THE CITY OF SAN DIEGO

Report to the Planning Commission

DATE ISSUED: October 8, 2026 REPORT NO. PC-26-025

HEARING DATE: October 15, 2026

SUBJECT: Appeal of the Hearing Officer's May 6, 2026, Approval of the 991 Scott Street Project

PROJECT NUMBER: PRJ-1111697

REFERENCE: Hearing Officer Staff Report, Report No. HO-26-025

OWNER/APPLICANT: Douglas H. Austin and Wendy A. Austin, Trustees of The Austin Family Trust Dated May 15, 2017.

SUMMARY

Issue: Should the City of San Diego Planning Commission GRANT or DENY an appeal of the decision of the Hearing Officer to approve a Coastal Development Permit for the remodel of an existing 4,005-square-foot (sf) two-story single-dwelling unit to include the addition of a third floor to accommodate a 798-sf accessory dwelling unit (ADU), the remodel of an existing detached garage, and associated site improvements at 991 Scott Street within the Peninsula Community Plan?

Proposed Actions: DENY the appeal and uphold the Hearing Officer's decision to approve Coastal Development Permit No. PMT-3290032.

Fiscal Considerations: None with this action. All costs associated with project processing are recovered through a deposit account funded by the applicant. Appeal fees are paid by the Appellant.

Code Enforcement Impact: There are no open code enforcement actions on this site.

Housing Impact Statement: The project proposes the remodel of an existing dwelling unit and the addition of a third floor to accommodate a 798-sf ADU. The proposed project would support the City of San Diego General Plan Housing Element Goal 2, Objective G (page HE-66) to "repair and maintain the city's existing housing stock". The proposed ADU would add a dwelling unit to the local housing stock, helping the City of San Diego to meet its Regional Housing Needs Allocation (RHNA) goals.

Community Planning Group Recommendation: On July 18, 2024, the Peninsula Community Planning Group voted 9 – 0 to recommend approval of the project with no conditions or recommendations.

Environmental Impact: This project was determined to be categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15301(e) (Existing Facilities) and 15303 (New Construction or Conversion of Small Structures). The environmental exemption determination for this project was made on February 19, 2026, and the opportunity to appeal that determination ended March 5, 2026. No appeals were filed.

PROJECT BACKGROUND

The 0.12-acre project site is located at 991 Scott Street in the RS-1-7 (Residential – Single Unit) zone, the Coastal Overlay Zone (Appealable – First Public Roadway), the Coastal Height Limit Overlay Zone, Complete Communities Mobility Choices Mobility Zone 2, the Airport Land Use Compatibility Overlay Zone (Review Area 2) for Naval Air Station (NAS) North Island and San Diego International Airport (SDIA), the Parking Impact Overlay Zone, a Transit Priority Area, and the Federal Aviation Administration (FAA) Part 77 Noticing Area for NAS North Island and SDIA within the Peninsula Community Plan and Local Coastal Program Land Use Plan (Community Plan).

A detailed description of the project's setting, including its Community Plan designation, existing and adjacent land uses, and a summary of previously issued permits, can be found in the Report to the Hearing Officer (Attachment 1).

DISCUSSION

Project Description:

The project will remodel an existing 4,005-sf two-story single-dwelling unit by adding a third floor to accommodate a 798-sf ADU, remodeling an existing detached garage, and making associated site improvements. The proposed work includes the removal of an existing storage area on the north side of the detached garage, preserving a two-foot, five-inch side yard setback as a visual corridor to La Playa Cove.

Required Approvals:

1. A Coastal Development Permit (CDP) in accordance with SDMC Sections 126.0702, 126.0707(b), and 126.0704(a)(2).

Hearing Officer Action:

On May 6, 2026, the Hearing Officer APPROVED Coastal Development Permit (CDP) No. PMT-3290032.

Appeal of the Hearing Officer Decision:

On May 19, 2026, Felix Tinkov appealed the project on behalf of Susan Anne McGrath (Attachment 2). The cited grounds for appeal were Factual Error, Conflict with other Matters, Findings not Supported, and New Information.

Legal Standard for Appeal of Hearing Officer Decision:

Pursuant to SDMC Section 112.0506, the following are grounds for appeal:

1. Factual Error. The statements or evidence relied upon by the decision maker when approving, conditionally approving, or denying a permit, map, or other matter were inaccurate;

2. New Information. New information is available to the applicant or the interested person that was not available through that person's reasonable efforts or due diligence at the time of the decision;

3. Findings Not Supported. The decision maker's stated findings to approve, conditionally approve, or deny the permit, map, or other matter are not supported by the information provided to the decision maker; or

4. Conflict with other Matters. The decision to approve, conditionally approve, or deny the permit, map, or other matter is in conflict with a land use plan, a City Council policy, or the Municipal Code.

The following is a summary of the appeal issues and City staff's responses:

Appeal Issue 1: Previously Conforming Premises (Felix Tinkov, Pages 1-3)

Summary of Appellant Claims:

The Hearing Officer held, in error, that the subject property is a previously conforming use to authorize the development of the proposed ADU. The subject property has been developed well in excess of the limits authorized under the original CDP issued by the California Coastal Commission (CCC), CDP Permit No. F5878 and building permits. Because of these exceedances beyond established zoning and land development regulations, the Subject Property is not a previously conforming premises.

Staff Response:

San Diego Municipal Code (SDMC) Section 127.0101 et seq., establishes the City's regulations related to Previously Conforming Premises and Uses. SDMC Section 127.0102(a) states:

> Previously conforming premises or uses must have been established in compliance with all permit requirements and must have been lawful until a change in the applicable zoning

regulations made the premises or uses previously conforming.

Lawful compliance with all permit requirements is determined as follows:

1. **Permitting jurisdiction review requirements.**

   Between 1977 and 1983, the site was under the jurisdiction of the CCC for coastal development, while being under the City of San Diego's jurisdiction for local zoning. The City's authority was limited to the City's own local zoning regulations.

   The City did not have the authority to review proposed development for compliance with the Coastal Act and CCC permits. The applicant was responsible for consulting with the CCC independently to confirm any coastal development substantially conformed with the coastal development permit issued by the CCC.

2. **Documented permitting is proof of legal development.**

   As established above in Item 1, the City's permitting jurisdiction was limited to ensuring compliance with its own local zoning regulations. The permitting record for the subject property establishes that all improvements were legally performed with appropriate permit(s) issued by the City at each phase of development. These improvements were determined to be legal because City staff that reviewed, signed off, and inspected the building permits at those times, would have had to confirm that the building permits were consistent with the zoning regulations in place at that time, even if the square footage of the development exceeded what was approved by the CCC.

Below is a history of the site's permitted development with a brief analysis and staff's responses to the appellants' issues raised in the appeal letter, numbers 1 through 5, and respective year of approval.

1. <u>Original Construction: 1977</u>

   A. August 5, 1977: The CCC issued CDP No. F5878 for the construction of a two-story 1,753-sf single-family residence with a detached 408-sf carport. Totaling 2,161-sf of allowable building area.

   B. August 24, 1977: The City issued Building Permit No. L59955 for the construction of a 2,320-sf two-story single-family residence with a detached structure ("carport").

   C. The County Assessor's Building Record (ABR) identifies the original construction as a 1,486-sf first-floor and a 920-sf second-floor, totaling 2,406-sf for the two-story residence.

The appellant's letter states the existing single-family residence (SFR) was unlawfully expanded to 2,406-sf which exceeds the permitted scope of work under CDP No. F5878 by 653-sf (245-sf for the

two-story residence, plus 408-sf for a detached carport). The original building permit for the construction of the residence (Permit No. L59955) was issued for the construction of a 2,320-sf single-family residence. The issuance of the City's Permit No. L59955 establishes that the City reviewed and approved the proposed development in accordance with the local zoning regulations in effect at the time of permit issuance. As previously noted, it was not in the City's authority to review the development for substantial conformance with permits issued by the CCC; a responsibility that fell on the applicant/property owner(s) and the CCC.

The discrepancies between the floor areas shown on the City's Building Permit No. L59955 identifying 2,320-sf, and those of the County's ABR identifying 2,406-sf for the development may be best explained by the change in the City's method for calculating gross floor area. It is staff's understanding that at the time of permit issuance for City Building Permit No. L59955, gross floor area was calculated as the horizontal area of all floors of a building within the surrounding walls, established by City Ordinance No. 11697, approved on October 8, 1975, and as outlined in SDMC Section 101.0101.25. In contrast, gross floor area today is measured from the exterior surface of the surrounding exterior walls [SDMC 113.0234(a)(1)]. Measuring to the exterior surface of the surrounding exterior walls is consistent with the County's method of measurement, further explaining the discrepancy of 86-sf in floor area.

2. Second-Story Addition and Detached Carport: 1978

    A. May 12, 1978: The California Coastal Commission issued an amendment to CDP No. F5878 for the construction of a 540-sf second-story addition to the residence. This resulted in the development of a 2,293-sf two-story residence and a 408-sf detached carport.

    B. June 13, 1978: The City of San Diego issued Building Permit No. M06557 for a 544-sf second-story addition to the residence.

    C. The County's ABR identifies the second-story addition as a 629-sf addition.

The appellant's letter states that rather than conforming with the allowed square footage of the original CDP permit, the SFR was further enlarged by 629-sf resulting in 3,035-sf of building construction.

The City reviewed the proposed development and determined it complied with the local zoning regulations in effect at the time of issuance of Building Permit No. M06557. As with the original construction, the discrepancy appears to be a change in the City's method for calculating gross floor area. Please refer to staff's analysis provided above under "Original Construction: 1977" for staff's explanation on the square footage numbers listed.

3. Site Improvements: 1978

    A. November 17, 1978: The California Coastal Commission issued CDP No. F7582 for the

construction of a pool, spa, and decks.

B. December 4, 1978: The City of San Diego issued Building Permit No. M38257 for the pool, spa, and decks (as shown on the County's ABR).

The appellant's letter states these improvements were not corrective actions, nor was an authorization granted to exceed the originally allowed building area.

This work and the associated permits are not related to, nor do they affect, the issue being raised by the appellant which focuses on the exceedance of approved floor area for the existing residential development. The only issue being raised is that corrective action was not taken to reconcile the alleged exceedances in floor area. As previously noted, the City's purview was limited to reviewing for compliance with the San Diego Municipal Code and any such exceedances would have been identified and corrected by the CCC.

4. Detached Gym: 1979

A. May 8, 1979: The City of San Diego issued Building Permit No. M63152 for the construction of a 408-sf second-story gym above the existing detached garage.

The appellant's letter states that such conversion from a carport to a garage without authorization from the CCC is a further example of the subject property's lack of conformity with, and exceedance of, its permitted limitations.

Per approved plans for the construction of the gym (Permit No. M63152), the first floor of the structure, which housed the existing carport, is shown as "open," consistent with the typical construction for a carport and with the approved plans for the original construction of the residence and carport. It is important to note that the term garage is likely a misnomer used by staff during the permitting process.

5. Guest House Conversion: 1983

A. February 2, 1983: The City of San Diego issued Building Permit No. A13188 for the conversion of the existing second-story gym to a guest house, including the addition of a bathroom within the existing space of the gym.

The appellant's letter states that it has been noted by Ms. McGrath, and other neighboring residents, that this guest suite is an ADU used for short and long-term stays by individuals other than the project's applicants. The letter states that this puts into significant doubt the project's proposed addition of another ADU as permissible on this lot in light of the restriction against multiple ADU construction in RS-1-7 zoned lots.

The appellant's issue with this detached structure is not related to the approved floor area and how it may affect the exceedance of the project site's total floor area. The specific appeal issue presented is related to the alleged use of the structure as an ADU, rather than a guest house. This leads to their

conclusion that the approval of the proposed 798-sf ADU is not in compliance with the existing regulations of the SDMC and that the proposed ADU should not be permitted. What currently exists above the garage is a guest suite and does not, according to City's permit records, include full independent living facilities with a kitchen. It has only been permitted as a guest suite consisting of a living space and a bathroom. Therefore, the proposal of one attached ADU complies with the regulations of the SDMC in effect at the time the application was deemed complete, per Ordinance O-21254, SDMC Section 141.0302(b)(2)(B) (page 36).

Furthermore, SDMC Section 127.0101 et seq., regulates previously conforming premises and uses. Pursuant to SDMC 127.0102(b), "the property owner or person asserting previously conforming rights for a premises or use has the burden to provide the City Manager with sufficient documentation to establish the existence of the previously conforming premises or use." The records outlined above in the permitting history, and attached hereto, identify that existing development of the project site was completed with all required permits. This establishes that the existing residential development is legal and retains previously conforming rights.

It is important to note that through the review process and staff's recommendation of approval of Coastal Development Permit No. PMT-3290032, no information was provided that would lead staff to the conclusion that the existing guest house may be illegally used as an ADU. Therefore, no such claims were given consideration during project review and in staff's recommendation of approval of CDP Permit No. PMT-3290032. It is further noted that the unpermitted use of a structure does not affect the outcome of the proposed development. Rather, it becomes a code violation issue that would be resolved separately from the scope of this application.

Appeal Issue 2: The City has the Authority and Duty to take Corrective Action (Felix Tinkov, Page 3)

Summary of Appellant Claims:

The proposed development of an ADU is not permissible through the CDP process, because the existing development was never in compliance with its original permit limitations.

The City's authority under its local coastal program does not authorize waiver of state's restrictions made under the Coastal Act. The Coastal Act requires all development in the coastal zone to conform to the applicable LCP and the Coastal Act's policies, and it does not provide a mechanism to legitimize overdevelopment that was never lawfully established. Violation of all relevant development permits' limits places the Subject Property squarely within the ambit of the City's authority, and duty, to take corrective action.

Staff Response:

Please refer to staff's responses to Appeal Issue 1 above. In accordance with SDMC Section 126.0702:

> "A CDP issued by the City is required for all coastal development of a premises within the

Coastal Overlay Zone described in Chapter 13, Article 2, Division 4, unless exempted by Section 126.0704, or if the proposed project site lies completed within the Coastal Commission Permit Jurisdiction of the Deferred Certification Area as described in Section 126.0702(b)."

Between 1977 and 1983, the site was under CCC jurisdiction. During this timeframe, the City's authority was limited to its own local zoning regulations; coastal development permit and Coastal Act consistency review was retained by the CCC.

Currently, the City has the authority to regulate coastal development, in compliance with the certified Local Coastal Program (LCP), which includes but is not limited to policies of the Coastal Act, the City's General Plan and Peninsula Community Plan, and the SDMC. The LCP includes the SDMC and regulations held within. It establishes that compliance with the City's Previously Conforming Regulations also constitutes compliance with the Certified LCP.

As outlined above, development that occurred between 1977 and 1983 conformed to the applicable regulations of the SDMC; therefore, the existing residential development retains previously conforming rights and is regulated as such under the Certified LCP.

Appeal Issue 3: The project is not proposing an ADU (Felix Tinkov, Page 3)

Summary of Appellant Claims:

What is sought through the project is not an ADU in the sense that its intended use is for rental or sale to a low-income family to relieve the City's housing shortage; rather it is little more than a facetious effort to cram a third story addition onto an already grossly overbuilt SFR.

Staff Response:

The proposed scope of work meets the definition of an ADU. Consistent with SDMC 113.0103, it provides complete independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking, and sanitation, and is located on the same premises as the existing single-dwelling unit.

Appeal Issue 4: Violation of the California Coastal Act by obstructing public views of, and access to, the Pacific Ocean, from neighboring public streets by evading zoning requirements (Felix Tinkov, Pages 3-4)

Summary of Appellant Claims:

The addition is not only going to violate current development regulation, without the benefit of a previously conforming use, and obstruct neighboring property owners' enjoyment of their homes, it will blot out public views and access to the Pacific Ocean, from neighboring public streets in violation of the California Coastal Act by evading all manner of zoning requirements including FAR, setbacks, and building envelope limitations.

Staff Response:

The proposal complies with all applicable development standards, including those identified by the appellant, and the Coastal Act. This ensures the development complies with the protection of public views as mandated by the Coastal Act, by maintaining and enhancing public visual access to San Diego Bay.

The Peninsula Community Plan states in the Recommendations for the Urban Design guidelines:

> 1) Structures should be designed to protect views of Peninsula's natural scenic amenities, especially the ocean shoreline, and San Diego Bay
>
> 2) View corridors, by utilizing side yard setbacks, should be encouraged along the ocean and bay shoreline and bluff-top areas in order to avoid a continuous walled effect along the shoreline. Narrow corridors create visual interest and allow for sea breezes, and
>
> 3) Setbacks and view corridors should be kept clear of obstacles which may interfere with visual access

The current proposal adheres to all these recommendations as there are no proposed encroachments into required side yard setbacks. The underlying RS-1-7 zone requires a side yard setback of .08% of the lot width, which results in a setback of two feet (2') [Strikeout Ordinance No. O-21836, SDMC Section 131.0431(a), Table 131-04D. However, the proposed development was designed to provide a greater setback from side property lines of two feet, five inches (2'-5"), increasing privacy between the subject property and neighboring properties.

In compliance with SDMC Section 131.0461(a), which prohibits architectural projections and encroachments into required side yards within view corridors that are designated by the land use plan in the Coastal Overlay Zone, the project proposes to remove an existing 43-sf storage area attached to the northern side of the existing garage, adjacent to the northern property line to preserve a visual corridor easement of two feet, five inches (2'-5") in width along the northerly property line and side setback. This complies with SDMC Section 132.0403(b) and is consistent with the policies of the Peninsula Community Plan and Local Coastal Program.

Beyond the side yard setbacks, the development complies with all applicable standards that define the limitations of the building envelope. This includes, but is not limited to, the two-foot (2') side yard setbacks, fifteen-foot (15') front yard setback, nineteen-foot (19') rear yard setback, and the thirty-foot (30') zoning and coastal height limits.

Lastly, as outlined above in Appeal Issue 1, the property retains previously conforming rights with respect to the gross floor area (GFA) and Floor Area Ratio (FAR) of the existing development. The existing development, with an FAR of approximately 0.75, exceeds the maximum permitted FAR of

0.59. However, the project proposes to reduce the existing FAR of 0.75 down to 0.72, resulting in a GFA of 3,851-sf, which is consistent with the previously permitted floor areas, including the carport. Consistent with state law, and as regulated by the regulations of the SDMC in effect at the time of application, an ADU of 800-sf can be permitted on the premises, regardless of floor area ratio [Ordinance No. O-21254, SDMC Section 141.0302(b)(2)(D)]. The proposed 798-sf ADU conforms to the regulations of the SDMC.

CONCLUSION

The appeal letter states that the property is not a previously conforming premises. However, all site improvements were legally permitted under City zoning regulations in effect at the time of construction permit issuance. Historical Coastal Commission jurisdiction does not alter or invalidate the City's lawful permitting actions, nor does it negate the City's current authority to issue Coastal Development Permits.

For these reasons, the City's determination that the property is a previously conforming premises is supported by the record, and the appeal's core argument is not substantiated.

City staff has reviewed the project plans, technical studies and reports, and all necessary findings have been made to approve the project, as demonstrated in the resolution of approval (Attachment 3). Staff has determined that the project is consistent with the recommended land use and development standards in effect for the site. Therefore, staff recommends that the Planning Commission DENY the appeal and AFFIRM the Hearing Officer's decision to APPROVE Coastal Development Permit (CDP) No. PMT-3290032.

ALTERNATIVES

DENY the appeal and affirm the Hearing Officer's decision to APPROVE Coastal Development Permit No. PMT-3290032, with modifications.

GRANT the appeal and reverse the Hearing Officer's decision to APPROVE Coastal Development Permit No. PMT-3290032.

Respectfully submitted,

Michael Prinz

Michael Prinz
Assistant Deputy Director
Development Services Department

Jose Bautista

Jose Bautista
Development Project Manager
Development Services Department

Attachments:

1. Staff Report to the Hearing Officer
2. Correction Memorandum to the Hearing Officer
3. Copy of Appeal
4. Draft Permit Resolution
5. Draft Permit
6. City of San Diego Ordinance No. O-11697
7. City of San Diego Ordinance No. O-21254

ATTACHMENT 1

Staff Report to the Hearing Officer dated April 29, 2026. Report No. HO-26-025.

https://www.sandiego.gov/sites/default/files/2026-04/ho-26-025-991-scott-street.pdf

ATTACHMENT 2

THE CITY OF SAN DIEGO

M E M O R A N D U M

DATE: May 6, 2026

TO: City of San Diego Hearing Officer, Development Services Department

FROM: Jose Bautista, Development Project Manager, Development Services Department

SUBJECT: Hearing Officer Hearing May 6, 2026 – Agenda Item No. 4
NORA (Attachment 6)

This memorandum addresses the correction to the staff report for the above-mentioned project.

1. Attachment 6 – Notice of Exemption dated July 3, 2025, will be replaced by the Notice of Right to Appeal Environmental Determination dated February 19, 2026.

The inclusion of this document does not affect the findings, analysis, or recommendations set forth in the staff report.

Should you have any questions, please contact me at (619) 557-7983, or email JABautista@sandiego.gov.

Respectfully,

Jose Bautista

Jose Bautista
Development Project Manager

Attachment:
PRJ-1111697 Scott Street Notice of Right to Appeal Environmental Determination

CC: Project File
Hearing Officer Legislative Recorder
Office of the City Attorney

ATTACHMENT 2

ATTACHMENT 6

THE CITY OF SAN DIEGO

DATE OF NOTICE: February 19, 2026

NOTICE OF RIGHT TO APPEAL ENVIRONMENTAL DETERMINATION

DEVELOPMENT SERVICES DEPARTMENT

SAP No. 24009889

PROJECT NAME / NUMBER: 991 Scott Street / PRJ-1111697
COMMUNITY PLAN AREA: Peninsula
COUNCIL DISTRICT: 2
LOCATION: 991 Scott Street, San Diego, CA 92106

PROJECT DESCRIPTION: Coastal Development Permit for the remodel of an existing 4,005-square-foot (sf) two-story residential dwelling unit, remodel of an existing two-story detached garage with a second-floor guest suite, and associated site improvement. Improvements to the main dwelling unit shall include the addition of a third-floor level for a 798 sf Accessory Dwelling Unit (ADU). The 0.12-acre (5,355 square feet) project site is located at 991 Scott Street, in the Residential – Single Unit (RS-1-7) zone, and is designated as Residential – Single Family in the Peninsula Community Plan. The project is also within the following overlays and planning areas: Coastal Overlay Zone (Appealable-First Public Roadway), Parking Impact Overlay Zone (Coastal Impact), Complete Communities Mobility Choices Mobility Zone 2, Airport Land Use Compatibility Overlay Zone (Review Area 2) for Naval Air Station (NAS) North Island and San Diego International Airport (SDIA), Coastal Height Limit Overlay Zone, Parking Standards Transit Priority Area, Transit Priority Area, and Federal Aviation Administration (FAA) Part 77 Noticing Area for NAS North Island and SDIA within Council District 2. LEGAL DESCRIPTION: LOT 5 BLOCK 1 MAP 1152 BAY SHORE ADDITION, NOV. 16, 1908.

ENTITY CONSIDERING PROJECT APPROVAL: City of San Diego Hearing Officer

ENVIRONMENTAL DETERMINATION: Categorically exempt from CEQA pursuant to CEQA State Guidelines, Section 15301(e), Existing Facilities and Section 15303, New Construction or Conversion of Small Structures.

ENTITY MAKING ENVIRONMENTAL DETERMINATION: City of San Diego

STATEMENT SUPPORTING REASON FOR ENVIRONMENTAL DETERMINATION: The City of San Diego determined that the project would qualify to be categorically exempt from CEQA pursuant to 15301(e), Existing Facilities. CEQA Section 15301 allows for the operation, repair, maintenance,

permitting, leasing, licensing, or minor alteration of existing facilities (public or private), involving negligible or no expansion of use beyond that existing at the time of the determination. The project meets the criteria under 15301(e) because the proposed 798 square-foot addition to the existing main dwelling unit would not result in an increase of more than 50 percent of the existing 4,005 square feet of floor area before the addition, or 2,500 square feet, nor 10,000 square feet since project is located in an area where all public services and facilities are available and the area is not environmentally sensitive. The project would also qualify to be categorically exempt from CEQA pursuant to Section 15303, New Construction or Conversion of Small Structures. Section 15303 allows for the construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure. The project would construct a 798 square-foot third floor ADU, resulting in one new dwelling unit, totaling two dwelling units at the project site. The exceptions listed in CEQA Section 15300.2 would not apply in that no cumulative impacts were identified; no significant effect on the environment was identified; the project is not adjacent to a scenic highway; lastly, the project was not identified on a list of hazardous waste sites pursuant to Section 65962.5 of the Government Code.

DEVELOPMENT PROJECT MANAGER: Jose Bautista, Development Project Manager
MAILING ADDRESS: 1222 First Avenue, MS 501, San Diego, CA 92101-4153
PHONE NUMBER / EMAIL: (619) 557-7983 / JABautista@sandiego.gov

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On February 19, 2026, the City of San Diego (City), as Lead Agency, has made the above-referenced environmental determination pursuant to the California Environmental Quality Act (CEQA). This determination is appealable to the City Council. If you have any questions about this determination, contact the City Development Project Manager listed above.

Applications to appeal CEQA determination made by staff (including the City Manager) to the City Council must be filed in the office of the City Clerk by 5:00pm within ten (10) business days from the date of the posting of this Notice (March 5, 2026). Appeals to the City Clerk must be filed by email or in-person as follows:

1) Appeals filed via E-mail: The Environmental Determination Appeal Application Form DS-3031can be obtained at https://www.sandiego.gov/sites/default/files/legacy/development-services/pdf/industry/forms/ds3031. Send the completed appeal form (including grounds for appeal and supporting documentation in pdf format) by email to Hearings1@sandiego.gov by 5:00p.m. on the last day of the appeal period; your email appeal will be acknowledged within 24 business hours. You must separately mail the appeal fee by check payable to the City Treasurer to: City Clerk/Appeal, MS 2A, 202 C Street, San Diego, CA 92101. The appeal filing fee must be United States Postal Service (USPS) postmarked) before or on the final date of the appeal. Please include the project number on the memo line of the check.

2) Appeals filed in person: Environmental Determination Appeal Application Form DS-3031 can be obtained at https://www.sandiego.gov/sites/default/files/legacy/development-services/pdf/industry/forms/ds3031.pdf. Bring the fully completed appeal application DS-3031 (including grounds for appeal and supporting documentation) to the City

Administration Building-Public Information Counter (Open 8:00am to 5:00pm Monday through Friday excluding City-approved holidays), 1st Floor Lobby, located at 202 C Street, San Diego, CA 92101, by 5:00pm on the last day of the appeal period. The completed appeal form shall include the required appeal fee, with a check payable to: City Treasurer.

This information will be made available in alternative formats upon request.

POSTED ON THE CITY'S CEQA WEBSITE

POSTED: 2/19/26

REMOVED: 3/5/26

POSTED BY: Myra Lee

Development Services

FORM
DS-3031
November 2022

Development Permit/ Environmental Determination Appeal Application

In order to ensure your appeal application is successfully accepted and processed, you must read and understand Information Bulletin (IB) 505, "Development Permits/Environmental Determination Appeal Procedure."

1. Type of Appeal: ☑ Appeal of the Project
   ☐ Appeal of the Environmental Determination
2. Appellant: Please check one ☐ Applicant ☐ Officially recognized Planning Committee
   ☑ "Interested Person"
   (Per San Diego Municipal Code (SDMC) § 113.0103)

Name:	E-mail:
Felix Tinkov (on behalf of Susan McGrath)	felix@tinkovlaw.com

Address:	City:	State:	Zip Code:	Telephone:
401 B Street, Ste. 302	San Diego	CA	92101	619-832-1761

3. Project Name:
   991 Scott Street - Project No. PRJ-1111697
4. Project Information:
   Remodel of existing 4,005 sf 2-story home to add a 3rd floor ADU
   Permit/Environmental Information Determination and Permit/Document No:
   Coastal Development Permit
   Date of Decision/Determination:
   5/6/26
   City Project Manager:
   Jose Bautista
   Decision (Describe the permit/approval decision):
   Approval of CDP PMT-3290032
5. Ground for Appeal (Please check all that apply):
   ☑ Factual Error
   ☑ New Information
   ☑ Conflict with other Matters
   ☐ City-wide Significance (Process four decisions only)
   ☑ Findings Not Supported

Description of Grounds for Appeal (Please relate your description to the allowable reasons for appeal as more fully described in the SDMC § 112.0501. Attach additional sheets if necessary.)

6. Applicant's Signature: I certify under penalty of perjury that the foregoing, including all names and addresses, is true and correct.

Signature:  Date: May 19, 2026

Note: Faxed appeals are not accepted.

Reference Table

- San Diego Municipal Code (SDMC)
- Development Permits/Environmental Determination Appeal Procedure (IB-505)

LAW OFFICE OF FELIX TINKOV

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Felix Tinkov, Esq.
Principal

May 19, 2026

Attachment to DS-3031 Appeal Application re: 991 Scott Street (PRJ-1111697)

This firm represents the interests of Susan Anne McGrath, owner of the property located 2833 Talbot Street, San Diego, CA 92106, whose property directly abuts 991 Scott Street (the "Subject Property"). On May 6, 2026, the City of San Diego Hearing Officer ("HO") approved a Coastal Development Permit ("CDP") for the Subject Property authorizing the construction of a 798 sf third story accessory dwelling unit ("ADU") on the applicant's existing 4,005 sf two story home (the "Project")[1]. The HO held, in error, that the Subject Property is a previously conforming use to authorize the development of the proposed ADU. This position is in conflict with the City's staff report to the HO, and the underlying building records, which plainly show that the Subject Property has been developed, from the outset, well in excess of the limits authorized under its original CDP and building permits, as further described below. Because of these exceedances beyond established zoning and land development regulations, the Subject Property is **not a previously conforming premises**. This is fatal to the Project's approval as the proposed ADU cannot be approved until such time as the Subject Property is brought back into conformance. The Planning Commission is asked to uphold this appeal, deny the Project, and direct the applicant to take corrective action before making any such further applications.

The Subject Property is zoned RS-1-7 on a 0.12 acre (~5,227 sf) lot with an existing 4,005 sf two-story single-family dwelling and a guest suite over its garage, directly abutting the coastline. Between 1977 and 1984, the Subject Property is understood to have secured six permits for development on the property. The relevant permits, and the resultant development, are described below[2]:

1) August 5, 1977 – the California Coastal Commission (the "CCC") approved CDP No. F5878 authorizing construction of a 1,753 sf two story single family residence ("SFR") and a detached 408 sf carport, totaling 2,161 sf of building area. (see, Exh. A, p. 2) Upon construction, the SFR was unlawfully expanded to 2,406 sf – an exceedance of 245 sf over the scope of development CDP No. F5878 authorized. (see, Exh. A, pp. 2-3 ["Per the County Assessor's Residential building records, the *original* computed floor area [for the SFR] is 1,486-sf on the first floor and 920-sf on the second floor, for a total area of 2,406-sf."] [*Emphasis added.*]) When considering the

[1] Notably, the Project applicants include Douglas H. Austin, former City of San Diego Planning Commissioner, and local architect. It is strongly advised that any Planning Commissioners hearing the instant appeal ensure they have no ongoing financial, or otherwise potentially prejudicial, ties with Mr. Austin prior to engaging in this matter.
[2] For the purposes of this document, all permitting and development data is taken from the April 29, 2026 HO staff report for the May 6, 2026 hearing, attached hereto as Exhibit A.

total square footage authorized under CDP No. F5878 includes a 408 sf carport, it should be understood that the Subject Property further *exceeds the permitted extent of development by 653 sf* (245 sf [SFR exceedance + 408 sf carport].) (see, Exh. A, p. 3.) Thus, from the time of the Subject Property's first construction, it was not a previously conforming use since it was out of compliance with the zoning and land development authority granted by the CCC and permitted ministerially by the City.[3]

2) May 12, 1978 – the CCC approved an amendment to CDP No. F5878 authorizing a 540 sf second story addition (i.e., two bedrooms and two bathrooms) to the SFR. (see, Exh. A, p. 2.) Rather than conform to the 540 sf allowance or correct the existing development exceedance of CDP No. F5878, the SFR was further enlarged by 629 sf, resulting in a total of 3,035 sf of building construction. (see, Exh. A, p. 3 ["The County Assessor's Residential Building Record indicates the existing main dwelling unit is 3,035-sf.…"].) Consider that the CDP No. F5878 authorized a 1,753 sf SFR, and its amendment authorized an additional 540 sf to the SFR, resulting in a total of 2,293 sf permitted to the SFR. Whereas the City acknowledges the SFR was built out to 3,035 sf; that is, *742 sf more than permitted*. This plainly does not comport with SDMC 127.0102's definition of a "previously conforming premises" and must be understood for what it is, an out of conformance, code-violating development, then and now.

3) November 17, 1978 – the CCC approved CDP No. F7582 authorizing a pool, spa, and decks to be constructed on the premises, but no corrective action, nor authorization, to exceed the building area authorized under CDR F5878 and its amendment. Thus, no change was made here affecting the analysis of the Subject Property's lack of conformity with

4) May 8, 1979 – the City ministerially approved Building Permit No. M63152 to permit the development of a footage of 17' x 24' (i.e., 408 sf) second story gym over a "garage" which had previously been authorized only as a carport under CDP No. F5878. Such a conversion from a carport to garage without authorization from the CCC is a further example of the Subject Property's lack of conformity with, and exceedance of, its permitted limitations.

5) February 2, 1983 – the City ministerially approved Building Permit No. A13188 converting the gym into a "guest suite" including the addition of a bathroom. (see, Exh. A, p. 2.) It has since been noted by Ms. McGrath, and others neighboring residents, that this guest suite is an ADU used for short and long term stays by

[3] San Diego Municipal Code ["SDMC"] § 127.0102 defines a previously conforming premises as one that "**must have been established in compliance with all permit requirements**…"].) In this instance, because the Subject Property was built *out of compliance* with CDP No. F5878, it cannot be considered a "previously conforming premises" in direct contradiction of the HO's determination, and the underlying City staff report.

individuals other than the Project applicants. Notably, this puts into significant doubt whether the Project's proposed addition of *another* ADU is permissible on this lot in light of the restriction against multiple ADU construction in this RS-1-7 zoned lot. (see, SDMC § 141.310(d)(1)(A), as modified pursuant to Ordinance 2025-136, prohibiting "bonus ADU" construction in this zone.) While it is impossible for neighbors to physically access this so-called guest suite to assess whether it is, in fact, an ADU, in light of the repeated unpermitted development of the Subject Property, the City should consider a visual inspection to confirm the current state of this living area to avoid further violation of development limitations on this already over-burdened lot.

In that the Subject Property is *not* a previously conforming premises, as indicated by the City's own accounting of the site's development, the Project's proposed development of an ADU is not permissible through the CDP process. (*Spencer v. City of Palos Verdes Estates* (2023) 88 Cal.App.5th 849, 863 [city's authority under its local coastal program ["LCP"] does not authorize waiver of state's restrictions made under the Coastal Act.]; *Drakes Bay Oyster Co. v. California Coastal Com.* (2016) 4 Cal. App. 5th 1165, 1168.) The Coastal Act requires all development in the coastal zone to conform to the applicable LCP and the Coastal Act's policies, and it does not provide a mechanism to legitimize overdevelopment that was never lawfully established. Violation of all relevant development permits' limits places the Subject Property squarely within the ambit of the City's authority, and duty, to take corrective action. (SDMC, § 121.0302(a) ["It is unlawful for any person to maintain or use any premises in violation of any provisions of the Land Development Code, without a required permit, contrary to permit conditions, or without a required variance."]; *Lent v. California Coastal Com.* (2021) 62 Cal. App. 5th 812, 831-832 [upholding a cease and desist order requiring the removal of unpermitted structures inconsistent with the original permit.].) To be clear, the City **may not** approve this Project under the auspices of the Coastal Act precisely because its existing development was never in compliance with its permit limitations (Pub. Res. Code § 30600; *see also,* Pub. Res. Code, § 30604(b) [requiring any new or modified development conform to the certified LCP and current zoning restrictions.].)

Moreover, what is sought through the Project is not an ADU in the sense that its intended use is for rental or sale to a low-income family to relieve the City's housing shortage; rather, it is little more than a facetious effort to cram a third story addition onto an already grossly overbuilt SFR. By way of example, the Subject Property's RS-1-7 zoning authorizes an FAR maximum, per SDMC Table 131-04J, of 0.60, resulting in a maximum gross floor area of 3,136 sf (i.e., 5,227 sf lot * 0.60), whereas the City's staff report, at page 3, identifies the Subject Property as having "an existing 4,005-square-foot (sf) two-story single-dwelling unit with a detached garage." This indicates the Subject Property is already overdeveloped by 869 sf (i.e., 4,005 sf - 3,136 sf) relative to current development standards, and now seeks to tack on 798 additional sf of living area to create a third story living space for the applicants, which would result in a 1,667 sf exceedance (i.e., 869 sf + 798 sf). The Planning Commission should understand that this floor addition is not only going to violate current development regulation, without the benefit of a

previously conforming use, and obstruct neighboring property owners enjoyment of their homes, it will also blot out public views of, and access to, the Pacific Ocean, from neighboring public streets in violation of the California Coastal Act by evading all manner of zoning requirements including FAR, setbacks, and building envelope limitations. (e.g., Public Resources Code § 30251 [restricting development along coastal areas "to protect views to and along the ocean and scenic coastal areas… to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas.].) The Planning Commission has an opportunity here to correct multi-decade code violations and protect the public's rights – such occasions do not happen often, and they should not be missed even when an applicant is a well-regarded architect, and former City official. We must all play by the same rules.

For these reasons, the Planning Commission is respectfully requested to reject the Project, direct staff to inspect the Subject Property for exceedances of permitted uses, order corrective action thereto, and uphold the instant appeal. Barring such action, Ms. McGrath will be forced to seek relief from the City's code enforcement department, appeal to the CCC, and/or file for relief under the Coastal Act against the City and the applicants, resulting in great, and unnecessary expense to all involved. It is our sincere hope that such efforts will not be necessitated when the Planning Commission determines this matter in conformance with the law.

Sincerely,



Felix Tinkov, Esq.

PLANNING COMMISSION RESOLUTION NUMBER _____
COASTAL DEVELOPMENT PERMIT NO. PMT-3290032
991 SCOTT STREET - PROJECT NO. PRJ-1111697

RECITALS

The Planning Commission of the City of San Diego adopts this Resolution based on the following:

A. DOUGLAS H. AUSTIN AND WENDY A. AUSTIN, TRUSTEES OF THE AUSTIN FAMILY TRUST DATED MAY 15, 2017, Owners and Permittees, filed an application with the City of San Diego for a permit to remodel an existing 4,005-square-foot (sf) two-story single-dwelling unit to include the addition of a third floor to accommodate a 798-sf accessory dwelling unit (ADU), the remodel of an existing detached garage, and associated site improvements (as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated Permit No. PMT-3290032), on portions of a 0.12-acre project site, for the 991 Scott Street project (Project).

B. The project site is located at 991 Scott Street in the RS-1-7 (Residential – Single Unit) zone, the Coastal Overlay Zone (Appealable – First Public Roadway), the Coastal Height Limit Overlay Zone, Complete Communities Mobility Choices Mobility Zone 2, the Airport Land Use Compatibility Overlay Zone (Review Area 2) for Naval Air Station (NAS) North Island and San Diego International Airport (SDIA), the Parking Impact Overlay Zone, a Transit Priority Area, and the Federal Aviation Administration (FAA) Part 77 Noticing Area for NAS North Island and SDIA within the Peninsula Community Plan and Local Coastal Program Land Use Plan. ALL THAT PORTION OF LOT 5 IN BLOCK 1 OF BAYSHORE ADDITIONS TO NEW ROSEVILLE, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 1152, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, NOVEMBER 16, 1908.

C. On February 19, 2026, the City of San Diego, as Lead Agency, through the Development Services Department, made and issued an Environmental Determination that the

project is exempt from the California Environmental Quality Act (CEQA) (Public Resources Code Section 21000 et seq.) under CEQA Guidelines Sections 15301(e) (Existing Facilities) and 15303 (New Construction or Conversion of Small Structures), and there was no appeal of the Environmental Determination filed within the time period provided by San Diego Municipal Code Section 112.0520].

D. On May 6, 2026, the Hearing Officer of the City of San Diego APPROVED Coastal Development Permit No. PMT-3290032 pursuant to the Land Development Code of the City of San Diego.

E. On May 19, 2026, Felix Tinkov filed an appeal of the Hearing Officer's approval of Coastal Development Permit No. PMT-3290032 pursuant to the Land Development Code of the City of San Diego.

F. On October 15, 2026, the Planning Commission considered the appeal, and Coastal Development Permit No. PMT-3290032 pursuant to the Land Development Code of the City of San Diego.

ACTION ITEMS

Be it resolved by the Planning Commission of the City of San Diego:

1. The Planning Commission adopts the following findings with respect to Coastal Development Permit No. PMT-3290032:

A. COASTAL DEVELOPMENT PERMIT [San Diego Municipal Code (SDMC) Section 126.0708]

I. Findings for all Coastal Development Permits:

a. The proposed coastal development will not encroach upon any existing physical accessway that is legally used by the public or any proposed public accessway identified in a Local Coastal Program land use plan; and the proposed coastal development will enhance and protect public views to and along the ocean and other scenic coastal areas as specified in the Local Coastal Program land use plan.

The project will remodel an existing 4,005-sf two-story single-dwelling unit, including a third-floor addition to accommodate a 798-sf ADU, the remodel of an existing detached garage, and associated site improvements.

The 0.12-acre project site is located at 991 Scott Street in the RS-1-7 (Residential – Single Unit) zone, the Coastal Overlay Zone (Appealable – First Public Roadway), the Coastal Height Limit Overlay Zone, Complete Communities Mobility Choices Mobility Zone 2, the Airport Land Use Compatibility Overlay Zone (Review Area 2) for Naval Air Station (NAS) North Island and San Diego International Airport (SDIA), the Parking Impact Overlay Zone, a Transit Priority Area, and the Federal Aviation Administration (FAA) Part 77 Noticing Area for NAS North Island and SDIA within the Peninsula Community Plan and Local Coastal Program Land Use Plan (PCP).

The project site is located in the La Playa residential neighborhood (PCP, Page 6). The proposed development is confined to the project site.

The project site is located along Scott Street, and the PCP identifies Coastal Vistas across the site (PCP, Figure 27). The project will preserve a visual corridor by removing a 43-sf area adjacent to the existing garage along the northern property line, thus preserving the two-foot, five-inch (2'-5") side yard setback as a visual corridor to La Playa Cove. Although the project site does not contain an existing or proposed physical accessway, this coastal neighborhood is identified by the PCP as being an area for new and/or improved physical and visual public shoreline access (PCP, page 75). The nearest physical accessway to La Playa Cove is at the intersection of Talbot Street and Anchorage Lane, which is approximately 100 feet east of the project site (PCP, Figure 19). The project will protect public views by proposing a structure height of 30 feet, which is within the 30-foot height limit of the Coastal Height Limitation Overlay Zone as outlined in the City of San Diego Technical Bulletin BLDG-5-4.

The project site backs up to La Playa Cove and is adjacent to a designated pedestrian pathway, Bessemer Path. This pathway is under the jurisdiction of the California Coastal Commission and managed by the Port of San Diego (Port). The project is not proposing any development outside its property boundary lines that will impede or prohibit access to Bessemer Path. The applicant is actively working with the Port and the California Coastal Commission regarding the existing private landscape improvements extending between the rear property line and Bessemer Path and has submitted a permit application to the Port for those improvements.

Therefore, the proposed coastal development will not encroach upon any existing physical accessway that is legally used by the public or any proposed public accessway identified in a Local Coastal Program land use plan; and the proposed coastal development will enhance and protect public views to and along the ocean and other scenic coastal areas as specified in the Local Coastal Program land use plan.

b. The proposed coastal development will not adversely affect environmentally sensitive lands.

The site is located within an existing urbanized area, surrounded by single- and multi-dwelling unit development in the Point Loma community. The project site has been previously graded and improved with an existing dwelling unit, a detached garage, a pool, associated hardscape and landscape.

The project site does not contain any environmentally sensitive lands as defined by SDMC Section 113.0103. However, the project site is adjacent to a mapped freshwater marsh, which is a wetland and sensitive biological resource and considered environmentally sensitive lands as defined by SDMC Section 113.0103. Therefore, the proposed onsite improvements will be required to meet the engineering standards in effect at the time of construction building permit issuance, to ensure that all drainage from unimproved areas is appropriately collected and discharged to reduce, control, or mitigate erosion. The proposed project is proposing to direct drainage to existing stormwater inlets and to a proposed onsite planting area. As an additional drainage control measure, the applicant is voluntarily proposing rainwater barrels to be installed. The project will also be conditioned to provide a Water Pollution Control Plan in accordance with the guidelines in Part 2 Construction Best Management Practices (BMP) Standards Chapter 4 of the City's Storm Water Standards. Therefore, the proposed project will not adversely affect environmentally sensitive lands.

c. The proposed coastal development is in conformity with the certified Local Coastal Program land use plan and complies with all regulations of the certified Implementation Program.

The PCP designates the site as single-family residential within the La Playa neighborhood; this neighborhood is characterized by large single-family homes of various ages and architectural styles including colonial, Spanish, and contemporary designs (PCP, page 6). The project's design supports this neighborhood characteristic by incorporating contemporary roofline variations, exterior plaster, wood wall and eave accents, a metal roof and metal windows, and exterior decks and glass railings.

The project conforms with the RS-1-7 zone requirements for setbacks and height requirements in accordance with SDMC Section 131.0431, Table 131-04D by providing a 15-foot front yard setback where 15 feet is required, a 19-foot rear yard setback where the minimum is 10% of the lot depth, or 19 feet, in accordance with SDMC Section 131.0443(a)(2), a two-foot, five-inch (2'-5") side yard setback where 8% of the lot width, or 2 feet, is required in accordance with SDMC Section 131.0443(a)(4), and a proposed height of 30 feet where no more than 30 feet is allowed. The project provides a public view corridor along the northern property line, which conforms with the California Coastal Commission's recommendation to provide a view corridor as required by SDMC Section 132.0403.

The project supports the following Residential Plan Element objectives of the PCP:

1. Conserve character of existing single-family neighborhoods throughout Peninsula including the very low-density character of certain neighborhoods (PCP, page 22).

> The Community Plan designates the land use for the project site as single-family residential with a maximum density of nine dwelling units per acre (9 du/ac, PCP, Figures 5 and 7). The project will create an ADU, which is permitted in residential zones, and does not affect the density since ADUs are not subject to the density limitations for the premises in accordance with SDMC Section 141.0302(b)(6).

Therefore, the project is consistent with the prescribed density of the Community Plan.

2. Encourage design compatible with existing residential development in all new infill housing (PCP, page 22).

The project's design and materials incorporate a contemporary style of architecture with large, glazed window and door openings, roofline variations with large overhangs, covered and open roof deck areas and balconies with glass railings, painted exterior plaster, wood wall and eave accents, metal roof and metal windows. The proposed contemporary architectural style is consistent with the established residential development within the surrounding neighborhood by utilizing similar exterior materials, which include plaster exterior finish, accent wood features, metal, glass and stone finishes. Adjacent residential development consists of varying architectural styles, including coastal cottages, Mediterranean-style architecture and contemporary architectural styles that utilize materials which include wood finishes, plaster finishes and large glazed openings.

3. Provide housing opportunities for persons of all income levels, including both rental and ownership units, through new construction and rehabilitation of deteriorating structures (PCP, page 22).

The project proposes a remodel and addition to an existing two-story single-dwelling unit originally constructed in 1977. As part of the project, a new third-floor ADU will be constructed which creates a rental opportunity while maintaining the PCP's prescribed density of single-dwelling units in the neighborhood of La Playa. The remodel will update the existing two-story structure and detached garage which was originally constructed in 1977. The updates will include electrical, mechanical, plumbing, structural, and building materials in conformance with current building code regulations.

The remodel and addition of an ADU to the existing single-dwelling unit would support the City of San Diego General Plan Housing Element Goal 2, Objective G (page HE-66) to "repair and maintain the city's existing housing stock".

The project was reviewed for historical significance pursuant to SDMC Section 143.0212 to determine whether a potentially significant historical resource exists on-site. Historical Resources staff determined that the structure does not meet local designation criteria as an individual significant resource under any adopted Historical Resources Board Criteria and is not located within a designated historic district. Furthermore, since historic staff determined that no potentially significant historical resources exist on site, the parcel will be exempt from further historical review for five (5) years from the date of determination made on June 7, 2024. The project does not propose any deviations or variances from the applicable regulations and policy documents, and is consistent with the recommended land use designation, and development standards in effect for this

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site. Therefore, the project is in conformity with the certified LCP land use plan and complies with all regulations of the certified Implementation Program.

d. For every Coastal Development Permit issued for any coastal development between the nearest public road and the sea or the shoreline of any body of water located within the Coastal Overlay Zone the coastal development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act.

The proposed development is described in Findings A.1.a. through c. above, incorporated herein by reference. The project site is within an established residential neighborhood of Point Loma and between the first public roadway (Scott Street) and the shoreline of the San Diego Bay. It is currently developed with a two-story single-dwelling unit, a detached garage, a guest suite above the garage, a pool and a spa. No public access exists on the project site.

The California Coastal Act (CCA) identifies the following policies designed to protect public access:

Section 30210 – Access; recreation opportunities; posting

This Section of the CCA identifies carrying out the requirement of the Section 4 of Article X of the California Constitution, provide maximum access which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public right, rights of private property owners, and natural resource areas from overuse (CCA, Section 30210).

Although the project site does not have an existing or proposed physical accessway to the coast, the project proposes to record a visual view corridor along the northern property line and allow public visual access to La Playa Cove from the public right-of-way on Scott Street.

Section 30211 – Development shall not interfere with access

This section of the CCA identifies that development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

The project does not prohibit or impede existing public access to the coast since the nearest physical access is approximately 100 feet east at the intersection of Talbot Street and Anchorage Lane, which also abuts the beginning of the Bessemer Path.

The CCA identifies policies designed to protect public recreation opportunities along the coast and facilitate recreational use of existing oceanfront and upland areas for coastal recreational uses under Article 3 (CCA, Section 30220, 30221, and 30222). The project site

is not designated for recreational uses and proposes development within private property. The project site does not contain existing public physical accessways or public recreation areas identified in the PCP. However, the project will remove an existing 43-sf storage area adjacent to the northern property line and the area will be kept clear to accommodate a proposed view corridor. Therefore, the project will enhance and protect public views through a two-foot, five-inch (2'-5") view corridor easement along the northern property line which is also consistent with the Urban Design Guidelines of the PCP's recommendations to preserve and enhance view corridors along the ocean and bay shorelines.

The PCP identifies a designated public pedestrian pathway adjacent to the project site, allowing for public recreation along the bay (PCP, Figure 18). The pedestrian pathway is known as Bessemer Path and is under California Coastal Commission jurisdiction and managed by the Port. The project does not propose any development beyond its designated property lines. Therefore, the project is in conformance with the public access and public recreation policies of Chapter 3 of the California Coastal Act.

2. The above findings are supported by the minutes, maps, and exhibits, all of which are incorporated by this reference.

3. Based on these findings adopted by the Planning Commission, Coastal Development Permit No PMT-3290032 is hereby GRANTED by the Planning Commission to the referenced Owner and Permittee, in the form, exhibits, terms and conditions as set forth in Permit No. PMT-3290032, a copy of which is attached to and made a part of this Resolution by this reference.

Jose Bautista
Development Project Manager
Development Services

Adopted on: October 15, 2026

IO: 24009889

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RECORDING REQUESTED BY
CITY OF SAN DIEGO
DEVELOPMENT SERVICES
PERMIT INTAKE,
MAIL STATION DSD-1A

WHEN RECORDED MAIL TO
PROJECT MANAGEMENT
PERMIT CLERK
MAIL STATION DSD-1A

INTERNAL ORDER NUMBER: 24009889 SPACE ABOVE THIS LINE FOR RECORDER'S USE

COASTAL DEVELOPMENT PERMIT NO. PMT-3290032
991 SCOTT STREET PROJECT NO. PRJ-1111697
PLANNING COMMISSION

This Coastal Development Permit No. PMT-3290032 is granted by the Planning Commission of the City of San Diego to DOUGLAS H. AUSTIN AND WENDY A. AUSTIN, TRUSTEES OF THE AUSTIN FAMILY TRUST DATED MAY 15, 2017, Owners and Permittees, pursuant to San Diego Municipal Code [SDMC] Section 126.0708. The 0.12-acre project site is located at 991 Scott Street in the RS-1-7 (Residential – Single Unit) zone, the Coastal Overlay Zone (Appealable – First Public Roadway), the Coastal Height Limit Overlay Zone, Complete Communities Mobility Choices Mobility Zone 2, the Airport Land Use Compatibility Overlay Zone (Review Area 2) for Naval Air Station (NAS) North Island and San Diego International Airport (SDIA), the Parking Impact Overlay Zone, a Transit Priority Area, and the Federal Aviation Administration (FAA) Part 77 Noticing Area for NAS North Island and SDIA within the Peninsula Community Plan and Local Coastal Program Land Use Plan. The project site is legally described as: ALL THAT PORTION OF LOT 5 IN BLOCK 1 OF BAYSHORE ADDITIONS TO NEW ROSEVILLE, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 1152, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, NOVEMBER 16, 1908.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owners and Permittees for the remodel of an existing two-story single-dwelling unit to include the addition of a third-floor to accommodate an accessory dwelling unit (ADU), the remodel of an existing detached garage, and associated site improvements described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated October 15, 2026, on file in the Development Services Department.

The project shall include:

a. The remodel of an existing 4,005-square-foot (sf) two-story single dwelling unit to include a third-floor addition to accommodate a 798-sf ADU.

b. The remodel of an existing detached garage to include the removal of a 43-sf storage space located adjacent to the existing garage within the northern side yard setback;

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c. The preservation of a two–foot, five-inch (2'-5") view corridor along the northern property line;

d. Public and private accessory improvements determined by the Development Services Department to be consistent with the land use and development standards for this site in accordance with the adopted community plan, the California Environmental Quality Act [CEQA] and the CEQA Guidelines, the City Engineer's requirements, zoning regulations, conditions of this Permit, and any other applicable regulations of the SDMC.

STANDARD REQUIREMENTS:

1. This permit must be utilized within thirty-six (36) months after the date on which all rights of appeal have expired. If this permit is not utilized in accordance with Chapter 12, Article 6, Division 1 of the SDMC within the 36-month period, this permit shall be void unless an Extension of Time has been granted. Any such Extension of Time must meet all SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker. This permit must be utilized by October 15, 2029.

2. This Coastal Development Permit shall become effective on the eleventh working day following receipt by the California Coastal Commission of the Notice of Final Action or following all appeals.

3. No permit for the construction, occupancy, or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this Permit be conducted on the premises until:

a. The Owners and Permittees sign and return the Permit to the Development Services Department; and

b. The Permit is recorded in the Office of the San Diego County Recorder.

4. While this Permit is in effect, the subject property shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the appropriate City decision maker.

5. This Permit is a covenant running with the subject property and all of the requirements and conditions of this Permit and related documents shall be binding upon the Owners and Permittees and any successor(s) in interest.

6. The continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.

7. Issuance of this Permit by the City of San Diego does not authorize the Owners and Permittees for this Permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.).

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8. The Owners and Permittees shall secure all necessary building permits. The Owners and Permittees are informed that to secure these permits, substantial building modifications and site improvements may be required to comply with applicable building, fire, mechanical, and plumbing codes, and State and Federal disability access laws.

9. Construction plans shall be in substantial conformity to Exhibit "A". Changes, modifications, or alterations to the construction plans are prohibited unless appropriate application(s) or amendment(s) to this Permit have been granted.

10. All of the conditions contained in this Permit have been considered and were determined necessary to make the findings required for approval of this Permit. The Permit holder is required to comply with each and every condition in order to maintain the entitlements that are granted by this Permit.

If any condition of this Permit, on a legal challenge by the Owners and Permittees of this Permit, is found or held by a court of competent jurisdiction to be invalid, unenforceable, or unreasonable, this Permit shall be void. However, in such an event, the Owners and Permittees shall have the right, by paying applicable processing fees, to bring a request for a new permit without the "invalid" condition(s) back to the discretionary body which approved the Permit for a determination by that body as to whether all of the findings necessary for the issuance of the proposed permit can still be made in the absence of the "invalid" condition(s). Such hearing shall be a hearing de novo, and the discretionary body shall have the absolute right to approve, disapprove, or modify the proposed permit and the condition(s) contained therein.

11. The Owners and Permittees shall defend, indemnify, and hold harmless the City, its agents, officers, and employees from any and all claims, actions, proceedings, damages, judgments, or costs, including attorney's fees, against the City or its agents, officers, or employees, relating to the issuance of this permit including, but not limited to, any action to attack, set aside, void, challenge, or annul this development approval and any environmental document or decision. The City will promptly notify Owners and Permittees of any claim, action, or proceeding and, if the City should fail to cooperate fully in the defense, the Owners and Permittees shall not thereafter be responsible to defend, indemnify, and hold harmless the City or its agents, officers, and employees. The City may elect to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification. In the event of such election, Owners and Permittees shall pay all of the costs related thereto, including without limitation reasonable attorney's fees and costs. In the event of a disagreement between the City and Owners and Permittees regarding litigation issues, the City shall have the authority to control the litigation and make litigation related decisions, including, but not limited to, settlement or other disposition of the matter. However, the Owners and Permittees shall not be required to pay or perform any settlement unless such settlement is approved by Owners and Permittees.

DRAFT

ENGINEERING REQUIREMENTS:

12. Prior to the issuance of any building permit, the Owners and Permittees shall obtain an Encroachment Maintenance Removal Agreement (EMRA) for the existing non-standard driveway, pavers, rolled curb, pylon, landscape and irrigation within the Scott Street public right-of-way, to the satisfaction of the City Engineer.

13. The drainage system proposed for this development, as shown on the site plan, is private and subject to the approval of the City Engineer.

14. Prior to the issuance of any construction permit, the Owners and Permittees shall incorporate all necessary construction Best Management Practices (BMP's) into the construction plans or specifications to ensure compliance with Chapter 14, Article 2, Division 1 (Grading Regulations) of the San Diego Municipal Code (SDMC), to the satisfaction of the City Engineer.

15. Development of this project shall comply with all permanent stormwater requirements set forth in Municipal Stormwater Permit No. 2013-0001, or any subsequent order, as well as the current version of the City of San Diego's Stormwater Standards Manual.

16. Prior to the issuance of any construction permit, the Owners and Permittees shall submit a Water Pollution Control Plan (WPCP). The WPCP shall be prepared in accordance with the guidelines in Part 2 Construction BMP Standards Chapter 4 of the City of San Diego's Storm Water Standards Manual.

PLANNING/DESIGN REQUIREMENTS:

17. The automobile, motorcycle, and bicycle parking spaces must be constructed in accordance with the requirements of the SDMC. All on-site parking stalls and aisle widths shall be in compliance with requirements of the City's Land Development Code and shall not be converted and/or utilized for any other purpose, unless otherwise authorized in writing by the appropriate City decision maker in accordance with the SDMC.

18. A topographical survey conforming to the provisions of the SDMC may be required if it is determined, during construction, that there may be a conflict between the building(s) under construction and a condition of this Permit or a regulation of the underlying zone. The cost of any such survey shall be borne by the Owners and Permittees.

19. All private outdoor lighting shall be shaded and adjusted to fall on the same premises where such lights are located and in accordance with the applicable regulations in the SDMC.

20. Prior to the issuance of a building permit, the Owners and Permittees shall submit a signed agreement with the City that neither the primary dwelling unit nor the habitable accessory structure shall be sold or conveyed separately.

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21. Prior to the issuance of a building permit, a visual corridor easement of not less than or equal to the required two-foot-five-inches side yard setback, and running the full depth of the premises, shall be preserved as a deed restriction.

INFORMATION ONLY:

- The issuance of this discretionary permit alone does not allow the immediate commencement or continued operation of the proposed use on site. Any operation allowed by this discretionary permit may only begin or recommence after all conditions listed on this permit are fully completed and all required ministerial permits have been issued and received final inspection.

- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this Permit may protest the imposition within ninety days of the approval of this development permit by filing a written protest with the City Clerk pursuant to California Government Code section 66020.

- This development may be subject to impact fees at the time of construction permit issuance.

APPROVED by the Planning Commission of the City of San Diego on October 15, 2026, and Approved Resolution No. _____.

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ATTACHMENT 5

Coastal Development Permit No. PMT-3290032
Project No. PRJ-1111697
Date of Approval: October 15, 2026

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES DEPARTMENT

_____
Jose Bautista
Development Project Manager

NOTE: Notary acknowledgment must be attached per Civil Code section 1189 et seq.

The undersigned Owner/Permittee, by execution hereof, agrees to each and every condition of this Permit and promises to perform each and every obligation of Owner/Permittee hereunder.

The Austin Family Trust Dated May 15, 2017
Owner and Permittee

By _____
Douglas H. Austin
Trustee

By _____
Wendy A. Austin
Trustee

NOTE: Notary acknowledgments must be attached per Civil Code section 1189 et seq.

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O-76-41

ORDINANCE NO. 11697 (New Series) OCT 8 1975

AN ORDINANCE AMENDING CHAPTER X, ARTICLE 1, DIVISION 1 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTIONS 101.0101.25 GROSS FLOOR AREA; 101.0101.35 LOT COVERAGE; 101.0101.48 UNDERGROUND PARKING STRUCTURE; AND 101.0101.50 YARD; AND ADDING SECTIONS 101.0101.50.1 THROUGH 101.0101.72 ALL RELATING TO DEFINITIONS AND INTERPRETATIONS.

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

Section 1. That Chapter X, Article 1, Division 1 of the San Diego Municipal Code be amended by amending Sections 101.0101.25, 101.0101.35, 101.0101.48 and 101.0101.50 to read as follows:

SEC. 101.0101.25 GROSS FLOOR AREA

The total horizontal area expressed in square feet, of all the floors of a building included within the surrounding walls, including shafts, enclosed exterior stairwells, and above-ground parking structures.

Gross floor area shall include:

A. Enclosed exterior stairwells, above-ground parking structures and exterior elevator shafts.

B. The floor area of mezzanines and other similar interior balconies.

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C. Exterior balconies, entrances, porches, canopies, rigid awnings, stoops, openly supported terraces, openly supported stairways, and sun baffles or shades which are constructed and maintained with less than 40 percent of the vertical surface permanently open.

D. Half stories (attics) (Sec. 101.0101.65), basements (Sec. 101.0101.68), and cellars (Sec. 101.0101.69) shall also be included as gross floor area when said areas are utilized for residential purposes.

E. Penthouses (Sec. 101.0101.71), except when specifically excepted by the provisions of Sec. 101.0101.62 HEIGHT (BUILDING), shall be included in gross floor area.

SEC. 101.0101.35 LOT COVERAGE

That portion of the area of a lot, expressed as a percentage, occupied by all buildings or structures which are roofed or otherwise covered and which extend more than three feet above grade level, as defined in Section 101.0101.62 - HEIGHT (BUILDING); provided, however, that the following shall be exempted:

A. Exterior balconies, entrances, canopies, rigid awnings, stoops, openly supported terraces, openly supported exterior stairways and sun baffles or shades provided they:

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1. Do not encroach into required yards.

2. Do not project more than six feet from the supporting structure.

3. Are constructed and maintained with not less than 40 percent of the vertical surface permanently open.

B. Roofed areas enclosed by no more than three exterior walls of a building which provide shelter to exterior balconies, entrances, stoops, terraces, and exterior stairways.

C. Cornices, eaves and belt courses subject to limitations imposed by Section 101.0601, Paragraph 3.

D. Those portions of underground parking structures (Sec. 101.0101.48), first stories (Sec. 101.0101.64), basements (Sec. 101.0101.68), and cellars (Sec. 101.0101.69) lying partially above grade but not exceeding three feet above grade.

All horizontal dimensions shall be taken from the exterior faces of walls, including those structural and architectural appendages as defined and set forth herein.

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SEC. 101.0101.48 UNDERGROUND PARKING STRUCTURE

A parking structure constructed so that more than one-half of the vertical height of the uppermost story of the parking structure is below grade, as defined in Section 101.0101.62 HEIGHT (BUILDING).

Those portions of such structure lying entirely below grade are not subject to the lot coverage or yard regulations specified in this article. Those portions of such structure lying partially above grade, but not exceeding three feet above grade, are subject to the yard requirements defined in Section 101.0101.50.1 -FRONT YARD and Section 101.0101.50.2 - STREET SIDE YARD. Those portions of such a structure lying more than three feet above grade shall be subject to all appropriate lot coverage and yard regulations specified in this chapter.

SEC. 101.0101.50 YARD

An open, unoccupied space, other than a court, unobstructed from the ground upward, except where specifically permitted by this article, and located on the same lot with the building or use which it serves.

Those portions of underground parking structures (Sec. 101.0101.48), first stories (Sec. 101.0101.64), basements (Sec. 101.0101.68) and cellars (Sec. 101.0101.69) lying more than three feet above grade are subject to yard requirements except as otherwise indicated in this chapter.

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Section 2. That Chapter X, Article 1, Division 1 of the San Diego Municipal Code be amended by adding Sections 101.0101.50.1 through Section 101.0101.72 to read as follows:

SEC. 101.0101.50.1 YARD, FRONT

A front yard is an open unoccupied space, as defined in Section 101.0101.50, extending across the full width of the lot and measured inward, perpendicularly, from the front property line of the lot and parallel thereto for a distance specified in this article, or as otherwise specified by setback ordinance.

Those portions of underground parking structures (Sec. 101.0101.48), first stories (Sec. 101.0101.64), basements (Sec. 101.0101.68) and cellars (Sec. 101.0101.69) lying above grade are subject to the front yard requirements in any land use zone which requires landscaping in the required front yard.

SEC. 101.0101.50.2 YARD, STREET SIDE

A street side yard is an open unoccupied space, as defined in Section 101.0101.50, extending the full depth of the lot and measured inward, perpendicularly, from the street side property line of the lot and parallel thereto for a distance specified in this article; or as otherwise specified by setback ordinance; provided, however, that any area of the lot described as front yard in Section 101.0101.50.1 shall not be included as part of the street side yard.

Those portions of underground parking structures (Sec. 101.0101.48), first stories (Sec. 101.0101.64), basements (Sec. 101.0101.68) and

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cellars (Sec. 101.0101.69) lying above grade are subject to the street side yard requirements in any land use zone which requires landscaping in the required street side yard.

SEC. 101.0101.50.3 YARD, REAR

A rear yard is an open unoccupied space, as defined in Section 101.0101.50, extending across the full width of the lot and measured inward, perpendicularly from the rear property line of the lot and parallel thereto for a distance specified in this article; provided, however, that any area of the lot described as street side yard in Section 101.0101.50.2 shall not be included as part of the rear yard.

Those portions of underground parking structures (Sec. 101.0101.48), first stories (Sec. 101.0101.64), basements (Sec. 101.0101.68) and cellars (Sec. 101.0101.69) lying more than three feet above grade are subject to rear yard requirements.

SEC. 101.0101.50.4 YARD, INTERIOR SIDE

An interior side yard is an open unoccupied space, as defined in Section 101.0101.50, extending the full depth of the lot and measured inward, perpendicularly from the interior side property line of the lot and parallel thereto for a distance specified in this article; provided, however, that any area of the lot described as front yard in Section 101.0101.50.1 or as rear yard in Section 101.0101.50.3 shall not be included as part of the interior side yard.

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Those portions of underground parking structures (Sec. 101.0101.48), first stories (Sec. 101.0101.64), basements (Sec. 101.0101.68) and cellars (Sec. 101.0101.69) lying more than three feet above grade are subject to interior side yard requirements.

SEC. 101.0101.63 STORY

Story shall mean that portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above.

Story shall include:

1. A half-story or attic (Sec. 101.0101.65) when utilized for one or more dwelling units.

2. A basement (Sec. 101.0101.68) which has a vertical distance, at any point, between its floor and grade (as defined in Sec. 101.0101.62 HEIGHT (BUILDING)) of three feet or less.

3. A mezzanine or interior balcony (Sec. 101.0101.66) utilized for one or more dwelling units.

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4. A mezzanine or interior balcony which exceeds 33-1/3 percent of the total gross floor area of the first full floor immediately below it.

5. A penthouse (Sec. 101.0101.71), except as specifically excepted by the provisions of Sec. 101.0101.62 HEIGHT (BUILDING).

For purposes of determining incremental yard requirements, the maximum floor to floor vertical height of a story shall be 12 feet. Any story exceeding 12 feet but not more than 20 feet in height shall be counted as two stories for purposes of determining incremental yard requirements, with each additional ten feet of floor to floor height counting as an additional story; provided, however, that the uppermost increment of floor to floor height shall not be counted as an additional story if it is less than five feet.

SEC. 101.0101.64 STORY, FIRST

First story shall mean the lowest story or the ground story of any building, the floor of which is not more than three feet below grade, except that any basement or cellar utilized for residential purposes shall be deemed the first story.

SEC. 101.0101.65 STORY, HALF (ATTIC)

Half story shall mean a story with at least two of its opposite sides situated immediately under a sloping roof, the walls of said

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opposite sides not greater than four feet in height, with the floor area of said story not in excess of two-thirds of the floor area of the first full story as defined in Section 101.0101.63 - STORY, immediately below it; provided, however, that any such story used for one or more dwelling units shall be deemed a full story. A half story shall not be used to compute incremental yard requirements, as defined in Sec. 101.0101.70 - INCREMENTAL YARDS, nor shall a half story be computed as gross floor area as defined by Sec. 101.0101.25 unless said half story is used for one or more dwelling units.

SEC. 101.0101.66 MEZZANINE (INTERIOR BALCONY)

Mezzanine shall mean any intermediate floor placed between two full stories in a building, with major orientation to the story immediately beneath it; provided, however, if the total gross floor area of said "mezzanine floor" exceeds 33-1/3 percent of the total gross floor area of the first full story, as defined in Section 101.0101.63 - STORY, immediately below it, it shall be considered as constituting a full story.

If a mezzanine is used for one or more dwelling units it shall be considered as constituting a full story.

SEC. 101.0101.67 BALCONY, EXTERIOR

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A roofed or unroofed platform, enclosed by a railing or parapet, projecting from an exterior supporting wall of a building. When a

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balcony is roofed and has less than 40 percent of its vertical surface permanently open, it is considered to be part of the room or interior area it serves and is included in computations of gross floor area.

SEC. 101.0101.68 BASEMENT

That portion of a building which is partly below and partly above grade but located so that vertical distance from grade to the floor below is less than the vertical distance from grade to ceiling. If the vertical distance at any point between floor and grade is three feet or less then said basement shall be included for purposes of computing gross floor area and floor area ratio.

SEC. 101.0101.69 CELLAR

That portion of a building which is wholly or partly below grade and located so that the vertical distance from grade to floor is equal to, or greater than the vertical distance from grade to ceiling. If the vertical distance, at any point, between floor and grade is three feet or less then said cellar shall be considered a story for purposes of computing gross floor area and floor area ratio.

SEC. 101.0101.70 INCREMENTAL YARDS

Incremental or sliding-scale yards, required by certain sections of this chapter, are directly related to increases, by story, in building height and are correspondingly increased in horizontal width or depth.

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For purposes of determining incremental yard requirements, the maximum floor to floor vertical height of a story shall be 12 feet. Any story exceeding 12 feet but not more than 20 feet in height shall be counted as two stories for purposes of determining incremental yard requirements, with each additional ten feet of floor to floor height counting as an additional story; provided, however, that the uppermost increment of floor to floor height shall not be counted as an additional story if it is less than five feet.

A half story (Sec. 101.0101.65), first story (Sec. 101.0101.64), basement (Sec. 101.0101.68), or cellar (Sec. 101.0101.69) used to accommodate one or more dwelling units shall be considered to be a story for purposes of computing incremental yard requirements.

A penthouse (Sec. 101.0101.71), except as specifically excepted by the provisions of Sec. 101.0101.62 HEIGHT (BUILDING), shall be considered to be a story for purposes of computing incremental yard requirements.

If a basement (Sec. 101.0101.68) or cellar (Sec. 101.0101.69) has a vertical distance, at any point, of three feet or less between floor and grade then said basement or cellar shall be considered to be a story for purposes of computing incremental yard regulations.

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A structure located upon the roof of a multi-story building or structure and which is set back from the vertical projections of the main wall of the building or structure or that portion of the building or structure upon which the penthouse is located. Any such structure shall be considered to be gross floor area, as defined in Sec. 101.0101.25 and to be a story, as defined in Sec. 101.0101.63, except when specifically excepted by the provisions of Sec. 101.0101.62 HEIGHT (BUILDING).

SEC. 101.0101.72 FLOOR

A continuous, supporting surface extending horizontally throughout a building. The floor shall be considered to be a continuous plane and shall include interior elevator shafts, interior stairwells, other similar interior spaces, and those items set forth in Sec. 101.0101.25 - GROSS FLOOR AREA.

Section 3. This ordinance shall take effect and be in force on the thirtieth day from and after its passage.

APPROVED: JOHN W. WITT, City Attorney

By Frederick C. Conrad
Frederick C. Conrad, Chief Deputy

FCC:nb
9-15-75
Or. Dept. Plng

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MAY 8 1978

Passed and adopted by the Council of The City of San Diego on OCT 8 1975, by the following vote:

Councilmen	Yeas	Nays	Excused	Absent
Gil Johnson	☑	☐	☐	☐
Maureen F. O'Connor	☑	☐	☐	☐
Lee Hubbard	☑	☐	☐	☐
Leon L. Williams	☑	☐	☐	☐
Floyd L. Morrow	☑	☐	☐	☐
Bob Martinet	☑	☐	☐	☐
Jim Ellis	☑	☐	☐	☐
Jess D. Haro	☑	☐	☐	☐
Mayor Pete Wilson	☑	☐	☐	☐

AUTHENTICATED BY:

PETE WILSON,
Mayor of The City of San Diego, California.

EDWARD NIELSEN,
City Clerk of The City of San Diego, California.

(Seal)

By Edward J. Salter Jr., Deputy.

I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on SEP 25 1975, and on OCT 8 1975.

~~I FURTHER CERTIFY that said ordinance was read in full prior to its final passage.~~

I FURTHER CERTIFY that the reading of said ordinance in full was dispensed with by a vote of not less than a majority of the members elected to the Council, and that there was available for the consideration of each member of the Council and the public prior to the day of its passage a written or printed copy of said ordinance.

EDWARD NIELSEN,
City Clerk of The City of San Diego, California.

(Seal)

By Edward J. Salter Jr., Deputy.

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MAY 8 1978

CC-1255-A (REV. 1-75)

Office of the City Clerk, San Diego, California

Ordinance Number 11697 Adopted OCT 8 1975

ATTACHMENT 6

RECEIVED
CITY CLERK'S OFFICE
1975 OCT 29 PM 1:07
SAN DIEGO, CALIF.

ATTORNEY(S)

San Diego, City of
12th Floor City Admin. Bldg.
San Diego, Ca. 92101
Martinez

CERTIFICATE OF PUBLICATION

No.

IN THE MATTER OF

RELATING TO THE DEFINITIONS AND INTERPRETATIONS

I, PATRICIA M. APPLESTILL hereby certify that San Diego Daily Transcript is a daily newspaper of general circulation within the provisions of the Government Code of the State of California, printed and published in the City of San Diego, County of San Diego, State of California; that I am the principal clerk of said newspaper; and the

4999 ORDINANCE NO. 11697 (New Series)

is a true and correct copy of which this certificate is annexed and was published in said newspaper on

October 17, 1975

I certify under penalty of purjury that the foregoing is true and correct, at San Diego, California, on

October 17, 1975

Patricia M. Applestill

(Signature)

39½" @ 4.84 $191.18

00819 pp

ORDINANCE NO. 11697

(New Series)

AN ORDINANCE AMENDING CHAPTER X, ARTICLE 1, DIVISION 1 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTIONS 101.0101.25 GROSS FLOOR AREA; 101.0101.35 LOT COVERAGE; 101.0101.48 UNDERGROUND PARKING STRUCTURE; AND 101.0101.50 YARD; AND ADDING SECTIONS 101.0101.50.1 THROUGH 101.0101.72 ALL RELATING TO DEFINITIONS AND INTERPRETATIONS.

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

Section 1. That Chapter X, Article 1, Division 1 of the San Diego Municipal Code be amended by amending Sections 101.0101.25, 101.0101.35, 101.0101.48 and 101.0101.50 to read as follows:

SEC. 101.0101.25 GROSS FLOOR AREA

The total horizontal area expressed in square feet, of all the floors of a building included within the surrounding walls, including shafts, enclosed exterior stairwells, and above-ground parking structures.

Gross floor area shall include:

A. Enclosed exterior stairwells, above-ground parking structures and exterior elevator shafts.

B. The floor area of mezzanines and other similar interior balconies.

C. Exterior balconies, entrances, porches, canopies, rigid awnings, stoops, openly supported terraces, openly supported stairways, and sun baffles or shades which are constructed and maintained with less than 40 percent of the vertical surface permanently open.

D. Half stories (attics) (Sec. 101.0101.65), basements (Sec. 101.0101.68), and cellars (Sec. 101.0101.69) shall also be included as gross floor area when said areas are utilized for residential purposes.

E. Penthouses (Sec. 101.0101.71), except when specifically excepted by the provisions of Sec. 101.0101.62 HEIGHT (BUILDING), shall be included in gross floor area.

SEC. 101.0101.35 LOT COVERAGE

That portion of the area of a lot, expressed as a percentage, occupied by all buildings or structures which are roofed or otherwise covered and which extend more than three feet above grade level, as defined in Section 101.0101.62 – HEIGHT (BUILDING); provided, however, that the following shall be exempted:

A. Exterior balconies, entrances, canopies, rigid awnings, stoops, openly supported terraces, openly supported exterior stairways and sun baffles or shades provided they:
1. Do not encroach into required yards.
2. Do not project more than six feet from the supporting structure.
3. Are constructed and maintained with not less than 40 percent of the vertical surface permanently open.

B. Roofed areas enclosed by no more than three exterior walls of a building which provide shelter to exterior balconies, entrances, stoops, terraces, and exterior stairways.

C. Cornices, eaves and belt courses subject to limitations imposed by Section 101.0601, Paragraph 3.

D. Those portions of underground parking structures (Sec. 101.0101.48), first stories (Sec. 101.0101.64), basements (Sec. 101.0101.68), and cellars (Sec. 101.0101.69) lying partially above grade but not exceeding three feet above grade.

All horizontal dimensions shall be taken from the exterior faces of walls, including those structural and architectural appendages as defined and set forth herein.

SEC. 101.0101.48 UNDERGROUND PARKING STRUCTURE

A parking structure constructed so that more than one-half of the vertical height of the uppermost story of the parking structure is below grade, as defined in Section 101.0101.62 HEIGHT (BUILDING).

Those portions of such structure lying entirely below grade are not subject to the lot coverage or yard regulations specified in this article. Those portions of such structure lying partially above grade, but not exceeding three feet above grade, are subject to the yard requirements defined in Section 101.0101.50.1 –FRONT YARD and Section 101.0101.50.2 - STREET SIDE YARD. Those portions of such a structure lying more than three feet above grade shall be subject to all appropriate lot coverage and yard regulations specified in this chapter.

SEC. 101.0101.50 YARD

An open, unoccupied space, other than a court, unobstructed from the ground upward, except where specifically permitted by this article, and located on the same lot with the building or use which it serves.

Those portions of underground parking structures (Sec. 101.0101.48), first stories (Sec. 101.0101.64), basements (Sec. 101.0101.68) and cellars (Sec. 101.0101.69) lying more than three feet above grade are subject to yard requirements except as otherwise indicated in this chapter.

Section 2. That Chapter X, Article 1, Division 1 of the San Diego Municipal Code be amended by adding Sections 101.0101.50.1 through Section 101.0101.72 to read as follows:

SEC. 101.0101.50.1 YARD, FRONT

A front yard is an open unoccupied space, as defined in Section 101.0101.50, extending across the full width of the lot and measured inward, perpendicularly, from the front property line of the lot and parallel thereto for a distance specified in this article, or as otherwise specified by setback ordinance.

Those portions of underground parking structures (Sec. 101.0101.48), first stories (Sec. 101.0101.64), basements (Sec. 101.0101.68) and cellars (Sec. 101.0101.69) lying above grade are subject to the front yard requirements in any land use zone which requires landscaping in the required front yard.

SEC. 101.0101.50.2 YARD, STREET SIDE

A street side yard is an open unoccupied space, as defined in Section 101.0101.50, extending the full depth of the lot and measured inward, perpendicularly, from the street side property line of the lot and parallel thereto for a distance specified in this article; or as otherwise specified by setback ordinance; provided, however, that any area of the lot described as front yard in Section 101.0101.50.1 shall not be included as part of the street side yard.

Those portions of underground parking structures (Sec. 101.0101.48), first stories (Sec. 101.0101.64) basements (Sec. 101.0101.68) and cellars (Sec. 101.0101.69) lying above grade are subject to the street side yard requirements in any land use zone which requires landscaping in the required street side yard.

SEC. 101.0101.50.3 YARD, REAR

A rear yard is an open unoccupied space, as defined in Section 101.0101.50, extending across the full width of the lot and measured inward, perpendicularly from the rear property line of the lot and parallel thereto for a distance specified in this article; provided, however, that any area of the lot described as street side yard in Section 101.0101.50.2 shall not be included as part of the rear yard.

Those portions of underground parking structures (Sec. 101.0101.48), first stories (Sec. 101.0101.64), basements (Sec. 101.0101.68) and cellars (Sec. 101.0101.69) lying more than three feet above grade are subject to rear yard requirements.

SEC. 101.0101.50.4 YARD, INTERIOR SIDE

An interior side yard is an open unoccupied space, as defined in Section 101.0101.50, extending the full depth of the lot and measured inward, perpendicularly from the interior side property line of the lot and parallel thereto for a distance specified in this article; provided, however, that any area of the lot described as front yard in Section 101.0101.50.1 or as rear yard in Section 101.0101.50.3 shall not be included as part of the interior side yard.

Those portions of underground parking structures (Sec. 101.0101.48), first stories (Sec. 101.0101.64), basements (Sec. 101.0101.68) and cellars (Sec. 101.0101.69) lying more than three feet above grade are subject to interior side yard requirements.

SEC. 101.0101.63 STORY

Story shall mean that portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above.

Story shall include:

1. A half-story or attic (Sec. 101.0101.65) when utilized for one or more dwelling units.
2. A basement (Sec. 101.0101.68) which has a vertical distance, at any point, between its floor and grade (as defined in Sec. 101.0101.62 HEIGHT (BUILDING)), of three feet or less.
3. A mezzanine or interior balcony (Sec. 101.0101.66) utilized for one or more dwelling units.
4. A mezzanine or interior balcony which exceeds 33-1/3 percent of the total gross floor area of the first full floor immediately below it.
5. A penthouse (Sec. 101.0101.71), except as specifically excepted by the provisions of Sec. 101.0101.62 HEIGHT (BUILDING).

For purposes of determining incremental yard requirements, the maximum floor to floor vertical height of a story shall be 12 feet. Any story exceeding 12 feet but not more than 20 feet in height shall be counted as two stories for purposes of determining incremental yard requirements, with each additional ten feet of floor to floor height counting as an additional story; provided, however, that the upper most increment of floor to floor height shall not be counted as an additional story if it is less than five feet.

SEC. 101.0101.64 STORY, FIRST

First story shall mean the lowest story or the ground story of any building, the floor of which is not more than three feet below grade, except that any basement or cellar utilized for residential purposes shall be deemed the first story.

SEC. 101.0101.65 STORY, HALF (ATTIC)

Half story shall mean a story with at least two of its opposite sides situated immediately under a sloping roof, the walls of said opposite sides not greater than four feet in height, with the floor area of said story not in excess of two—thirds of the floor area of the first full story as defined in Section 101.0101.63 - STORY, immediately below it; provided, however, that any such story used for one or more dwelling units shall be deemed a full story. A half story shall not be used to compute incremental yard requirements, as defined in Sec. 101.0101.70 - INCREMENTAL YARDS, nor shall a half story be computed as gross floor area as defined by Sec. 101.0101.25 unless said half story is used for one or more dwelling units.

SEC. 101.0101.66 MEZZANINE (INTERIOR BALCONY)

Mezzanine shall mean any intermediate floor placed between two full stories in a building, with major orientation to the story immediately beneath it; provided, however, if the total gross floor area of said "mezzanine floor" exceeds 33-1/3 percent of the total gross floor area of the first full story, as defined in Section 101.0101.63 - STORY, immediately below it, it shall be considered as constituting a full story.

If a mezzanine is used for one or more dwelling units it shall be considered as constituting a full story.

SEC. 101.0101.67 BALCONY, EXTERIOR

A roofed or unroofed platform, enclosed by a railing or parapet, projecting from an exterior supporting wall of a building. When a balcony is roofed and has less than 40 percent of its vertical surface permanently open, it is considered to be part of the room or interior area it serves and is included in computations of gross floor area.

SEC. 101.0101.68 BASEMENT

That portion of a building which is partly below and partly above grade but located so that vertical distance from grade to the floor below is less than the vertical distance from grade to ceiling. If the vertical distance at any point between floor and grade is three feet or less then said basement shall be included for purposes of computing gross floor area and floor area ratio.

SEC. 101.0101.69 CELLAR

That portion of a building which is wholly or partly below grade and located so that the vertical distance from grade to floor is equal to, or greater than the vertical distance from grade to ceiling. If the vertical distance, at any point, between floor and grade is three feet or less then said cellar shall be considered a story for purposes of computing gross floor area and floor area ratio.

SEC. 101.0101.70 INCREMENTAL YARDS

Incremental or sliding-scale yards, required by certain sections of this chapter, are directly related to increases, by story, in building height and are correspondingly increased in horizontal width or depth.

For purposes of determining incremental yard requirements, the maximum floor to floor vertical height of a story shall be 12 feet. Any story exceeding 12 feet but not more than 20 feet in height shall be counted as two stories for purposes of determining incremental yard requirements, with each additional ten feet of floor to floor height counting as an additional story; provided, however, that the upper most increment of floor to floor height shall not be counted as an additional story if it is less than five feet.

A half story (Sec. 101.0101.65), first story (Sec. 101.0101.64), basement (Sec. 101.0101.68), or cellar (Sec. 101.0101.69) used to accomodate one or more dwelling units shall be considered to be a story for purposes of computing incremental yard requirements.

A penthouse (Sec. 101.0101.71), except as specifically excepted by the provisions of Sec. 101.0101.62 HEIGHT (BUIDLING), shall be considered to be a story for purposes of computing incremental yard requirements.

If a basement (Sec. 101.0101.68) or cellar (Sec. 101.0101.69) has a vertical distance, at any point, of three feet or less between floor and grade then said basement or cellar shall be considered to be a story for purposes of computing incremental yard regulations.

SEC. 101.0101.71 PENTHOUSE

A structure located upon the roof of a multi-story building or structure and which is set back from the vertical projections of the main wall of the building or structure or that portion of the building or structure upon which the penthouse is located. Any such structure shall be considered to be gross floor area, as defined in Sec. 101.0101.25 and to be a story, as defined in Sec. 101.0101.63 except when specifically excepted by the provisions of Sec. 101.0101.62 HEIGHT (BUILDING).

SEC. 101.0101.72 FLOOR

A continuous, supporting surface extending horizontally throughout a building. The floor shall be considered to be a continuous plane and shall include interior elevator shafts, interior stairwells, other similar interior spaces, and those items set forth in Sec. 101.0101.25 - GROSS FLOOR AREA.

Section 3. This ordinance shall take effect and be in force on the thirtieth day from and after its passage.

Introduced on September 25, 1975.

Passed and adopted by the Council of The City of San Diego on October 8, 1975.

AUTHENTICATED BY:
PETE WILSON,
Mayor of The City of San Diego, California.
EDWARD NIELSEN,
City Clerk of The City of San Diego, California.
By KATHLEEN MARTINEZ, Deputy.

(SEAL)

Pub. Oct. 17, 1975 LS 4999

ORDINANCE NUMBER O- 21254 (NEW SERIES)

DATE OF FINAL PASSAGE OCT 30 2020

AN ORDINANCE AMENDING CHAPTER 11, ARTICLE 3, DIVISION 1 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTION 113.0103; AMENDING CHAPTER 12, ARTICLE 6, DIVISION 4 BY AMENDING SECTIONS 126.0402 AND 126.0404; AMENDING CHAPTER 12, ARTICLE 6, DIVISION 5 BY AMENDING SECTION 126.0502 AND RETITLING AND AMENDING SECTION 126.0503; AMENDING CHAPTER 12, ARTICLE 6, DIVISION 6 BY AMENDING SECTION 126.0602 AND RETITLING AND AMENDING SECTION 126.0603; AMENDING CHAPTER 12, ARTICLE 6, DIVISION 7 BY AMENDING SECTION 126.0704; AMENDING CHAPTER 13, ARTICLE 1, DIVISION 1 BY AMENDING SECTION 131.0112 AND BY ADDING SECTION 131.0123; AMENDING CHAPTER 13, ARTICLE 1, DIVISION 2 BY AMENDING SECTIONS 131.0222 AND 131.0231; AMENDING CHAPTER 13, ARTICLE 1, DIVISION 3 BY AMENDING SECTIONS 131.0322 AND 131.0331; AMENDING CHAPTER 13, ARTICLE 1, DIVISION 4 BY AMENDING SECTIONS 131.0422 AND 131.0431; AMENDING CHAPTER 13, ARTICLE 1, DIVISION 5 BY AMENDING SECTIONS 131.0522 AND 131.0531; AMENDING CHAPTER 13, ARTICLE 1, DIVISION 6 BY AMENDING SECTION 131.0622 AND 131.0631; AMENDING CHAPTER 13, ARTICLE 1, DIVISION 7 BY AMENDING SECTIONS 131.0707 AND 131.0709; AMENDING CHAPTER 13, ARTICLE 2, DIVISION 14 BY AMENDING SECTION 132.1402; AMENDING CHAPTER 14, ARTICLE 1, DIVISION 3 BY REPEALING SECTION 141.0302 AND BY ADDING NEW SECTIONS 141.0302, 141.0317, AND 141.0318; AMENDING CHAPTER 14, ARTICLE 2, DIVISION 6 BY AMENDING SECTIONS 142.0640 AND 142.0680; AMENDING CHAPTER 14, ARTICLE 3, DIVISION 3 BY AMENDING SECTION 143.0302; AMENDING CHAPTER 14, ARTICLE 3, DIVISION 4 BY AMENDING SECTIONS 143.0402, 143.0410, AND 143.0455; AMENDING CHAPTER 14, ARTICLE 3, DIVISION 7 BY AMENDING SECTIONS 143.0710, 143.0715, 143.0720, 143.0740, 143.0743, AND 143.0744; AMENDING CHAPTER 14, ARTICLE 3, DIVISION 9 BY AMENDING SECTIONS 143.0915 AND 143.0920; AMENDING CHAPTER 14, ARTICLE 3 BY ADDING NEW DIVISION 12, SECTIONS

143.1201, 143.1203, 143.1205, 143.1207, 143.1210, AND 143.1212; AMENDING CHAPTER 15, ARTICLE 1, DIVISION 1 BY AMENDING SECTION 151.0103; AMENDING CHAPTER 15, ARTICLE 6, DIVISION 3 BY AMENDING SECTION 156.0309; AND BY AMENDING CHAPTER 15, ARTICLE 10, DIVISION 3 BY AMENDING SECTION 1510.0303, ALL RELATING TO THE HOUSING LEGISLATION CODE UPDATE.

WHEREAS, the California State Legislature adopted a number of land use and housing laws in 2019 that became effective January 1, 2020; and

WHEREAS, this Ordinance, also known as the Housing Legislation Code Update, contains amendments to the Land Development Code of the San Diego Municipal Code that implement these recent changes in state law, conform the Land Development Code to the latest state law provisions, and include incentives to address local housing needs; and

WHEREAS, the amendments are grouped into four issue areas: housing for the homeless; affordable housing regulations; accessory dwelling units and junior accessory dwelling units; and miscellaneous housing items; and

WHEREAS, City staff conducted extensive public outreach and analysis on the Housing Legislative Code Update involving multiple stakeholder groups, City departments, and other governmental agencies; NOW, THEREFORE,

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

Section 1. That Chapter 11, Article 3, Division 1 of the San Diego Municipal Code is amended by amending section 113.0103, to read as follows:

§113.0103 Definitions

Abutting property through *Accessory building* [No change in text.]

Accessory Dwelling Unit (*ADU*) means an attached or detached residential *dwelling unit* that is 1,200 square feet in size or less, provides complete

independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking, and sanitation, and is located on a *lot* with a proposed or existing *single dwelling unit* or *multiple dwelling unit.*

Accessory structure through *Coastal development* [No change in text.]

Condominium conversion through *Dwelling unit, single* [No change in text.]

Efficiency kitchen means a food storage and preparation area containing a kitchen sink, cooking appliance, and refrigeration facilities, each having a clear working space of not less than 30 inches in front.

Encroachment through *Internally illuminated sign* [No change in text.]

Junior Accessory Dwelling Unit (*JADU*) means *a dwelling unit* that is 500 square feet or less in size and is contained entirely within an existing or proposed *single dwelling unit* on a residential *single dwelling unit lot.* A *JADU* may include separate sanitation facilities or may share sanitation facilities with the *single dwelling unit.*

Kitchen through *Low Income* [No change in text.]

Lower income students means students who have a household income and asset level that does not exceed the level for Cal Grant A or Cal Grant B award recipients as set forth in Section 69432.7(k)(1) of the California Education Code.

Lowest Floor through *Yard* [No change in text.]

Section 2. That Chapter 12, Article 6, Division 4 of the San Diego Municipal Code is amended by amending sections 126.0402 and 126.0404, to read as follows:

§126.0402 When a Neighborhood Development Permit Is Required

(a) through (p) [No change in text.]

(q) A Neighborhood Development Permit is required for *development* that provides affordable housing, in-fill projects, and/or sustainable buildings identified in Section 143.0915, where a Site Development Permit or Planned Development Permit would otherwise be required.

§126.0404 Findings for Neighborhood Development Permit Approval

A Neighborhood Development Permit may be approved or conditionally approved only if the decision maker makes all of the *findings* in Section 126.0404(a) and the supplemental *findings* in Section 126.0404(b) through (g) that are applicable to the proposed *development* as specified in this section.

These *findings* are not required for affordable housing that is provided pursuant to Chapter 14, Article 3, Division 7, unless the *development* will exceed the allowed incentives.

(a) [No change in text.]

(b) Supplemental Findings--Environmentally Sensitive Lands

A Neighborhood Development Permit required in accordance with Section 143.0110 because of potential impacts to *environmentally sensitive lands* may be approved or conditionally approved only if the

decision maker makes the following supplemental *findings* in addition to the *findings* in Section 126.0404(a):

(1) through (3) [No change in text.]

(4) The proposed *development* will be consistent with the City of San Diego's *MSCP Subarea Plan* and *VPHCP.*

(5) The nature and extent of mitigation required as a condition of the permit is reasonably calculated to alleviate negative impacts created by the proposed *development.*

(c) through (f) [No change in text.]

(g) Supplemental Findings -- *Development* Incentives for Preservation of Designated Historical Resources, Historical Districts, Traditional Cultural Properties and Important Archaeological Sites

A Neighborhood Development Permit required because a historic preservation *development* incentive is included in accordance with Section 143.0240 may be approved or conditionally approved only if the decision maker makes the *findings* in Section 126.0404(a) and at least one of the following supplemental *findings*:

(1) through (2) [No change in text.]

Section 3. That Chapter 12, Article 6, Division 5 of the San Diego Municipal Code is amended by amending section 126.0502 and retitling and amending section 126.0503, to read as follows:

§126.0502 When a Site Development Permit is Required

(a) A Site Development Permit decided in accordance with Process Three is required where *environmentally sensitive lands* are present for the following types of *development*, except that if the *development* is affordable housing, an in-fill project, and/or a sustainable building, as described in Section 143.0915, it shall be processed in accordance with Section 126.0503 and Section 143.0110, Table 143-01A:

(1) through (4) [No change in text.]

(b) [No change in text.]

(c) A Site Development Permit decided in accordance with Process Three is required for the following types of *development*.

(1) In the Community Plan Implementation Overlay Zone, as described in Section 132.1402, *development* in the area designated "Type B" or *development* in the area designated "Type A" that does not comply with the *development* standards in the applicable community plan, except that if the *development* is affordable housing, an in-fill project, and/or a sustainable building, as described in Section 143.0915, it shall be processed in accordance with Section 126.0503 and Section 132.1402, Table 132-14B.

(2) through (8) [No change in text.]

(d) through (g) [No change in text.]

§126.0503 Reduced Permit and Processing for Affordable Housing, In-Fill Projects, and Sustainable Buildings

Development of affordable housing, in-fill projects, and/or sustainable buildings described in Section 143.0915 that requires a Site Development Permit in accordance with Section 126.0502(a) or 126.0502(c)(1) may be permitted in accordance with a Neighborhood Development Permit decided in accordance with Process Two, provided the *findings* in Section 126.0404(a) are made.

Development of affordable housing, in-fill projects, and/or sustainable buildings impacting *environmentally sensitive lands* may be approved or conditionally approved only if the decision maker also makes the supplemental *findings* in Section 126.0404(b). In the event that a deviation is requested, the *development* may not be approved or conditionally approved unless the applicable supplemental *findings* in Section 126.0404(c) and 126.0404(f) are also made.

Section 4. That Chapter 12, Article 6, Division 6 of the San Diego Municipal Code is amended by amending section 126.0602 and retitling and amending section 126.0603, to read as follows:

§126.0602 When a Planned Development Permit May Be Requested

(a) [No change in text.]

(b) The following types of *development* may be requested with a Planned Development Permit decided in accordance with Process Four.

(1) through (3) [No change in text.]

(4) *Multiple dwelling unit development* requesting increased *density* where the *land use plan* expressly provides for increased *density*

with the approval of a Planned Development Permit, except that if the *development* is affordable housing, an in-fill project, and/or a sustainable building as described in Section 143.0915, it may be permitted with a Neighborhood Development Permit decided in accordance with Section 126.0603.

(c) [No change in text.]

§126.0603 Reduced Permit and Processing for Affordable Housing, In-Fill Projects, and Sustainable Buildings

Development consistent with the affordable housing, in-fill projects, and/or sustainable buildings regulations in Section 143.0915 that requires a Planned Development Permit in accordance with Sections 126.0602(b)(1) and 126.0602(b)(4) may be permitted with a Neighborhood Development Permit decided in accordance with Process Two, provided the *findings* in Section 126.0404(a) are made. In the event that a deviation is requested, the supplemental *findings* in Section 126.0404(f) shall also be made.

Section 5. That Chapter 12, Article 6, Division 7 of the San Diego Municipal Code is amended by amending section 126.0704, to read as follows:

§126.0704 Exemptions from a Coastal Development Permit

The following *coastal development* is exempt from the requirement to obtain a Coastal Development Permit:

(a) Improvements to existing *structures*, including the construction of attached *Accessory Dwelling Units* and *Junior Accessory Dwelling Units* in accordance with Section 141.0302 are exempt, except if the improvements involve any of the following:

(1) through (8) [No change in text.]

(b) through (i) [No change in text.]

Section 6. That Chapter 13, Article 1, Division 1 of the San Diego Municipal Code is amended by amending section 131.0112 and by adding section 131.0123, to read as follows:

§131.0112 Descriptions of Use Categories and Subcategories

(a) The following are descriptions of each use category and subcategory found in the Use Regulations Tables of each base zone. These descriptions shall be used to classify specific uses into use subcategories for the purpose of determining applicable use regulations, in accordance with Section 131.0110. A description of separately regulated uses is located in Section 131.0112(b).

(1) through (2) [No change in text.]

(3) Residential Use Category

This category includes uses that provide living accommodations for one or more persons. The residential subcategories are:

(A) [No change in text.]

(B) *Mobilehome* Parks — A *premises* with two or more *mobilehomes* used as *dwelling units*, other than an *Accessory Dwelling Unit*, *Junior Accessory Dwelling Unit*, *movable tiny house* or employee housing.

(C) *Multiple Dwelling Units* — *Dwelling units* where more than one *dwelling unit*, other than an *Accessory Dwelling*

Unit, Junior Accessory Dwelling Unit, movable tiny house

or employee housing, is located on a single *lot.*

(D) through (E) [No change in text.]

(4) through (11) [No change in text.]

(b) [No change in text.]

§131.0123 *Development* That is Consistent with the *Land Use Plan* But Not the Base Zone

Development that complies with the applicable *land use plan*, but contains uses and/or *density* that are not consistent with the underlying base zone, may be permitted as follows:

(a) Residential *development* and residential mixed-use *development* proposing residential uses and/or *density* may be permitted upon issuance of a *construction permit* decided in accordance with a Process One. *Development* in accordance with this Section shall not preclude the use of the Affordable Housing Regulations in Chapter 14, Article 3, Division 7, where applicable.

(b) *Development* other than that specified in Section 131.0123(a) may be permitted with a Planned Development Permit in accordance with Section 126.0602(a)(2).

Section 7. That Chapter 13, Article 1, Division 2 of the San Diego Municipal Code is amended by amending sections 131.0222 and 131.0231 to read as follows:

§131.0222 Use Regulations Table for Open Space Zones

The uses allowed in the open space zones are shown in Table 131-02B.

Legend for Table 131-02B

[No change in text.]

Table 131-02B
Use Regulations Table for Open Space 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 >>	OP-		OC-	OR[1]-		OF[1]-
	3rd >>	1-	2-	1-	1-		1-
	4th >>	1	1	1	1	2	1
Open Space through **Residential** - ***Single Dwelling Units*** [No change in text.]		[No change in text.]					
Separately Regulated Residential Uses							
Accessory Dwelling Units		-	-	-	L		-
Boarder & Lodger Accommodations [No change in text.]		[No change in text.]					
Continuing Care Retirement Communities [No change in text.]		[No change in text.]					
Employee Housing:							
6 or Fewer Employees		-	-	-	L		-
Residential – Separately Regulated Residential Uses – Employee Housing: 12 or Fewer Employees through **Residential – Separately Regulated Residential Uses** - Interim Ground *Floor Residential* [No change in text.]		[No change in text.]					
Junior Accessory Dwelling Units		-	-	-	L		-
Live/Work Quarters [No change in text.]		[No change in text.]					
Low Barrier Navigation Center		-	-	-	-		-
Residential – Separately Regulated Residential Uses -*Movable Tiny Houses* through ***Signs*, Separately Regulated *Signs* Uses** – Theater *Marquees* [No change in text.]		[No change in text.]					

Footnotes for Table 131-02B [No change in text.]

§131.0231 Development Regulations Table for Open Space Zones

The following development regulations apply in the open space zones as shown in Table 131-02C.

Table 131-02C
Development Regulations for Open Space Zones

Development Regulations [See Section 131.0230 for Development Regulations of Open Space Zones]	Zone Designator	**Zones**					
	1st & 2nd >>	OP-		OC-	OR-		OF[1]-
	3rd >>	1-	2-	1-	1-	1-	1-
	4th >>	1		1	1	2	1
Max Permitted Residential *Density* (DU Per *Lot*) through **Visibility Area** [No change in text.]		[No change in text.]					
***Dwelling Unit* Protection Regulations** [See Chapter 14, Article 3, Division 12]		--		--	applies	applies	--

Footnotes for Table 131-02C [No change in text.]

Section 8. That Chapter 13, Article 1, Division 3 of the San Diego Municipal Code is amended by amending sections 131.0322 and 131.0331 to read as follows:

§131.0322 Use Regulations Table for Agricultural Zones

The uses allowed in the agricultural zones are shown in Table 131-03B.

Legend for Table 131-03B

[No change in text.]

Table 131-03B
Use Regulations Table for Agricultural 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 >>	AG		AR	
	3rd >>	1-		1-	
	4th >>	1	2	1	2
Open Space through **Residential - *Single Dwelling Units*** [No change in text.]		[No change in text.]			
Separately Regulated Residential Uses					

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 >>	AG		AR	
	3rd >>	1-		1-	
	4th >>	1	2	1	2
Accessory Dwelling Units		-		L	
Boarder & Lodger Accommodations [No change in text.]		[No change in text.]			
Residential – Separately Regulated Residential Uses – Continuing Care Retirement Communities through **Residential – Separately Regulated Residential Uses –** Interim Ground *Floor Residential* [No change in text]		[No change in text.]			
Junior Accessory Dwelling Units		-		L	
Live/Work Quarters [No change in text.]		[No change in text.]			
Low Barrier Navigation Centers		-		-	
Residential – Separately Regulated Residential Uses – *Movable Tiny Houses* through ***Signs*** **– Separately Regulated *Signs* Uses –** Theater *Marquees* [No change in text.]		[No change in text.]			

Footnotes for Table 131-03B [No change in text.]

§131.0331 Development Regulations Table for Agricultural Zones

The following development regulations apply in the agricultural zones as shown in Table 131-03C.

Table 131-03C
Development Regulations for Agricultural Zones

Development Regulations [See Section 131.0330 for Development Regulations of Agricultural Zones]	Zone Designator	**Zones**			
	1st & 2nd >>	AG		AR	
	3rd >>	1-	1-	1-	1-
	4th >>	1	2	1	2
Max Permitted Residential *Density* (DU Per *Lot*) through **Visibility Area** [No change in text.]		[No change in text.]			
***Dwelling Unit* Protection Regulations** [See Chapter 14, Article 3, Division 12]		applies	applies	applies	applies

Footnotes for Table 131-03C [No change in text.]

Section 9. That Chapter 13, Article 1, Division 4 of the San Diego Municipal Code is amended by amending sections 131.0422 and 131.0431 to read as follows:

§131.0422 Use Regulations Table for Residential Zones

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

Legend for Table 131-04B

[No change in text.]

Table 131-04B
Use Regulations Table for 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	5
Open Space through **Residential - *Single Dwelling Units*** [No change in text.]		[No change in text.]																						
Separately Regulated Residential Uses																								
Accessory Dwelling Units		L			L												L		L					
Boarder & Lodger Accommodations [No change in text.]		[No change in text.]																						
Continuing Care Retirement Communities [No change in text.]		[No change in text.]																						
Employee Housing:																								
6 or Fewer Employees		L			L												L		L					
Residential – Separately Regulated Residential Uses – Employee Housing: 12 or Fewer Employees through **Residential – Separately Regulated Residential Uses** – Interim Ground *Floor Residential* [No change in text.]		[No change in text.]																						
Junior Accessory Dwelling Units		L			L												L		L					
Live/Work Quarters [No change in text.]		[No change in text.]																						
Low Barrier Navigation Center		-			-												-		-					
Residential – Separately Regulated Residential Uses – *Movable Tiny Houses* through ***Signs*** **- Separately Regulated *Signs* Uses** - Theater *Marquees* [No change in text.]		[No change in text.]																						

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 through **Residential** - ***Single Dwelling Units*** [No change in text.]		[No change in text.]											
Separately Regulated Residential Uses													
Accessory Dwelling Units		L			L			L			L		L
Boarder & Lodger Accommodations [No change in text.]		[No change in text.]											
Continuing Care Retirement Communities [No change in text.]		[No change in text.]											
Employee Housing:													
6 or Fewer Employees		L			L			L			L		L
Residential – Separately Regulated Residential Uses – Employee Housing:12 or Fewer Employees through **Residential – Separately Regulated Residential Uses** – Interim Ground *Floor Residential* [No change in text.]		[No change in text.]											
Junior Accessory Dwelling Units		-			-			-			-		-
Live/Work Quarters [No change in text.]		[No change in text.]											
Low Barrier Navigation Center		-			-			-			-		-
Residential – Separately Regulated Residential Uses - *Movable Tiny Houses* through **Residential – Separately Regulated Residential Uses** - Residential Care Facilities: 7 or more persons [No change in text.]		[No change in text.]											
Transitional Housing:													
6 or fewer persons		P			P			P			P		P
7 or more persons		L			L			L			L		L
Residential – Separately Regulated Residential Uses - Watchkeeper Quarters through ***Signs*** - **Separately**		[No change in text.]											

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
Regulated *Signs* Uses - Theatre Marquees [No change in text.]													

Footnotes for Table 131-04B [No change in text.]

§131.0431 Development Regulations Table for Residential Zones

The following development regulations apply in the residential zones as shown in Tables 131-04C, 131-04D, 131-04E, 131-04F, and 131-04G.

(a) RE Zones

Table 131-04C
Development Regulations for RE Zones

Development Regulations [See Section 131.0430 for Development Regulations of Residential Zones]	Zone designator	**Zones**		
	1st & 2nd >>	RE-		
	3rd >>	1-	1-	1-
	4th >>	1	2	3
Max permitted *density* (DU per *lot*) through **Visibility Area** [No change in text.]		[No change in text.]		
***Dwelling Unit* Protection Regulations** [See Chapter 14, Article 3, Division 12]		applies	applies	applies

(b) RS Zones

Table 131-04D
Development Regulations for RS Zones

Development Regulations [See Section 131.0430 for Development Regulations of Residential Zones]	Zone Designator	**Zones**						
	1st & 2nd >>	RS-						
	3rd >>	1-	1-	1-	1-	1-	1-	1-
	4th >>	1	2	3	4	5	6	7
Max permitted *density* (DU per *lot*) through **Visibility Area** [No change in text.]		[No change in text.]						
***Dwelling Unit* Protection Regulations** [See Chapter 14, Article 3, Division 12]		applies	applies	applies	applies	applies	applies	applies

Development Regulations [See Section 131.0430 for Development Regulations of Residential Zones]	Zone Designator	**Zones**						
	1st & 2nd >>	RS-						
	3rd >>	1-	1-	1-	1-	1-	1-	1-
	4th >>	8	9	10	11	12	13	14
Max permitted *density* (DU per *lot*) through **Visibility Area** [No change in text.]		[No change in text.]						
***Dwelling Unit* Protection Regulations** [See Chapter 14, Article 3, Division 12]		applies	applies	applies	applies	applies	applies	applies

Footnotes for Table 131-04D [No change in text.]

(c) RX Zones

Table 131-04E
Development Regulations for RX Zones

Development Regulations [See Section 131.0430 for Development Regulations of Residential Zones]	Zone Designator	**Zones**	
	1st & 2nd >>	RX-	
	3rd >>	1-	1-
	4th >>	1	2
Maximum Permitted *Density* (DU per *lot*) through **Visibility Area** [No change in text.]		[No change in text.]	
***Dwelling Unit* Protection Regulations** [See Chapter 14, Article 3, Division 12]		applies	applies

Footnote for Table 131-04E [No change in text.]

(d) RT Zones

Table 131-04F
Development Regulations for RT Zones

Development Regulations [See Section 131.0430 for Development Regulations of Residential Zones]	Zone Designator	**Zones**				
	1st & 2nd >>	RT-				
	3rd >>	1-	1-	1-	1-	1-
	4th >>	1	2	3	4	5
Maximum Permitted *Density* (DU per *lot*) through **Visibility Area** [No change in text.]		[No change in text.]				
***Dwelling Unit* Protection Regulations** [See Chapter 14, Article 3, Division 12]		applies	applies	applies	applies	applies

(e) RM Zones

Table 131-04G
Development Regulations for RM Zones

Development Regulations [See Section 131.0430 for Development Regulations of Residential Zones]	Zone Designator	**Zones**					
	1st & 2nd >>	RM-					
	3rd >>	1-	1-	1-	2-	2-	2-
	4th >>	1	2	3	4	5	6
Maximum permitted *density*[(1),(2)] (sf per DU) through **Visibility Area** [No change in text.]		[No change in text.]					
***Dwelling Unit* Protection Regulations** [See Chapter 14, Article 3, Division 12]		applies	applies	applies	applies	applies	applies

Development Regulations [See Section 131.0430 for Development Regulations of Residential Zones]	Zone Designator	**Zones**					
	1st & 2nd >>	RM					
	3rd >>	3-	3-	3-	4-	4-	5-
	4th >>	7	8	9	10	11	12
Maximum permitted *density*[(1),(2)] (sf per DU) through **Visibility Area** [No change in text.]		[No change in text.]					
***Dwelling Unit* Protection Regulations** [See Chapter 14, Article 3, Division 12]		applies	applies	applies	applies	applies	applies

Footnotes for Table 131-04G [No change in text.]

Section 10. That Chapter 13, Article 1, Division 5 of the San Diego Municipal Code is amended by amending sections 131.0522 and 131.0531 to read as follows:

§131.0522 Use Regulations Table for Commercial Zones

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

Legend for Table 131-05B

[No change in text.]

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** 1st & 2nd >>	**Zones** CN[1]-						CR-		CO-						CV-	CP-
	3rd >>	1-						1-	2-	1-		2-		3-		1-	1-
	4th >>	1	2	3	4	5	6	1	1	1	2	1	2	1	2	3	1	2	1
Open Space through **Residential - *Single Dwelling Units*** [No change in text.]		[No change in text.]															
Separately Regulated Residential Uses																	
Accessory Dwelling Units		L						L	-	L		-		L		L	-
Boarder & Lodger Accommodations [No change in text.]		[No change in text.]															
Residential – Separately Regulated Residential Uses – Continuing Care Retirement Communities through **Residential – Separately Regulated Residential Uses** – Interim Ground *Floor Residential* [No change in text.]		[No change in text.]															
Junior Accessory Dwelling Units		-						-	-	-		-		-		-	-
Live/Work Quarters [No change in text.]		[No change in text.]															
Low Barrier Navigation Center		L						L	-	L		-		L		L	-
Residential – Separately Regulated Residential Uses – *Movable Tiny Houses* through ***Signs*** - **Separately Regulated *Signs* Uses,** Theater *Marquees* [No change in text.]		[No change in text.]															

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	4	5	6	7	8	9	1	2	3	4	5	6	1	2	3	4	5	6		
Open Space through **Residential - *Single Dwelling Units*** [No change in text.]		[No change in text.]																											
Separately Regulated Residential Uses																													
Accessory Dwelling Units		L			-					L							L						L						
Boarder & Lodger Accommodations [No change in text.]		[No change in text.]																											
Residential – Separately Regulated Residential Uses – Continuing Care Retirement Communities through **Residential – Separately Regulated Residential Uses** – Interim Ground *Floor Residential* [No change in text.]		[No change in text.]																											
Junior Accessory Dwelling Units		-			-					-							-						-						
Live/Work Quarters [No change in text.]		[No change in text.]																											
Low Barrier Navigation Center		L			-					L							L						L						
Residential – Separately Regulated Residential Uses – *Movable Tiny Houses* through **Institutional - Separately Regulated Institutional Uses** - Homeless Facilities: Congregate Meal Facilities [No change in text.]		[No change in text.]																											
Emergency Shelters		L			-					L							L						L						
Institutional - Separately Regulated Institutional Uses - Homeless Facilities: Homeless Day Centers through ***Signs*** - **Separately Regulated *Signs* Uses** - Theater *Marquees* [No change in text.]		[No change in text.]																											

Footnotes for Table 131-05B [No change in text.]

§131.0531 Development Regulations Tables for Commercial Zones

The following development regulations apply in each of the commercial zones as shown in Tables 131-05C, 131-05D, and 131-05E.

(a) CN Zones

Table 131-05C
Development Regulations for CN Zones

Development Regulations [See Section 131.0530 for Development Regulations of Commercial Zones]	**Zone Designator**	**Zones**					
	1st & 2nd >>	**CN-**					
	3rd >>	1-	1-	1-	1-	1-	1-
	4th >>	1	2	3	4	5	6
Max Permitted Residential Density[1] through **Visibility Area** [No change in text.]		[No change in text.]					
***Dwelling Unit* Protection Regulations** [See Chapter 14, Article 3, Division 12]		applies	applies	applies	applies	applies	applies

Footnotes for Table 131-05C [No change in text.]

(b) CR, CO, CV, and CP Zones

Table 131-05D
Development Regulations for CR, CO, CV, CP Zones

Development Regulations [See Section 131.0530 for Development Regulations of Commercial Zones]	**Zone Designator**	**Zones**										
	1st & 2nd >>	CR-		CO-						CV-		CP-
	3rd >>	1-	2-	1-		2-		3-		1-		1-
	4th >>	1		1	2	1-	2-	1	2	3	1	2	1
Max Permitted Residential *Density*[1] through Visibility Area [No change in text.]		[No change in text.]										
***Dwelling Unit* Protection Regulations** [See Chapter 14, Article 3, Division 12]		applies	applies	applies	applies	applies	applies	applies	applies	applies	applies	applies	-

Footnotes for Table 131-05D [No change in text.]

(c) CC Zones

Table 131-05E
Development Regulations for CC Zones

Development Regulation [See Section 131.0530 for Development Regulations of Commercial Zones]	**Zone Designator** 1st & 2nd >>	**Zones** CC-													
	3rd >>	1-	2-	4-	5-	1-	2-	4-	5-	1-	2-	4-	5-	2-	3-	4-	5-
	4th >>	1				2				3				4			
Max Permitted Residential *Density*[(1)] through Visibility Area [No change in text.]		[No change in text.]															
***Dwelling Unit* Protection Regulations** [See Chapter 14, Article 3, Division 12]		**applies**				**applies**				**applies**				**applies**			

Development Regulation [See Section 131.0530 for Development Regulations of Commercial Zones]	**Zone Designator** 1st & 2nd >>	Zones CC													
	3rd >>	2-	3-	4-	5-	3-	4-	5-	3-			3-			
	4th >>	5				6			7			8		9	
Max permitted Residential *Density*[(1)] through Visibility Area [No change in text.]		[No change in text.]													
***Dwelling Unit* Protection Regulations** [See Chapter 14, Article 3, Division 12]		applies				applies			applies			applies		applies	

Footnotes for Table 131-05E [No change in text.]

Section 11. That Chapter 13, Article 1, Division 6 of the San Diego Municipal Code is amended by amending sections 131.0622 and 131.0631 to read as follows:

§131.0622 Use Regulations Table for Industrial Zones

The uses allowed in the industrial zones are shown in Table 131-06B.

Legend for Table 131-06B

[No change in text.]

Table 131-06B
Use Regulations Table for Industrial 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>>	IP-			IL-			IH-		IS-	IBT-
	3rd >>	1-	2-	3-	1-	2-	3-	1-	2-	1-	1-
	4th >>	1	1	1	1	1	1	1	1	1	1
Open Space through **Residential - *Single Dwelling Units*** [No change in text.]		[No change in text.]									
Separately Regulated Residential Uses											
Accessory Dwelling Units		-	-	L[15]	-	-	-	-	-	-	-
Boarder & Lodger Accommodations [No change in text.]		[No change in text.]									
Residential – Separately Regulated Residential Uses – Continuing Care Retirement Communities through **Residential – Separately Regulated Residential Uses** – Interim Ground *Floor Residential* [No change in text.]		[No change in text.]									
Junior Accessory Dwelling Units		-	-	-	-	-	-	-	-	-	-
Live/Work Quarters [No change in text.]		[No change in text.]									
Low Barrier Navigation Center		-	-	-	-	-	-	-	-	-	-
Permanent Supportive Housing		-	-	L[15]	-	-	-	-	-	-	-
Residential Care Facilities:											
6 or Fewer Persons		-	-	P[15]	-	-	-	-	-	-	-
7 or More Persons		-	-	L[15]	-	-	-	-	-	-	-
Transitional Housing											
6 or Fewer Persons		-	-	L[15]	-	-	-	-	-	-	-
7 or More Persons		-	-	L[15]	-	-	-	-	-	-	-
Residential – Separately Regulated Residential Uses - Watchkeeper Quarters through ***Signs*** - **Separately Regulated *Signs* Uses** - Theater *Marquees* [No change in text.]		[No change in text.]									

Footnotes for Table 131-06B [No change in text.]

§131.0631 Development Regulations Table for Industrial Zones

The following development regulations apply in the industrial zones as shown in Table 131-06C.

Table 131-06C
Development Regulations for Industrial Zones

Development Regulations [See Section 131.0630 for Development Regulations of Industrial Zones]	**Zone Designator**	**Zones**								
	1st & 2nd >>	**IP-**			**IL-**			**IH-**		**IS-**	**IBT-**
	3rd >>	1-	2-	3-	1-	2-	3-	1-	2-	1-	1-
	4th >>	1			1			1		1	1
Max permitted residential *density*[(10)] through Visibility Area [No change in text.]		[No change in text.]									
***Dwelling Unit* Protection Regulations** [See Chapter 14, Article 3, Division 12]		applies			-			-		-	-

Footnotes for Table 131-06C [No change in text.]

Section 12. That Chapter 13, Article 1, Division 7 of the San Diego Municipal Code is amended by amending sections 131.0707 and 131.0709 to read as follows:

§131.0707 Use Regulations Table for Mixed-Use Zones

The uses allowed in the mixed-use zones are shown in Table 131-07A.

Legend for Table 131-07A

[No change in text.]

Table 131-07A
Use Regulations Table for Mixed-Use 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 >>	RMX			EMX		
	2nd >>	1	2	3	1	2	3
Open Space through **Residential - *Single Dwelling Units*** [No change in text.]		[No change in text.]					
Separately Regulated Residential Uses							
Accessory Dwelling Units		L	L	L	L[1]	L[1]	L[1]
Boarder & Lodger Accommodations [No change in text.]		[No change in text.]					
Residential – Separately Regulated Residential Uses - Continuing Care Retirement Communities through **Residential – Separately Regulated Residential Uses** - Home Occupations [No change in text.]		[No change in text.]					
Junior Accessory Dwelling Units		-	-	-	-	-	-
Live/Work Quarters [No change in text.]		[No change in text.]					
Low Barrier Navigation Centers		L	L	L	L	L	L
Movable Tiny Houses		-	-	-	-	-	-
Permanent Supportive Housing		L	L	L	L	L	L
Residential – Separately Regulated Residential Uses - Residential Care Facilities through **Residential – Separately Regulated Residential Uses** - Transitional Housing Facilities: 6 or Fewer Persons [No change in text.]		[No change in text.]					
7 or More Persons		L	L	L	L	L	L
Residential – Separately Regulated Residential Uses – Watchkeeper Quarters through ***Signs* - Separately Regulated Signs Uses** – Theater *Marquees* [No change in text.]		[No change in text.]					

Footnotes for Table 131-07A [No change in text.]

§131.0709 Development Regulations Table for Mixed-Use Zones

The following development regulations apply in the mixed-use zones as shown in Table 131-07B.

Table 131-07B
Development Regulations for RMX and EMX Zones

Development Regulations	**Zones**					
	RMX-			**EMX-**		
	1	2	3	1	2	3
Minimum Lot Area (sf) through **Storage Requirements for Residential Only** [No change in text.]	[No change in text.]					
***Dwelling Unit* Protection Regulations** [See Chapter 14, Article 3, Division 12]	applies					

Footnotes for Table 131-07B [No change in text.]

§132.1402 Where the Community Plan Implementation Overlay Zone Applies

(a) [No change in text.]

Table 132-14A
Community Plans with Property in the Community Plan Implementation Overlay Zone

[No change in text.]

(b) [No change in text.]

Table 132-14B
Community Plan Implementation Overlay Zone Applicability

Type of *Development* Proposal		Supplemental Development Regulations	Required Permit Type/ Decision Process
(1)	[No change in text.]	[No change in text.]	[No change in text.]
(2)	[No change in text.]	[No change in text.]	[No change in text.]
(3)	Any *development* within the boundaries shown on a map identified in Section 132.1402, where the map shows "Type A" and the proposed *development* does not comply with the *development* standards or criteria in the applicable community plan[1]	Refer to the applicable community plan	Site Development Permit/ Process Three
(4)	Any *development* within the boundaries shown on a map identified in Section 132.1402, where the map shows "Type B"[1]	Refer to the applicable community plan	Site Development Permit/ Process Three

Footnotes for Table 132-14B

[1] A *development* that is affordable housing, an in-fill project, and/or a sustainable building as described in Section 143.0915 may be permitted with a Neighborhood Development Permit decided in accordance with Process Two subject to Section 143.0920(d).

Section 13. That Chapter 13, Article 2, Division 14 of the San Diego Municipal Code is amended by amending section 132.1402 to read as follows:

§132.1402 Where the Community Plan Implementation Overlay Zone Applies

(a) [No change in text.]

Table 132-14A
Community Plans with Property in the Community Plan Implementation Overlay Zone

[No change in text.]

(b) [No change in text.]

Table 132-14B
Community Plan Implementation Overlay Zone Applicability

Type of *Development* Proposal		Supplemental Development Regulations	Required Permit Type/ Decision Process
(1)	[No change in text.]	[No change in text.]	[No change in text.]
(2)	[No change in text.]	[No change in text.]	[No change in text.]
(3)	Any *development* within the boundaries shown on a map identified in Section 132.1402, where the map shows "Type A" and the proposed *development* does not comply with the *development* standards or criteria in the applicable community plan[1]	Refer to the applicable community plan	Site Development Permit/ Process Three
(4)	Any *development* within the boundaries shown on a map identified in Section 132.1402, where the map shows "Type B"[1]	Refer to the applicable community plan	Site Development Permit/ Process Three

Footnotes for Table 132-14B

[2] A *development* that is affordable housing, an in-fill project, and/or a sustainable building as described in Section 143.0915 may be permitted with a Neighborhood Development Permit decided in accordance with Process Two subject to Section 143.0920(d).

Section 14. That Chapter 14, Article 1, Division 3 of the San Diego Municipal Code is amended by repealing section 141.0302 and by adding new sections 141.0302, 141.0317, and 141.0318 to read as follows:

§141.0302 ***Accessory Dwelling Units*** **and** ***Junior Accessory Dwelling Units***

Section 141.0302 provides for the construction of *Accessory Dwelling Units* (*ADUs*) and *Junior Accessory Dwelling Units* (*JADUs*), consistent with the requirements of state law, and is intended to encourage the construction of *ADUs*

and *JADUs* through several local regulatory provisions, including allowing encroachment into the interior side *yard* and rear *yard setbacks* up to the *property line*, eliminating parking requirements for *ADUs* and *JADUs*, and providing an affordable housing bonus of one additional *ADU* for every deed-restricted affordable *ADU* constructed on the *premises*, as specified in the regulations below. *ADUs* are permitted in all zones allowing residential uses and *JADUs* are permitted in all *single dwelling unit* zones by-right as a limited use decided in accordance with Process One, indicated with an "L" in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations.

(a) The following regulations are applicable to both *ADUs* and *JADUs*:

(1) Use Regulations

(A) One *ADU* and one *JADU* are permitted on a *premises* located within a *single dwelling unit* zone.

(B) An *ADU* or *JADU* shall not be used for a rental term of less than 31 consecutive days.

(C) Guest quarters and non-habitable *accessory structures* shall be permitted in addition to *ADUs* and *JADUs*.

(2) *Development* Regulations

(A) A minimum *lot* size is not required for the construction of an *ADU* or *JADU*.

(B) *ADUs* and *JADUs* are not subject to the *density* limitations for the *premises*.

(C) The *gross floor area* of an *ADU* and *JADU* shall be included in the *floor area ratio* for the *premises*.

(D) The following *setback* allowances are applicable:

(i) Conversion of existing *structure* to an *ADU* or *JADU*. No *setback* is required for an existing *dwelling unit* or *accessory structure* that is converted to an *ADU* or *JADU*, or to a portion of an *ADU* or *JADU*. An *ADU* or *JADU* that is constructed in the same location and to the same dimensions as an existing *structure* may continue to observe the same *setbacks* as the *structure* it replaced.

(ii) New *ADU* and *JADU structures*. New *ADU* and *JADU structures* must comply with the front *yard* and *street* side *yard setbacks* of the zone. New *ADU* and *JADU structures* may encroach into the required interior side *yard* and rear *yard setbacks* up to the *property line* to accommodate construction of the *ADU* or *JADU*.

(E) *ADUs* and *JADUs* shall not be required to provide fire sprinklers if they are not required for the primary *dwelling unit*. When located on a *premises* where the primary *dwelling unit* is protected with an automatic fire sprinkler

system in accordance with Section R313 of the California Residential Code, an *ADU* or *JADU* shall be protected with an automatic fire sprinkler system.

(3) Parking Regulations

(A) No on-street parking spaces or *off-street parking spaces* are required for *ADUs* and *JADUs*. If the *applicant* chooses to provide *off-street parking spaces* for *ADUs* and/or *JADUs* located on the *premises*, those spaces shall comply with the following:

(i) *Off-street parking spaces* may be located in any configuration, may be within the *setback* areas, and may include tandem spaces or mechanical lifts.

(ii) *Off-street parking spaces* shall be located within *hardscape* areas and shall comply with the minimum standards and guidelines to provide safe and efficient means of vehicular access to the *lot*.

(B) When a garage, carport, or covered parking *structure* is demolished in conjunction with the construction of an *ADU* or *JADU*, or converted to an *ADU* or *JADU*, replacement of those *off-street parking spaces* is not required.

(4) Development Impact Fees for *ADUs* and *JADUs* shall comply with Section 142.0640(b).

(b) In addition to the requirements in Section 141.0302(a), the following additional regulations are applicable to *ADUs*:

(1) Use Regulations

(A) The *record owner* is not required to live on the same *premises* as the *ADU.*

(B) The *ADU* may not be sold or conveyed separately from the primary *dwelling unit* unless all of the following apply:

(i) The *ADU* was built or developed by a qualified nonprofit corporation. For the purposes of Section 141.0302(b)(1)(B)(i), a qualified nonprofit corporation means a nonprofit corporation organized pursuant to Section 501(c)(3) of the Internal Revenue Code that has received a welfare exemption under Section 214.15 of the California Revenue and Taxation Code for properties intended to be sold to low-income families who participate in a special no-interest loan program.

(ii) There is an enforceable restriction on the use of the *premises* on which the *ADU* is located pursuant to a recorded contract between the qualified buyer and the qualified nonprofit corporation. For the purposes of Section 141.0302(b)(1)(B)(ii), a qualified buyer means *very low income, low*

income, *median income*, or *moderate income* households, as specified in Table 141-03A.

(iii) The *lot* where the *ADU* is located is held pursuant to a recorded tenancy in common agreement that includes an allocation to each qualified buyer of an undivided, unequal interest in the *lot* based on the size of the *ADU* each qualified buyer occupies; a repurchase option that requires the qualified buyer to first offer the qualified nonprofit corporation to buy the property if the buyer desires to sell or convey the property; a requirement that the qualified buyer occupy the property as the qualified buyer's principal residence; and affordability restrictions on the sale and conveyance of the property that ensure the property will be preserved for *very low income, low income, median income* or *moderate income* households for 45 years for owner-occupied housing and will be sold or resold to a qualified buyer.

(iv) A grant deed naming the grantor, grantee, and describing the property interests being transferred shall be recorded with the County. A Preliminary Change of Ownership Report shall be filed

concurrently with this grant deed pursuant to Section 480.3 of the Revenue and Taxation Code.

(v) If requested by a utility providing service to the primary residence, the *ADU* has a separate water, sewer, or electrical connection to that utility.

(2) *Development* Regulations for *ADUs*

(A) *ADUs* shall be permitted in all zones allowing residential uses, consistent with the Use Table of the applicable base zone.

(B) No more than one *ADU* shall be permitted on a *premises* with an existing or proposed *single dwelling unit*.

(C) *ADUs* located on a *premises* with an existing or proposed *multiple dwelling unit* shall be permitted as follows:

(i) The number of *ADUs* permitted within the habitable area of an existing *multiple dwelling unit structure* is limited to 25 percent of the total number of existing *dwelling units* in the *structure*, but in no case shall be less than one *ADU*; and

(ii) Two *ADUs* that are detached from an existing *multiple dwelling unit structure* are permitted; and

(iii) There is no limit on the number of *ADUs* permitted within the portions of existing *multiple dwelling unit structures* that are not used as livable space,

including storage rooms, boiler rooms, passageways, attics, basements, or garages, if each *ADU* complies with state building standards for *dwelling units.*

(D) An *ADU* with a *gross floor area* of 800 square feet shall be permitted on a *premises* with an existing or proposed *dwelling unit* regardless of maximum *lot coverage,* maximum *floor area ratio*, and minimum open space requirements.

(E) An *ADU* may be attached to, located within, or detached from an existing or proposed primary *dwelling unit,* including garages and habitable or non-habitable *accessory structures*.

(F) The minimum *gross floor area* of an *ADU* shall not be less than 150 square feet. The maximum *gross floor area* of an *ADU* shall not exceed 1,200 square feet. An *ADU* constructed within an existing *dwelling unit* or *accessory structure* may construct an additional 150 square feet for ingress and egress only.

(G) *ADU* Bonus for Affordable *ADUs*. One additional *ADU* shall be permitted for every *ADU* on the *premises* that is set aside as affordable to *very low income*, *low income*, and *moderate income* households for a period of not less than 15 years

guaranteed through a written agreement, and a deed of trust securing the agreement, entered into by the *applicant* and the President and Chief Executive Officer of the San Diego Housing Commission.

(i) There is no limit on the number of bonus *ADUs* within a *transit priority area*.

(ii) One bonus *ADU* is permitted outside a *transit priority area*.

(iii) For *ADUs* to be counted as affordable and meet the requirements of this Section 141.0302(b)(2)(G), the qualifying criteria in Table 141-03A shall be met.

Table 141-03A
Qualifying Criteria for Affordable *ADU* Bonus

	Rental *ADUs*	**For-Sale *ADUs*[1]**
	shall be affordable, including an allowance for utilities, at a rent that does not exceed:	**shall be affordable at an affordable housing cost that does not exceed:**
***Very Low Income* households**	30 percent of 50 percent of the area median income, as adjusted for family size appropriate for the unit.	30 percent of 50 percent of the area median income, as adjusted for family size appropriate for the unit.
***Low Income* households**	30 percent of 60 percent of the area median income, as adjusted for family size appropriate for the unit.	30 percent of 70 percent of the area median income, as adjusted for family size appropriate for the unit.
***Moderate Income* households**	30 percent of 110 percent of the area median income, as adjusted for family size appropriate for the unit.	35 percent of 110 percent of the area median income, as adjusted for family size appropriate for the unit.

Footnotes for Table 141-03A

(1) For-sale *ADUs* are subject to the requirements of Section 141.0302(b)(1)(B).

(c) In addition to the requirements in Section 141.0302(a), *Junior Accessory Dwelling Units* are subject to the following additional regulations:

(1) Use Regulations

(A) The *record owner* is required to live on the same *premises* as the *JADU*.

(B) The *JADU* may not be sold or conveyed separately from the primary *dwelling unit*.

(C) Before a Building Permit may be issued for a *JADU*, the *record owner* shall enter into an agreement with the City in a form that is approved by the City Attorney. The agreement shall include the following provisions: the *JADU* may not be sold or conveyed separately from the primary *dwelling unit*; the agreement may be enforced against future purchasers; and the *record owner* shall reside on the *premises*. The City shall submit the agreement to the County Recorder for recordation. The agreement shall run with the land for the life of the *JADU*.

(2) *Development* Regulations

(A) One *JADU* is permitted on a *premises* located within a *single dwelling unit* zone with an existing or proposed primary *single dwelling unit*.

(B) A *JADU* of not less than 150 square feet and not more than 500 square feet is permitted within an existing or proposed *single dwelling unit*, an attached or detached garage, or an *ADU*. A *JADU* constructed within an existing *structure* may construct an additional 150 square feet for ingress and egress only.

(C) A *JADU* shall have a separate exterior entry from the primary *dwelling unit* and shall provide a *kitchen* or an *efficiency kitchen*.

§141.0317 Low Barrier Navigation Center

A low barrier navigation center means a Housing First, low-barrier, service enriched shelter focused on moving people into permanent housing that provides temporary living facilities while case managers connect individuals experiencing homelessness to income, public benefits, health services, shelter, and housing. "Low barrier" refers to best practices to reduce barriers to entry, including the presence of partners if it is not a population-specific site, pets, storage of possessions, and privacy.

A low barrier navigation center is permitted as a limited use in the zones indicated with an "L" in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following requirements:

(a) The navigation center shall offer services to connect people to permanent housing through a services plan that identifies services staffing.

(b) The navigation center shall be linked to the San Diego Coordinated Entry System administered by the San Diego Regional Task Force on the Homeless or a comparable coordinated entry system administered in accordance with Section 576.400(d) or Section 578.7(a)(8) of Title 24 of the Code of Federal Regulations, as applicable and in effect on January 1, 2020.

(c) The navigation center shall comply with Chapter 6.5 (commencing with Section 8255) of Division 8 of the Welfare and Institutions Code.

(d) The navigation center shall have a system for entering information regarding client stays, client demographics, client income, and exit destination through the local Homeless Management Information System, as defined by Section 578.3 of Title 24 of the Code of Federal Regulations.

§141.0318 Movable Tiny Houses

Movable tiny houses are permitted as a limited use in accordance with Process One in the zones indicated with an "L" in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) and Chapter 15, Article 1, Division 4 (General and Supplemental Regulations), subject to the following regulations.

(a) *Development* Regulations

(1) A *movable tiny house* shall be:

(A) licensed and registered with the California Department of Motor Vehicles; and

(B) exempt from parking regulations.

(2) A *movable tiny house* shall not:

(A) be larger than allowed by California state law for movement on public highways;

(B) exceed one story;

(C) be able to move under its own power; or

(D) have a separate address from the primary *dwelling unit.*

(3) A *movable tiny house* shall be located:

(A) on a *premises* adjacent to a *public right-of-way* that is at least 20 feet wide. Exterior portions of a *movable tiny house* shall not be located more than 150 feet from the *public right-of-way.* A *movable tiny house* shall be accessed from the *public right-of--way* by a path that is at least 5 feet wide;

(B) behind or to the side of the primary *dwelling unit* and not in any front yard; and

(C) at a fire separation distance of at least 5 feet from an adjacent *lot* line and at least 10 feet from any other structures on the *premises.*

(4) A *movable tiny house* shall not be located within:

(A) a brush management zone established pursuant to Section 142.0412; or

(B) the *MHPA.*

(5) When sited on a *premises*, the undercarriage, including wheels, axles, tongue, and hitch, shall be concealed from view. The wheels shall not be removed and shall sit with leveling or support jacks on a paving surface designed in accordance with Section 142.0560(h)(1).

(6) All mechanical equipment, including heating, ventilation, and air conditioning, shall be incorporated into the structure and not located on the roof.

(7) A *movable tiny house* shall be connected to water, sewer, and electric utilities. Connections to natural gas are prohibited.

(8) A *movable tiny house* shall comply with the National Fire Protection Association 1192 Standard on Recreational Vehicles or the American National Standards Institute A119.5 Park Model Recreational Vehicle Standard. A *movable tiny house* shall be certified by a recognized national certification body as complying with one of these standards and a certified label shall be placed on the *movable tiny house* to demonstrate compliance.

(9) When located on a *premises* where the primary *dwelling unit* is protected with an automatic fire sprinkler system in accordance with Section R313 of the California Residential Code, a *movable tiny house* shall be protected with an automatic fire sprinkler system.

(10) When located within the Very High Fire Hazard Severity Zone, as established pursuant to Chapter 5, Article 5, Division 94, a *movable tiny house* shall satisfy the following additional requirements:

(A) A *movable tiny house* shall be protected with an automatic fire sprinkler system in compliance with Section R313 of the California Residential Code even if located on a *premises* where the primary *dwelling unit* is not protected with an automatic fire sprinkler system;

(B) Exterior walls shall be constructed with ignition-resistant materials in compliance with Section R337 of the California Residential Code; and

(C) Glazed openings, including skylights, shall comply with Section R337 of the California Residential Code.

(11) A *movable tiny house* shall be constructed to include the following design elements:

(A) Cladding and Trim: Materials used on the exterior shall not be single piece composite, laminates, or interlocked metal sheathing;

(B) Windows and Doors: Windows shall be at least double pane glass, labeled for building use, and include exterior trim. Windows and doors shall not have radius corners;

(C) Roofs: Roofs shall be sloped to drain over the roof edge. At least 50 percent of the roof area shall have a roof slope of 2:12 or more. Roof coverings shall comply with the Residential Building Regulations in Chapter 14, Article 9, Division 9; and

(D) Living Area Extensions: The roof and all exterior walls shall not be fixed with slide-outs, tip-outs, or other forms of mechanically articulating room area extensions.

(b) One *movable tiny house* may be permitted per *premises* in addition to *Accessory Dwelling Units* and *Junior Accessory Dwelling Units* permitted in accordance with Section 141.0302, guest quarters, and non-habitable *structures*.

(c) A *movable tiny house* shall not be used for a rental term of less than 30 consecutive days.

Section 15. That Chapter 14, Article 2, Division 6 of the San Diego Municipal Code is amended by amending sections 142.0640 and 142.0680 to read as follows:

§142.0640 Impact Fees for Financing Public Facilities

(a) [No change in text.]

(b) Payment of Fees

The payment of Development Impact Fees (as defined in California Government Code Section 66000) shall be required prior to issuance of any Building Permit in areas where Development Impact Fees have been established by City Council resolution or ordinance. Notwithstanding the

above, the City Manager may also require the payment of Development Impact Fees prior to issuance of any *construction permit* issued or required for *development* that would increase demand for public facilities and/or result in the need for new public facilities. The Development Impact Fees due shall be determined in accordance with the fee schedule approved by the applicable City Council resolution in effect upon the issuance of a Building Permit, or *construction permit*, as applicable, and may include an automatic increase consistent with Section 142.0640(c).

Exemptions:

(1) *Accessory Dwelling Units*, *Junior Accessory Dwelling Units*, *movable tiny houses*, and guest quarters are exempt from DIFs.

(2) *Permanent Supportive Housing*, low barrier navigation centers, and transitional housing facilities are exempt from DIFs.

(3) Inclusionary *dwelling units* provided pursuant to Chapter 14, Article 2, Division 13 are exempt from DIFs if the *applicant* has satisfied all the requirements of Division 13 for inclusionary *dwelling units* on the same *premises* as the market-rate *dwelling units*.

(c) through (g) [No change in text.]

§142.0680 Cost Reimbursement District Regulations

(a) through (e) [No change in text.]

(f) Actions Necessary to Form a Cost Reimbursement District

(1) [No change in text.]

(2) Notice and Hearing on Formation of Cost Reimbursement District.

(A) [No change in text.]

(B) The City Clerk shall cause a notice of the hearing, in substantially the following form, to be published once in a newspaper of general circulation in the City at least ten calendar days prior to the hearing:

NOTICE OF HEARING

The City Council of the City of San Diego will hold a public hearing at _____ on _____ at the City Council Chambers on the 12th Floor of the City Administration Building, 202 C Street, San Diego, California, 92101 to consider the establishment of a reimbursement district for the financing of certain public facilities and related improvements within the City otherwise known as the Cost Reimbursement District No. (_____).

Your property is located within the proposed boundaries of the cost reimbursement district and may be subject to a lien to pay a portion of the cost of providing such facilities. If, within a twenty–year period from the date of forming this district, you either file a final map or are issued a building permit, the lien amount will become due and payable. Payment of the lien under these reimbursement proceedings shall not be required in the following circumstances:

(a) [No change in text.]

(b) For issuance of a building permit for the addition of accessory structures to an existing dwelling unit provided the accessory structure is not an

Accessory Dwelling Unit, Junior Accessory Dwelling Unit, or movable tiny house.

(c) through (e) [No change in text.]

The boundaries of the district are more particularly described by Plat No. _____ which is on file in the Office of the City Clerk.

All persons desiring to testify with respect to: the necessity of the proposed public improvements, the cost of the proposed public improvements, the benefited area or the amount of the costs eligible to be recovered, may appear and be heard at this hearing.

(C) [No change in text.]

(3) [No change in text.]

(g) [No change in text.]

(h) Lien on Property.

(1) through (6) [No change in text.]

(7) If, during the period following the formation of the cost reimbursement district, any person records a *final map* (subdivision, parcel, or consolidation map) or applies for a building permit for construction on a lot for which a lien for *public improvements* has been established in accordance with section 142.0680, and such person or predecessor in interest has not paid the lien to the City, the established lien shall be paid prior to the earlier of the filing of the *final map* or the issuance of the building permit. Payment of the lien shall not be required in the following circumstances:

(A) [No change in text.]

(B) For issuance of a building permit for the addition of *accessory structures* to an existing *dwelling unit* provided the *accessory structure* is not an *Accessory Dwelling Unit*, *Junior Accessory Dwelling Unit*, or *movable tiny house*.

(C) through (E) [No change in text.]

(i) [No change in text.]

Section 16. That Chapter 14, Article 3, Division 3 of the San Diego Municipal Code is amended by amending section 143.0302 to read as follows:

§143.0302 When Supplemental Neighborhood Development Permit and Site Development Permit Regulations Apply

This Division applies to any *development* proposal for which a Neighborhood Development Permit or Site Development Permit is required as described in Sections 126.0402 and 126.0502, in accordance with Table 143-03A.

Legend for Table 143-03A

[No change in text.]

Table 143-03A
Supplemental Neighborhood Development Permit or Site Development Permit Regulations Applicability

Type of *Development* Proposal	**Applicable Sections**	**Required *Development* Permit/Decision Process**
Affordable housing, in-fill projects, and sustainable buildings projects as described in Section 143.0915 where a Site Development Permit or Planned Development Permit would otherwise be required.	126.0503, 126.0603, 143.0303, 143.0305, 143.0910, 143.0915, 143.0920	NDP/Process Two
Development of a *large retail establishment* of 50,000 or more square feet *gross floor area* in all commercial, industrial, and mixed-use zones, and in all planned districts, except the Centre City Planned District through Clairemont Mesa Height Limit Overlay Zone [No change in text.]	[No change in text.]	

Section 17. That Chapter 14, Article 3, Division 4 of the San Diego Municipal Code is amended by amending sections 143.0402, 143.0410, and 143.0455 to read as follows:

§143.0402 When Planned Development Permit Regulations Apply

This Division applies to all *development* proposals for which a Planned Development Permit is requested, in accordance with Table 143-04A.

Table 143-04A
Supplemental Planned Development Permit Regulations Applicability

Type of *Development* Proposal	**Applicable Sections**	**Required *Development* Permit/Decision Process[1]**
Residential *development* requesting deviations from applicable zone regulations[2][3]	143.0403, 143.0410, 143.0420	PDP/Process 4
Commercial and Industrial *development* requesting deviations from applicable zone regulations[3]	143.0403, 143.0410, 143.0460	PDP/Process 4
Developments within *land use plans* where a Planned Development Permit is recommended when other discretionary actions are requested [No change in text.]	[No change in text.]	
Development that complies with the applicable *land use plan* designation, but contains uses that are not permitted in the underlying base zone[5]	143.0403	PDP/Process 3
Multiple dwelling unit development requesting increased *density* where the *land use plan* expressly allows for increased *density* with the approval of a Planned Development Permit[3]	143.0403, 143.0410, 143.0455	PDP/Process 4
Rural cluster *development* with increased *density* in the AR-1-1 and OR-1-2 zones within *Proposition A Lands*[4] through Residential *development* in RS zones of *urbanized Communities* where a Planned Development Permit is requested [No change in text.]	[No change in text.]	

Footnotes for Table 143-04A

[1] through [4] [No change in text.]

[5] Residential *development* and residential mixed-use *development* that proposes residential uses and/or *density* that complies with the applicable *land use plan* but not the underlying base zone may be permitted with a *construction permit* decided in accordance with Process One subject to Section 131.0123.

§143.0410 General Development Regulations for Planned Development Permits

(a) Deviations

(1) through (2) [No change in text.]

(3) A Planned Development Permit may not be used to request deviations from any of the following regulations:

(A) through (C) [No change in text.]

(D) Residential *density* except as provided in Section 143.0402;

(E) through (G) [No change in text.]

(b) through (j) [No change in text.]

§143.0455 Supplemental Planned Development Permit Regulations for Multiple Dwelling Unit Residential Development with Increased Density per the Adopted Land Use Plan

In addition to the general regulations for all Planned Development Permits in Section 143.0410(j)(5) through (11), the following regulations apply to *multiple dwelling unit development* that requests approval of increased *density* where the *land use plan* expressly allows for increased *density* with approval of a Planned Development Permit. It is the intent of these regulations to provide increased *density* in pedestrian-friendly *development* that is consistent with the planned character of the neighborhood as specified in the *land use plan*.

(a) through (b) [No change in text.]

Section 18. That Chapter 14, Article 3, Division 7 of the San Diego Municipal Code is amended by amending sections 143.0710, 143.0715, 143.0720, 143.0740, 143.0743, and 143.0744 to read as follows:

§143.0710 Purpose of Affordable Housing Regulations

The purpose of these regulations is to provide incentives for *development* that provides housing for *very low income, low income, moderate income*, or senior households, or *lower income students*, transitional foster youth, disabled veterans, or homeless persons. Additionally, the purpose is to specify how compliance with California Government Code Section 65915 (State Density Bonus Law) will be implemented, as required by California Government Code Section 65915(a)(1). These regulations are intended to materially assist in providing adequate and affordable housing for all economic segments of the community and to provide a balance of housing opportunities throughout the City.

§143.0715 When Affordable Housing Density Bonus Regulations Apply

This Division applies to any *development* where current zoning allows for five or more *dwelling units*, not including *density* bonus units, in exchange for either of the following:

(a) A portion of the total *dwelling units* in the *development* being reserved for *very low*, *low*, or *moderate income* or senior households; or for *lower income students*, transitional foster youth, disabled veterans, or homeless persons in accordance with this Division; or

(b) [No change in text.]

§143.0720 Density Bonus in Exchange for Affordable Housing Units

(a) through (b) [No change in text.]

(c) A rental affordable housing *density* bonus agreement shall utilize the following qualifying criteria:

(1) *Very low income* - At least 5 percent of the pre-*density* bonus *dwelling units* in the *development* shall be affordable, including an allowance for utilities, to *very low income* households at a rent that does not exceed 30 percent of 50 percent of the area median income, as adjusted for household size appropriate for the *dwelling unit*; or

(2) *Low income* - At least 10 percent of the pre-*density* bonus *dwelling units* in the *development* shall be affordable, including an allowance for utilities, to *low income* households at a rent that does not exceed 30 percent of 60 percent of the area median income, as adjusted for household size appropriate for the *dwelling unit.*

(3) through (5) [No change in text.]

(d) A for-sale affordable housing *density* bonus agreement shall utilize the following qualifying criteria:

(1) *Very low income* - At least 5 percent of the pre-*density* bonus *dwelling units* in the *development* shall be affordable to *very low income* households at an affordable housing cost that does not exceed 30 percent of 50 percent of the area median income, as adjusted for household size appropriate for the *dwelling unit.*

(2) *Low income* - At least 10 percent of the pre-*density* bonus *dwelling units* in the *development* shall be affordable to *low income* households at an affordable housing cost that does not exceed 30

percent of 70 percent of the area median income, as adjusted for household size appropriate for the *dwelling unit.*

(3) *Moderate income* - At least 10 percent of the total *dwelling units* in a common interest development, as defined in California Civil Code Section 4100, shall be affordable to *moderate income* households at an affordable housing cost that is not less than 28 percent of the gross income of the household, nor exceeds 35 percent of 110 percent of the area median income, as adjusted for household size appropriate for the *dwelling unit.* To qualify, all *dwelling units* in the *development* shall be offered to the public for purchase.

(4) through (8) [No change in text.]

(e) through (f) [No change in text.]

(g) A *lower income student's* housing *density* bonus agreement shall utilize the following qualifying criteria:

(1) At least 20 percent of the pre-*density* bonus units in the *development* shall be affordable to *lower income students* at a rent that does not exceed 30 percent of 65 percent of the area median income for a single-room occupancy unit type.

(A) The eligibility of a student shall be verified by an affidavit, award letter, or letter of eligibility provided by the institution of higher education that the student is enrolled in, or by the California Student Aid Commission, stating

that the student receives or is eligible for financial aid, including an institutional grant or fee waiver, from the college or university, the California Student Aid Commission, or the federal government.

(B) For the purposes of calculating a *density* bonus granted pursuant to Section 143.0720(g), the term "unit" means one rental bed and its pro rata share of associated common area facilities.

(2) All units in the student housing *development* shall be used exclusively for undergraduate, graduate, or professional students enrolled full time at an institution of higher education accredited by the Western Association of Schools and Colleges or the Accrediting Commission for Community and Junior Colleges. The *applicant* shall, as a condition of receiving a certificate of occupancy, provide evidence to the satisfaction of the City Manager that the *applicant* has entered into an operating agreement or master lease with one or more institutions of higher education for the institution or institutions to occupy all units of the student housing *development* with students from that institution or institutions.

(3) The *development* will provide *lower income students* experiencing homelessness priority for the applicable affordable units. A homeless service provider, as defined in Section 103577(e)(3) of

the California Health and Safety Code, or institution of higher education that has knowledge of a *lower income student's* homeless status may verify a *lower income student's* status as homeless.

(4) Rental units shall remain available as affordable units for a period of 55 years or longer, as may be required by other laws or covenants.

(h) A *density* bonus agreement for a *development* providing 100 percent of the pre-*density* bonus *dwelling units* as affordable, shall utilize the following qualifying criteria:

(1) 100 percent of the pre-*density* bonus *dwelling units* in the *development*, exclusive of a manager's unit or units, shall be affordable to *very low income* or *low income* households, except that up to 20 percent of the pre-*density* bonus *dwelling units* may be affordable to *moderate income* households. The post-*density* bonus units shall be affordable to *very low income, low income,* or *moderate income* households, unless offered in accordance with the provisions of Section 143.0720(h)(2)(D).

(2) Rents for all *dwelling units* in the *development,* including pre-*density* bonus and post-*density* bonus *dwelling units*, shall be as follows:

(A) *Very low income dwelling units* in the *development* shall be affordable, including an allowance for utilities, to *very low*

income households at a rent that does not exceed 30 percent of 50 percent of the area median income, as adjusted for household size, appropriate for the *dwelling unit.*

(B) *Low income dwelling units* in the *development* shall be affordable, including an allowance for utilities, to *low income* households at a rent that does not exceed 30 percent of 60 percent of the area median income, as adjusted for household size, appropriate for the *dwelling unit.*

(C) *Moderate income dwelling units* in the *development* shall be affordable, including an allowance for utilities, to *moderate income* households at a rent that does not exceed 30 percent of 110 percent of the area median income, as adjusted for household size, appropriate for the *dwelling unit.*

(D) Notwithstanding Sections 143.0720(h)(2)(A)-(C), the rent for up to 80 percent of the *dwelling units* in the *development* may be set at an amount consistent with the maximum rent levels for a housing development that receives an allocation of state or federal low-income housing tax credits from the California Tax Credit Allocation Committee.

(3) Rental affordable *dwelling units* shall remain available for a period of 55 years or longer, as may be required by other laws or covenants.

(i) A *density* bonus agreement for a *development* within a *transit priority area* providing 100 percent of the total pre-*density* bonus and post-*density* bonus *dwelling units* as affordable to *very low income*, *low income,* and *moderate income* households shall utilize the following qualifying criteria:

(1) 100 percent of the total pre-*density* bonus and post-*density* bonus *dwelling units* in the *development*, exclusive of a manager's unit or units, shall be affordable to *very low income*, *low income,* or *moderate income* households in any combination of percentages.

(2) Rents for all *dwelling units* in the *development* shall be established as follows:

(A) *Very low income dwelling units* in the *development* shall be affordable, including an allowance for utilities, to *low income* households at a rent that does not exceed 30 percent of 50 percent of the area median income, as adjusted for household size, appropriate for the *dwelling unit*.

(B) *Low income dwelling units* in the *development* shall be affordable, including an allowance for utilities, to *low income* households at a rent that does not exceed 30 percent of 60 percent of the area median income, as adjusted for household size, appropriate for the *dwelling unit*.

(C) *Moderate income dwelling units* in the *development* shall be affordable, including an allowance for utilities, to *moderate income* households at a rent that does not exceed 30 percent of 110 percent of the area median income, as adjusted for household size, appropriate for the *dwelling unit.*

(3) A for-sale affordable housing *density* bonus agreement shall utilize the following qualifying criteria:

(A) *Very low income dwelling units* in the *development* shall be affordable to *very low income* households at an affordable housing cost that does not exceed 30 percent of 50 percent of the area median income, as adjusted for household size, appropriate for the *dwelling unit.*

(B) *Low income dwelling units* in the *development* shall be affordable to *low income* households at an affordable housing cost that does not exceed 30 percent of 70 percent of the area median income, as adjusted for household size, appropriate for the *dwelling unit.*

(C) *Moderate income dwelling units* in the *development* shall be affordable to *moderate income* households at an affordable housing cost that is not less than 28 percent of the gross income of the household, nor exceeds 35 percent

of 110 percent of the area median income, as adjusted for household size, appropriate for the *dwelling units*.

(4) Rental and for-sale affordable *dwelling units* shall remain available for a period of 55 years or longer, as may be required by other laws or covenants.

(j) The *density* bonus *dwelling units* shall have recorded against them a Declaration of Covenants, Conditions and Restrictions in favor of the San Diego Housing Commission that shall enjoy first lien position and shall be secured by a deed of trust that may be recorded against the project or unit, as applicable, prior to construction or permanent financing.

(k) A *condominium conversion* that provides at least 33 percent of the total *dwelling units* to *low income* and *moderate income* households, or 15 percent of the total *dwelling units* to *low income* households, shall be entitled to a *density* bonus of 25 percent or other incentives of equivalent financial value in accordance with State Density Bonus Law and this Division, unless the *development* previously received a *density* bonus or other incentives.

(l) A *development* proposal requesting an affordable housing *density* bonus is subject to the following:

(1) [No change in text.]

(2) For *development* meeting the criteria for *very low income* households in Section 143.0720(c)(1), the *density* bonus shall be calculated as set forth in Table 143-07A. The increased *density*

shall be in addition to any other increase in *density* allowed in this Division, up to a maximum combined *density* increase of 75 percent.

(3) For *development* meeting the criteria for *low income* households in Section 143.0720(c)(2), the *density* bonus shall be calculated as set forth in Table 143-07B. The increased *density* shall be in addition to any other increase in *density* allowed in this Division, up to a maximum combined *density* increase of 75 percent.

(4) For *development* meeting the criteria for *moderate income* households in Section 143.0720(c) and (d), the *density* bonus shall be calculated as set forth in Table 143-07C. The increased *density* shall be in addition to any other increase in *density* allowed in this Division, up to a maximum combined *density* increase of 50 percent.

(5) For *development* meeting the criteria for transitional foster youth, disabled veterans, or homeless persons in Section 143.0720(f), the *density* bonus shall be 20 percent of the total pre-*density* bonus *dwelling units*. A *density* bonus for transitional foster youth, disabled veterans, or homeless persons for *very low income* shall be calculated as set forth in Table 143-07A.

(6) For *development* meeting the criteria for *lower income students*, the *density* bonus shall be 35 percent of the total pre-*density* bonus units, calculated in accordance with Section 143.720(g)(1)(B).

(7) For *development* providing at least 100 percent of the pre-*density* bonus *dwelling units* as affordable to *very low income*, *low income* and *moderate income* households in accordance with Section 143.0720(h); or *development* within a *transit priority area* providing at least 100 percent of the total pre-*density* and post-*density* bonus *dwelling units* as affordable to *very low income*, *low income*, and *moderate income* households in accordance with Section 143.0720(i), the *density* bonus shall be as follows:

(A) For *development* located outside of a *transit priority area*, the *density* bonus shall be 80 percent of the number of pre-*density* bonus *dwelling* units provided for *low income* or *very low income* households. This bonus does not apply to *development* consistent with Section 143.0720(i).

(B) For *development* located within a *transit priority area*, there shall be no limit on the number of *dwelling units* permitted.

(8) For *development* meeting the criteria in Sections 143.0720(c)(1), 143.0720(c)(2), 143.0720(d)(1), 143.0720(d)(2), 143.0720(d)(3), 143.0720(e), 143.0720(f), 143.0720(g), 143.0720(h), or 143.0720(i), where an *applicant* has not requested an incentive or waiver to exceed the maximum *structure height* or *setbacks* of the base zone, an additional *density* bonus of 10 percent of the pre-*density* bonus *dwelling units* shall be granted, provided that

development of the additional *density* does not cause the need for an incentive, waiver, or deviation to exceed the maximum *structure height* or *setbacks* of the base zone.

(9) For micro-unit *development* that provides five or more *dwelling units*; meets the criteria in Sections 143.0720(c)(1), 143.0720(c)(2), 143.0720(d)(1), 143.0720(d)(2), 143.0720(d)(3), 143.0720(e), or 143.0720(f); provides an average of no more than 600 square feet per *dwelling unit* with no *dwelling unit* exceeding 800 square feet; with a portion of the *lot* located within a *Transit Priority Area*; and where the *premises* can be serviced by all required utilities, a *density* bonus of up to 100 percent of the pre-*density* bonus *dwelling units* shall be granted. For *development* meeting the same criteria within the Centre City Planned District Ordinance, the *development* must comply with Section 156.0309(e)(1)(C).

(10) If the *premises* is located in two or more zones, the number of *dwelling units* permitted in the *development* is the sum of the *dwelling units* permitted in each of the zones. Within the *development*, the permitted number of *dwelling units* may be distributed without regard to the zone boundaries.

(11) Where the *development* consists of two or more specifically identified parcels, whether contiguous or noncontiguous, the

maximum number of *dwelling units* permitted on each parcel is calculated based on the area of that parcel.

(12) Where the *development* consists of two or more noncontiguous parcels lying within two or more community planning areas, the *dwelling units* reserved at levels affordable to *very low income*, *low income*, or *moderate income* households shall be distributed among these community planning areas in the same proportion as the total number of *dwelling units* constructed within the *development.*

(13) If the applicable *land use plan* map identifies an allowable *density* range in *dwelling units* per acre, the maximum allowable *density* in that range shall be used to calculate the *density* bonus as set forth in Table 143-07A, Table 143-07B or Table 143-07C. The allowed *density* bonus *dwelling units* shall not be counted towards the maximum allowed *floor area ratio* of the zone; and within the mixed-use base zones the allowed *density* bonus *dwelling units* shall not be counted towards the percentage of the required *primary use* or secondary use, as that term is defined in Section 131.0702.

(14) Within the Centre City Planned District, the maximum *floor area ratio* shall be used to calculate the base *density* and *density bonus* as set forth in Table 143-07A, Table 143-07B, or Table 143-07C, and shall comply with Section 156.0309(e)(1).

(m) For purposes of this Division, *density* bonus means an increase in *density* in accordance with Section 113.0222(c) beyond the otherwise maximum allowable *density*; or, if elected by the *applicant*, a lesser percentage of *density* or no increase in *density*.

(n) All *density* calculations resulting in fractional units shall be rounded up to the next whole number.

§143.0740 Incentives in Exchange for Affordable Housing Dwelling Units

An *applicant* proposing *density* bonus shall be entitled to incentives as described in this Division for any *development* for which a written agreement and a deed of trust securing the agreement is entered into by the *applicant* and the President and Chief Executive Officer of the San Diego Housing Commission. The City shall process an incentive requested by an *applicant* as set forth in this Section.

(a) [No change in text.]

(b) Items not considered incentives by the City of San Diego include, but are not limited to the following:

(1) through (3) [No change in text.]

(4) An increase in the maximum permitted *floor area ratio* in *land use plans* that use *floor area ratio* rather than *dwelling units* per acre or per square foot as the mechanism to control density.

(c) through (d) [No change in text.]

(e) For a *development* providing 100 percent of the pre-*density* bonus *dwelling units* as affordable to *very low income*, *low income* and *moderate income* households in accordance with Section 143.0720(h); or

development within a *transit priority area* providing 100 percent of the total pre-*density* and post-*density* bonus *dwelling units* as affordable to *very low income*, *low income*, and *moderate income* households in accordance with Section 143.0720(i), five incentives shall be available. If the *development* is located within a *transit priority area* the *applicant* shall also receive a *structure height* increase of up to 3 additional *stories* or 33 feet.

(f) For *development* meeting the criteria for *lower income students* in accordance with Section 143.0720(g), two incentives shall be available.

Table 143-07A
Very Low Income Density Bonus
Households

[No change in text.]

Table 143-07B
Low Income Density Bonus
Households

[No change in text.]

Table 143-07C
Moderate Income Density Bonus
Households

[No change in text.]

§143.0743 Waivers in Exchange for Affordable Housing Units

An *applicant* proposing *density* bonus shall be entitled to a waiver as described in this Division for any residential *development* for which a written agreement and a deed of trust securing the agreement is entered into by the *applicant* and the President and Chief Executive Officer of the San Diego Housing Commission.

(a) through (e) [No change in text.]

(f) A proposal for the waiver or reduction of *development* regulations pursuant to this Section 143.0743 shall neither reduce nor increase the number of incentives to which the *applicant* is entitled pursuant to Section 143.0740.

(g) A residential *development* that receives a waiver from any maximum controls on density pursuant to Section 143.0720(l)(7)(B) shall not be eligible for, and shall not receive, a waiver or reduction of *development* regulations pursuant to this Section 143.0743.

§143.0744 Parking Ratios for Affordable Housing

Upon the request of an *applicant* for a *development* meeting the criteria in Sections 143.0720(c), 143.0720(d), 143.0720(e), 143.0720(f), 143.0720(g), 143.0720(h), or 143.0720(j), the vehicular parking ratios in Table 143-07D, as may be applicable, or those set forth in Chapter 14, Article 2, Division 5, inclusive of disabled and guest parking, whichever is lower, shall apply. For purposes of this Division, a development may provide onsite parking through tandem parking or uncovered parking, but not through on-street parking or parking within a required front yard setback.

Table 143-07D
Parking Reduction for Proximity to Transit

Type of *Development*	Percent Affordable	Transit Requirement[3]	Parking Ratio for *Development*[1]
Rental or for-sale *development* containing market rate and *very low income, low income* and/or *moderate income dwelling units* • *Very low income* • *Low income* • *Moderate Income*	 11% 20% 10%	The *development* is located within a *transit priority area*	0.5 spaces per *bedroom*
Rental housing • *Very low income, low income,* and *moderate income*	100%[2]		0.5 spaces per *dwelling unit*
Rental housing with an affordable housing cost to lower income senior citizens in accordance with California Civil Code Sections 51.3 and 51.12	100%[2]	The *development* shall have either paratransit service, or be located within ½ mile of unobstructed access to a fixed bus route service that operates at least eight times per day.	0.5 spaces per *dwelling unit*
Rental housing affordable to *very low income* and *low income* households that is either a special needs housing *development* as defined in California Health and Safety Code (CHSC) Section 51312 or a supportive housing *development* as defined in CHSC Section 50675.14	100%[2]	The *development* shall have either paratransit service or be located within ½ mile of unobstructed access to a fixed bus route service that operates at least eight times per day.	0 spaces per *dwelling unit*

Footnotes for Table 143-07D [No change in text.]

Section 19. That Chapter 14, Article 3, Division 9 of the San Diego Municipal Code is amended by amending sections 143.0915 and 143.0920 to read as follows:

§143.0915 When Supplemental Neighborhood Development Permit Regulations Apply for Affordable Housing, In-Fill Projects, and Sustainable Buildings

These regulations apply to the following types of *development*:

(a) [No change in text.]

(b) In-fill projects, which is any of the following:

(1) through (2) [No change in text.]

(c) [No change in text.]

§143.0920 Affordable Housing, In-Fill Projects, and Sustainable Buildings Deviations

Development identified in Section 143.0915 may be permitted with a Neighborhood Development Permit decided in accordance with Process Two, except as provided in Section 143.0920(e), for the following:

(a) *Development* that proposes deviations from applicable Land Development Code regulations in accordance with Section 126.0602(b)(1), provided that the *findings* in Section 126.0404(a) are made. In the event that a deviation is requested, the supplemental *findings* in Section 126.0404(f) shall also be made.

(b) [No change in text.]

(c) *Multiple dwelling unit development* requesting increased *density* where the *land use plan* expressly provides for increased *density* with the approval of a Planned Development Permit, provided that the *findings* in Section 126.0404(a) are made. In the event that a deviation is requested, the supplemental *findings* in Section 126.0404(f) shall also be made.

(d) Residential *development* in the Community Plan Implementation Overlay Zone designated "Type A" that does not comply with the *development*

standards and residential *development* in the Community Plan Implementation Overlay Zone designated "Type B," as described in Section 132.1402, provided that the *findings* in Section 126.0404(a) are made. In the event that a deviation is requested, the supplemental *findings* in Section 126.0404(f) shall also be made.

(e) A deviation pursuant to Section 143.0920 may not be requested for the following:

(1) through (4) [No change in text.]

Section 20. That Chapter 14, Article 3 of the San Diego Municipal Code is amended by adding new Division 12, sections 143.1201, 143.1203, 143.1205, 143.1207, 143.1210, and 143.1212, to read as follows:

Chapter 14: General Regulations

Article 3: Supplemental Development Regulations

Division 12: Dwelling Unit Protection Regulations

§143.1201 Purpose of the Dwelling Unit Protection Regulations

The purpose of these regulations is to specify when and how a residential *development* that proposes demolition of existing *dwelling units* and/or *protected dwelling units* must replace those *dwelling units*. These regulations are intended to implement California Government Code Section 66300(d) by requiring replacement of *dwelling units* and *protected dwelling units* for any residential *development* subject to this Division.

§143.1203 When the Dwelling Unit Protection Regulations Apply

This Division applies to the following *developments* with a complete *development* application between January 1, 2020 and December 31, 2024:

(a) *Single dwelling unit development;*

(b) *Multiple dwelling unit development;*

(c) Mixed-use *developments* consisting of residential and non-residential uses where at least two-thirds of the square footage is designated for residential use; and

(d) Transitional housing facilities and *permanent supportive housing.*

§143.1205 Expiration of the *Dwelling Unit* Protection Regulations

Consistent with California Government Code Section 66301, the regulations of this Division shall remain in effect until January 1, 2025, and as of that date are repealed unless a later enacted ordinance deletes or extends that date.

§143.1207 Definitions

The following definitions apply to this Division in addition to the definitions found in Chapter 11, Article 3, Division 1 of the Land Development Code. Each word or phrase that is defined in this Division or in Chapter 11, Article 3, Division 1 of the Land Development Code appears in the text in italicized letters.

(a) *Protected dwelling unit* means any of the following:

(1) *Dwelling units* that are or were subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to *very low income* or *low income* households during the five -year period preceding the application.

(2) *Dwelling units* that are or were occupied by *very low income* or *low income* households during the five -year period preceding the application.

(3) *SRO hotel rooms* or other *dwelling units* that were withdrawn from rent or lease in accordance with California Government Code Sections 7060 through 7060.7 during the 10 -year period preceding the application.

§143.1210 Replacement of *Dwelling Units*

Development subject to this Division shall include at least as many *dwelling units* as the most recent permitted *development* on the *premises.*

§143.1212 Replacement of *Protected Dwelling Units*

Development subject to this Division that proposes demolition of vacant or occupied *protected dwelling units* on the *premises* shall comply with all of the following:

(a) The *development* shall include at least as many *dwelling units* as the greatest number of permitted *dwelling units* that existed on the *premises* within the five -year period preceding the application.

(b) The *development* shall replace all existing or demolished *protected dwelling units* on the *premises*.

(c) The *protected dwelling units* shall be replaced as follows:

(1) For a *development* containing any occupied *protected dwelling units*, the *development* must contain at least the same number of replacement *protected dwelling units*, of equivalent size and

bedrooms, and must be made affordable to and occupied by persons and families in the same or a lower income category as the occupied *protected dwelling units*. For unoccupied *protected dwelling units* in the *development*, the replacement *protected dwelling units* shall be made affordable to and occupied by persons and families in the same or lower income category as the last household in occupancy. If the income category of the last household is unknown, it is rebuttably presumed that the *protected dwelling units* were occupied by *very low income* and *low income* renter households in the same proportion of *very low income* and *low income* renter households to all renter households within the City of San Diego, as determined by the most recently available data from the United States Department of Housing and Urban Development's Comprehensive Housing Affordability Strategy database, and replacement *protected dwelling units* shall be provided in that same percentage.

(2) If all of the *protected dwelling units* are vacant or have been demolished within the five years preceding the application, the *development* must contain at least the same number of replacement *protected dwelling units*, of equivalent size and *bedrooms*, as existed at the highpoint of those units in the five-year period preceding the application, and must be made affordable to and occupied by persons and families in the same or a lower income

category as those in occupancy at that same time. If the income categories are unknown for the highpoint, it is rebuttably presumed that the *protected dwelling units* were occupied by *very low income* and *low income* renter households in the same proportion of *very low income* and *low income* renter households to all renter households within the City of San Diego, as determined by the most recently available data from the United States Department of Housing and Urban Development's Comprehensive Housing Affordability Strategy database, and replacement *protected dwelling units* shall be provided in that same percentage.

(3) All replacement *protected dwelling unit* calculations resulting in fractional units shall be rounded up to the next whole number.

(4) All rental replacement *protected dwelling units* shall be affordable for at least 55 years through a recorded affordability restriction documented by written agreement, and a deed of trust securing the agreement, entered into by the *applicant* and the President and Chief Executive Officer of the San Diego Housing Commission.

(5) All for-sale replacement *protected dwelling units* shall be subject to the following provisions:

(A) The initial occupant of all for-sale affordable *protected dwelling units* shall be a *very low income* or *low income* household.

(B) Prior to, or concurrent with, the sale of each *protected dwelling unit*, the *applicant* shall require the buyer to execute and deliver a promissory note in favor of the San Diego Housing Commission so that the repayment of any initial subsidy is ensured.

(C) Each for-sale *protected dwelling unit* shall be occupied by the initial owner at all times until the resale of the *protected dwelling unit*.

(D) Upon the first resale of a *protected dwelling unit*, the seller shall comply with all conditions regarding the sale of a *dwelling unit*, as applied by the San Diego Housing Commission, and as set forth in California Government Code Section 65915(c)(2).

(d) The *applicant* shall provide existing residents of *protected dwelling units* with all of the following:

(1) The ability to occupy their units until six months before the start of construction activities with proper notice, pursuant to California Government Code Sections 7260 through 7277.

(2) To those households that remain in a *protected dwelling unit*, the *applicant* shall provide:

(A) Relocation benefits pursuant to California Government Code Sections 7260 through 7277.

(B) A right of first refusal for a comparable *dwelling unit* available in the new *development* affordable to the household at an affordable rent or affordable housing cost based on household income in accordance with Table 143-12A.

Table 143-12A
Affordability Levels for Replacement *Protected Dwelling Units*

	Rental *Dwelling Units*	**For-Sale *Dwelling Units***
	shall be affordable, including an allowance for utilities, at a rent that does not exceed:	**shall be affordable at an affordable housing cost that does not exceed:**
***Very Low Income* households**	30 percent of 50 percent of the area median income, as adjusted for household size appropriate for the unit.	30 percent of 50 percent of the area median income, as adjusted for household size appropriate for the unit.
***Low Income* households**	30 percent of 60 percent of the area median income, as adjusted for household size appropriate for the unit.	30 percent of 70 percent of the area median income, as adjusted for household size appropriate for the unit.

(e) Any *protected dwelling units* replaced in accordance with this Division may be counted toward compliance with the Inclusionary Affordable Housing Regulations in Chapter 14, Article 2, Division 13 and the Affordable Housing Regulations in Chapter 14, Article 3, Division 7.

Section 21. That Chapter 15, Article 1, Division 1 of the San Diego Municipal Code is amended by amending section 151.0103, to read as follows:

§151.0103 Applicable Regulations

(a) [No change in text.]

(b) The following regulations apply in all planned districts:

(1) through (12) [No change in text.]

(13) Land Development Code, Chapter 14, Article 3, Division 12 (Dwelling Unit Protection Regulations).

Section 22. That Chapter 15, Article 6, Division 3 of the San Diego Municipal Code is amended by amending section 156.0309, to read as follows:

§156.0309 *FAR* Regulations and *TDRs*

(a) through (d) [No change in text.]

(e) *FAR Bonuses*

Development may exceed the maximum *base FAR* for the site established by Figure H if the *applicant* provides certain public benefits or *development* amenities. Table 156-0309-A shows the maximum amount of *FAR bonus* that may be earned by providing benefits or amenities, and Figure J shows the maximum *FAR bonus* that may be purchased for a site through the *FAR* Payment Bonus Program (exclusive of bonuses for affordable housing as described in Section 156.0309(e)(1)). *Applicants* utilizing the *FAR bonus* program shall have *CC&Rs* recorded on the property, ensuring that the benefits or amenities provided to earn the bonus are maintained in perpetuity, or in the case of affordable housing, for the duration specified in Section 156.0309(e)(1)(B)(iv).

The public benefits and *development* amenities that may earn a *FAR bonus* are the following:

TABLE 156-0309-A: *FAR BONUS*

[No change in text.]

(1) Affordable Housing. An *applicant* proposing a residential *development* that is entitled to a *density* bonus pursuant to Chapter 14, Article 3, Division 7 of the Land Development Code may increase the permitted *FAR* as specified below.

In compliance with the State Density Bonus Law (California Government Code Section 65915), *applicants* may earn *FAR bonus* subject to the following:

(A) [No change in text.]

(B) *Development* may provide either rental or for-sale affordable *dwelling units*, regardless of whether the market rate *dwelling units* within the *development* are for rent or sale. *Development* under these provisions shall be subject to the following requirements in addition to those in Chapter 14, Article 3, Division 7:

(i) The permitted *FAR* for a *development* containing affordable housing shall be calculated as follows: Permitted *FAR* equals Pre-AHR bonus *FAR* minus the non-residential FAR, then multiplied by the AHR bonus percentage, then that total is added to the Pre-AHR bonus *FAR*.

For the purposes of the above calculation:

Pre-AHR bonus *FAR* means the Maximum *Base FAR* found in Figure H plus any additional *bonus*

FAR permitted in Figure K earned through Section 156.0309(e) and Section 156.0309(g). AHR bonus percentage means the percentage bonus for affordable housing found in Tables 143-07A, 143-07B, and 143-07C in the Affordable Housing Regulations (AHR).

(ii) The number of required affordable *dwelling units* in a *development* utilizing the Affordable Housing Regulations in Chapter 14, Article 3, Division 7 is calculated as follows:

Number of required affordable *dwelling units* equals Pre-AHR bonus *FAR* minus the non-residential *FAR*, then divided by the *development's* proposed residential *FAR*, then multiplied by the number of proposed *dwelling units* in the *development*, then multiplied by the AHR bonus percentage.

(iii) through (iv) [No change in text.]

(C) For *development* proposing to utilize Section 143.0720(i)(9) providing for a 100% *density* bonus for micro-unit *development*, the *development* must first utilize other *FAR* bonus programs as listed in Section 156.0309(e) to achieve a minimum *FAR* bonus of

3.0. If the *bonus FAR* permitted in Figure K is less than 3.0, then the *bonus FAR* in Figure K shall be required.

(2) through (8) [No change in text.]

(f) through (g) [No change in text.]

Section 23. That Chapter 15, Article 10, Division 3 of the San Diego Municipal Code is amended by amending section 1510.0303, to read as follows:

§1510.0303 Single-Family Zone - Permitted Uses

In the Single-Family (SF) Zone, designated on that certain map referenced in Section 1510.0102, no building or improvement or portion thereof shall be erected, constructed, converted, established, altered, or enlarged, nor shall any premises be used except for one or more of the following uses:

(a) through (b) [No change in text.]

(c) Boarder and lodger accommodations; Accessory Dwelling Units, Junior Accessory Dwelling Units and movable tiny houses; family day care homes; garage, *yard* and estate sales; guest quarters and habitable accessory buildings; home occupations; community gardens; and temporary real estate sales offices and model homes as a limited use in accordance with the applicable regulations in Chapter 14, Article 1 (Separately Regulated Use Regulations).

(d) through (f) [No change in text.]

Section 24. This Ordinance contains a notice that a full reading of this Ordinance is dispensed with prior to passage, a written copy having been made available to the Council and the public prior to the day of its passage.

Section 25. This Ordinance shall take effect and be in force on the thirtieth day from and after its final passage, except that the provisions of this Ordinance applicable 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.

Section 26. Prior to becoming effective, this Ordinance shall be submitted to the San Diego County Regional Airport Authority (SDCRAA) for a consistency determination.

Section 27. If the SDCRAA finds this Ordinance consistent with the Airport Land Use Compatibility Plans (ALUCP) for San Diego International Airport, Marine Corps Air Station 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 finding of consistency, or on the thirtieth 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.

Section 28. If the SDCRAA 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.

Section 29. If the SDCRAA 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 thirtieth 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.

Section 30. 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 SDCRAA, 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.

Section 31. If the Council makes a final decision to overrule a determination of inconsistency, this Ordinance shall take effect and be in force on the thirtieth 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 the California Coastal Commission unconditionally certifies those provisions as a local coastal program amendment.

Section 32. That no permits shall be issued for development that is inconsistent with the provisions of this Ordinance unless complete applications for such permits are submitted to the City prior to the date on which the applicable provisions of this Ordinance become effective.

APPROVED: MARA W. ELLIOTT, City Attorney

By */s/ Heather M. Ferbert*
Heather M. Ferbert
Deputy City Attorney

HMF:soc:cm
10/05/2020
10/09/2020 Cor. Copy
Or.Dept: Planning
Doc. No.: 2496743_2

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of 10/27/2020.

ELIZABETH S. MALAND
City Clerk

By /s/ Matthew R. Hilario
Deputy City Clerk

Approved: 10/29/2020 (date)

KEVIN L. FAULCONER, Mayor

Vetoed: _____ (date)

KEVIN L. FAULCONER, Mayor

(Note: The date of final passage is October 30, 2020, which represents the day this ordinance was returned to the Office of the City Clerk with the Mayor's signature of approval.)

ATTACHMENT 7

Passed by the Council of The City of San Diego on OCT 27 2020, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Barbara Bry	☒	☐	☐	☐
Jennifer Campbell	☒	☐	☐	☐
Chris Ward	☒	☐	☐	☐
Monica Montgomery	☒	☐	☐	☐
Mark Kersey	☒	☐	☐	☐
Chris Cate	☒	☐	☐	☐
Scott Sherman	☒	☐	☐	☐
Vivian Moreno	☒	☐	☐	☐
Georgette Gómez	☒	☐	☐	☐

Date of final passage OCT 30 2020.

KEVIN L. FAULCONER
Mayor of The City of San Diego, California.

AUTHENTICATED BY:

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

(Seal)

By Connie Patterson, Deputy
for Matthew Hilario

I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on

OCT 13 2020, and on OCT 30 2020.

I FURTHER CERTIFY that said ordinance was read in full prior to passage or that such reading was dispensed with by a vote of five members of the Council, and that a written copy of the ordinance was made available to each member of the Council and the public prior to the day of its passage.

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

(Seal)

By Connie Patterson, Deputy
for Matthew Hilario

Office of the City Clerk, San Diego, California

Ordinance Number O- 21254