



THE CITY OF SAN DIEGO

M E M O R A N D U M

DATE: April 29, 2024

TO: Planning Commissioners

FROM: Tait Galloway, Deputy Director, City Planning Department

SUBJECT: Item 1 – 2024 Update to the San Diego Municipal Code (2024 Land Development Code Update) and Local Coastal Program

Item 58 of the 2024 Land Development Code Update includes a proposal to allow for alternative compliance to meet the requirements of Community Plan Implementation Overlay Zone. The Public Right-of-Way in Lieu Fee could be paid when a development is unable to comply with Community Plan Implementation Overlay Zone Supplemental Development Regulations for public right-of-way improvements.

In advance of the April 30, 2024, hearing staff has included a draft resolution (Attachment 1) for the establishment of a Public Right-of-Way in Lieu Fee. The proposed Public Right-of-Way in Lieu Fee Estimate is \$462 per linear foot which is based on the Citywide Mobility Development Impact Fee Nexus Study which identifies the cost for construction in the City of San Diego for a Class IV bicycle facility adjusted to 2024 dollars.

Additionally, Item 9 includes a proposal to limit the length of stay for visitor accommodation uses. The Report to the Planning Commission PC-24-012 included a draft ordinance language to implement Item 9, stating that previously permitted visitor accommodations would not be subject to the length of stay limit. The intent of that language was to allow previously approved visitor accommodations and development proposals for visitor accommodations that have submitted a deemed complete application would not be subject to the length of stay limit, as noted in the description of Item 9 on page 3 of the Report to Planning Commission PC-24-012. Staff has revised Attachment 6 to make this clarification. Refer to the highlighted text.

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Planning Commissioners
April 29, 2024

Sincerely,



Tait Galloway
Deputy Director, City Planning Department

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Attachments:

1. Draft Resolution R-XXXXXX (Public Right-of-Way in Lieu Fee)
2. REVISED Attachment 6: Draft Ordinance - Citywide

cc: Heidi Vonblum, Director, City Planning Department
Elyse Lowe, Director, Development Services Department
Keely Halsey, Assistant Director, Development Services
Brian Schoenfisch, Deputy Director, Urban Division, Development Services
Seth Litchney, Program Manager, City Planning Department
Liz Saidkhanian, Development Project Manager, City Planning Department
Lindsey Sebastian, Deputy City Attorney

DRAFT

RESOLUTION NUMBER

DATE OF FINAL PASSAGE

A RESOLUTION OF THE COUNCIL OF THE CITY
OF SAN DIEGO APPROVING THE PUBLIC RIGHT
OF WAY IN LIEU PROGRAM FEE.

WHEREAS, San Diego Ordinance No. O-_____ related to the 2024 Land Development Code Update regulations establishes a Public Right of Way In Lieu Fee, for when development is unable to comply with a Community Plan Implementation Overlay Zone supplemental development regulation for a public right-of-way improvement and the City Engineer determines the installation of public right-of-way improvement would create undesirable drainage or traffic or pedestrian circulation condition, where payment of a Public Right of Way In Lieu Fee is made to fund the construction of public right-improvements, was considered by the San Diego City Council (City Council) together with this Resolution; and

WHEREAS, the Public Right of Way In Lieu Fee is a fee to waive the requirement of a public right of way improvement that is required by a Community Plan Implementation Overlay Zone supplemental development regulation accordance with San Diego Municipal Code Section 132.1404; and

WHEREAS, the Public Right of Way In Lieu Fee will be used solely to fund public right-of-way improvements that reduce vehicle miles traveled; and

WHEREAS, the cost of constructing public right-of-way improvements within the City of San Diego is approximately \$462 per linear foot based on the Citywide Mobility Development Impact Fee Nexus Study, used by the City of San Diego for the construction of a Class IV bicycle facility adjusted to 2024 dollars; NOW, THEREFORE,

DRAFT

BE IT RESOLVED, by the Council of the City of San Diego, as follows:

I. That the Public Right of Way In Lieu Fee of \$462 per linear feet will be imposed in accordance with San Diego Municipal Code section 132.1404 as adopted. The Public Right of Way In Lieu Fee includes up to a 5 percent administrative fee.

2. That the Chief Financial Officer is authorized to establish an interest-bearing fund for funds collected with the Public Right of Way In Lieu Fee, to be used solely to fund the construction of public right-of-way improvements.

3. That this Resolution shall be effective on the effective date of San Diego Ordinance No. O-_____ adopting the 2024 Land Development Code Update, and shall be in effect at the time building permits are issued, in accordance with Chapter 14, Article 3, Division 7 of the Municipal Code, plus automatic annual increases based on the one-year change (from March to March) in the Construction Cost Index (CCI) for Los Angeles as published monthly in the Engineering News-Record. The increases to the fee consistent with the CCI in Los Angeles shall be automatic and shall not require further action of the City Council. If the one-year change in the CCI in Los Angeles for any given year is less than 0.2 percent, the City Manager or designee may elect to keep the fee unchanged.

APPROVED: MARA W. ELLIOTT, City Attorney

CITY ATTORNEY DIGEST

ORDINANCE NUMBER O-_____ (NEW SERIES)

DATE OF FINAL PASSAGE _____

AN ORDINANCE AMENDING CHAPTER 2, ARTICLE 2, DIVISION 18 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTION 22.1801; AMENDING CHAPTER 2, ARTICLE 2, DIVISION 24 BY AMENDING THE TITLE OF DIVISION 24, AND BY RETITLING AND AMENDING SECTION 22.2402; AMENDING CHAPTER 8, ARTICLE 6, DIVISION 21 BY AMENDING SECTION 86.2102; AMENDING CHAPTER 9, ARTICLE 8, DIVISION 6 BY AMENDING SECTION 98.0607; AMENDING CHAPTER 11, ARTICLE 2, DIVISION 1 BY AMENDING SECTION 112.0103; AMENDING CHAPTER 11, ARTICLE 2, DIVISION 3 BY AMENDING SECTION 112.0310; AMENDING CHAPTER 11, ARTICLE 3, DIVISION 1 BY AMENDING SECTION 113.0103; AMENDING CHAPTER 11, ARTICLE 3, DIVISION 2 BY AMENDING SECTIONS 113.0222, 113.0234 AND 113.0246; AMENDING CHAPTER 12, ARTICLE 2, DIVISION 1 BY AMENDING SECTION 122.0107; AMENDING CHAPTER 12, ARTICLE 5, DIVISION 4 BY AMENDING SECTION 125.0410; AMENDING CHAPTER 12, ARTICLE 5, DIVISION 9 BY AMENDING SECTION 125.0950; AMENDING CHAPTER 12, ARTICLE 5, DIVISION 10 BY AMENDING SECTION 125.1050; AMENDING CHAPTER 12, ARTICLE 6, DIVISION 1 BY AMENDING SECTIONS 126.0108 AND 126.0113, AND BY ADDING NEW SECTION 126.0109; AMENDING CHAPTER 12, ARTICLE 6, DIVISION 5 BY AMENDING SECTION 126.0502; AMENDING CHAPTER 12, ARTICLE 6, DIVISION 7 BY AMENDING SECTION 126.0702; AMENDING CHAPTER 12, ARTICLE 9, DIVISION 1 BY ADDING NEW SECTION 129.0122; AMENDING CHAPTER 12, ARTICLE 9, DIVISION 2 BY AMENDING SECTION 129.0203; AMENDING CHAPTER 12, ARTICLE 9, DIVISION 7 BY AMENDING SECTION 129.0742; AMENDING CHAPTER 13, ARTICLE 1, DIVISION 2 BY AMENDING SECTION 131.0222; AMENDING CHAPTER 13, ARTICLE 1, DIVISION 3 BY AMENDING SECTION 131.0322; AMENDING CHAPTER 13, ARTICLE 1, DIVISION 4 BY REPEALING SECTION 131.0402, AMENDING SECTIONS 131.0420 AND 131.0422, RETITLING AND AMENDING SECTION 131.0423, AND BY AMENDING SECTIONS 131.0431, 131.0442, 131.0443, 131.0445, 131.0446, 131.0449, AND 131.0464; AMENDING CHAPTER 13, ARTICLE 1,

DIVISION 5 BY AMENDING SECTIONS 131.0522, 131.0531, 131.0543 AND 131.0546; AMENDING CHAPTER 13, ARTICLE 1, DIVISION 6 BY AMENDING SECTIONS 131.0622 AND 131.0631, AND BY ADDING NEW SECTION 131.0632; AMENDING CHAPTER 13, ARTICLE 1, DIVISION 7 BY AMENDING SECTIONS 131.0702, 131.0703, 131.0704, 131.0707, 131.0709 AND 131.0710, AND BY ADDING NEW SECTION 131.0719; AMENDING CHAPTER 13, ARTICLE 2, DIVISION 4 BY AMENDING SECTION 132.0402; AMENDING CHAPTER 13, ARTICLE 2, DIVISION 12 BY AMENDING SECTIONS 132.1202 AND 132.1205; AMENDING CHAPTER 13, ARTICLE 2, DIVISION 14 BY AMENDING SECTION 132.1403, AND BY ADDING NEW SECTIONS 132.1404 AND 132.1405; AMENDING CHAPTER 13, ARTICLE 2, DIVISION 15 BY AMENDING SECTIONS 132.1510, 132.1515, AND 132.1550; AMENDING CHAPTER 14, ARTICLE 1, DIVISION 3 BY AMENDING SECTIONS 141.0302, 141.0311, 141.0312, AND 141.0314; AMENDING CHAPTER 14, ARTICLE 1, DIVISION 4 BY RETITLING AND AMENDING SECTIONS 141.0413 AND 141.0421, AND BY ADDING NEW SECTION 141.0423; AMENDING CHAPTER 14, ARTICLE 1, DIVISION 6 BY AMENDING SECTIONS 141.0606, 141.0622, 141.0624, AND 141.0628; AMENDING CHAPTER 14, ARTICLE 1, DIVISION 7 BY AMENDING SECTION 141.0702; AMENDING CHAPTER 14, ARTICLE 2, DIVISION 3 BY AMENDING SECTIONS 142.0305 AND 142.0360, AND BY ADDING NEW SECTION 142.0390; AMENDING CHAPTER 14, ARTICLE 2, DIVISION 5 BY AMENDING SECTIONS 142.0510, 142.0520, 142.0525, AND 142.0560; AMENDING CHAPTER 14, ARTICLE 2, DIVISION 9 BY AMENDING SECTION 142.0910; AMENDING CHAPTER 14, ARTICLE 2, DIVISION 10 BY AMENDING SECTION 142.1010; AMENDING CHAPTER 14, ARTICLE 2, DIVISION 12 BY AMENDING SECTIONS 142.1230, 142.1235, AND 142.1240; AMENDING CHAPTER 14, ARTICLE 2, DIVISION 13 BY AMENDING SECTION 142.1305; AMENDING CHAPTER 14, ARTICLE 3, DIVISION 3 BY AMENDING SECTION 143.0350; AMENDING CHAPTER 14, ARTICLE 3, DIVISION 4 BY AMENDING SECTION 143.0420; AMENDING CHAPTER 14, ARTICLE 3, DIVISION 7 BY AMENDING SECTIONS 143.0720, 143.0740, 143.0742, 143.0743, 143.0744, 143.0746, AND BY ADDING NEW SECTION 143.0748; AMENDING CHAPTER 14, ARTICLE 3, DIVISION 10 BY AMENDING SECTIONS 143.1010, 143.1020, AND 143.1025; AMENDING CHAPTER 14, ARTICLE 3, DIVISION 11 BY AMENDING SECTION 143.1103; AMENDING CHAPTER 14, ARTICLE 3, DIVISION 13 BY

AMENDING SECTIONS 143.1303 AND 143.1310; AMENDING CHAPTER 14, ARTICLE 3, DIVISION 14 BY RETITLING DIVISION 14, AND BY AMENDING SECTION 143.1403; AMENDING CHAPTER 15, ARTICLE 5, DIVISION 2 BY AMENDING SECTIONS 155.0231, 155.0238, 155.0242, AND BY ADDING NEW SECTION 155.0243; AMENDING CHAPTER 15, ARTICLE 9, APPENDIX C; AMENDING CHAPTER 15, ARTICLE 10, DIVISION 2 BY AMENDING SECTION 1510.0201; AMENDING CHAPTER 15, ARTICLE 13, DIVISION 3 BY AMENDING SECTION 1513.0304; AMENDING CHAPTER 15, ARTICLE 13, DIVISION 4 BY AMENDING SECTION 1513.0402; AND AMENDING CHAPTER 15, ARTICLE 16, DIVISION 1 BY REPEALING SECTION 1516.0103, AND BY AMENDING SECTIONS 1516.0106, 1516.0112, 1516.0117, 1516.0121, 1516.0122, 1516.0139, AND 1516.0140, RELATING TO THE 2024 LAND DEVELOPMENT CODE UPDATE.

This Ordinance is an update to the Land Development Code (2024 Code Update) in the San Diego Municipal Code (Municipal Code). The amendments are part of a code monitoring program directed by the Mayor and the City Council (Council) intended to simplify the land development regulations, make the Municipal Code regulations more adaptable, eliminate redundancies and increase predictability in the application of the land development regulations.

The 2024 Code Update addresses 72 issues that are divided into the following categories: regulatory reforms, clarifications, corrections, compliance with state law, and amendments to align the Municipal Code with the City's climate, equity, and housing goals.

The 2024 Code Update generally address the following issues: base zone regulations, Community Plan Implementation Overlay Zones, consolidating of processing, homes and housing incentive programs, landscape regulations, monitored perimeter security fence systems, residential care facilities, rules for calculations and measurements, specific plans, sports arenas and stadiums, tentative maps, urgent care facilities, and corresponding amendments to the Central Urbanized, La Jolla Shores, Mission Beach and Old Town Planned Districts. The

amendments in this 2024 Update are divided into the following categories: regulatory reforms, clarifications, corrections, compliance with state law, and amendments to align the Municipal Code with the City's climate, equity, and housing goals.

This Ordinance contains a notice that a full reading of this Ordinance is dispensed with prior to passage, a written copy having been available to the Council and the public prior to the day of its passage.

Prior to becoming effective, this Ordinance shall be submitted to the San Diego County Regional Airport Authority acting as the Airport Land Use Commission (ALUC) for a consistency determination.

If the ALUC finds this Ordinance consistent with the Airport Land Use Compatibility Plans (ALUCP) for San Diego International Airport, Marine Corps Air Station (MCAS) Miramar, Gillespie Field, Montgomery Field, and Brown Field Airports (collectively, Airports), this Ordinance shall take effect and be in force on the thirtieth day from and after the ALUC's finding of consistency, or on the sixtieth day from and after its final passage, whichever is later, except that the provisions of this Ordinance inside the Coastal Overlay Zone, which are subject to California Coastal Commission jurisdiction as a City of San Diego Local Coastal Program amendment, shall not take effect until the date the California Coastal Commission unconditionally certifies those provisions as a local coastal program amendment.

If the ALUC determines that this Ordinance is inconsistent or conditionally consistent, subject to proposed modifications, with the ALUCPs for the Airports, the Ordinance shall be submitted to the Council for reconsideration.

If the ALUC determines that this Ordinance is conditionally consistent with the ALUCPs for the Airports, but that consistency is subject to proposed modifications, the Council may

amend this Ordinance to accept the proposed modifications, and this Ordinance as amended shall take effect and be in force on the sixtieth day from and after its final passage, except that the provisions of this Ordinance as amended inside the Coastal Overlay Zone, which are subject to California Coastal Commission jurisdiction as a City of San Diego Local Coastal Program amendment, shall not take effect until the date the California Coastal Commission unconditionally certifies those provisions as a local coastal program amendment.

A proposed decision by the Council to overrule a determination of inconsistency or to reject the proposed modifications for a finding of conditional consistency shall include the findings required pursuant to Public Utilities Code section 21670 and require a two-thirds vote. The proposed decision and findings shall be forwarded to the ALUC, the California Department of Transportation, Division of Aeronautics, and the airport operators for the Airports. The Council shall hold a second hearing not less than 45 days from the date the proposed decision and findings were provided, at which hearing any comments submitted by the public agencies shall be considered and a final decision to overrule a determination of inconsistency shall require a two-thirds vote.

If the Council makes a final decision to overrule a determination of inconsistency, this Ordinance shall take effect and be in force on the sixtieth day from and after that final decision, except that the provisions of this Ordinance inside the Coastal Overlay Zone, which are subject to California Coastal Commission jurisdiction as a City of San Diego Local Coastal Program amendment, shall not take effect until the date California Coastal Commission unconditionally certifies those provisions as a local coastal program amendment.

No permits shall be issued for development that is inconsistent with the provisions of this Ordinance unless a deemed complete application for such permits are submitted to the City prior to the date on which the applicable provisions of this Ordinance become effective.

For the amendments associated in Section 131.0422, Table 131-04B, footnote 10; Section 131.0522, Table 131-05B, footnote 21; and Section 131.0707, Table 131-07A, footnote 10, **development permitted as visitor accommodations or development with a deemed complete application for visitor accommodations submitted submitted prior to the effective date of this Ordinance shall not be subject to the 30-length of stay limitation.**

San Diego Ordinances O-21432, O-21439, and O-21719 have been recently considered by the Council; and that Ordinances O-XXX-XX and O-XXX-XX will be considered by the Council in the near future which amend the Municipal Code sections also amended by this Ordinance; therefore, the City Clerk, with the written approval and concurrence of the City Attorney, is authorized to reconcile the numbering of sections and placement of text within these sections upon the final passage of the Ordinances, without further action by the Council, pursuant to San Diego Charter section 275.

A complete copy of this Ordinance is available for inspection in the Office of the City Clerk of the City of San Diego, 2nd Floor, City Administration Building, 202 C Street, San Diego, CA 92101.

LHS:nja
01/25/2024
Or. Dept: DSD
Doc. No. 3540477