
Agriculture																								
Agricultural Processing through Raising, Maintaining & Keeping of Animals [No Change]																								
Separately Regulated Agriculture Uses																								
Agricultural Equipment Repair Shops		-	-										-	-										
Commercial Stables		-	-										-	-										
Community Gardens		NL			NL										NL		NL							
Equestrian Show & Exhibition Facilities		-	-										-	-										
Open Air Markets for the Sale of Agriculture-Related Products & Flowers		-	-										-	-										
Residential through Signs [No Change]																								

Use Categories/ Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones													
	1st & 2nd >>	RM-													
	3rd >>	1-			2-			3-			4-			5-	
	4th >>	1	2	3	4	5	6	7	8	9	10	11	12		
Open Space [No Change]															
Agriculture															
Agricultural Processing through Raising, Maintaining & Keeping of Animals [No Change]															

Use Categories/ Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones												
	1st & 2nd >>	RM-												
	3rd >>	1-			2-			3-			4-		5-	
	4th >>	1	2	3	4	5	6	7	8	9	10	11	12	
Separately Regulated Agriculture Uses														
Agricultural Equipment Repair Shops														
Commercial Stables														
Community Gardens			NL		NL			NL			NL		-L	
Equestrian Show & Exhibition Facilities														
Open Air Markets for the Sale of Agriculture-Related Products & Flowers														
Residential through Signs [No Change]														

Footnotes for Table 131-04B [No Change]

§131.0423 through §131.0466 [No Change]

Article 1: Base Zones

Division 5: Commercial Base Zones

§131.0501 through §131.0520 [No Change]

§131.0522 Use Regulations Table of Commercial Zones

The uses allowed in the commercial zones are shown in Table 131-05B.

Table 131-05B
Use Regulations Table for Commercial Zones

Use Categories/Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones											
	1st & 2nd >>	CN ⁽¹⁾ -			CR-		CO-		CV-		CP-		
	3rd >>	1-			1-	2-	1-	2-	1-	2-	1-	2-	
	4th >>	1	2	3	1	1	1	2	1	2	1	1	
Open Space [No Change]													
Agriculture													
Agricultural Processing through Raising, Maintaining & Keeping of Animals [No Change]													
Separately Regulated Agriculture Uses													
Agricultural Equipment Repair Shops						P	P						
Commercial Stables											L		
Community Gardens			-L		-L	-L	-L	-L	-L	-L	-L		-L
Equestrian Show & Exhibition Facilities											C		
Open Air Markets for the Sale of Agriculture-related													

Use Categories/Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones										
	1st & 2nd >>	CN ⁽¹⁾ -			CR-		CO-		CV-		CP-	
	3rd >>	1-			1-	2-	1-		1-		1-	
	4th >>	1	2	3	1	1	1	2	1	2	1	
Products & Flowers												
Residential through Signs [No Change]												

Use Categories/Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones															
	1st & 2nd >>	CC-															
	3rd >>	1-			2-			3-			4-			5-			
	4th >>	1	2	3	1	2	3	4	5	1	2	4	5	1	2	3	4
Open Space [No Change]																	
Agriculture																	
Agricultural Processing through Raising, Maintaining & Keeping of Animals [No Change]																	
Separately Regulated Agriculture Uses																	
Agricultural Equipment Repair Shops		P	P	-	P	P											
Commercial Stables		-	-	-	-	-											
Community Gardens		-L	-L	-L	-L	-L											
Equestrian Show & Exhibition Facilities		-	-	-	-	-											
Open Air Markets for the Sale of Agriculture-Related Products & Flowers		-	-	-	-	-											
Residential through Signs [No Change]																	

Footnotes for Table 131-05B [No Change]

§131.0530 through §131.0556 [No Change]

Article 1: Separately Regulated Use Regulations

Division 2: Agriculture Use Category--Separately Regulated Uses

§141.0201 [No Change]

§141.0202 [No Change]

§141.0203 Community Gardens

Community gardens are *premises* that are used divided into multiple plots for crop cultivation by individuals parties or collectively, and may be divided into multiple plots. Community gardens are permitted as a limited use in the zones indicated with an "L" and may be permitted with a Neighborhood Use Permit in the zones indicated

with an “N” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations.

- (a) Community gardens permitted as a limited use shall obtain a Community Garden Permit in accordance with Chapter 12, Article 3, Division 6 in addition to the requirements in Sections 141.0203(b) through (i).
- (ab) The on-site sales are permitted as follows: of produce is not permitted.
 - (1) On-site sales are permitted only in commercial and industrial zones.
 - (2) Where on-site sales are permitted, sales are subject to the following:
 - (A) Onsite sales are limited to the sale of unprocessed, non value-added products grown on site; and
 - (B) All sales must be conducted in compliance with laws regulating onsite sales of products grown in the community garden.
- (bc) The site shall be designed and maintained so that water and fertilizer will not drain onto adjacent property to effectively handle all drainage onsite.
- (ed) A minimum 34-foot-wide, clearly marked entrance path shall be provided from the public right-of-way to the garden.
- (d) A permanent fence shall be provided on the perimeter of the garden. Any fence within the front yard or street side yard shall be an open fence. The fence shall be at least 5 feet in height and shall not exceed 6 feet in height. The fence shall include at least one access gate. Except as otherwise provided in this paragraph, fences shall be in compliance with Chapter 14, Article 2, Division 3 (Fence Regulations).
- (e) A permanent sign, including, but not limited to, the name and contact information of the party responsible for the garden shall be posted at the primary entry path adjacent to the right-of-way. The sign shall comply with the requirements of Section 142.1250(c).
- (ef) Refuse storage areas shall be provided and screened to enclose all refuse generated from the garden. Refuse areas shall be located as close as practicable to the rear and center of the property. Refuse shall be removed from the site at least once a week.
- (fg) Storage areas for tools, fertilizers, equipment, and other material shall be enclosed and located as close as practicable to the rear and center of the property.
- (h) Best practice standards shall be used for the following garden operations:

(1) Composting

(A) Composting may be performed onsite;

(B) Composting materials shall only be those materials generated onsite;

(C) Generated compost shall only be used onsite; and

(D) Composting areas shall be located as close as practicable to the center of the property.

(2) Water use

(A) Irrigation water rates shall apply to community gardens.

(B) Community gardens shall include water conserving techniques including but not limited to the following:

(i) Mulch shall be applied to exposed soils in planting areas;

(ii) Soil amendments shall include water retaining matter;

(iii) Water shall be applied only to the base of plants; and

(iv) All hoses shall be equipped with a trigger nozzle.

(C) Watering of plants shall comply with the watering schedule in Section 67.3803.

(3) Community gardens shall comply with the MHPA Land Use Adjacency Guidelines of the Land Development Manual Biology Guidelines.

~~(g) A water meter and hose bibs shall be provided on-site consistent with Chapter 14, Article 2, Division 4 (Landscape Regulations). Irrigation water rates will apply to community gardens.~~

~~(hi) Hours of operation shall be limited to the hours between sunrise and sunset.~~

~~(i) The property shall be locked during nonoperating hours.~~

~~(j) The applicant shall execute and file with the County Recorder a hold harmless and/or indemnification agreement in favor of the City.~~

§141.0204 [No Change]

§141.0205 [No Change]

Article 1: Planned Districts

Division 4: General and Supplemental Regulations

§151.0401 Uses Permitted in the Planned Districts

(a) Where not otherwise specified in the planned district, the uses in Section 151.0401 may be permitted as limited uses or in accordance with the rules and procedures for Neighborhood Use Permits and Conditional Use Permits in Land Development Code Chapters 11 and 12. In addition to the uses listed in this section, other uses may be approved with a Conditional Use Permit as provided in each planned district.

(b) Limited Uses

(1) [No Change]

(2) The following uses are permitted in the planned districts subject to the regulations for limited uses in the Land Development Code section specified for each use and the location restrictions specified for each use.

(A) [No Change]

(B) Community gardens in residential and commercial zones, subject to Land Development Code Section 141.0203.

(~~B~~C) Garage and yard sales in residential zones, subject to Land Development Code Section 141.0305

(~~C~~D) Home occupations in residential zones, subject to Land Development Code Section 141.0308

(~~D~~E) Large family day care homes in zones where residential use is permitted, except in agricultural zoned areas of the Coastal Overlay Zone that contain the 100-year floodplain, subject to Land Development Code Section 141.0606

(~~E~~F) Recycling facilities as follows:

(i) through (v) [No Change]

(c) through (f) [No Change]

Article 5: Planned Districts

Division 2: Central Urbanized Planned District

§155.0201 through 151.0236 [No Change]

§155.0238 Use Regulations Table of CU Zones

The uses allowed in the CU zones are shown in Table 155-02C:

**Table 155-02C
Use Regulations Table for CU Zones**

Use Categories/ Subcategories [See Land Development Code Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones									
	1st & 2nd >>	CU-									
	3rd >>	1 ⁻⁽¹⁾		2-			3-				
	4th >>	1	2	3	4	5	3 ⁽²⁾⁽¹²⁾	6	7	8	
Open Space [No Change]											
Agriculture											
Agricultural Processing through Raising, Maintaining & Keeping of Animals [No Change]											
Separately Regulated Agriculture Uses											
Agricultural Equipment Repair Shops		-			P				P		
Commercial Stables		-			-				-		
Community Gardens		NL			-L				-L		
Equestrian Show & Exhibition Facilities		-			-				-		
Open Air Markets for the Sale of Agriculture-Related Products & Flowers		-			-				-		
Residential through Signs [No Change]											

Footnotes to Table 155-02C [No Change]

§155.0240 through 155.0253 [No Change]



THE CITY OF SAN DIEGO

MEMORANDUM

DATE: March 30, 2011

TO: Dan Joyce, Senior Planner, Land Development Code Update Team, Development Services Department

FROM: Jean Cameron, Senior Planner, Entitlements Division, Development Services Department

SUBJECT: **Community Gardens Ordinance**, California Environmental Quality Act 15162 Evaluation

The Development Services Department has completed a California Environmental Quality Act 15162 evaluation for the Community Gardens Ordinance project. The review was limited to consideration of California Environmental Quality Act issues associated with the amendments to the municipal code required to specify Community Gardens as a limited use in all residential and commercial zones; and describe and amend the requirements of the use in the separately regulated use regulations. Currently, the use is permitted with a Neighborhood Use Permit (Process 2) in residential zones and is prohibited in commercial zones. It is the determination of the Development Services Department that *no additional impacts are identified beyond those that were analyzed in the original Environmental Impact Report No. 96-0333, SCH 96081056, certified on November 18, 1997, by the City Council, Resolution No. 98-288.* A Mitigation Monitoring and Reporting Program to reduce potentially significant impacts was not adopted for the project.

The increase in the number of locations in the city where community gardens may be developed as a limited use was determined not to result in additional impacts than that had been identified in the previously certified Environmental Impact Report and thus was not a significant or substantial change in the project. This determination was based on review of the certified EIR and the fact that Community Gardens as a separately regulated use is already identified in the Land Development Code.

Section 15162 of the California Environmental Quality Act Guidelines states that when an Environmental Impact Report has been certified or a Negative Declaration adopted for a project, no

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subsequent or supplemental Environmental Impact Report or Negative Declaration shall be prepared for that project unless one or more of the following events occur:

1. Substantial changes are proposed to the project
2. Substantial changes occur with respect to circumstances under which the project is being undertaken
3. New information, which was not known or could not have been known at the time the Environmental Impact Report or Negative Declaration was certified as complete, becomes available.

Taking into consideration the scope of the Land Development Code project already analyzed in the EIR by Development Services Department staff, the nature of the community gardens use, the additional limitations placed on the use, along with review of the previously certified environmental document, it was determined that the proposed ordinance would not result in a substantially changed project. The proposed project would not result in new impacts or changed circumstances that would require a new environmental document.

Because none of the three above events have occurred, Development Services Department staff does not find the need to conduct additional environmental review of the Community Gardens Ordinance project. Therefore, EAS has concluded that the previously certified Environmental Impact Report No. 96-0333 adequately covers the activity being proposed.

Please be aware that the environmental determination may change in response to any project revisions and/or new information.


Jean Cameron
Senior Planner

JC/jc