

Technical Advisory Committee Agenda
March 13, 2013
12:00 noon to 2:00 p.m.
Development Services Center / City Operations Building
1222 First Ave, San Diego, CA 92101
4th Floor Training Room

<u>Group Represented</u>	<u>Primary Member</u>	<u>Alternate</u>
Accessibility	<input type="checkbox"/> Vacant	<input type="checkbox"/> Mike Conroy
Accessibility	<input type="checkbox"/> Connie Soucy	<input type="checkbox"/> Cyndi Jones
AGC	<input type="checkbox"/> Debbie Day	<input type="checkbox"/> Brad Barnum
AIA	<input type="checkbox"/> John Ziebarth	<input type="checkbox"/> Kirk O'Brien
AIA	<input type="checkbox"/> David Pfeifer	<input type="checkbox"/> John Ziebarth
APA	<input type="checkbox"/> Dan Wery	<input type="checkbox"/> Greg Konar
ASLA	<input type="checkbox"/> Andrew Reese	
BIA	<input type="checkbox"/> Kathi Riser	
BIA	<input type="checkbox"/> Matt Adams	
BID Council	<input type="checkbox"/> Tiffany Bromfield	<input type="checkbox"/> Warren Simon
BIOCOM	<input type="checkbox"/> Faith Picking	
ACEC	<input type="checkbox"/> Rob Gehrke	<input type="checkbox"/> Jeff Barfield
Chamber of Commerce	<input type="checkbox"/> Mike Nagy	
EDC	<input type="checkbox"/> John Eardensohn	<input type="checkbox"/> Ted Shaw
In-Fill Developer		
NAIOP	<input type="checkbox"/> James Lawson	<input type="checkbox"/> Craig Benedetto
Permit Consultants	<input type="checkbox"/> Brian Longmore	<input type="checkbox"/> Barbara Harris
Small Business Advisory Bd.	<input type="checkbox"/> Gary Peterson	<input type="checkbox"/> Edward Barbat
SDAR	<input type="checkbox"/> Jordan Marks	<input type="checkbox"/> Kimberlee Theis
Sustainable Energy Advisory Bd	<input type="checkbox"/> Alison Whitelaw	
LU&H Liaison (non-voting)	<input type="checkbox"/> Leslie Perkins	

- 1) **Announcements**
- 2) **Public Comment on Non-Agenda Items**
- 3) **Discussion/Action/Informational**
 - A. Construction Debris Deposits (Informational) Leslie Goossens (15 minutes)
 - B. LDC Amendments Related to Microbreweries (Action) Amanda Lee & Russ Gibbons (15 minutes)
 - C. LDC Amendments Related to Appeals of Environmental Determination (Action) Amanda Lee & Cathy Winterrowd (15 Minutes)
 - D. Updates on Street Preservation Ordinance, BMP Certification and other Workshops (Discussion) Jeff Strohminger (20 minutes)
- 4) **Future Agenda Item**
 - General Plan Action Plan (Nancy Bragado)
 - Discretionary Process Improvements-Process Committee Report
 - Mixed use and multi-family zones being developed through community plan updates (CMT and TAC)
 - Re-roof recycling (construction recycling)
- 5) **Adjourn – next meeting April 10, 2013 or May 8, 2013**

TAC Mission: “To proactively advise the Mayor and the Land Use and Housing Committee on improvements to the regulatory process through the review of policies and regulations that impact development. And to advise on improvements to the development review process through communications, technology and best business practices to reduce processing times and improve customer service. And to advocate for quality development to meet the needs of all citizens of San Diego.”



THE CITY OF SAN DIEGO

MEMORANDUM

DATE: March 4, 2013

TO: Members of the Technical Advisory Committee

FROM: Amanda Lee, Senior Planner, Development Services

SUBJECT: Amendments Related to Appeals of Environmental Determinations

Staff is requesting that the Technical Advisory Committee provide a recommendation to the City Council regarding proposed amendments to Land Development Code (LDC) Sections 112.0310 and 112.0510 to clarify the City's process for issuance of a Notice of Right to Appeal an environmental determination and the required time for filing an appeal of an environmental determination made by the Planning Commission or Hearing Officer.

The City's procedures for environmental notification and appeals are intended to implement the California Environmental Quality Act (CEQA) and the State CEQA Guidelines, and to provide accurate, objective, timely, and orderly evaluation for disclosure of potential environmental effects of proposed projects in the City. The City requires that a Notice of Right to Appeal (NORA) be prepared for all categorical and general rule exemptions as defined by State CEQA Guidelines and for environmental documents associated with a project decided by the City Manager. LDC Section 128.0207 requires that the Development Services Director determine if a project is exempt, and that a NORA be posted in accordance with LDC Section 112.0310. The environmental determination is subject to the appeal procedures in LDC Section 112.0510.

The City's current procedures provide for greater notification than is required by the LDC or CEQA by providing notice to any persons who request notification, the community planning group, and Council office for the Council District in which the project is proposed to be located, and the posting of notice on the City website, in addition to the posting of a hard copy notice in the lobby of the Development Services Department. On January 9, 2013, the City Council Rules and Economic Development Committee recommended that the City's current practice for issuance of a Notice of Right to Appeal an environmental determination be formally incorporated into the code. The Committee requested that staff return within 90 days with a draft ordinance (tentatively scheduled for Rules Committee on March 20).

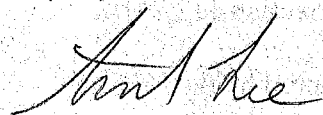
Following is a description of the amendments included in the proposed ordinance:

The proposed amendments to LDC Section 112.0310 clarify that the NORA procedures apply to City Manager determinations that a project is exempt and to environmental determinations for projects that do not require a public hearing or that are decided at the Process Two decision making level. Environmental documents that are prepared for projects decided in accordance with Process Three, Four, or Five (i.e. Negative Declarations, Mitigated Negative Declarations, and Environmental Impact Reports) are not subject to the NORA noticing requirements in LDC Section 112.0310. Instead, the public is notified at the time of action in a public hearing of the right to appeal a Process Three (Hearing Officer) or Process Four (Planning Commission) decision to adopt or certify an environmental document. Process Five decisions (City Council) are not appealable because they reflect the final action of the legislative body.

The ordinance also clarifies details regarding the location where the notice must be posted, who the notice must be distributed to, and the timing and duration required for availability of the notice. NORAs will continue to be required to be posted at the Development Services Department in a location easily accessible to the public. The amendments clarify that notice shall also be posted on the City website and distributed to the community planning group and Council office for the council district where the project is proposed, and to any interested person that requests notification. This type of notice is required to be posted for 15 business days and provided by electronic mail (or United States mail if electronic mail is unavailable) at least 15 business days before the date of decision on the project.

The proposed amendments to Section 112.0510 clarify that an appeal of an environmental determination that is made by the Planning Commission or Hearing Officer must be filed with the City Clerk within 10 business days of the date of decision to adopt or certify an environmental document. The proposed ordinance is expected to clarify the resources available for interested persons that are seeking to review this type of environmental notice and clarify the process for filing an appeal of an environmental determination.

On February 26, 2013, the Community Planners Committee voted 20-1-3 to recommend approval of the proposed amendments. If you have any questions, please feel free to contact me at (619) 446-5367 or ajohnsonlee@sandiego.gov.



Amanda Lee
Senior Planner

Attachment: Draft code language

Environmental Appeals Draft Code Language March 4, 2013

112.0310 Notice of Right to Appeal Environmental Determination

- (a) A Notice of Right to Appeal Environmental Determination shall be posted for the following:
- (1) A determination made by the City Manager that a project, as defined by State CEQA Guideline section 15378, is exempt from CEQA in accordance with State CEQA Guidelines section 15061(b)(2) or (3); and
 - (2) An *environmental determination* associated with a project, as defined by State CEQA Guidelines section 15378, that the City Manager approves or decides to carry out in accordance with his powers under City of San Diego Charter section 28, or a project to be decided at a Process Two decision making level.
- (b) The Director is not required to post a Notice of Right to Appeal Environmental Determination for the following:
- (1) ~~these projects~~ Projects deemed statutorily exempt in accordance with State CEQA Guidelines, Article 18, commencing with Section 15260; and
 - (2) Projects decided in accordance with Process Five and other matters decided by the City Council.
- (c) The Notice of Right to Appeal Environmental Determination shall include:
- (1) An identification of the project, including its common name where possible and its location;
 - (2) A brief description of the project;
 - (3) A statement regarding the type of *environmental determination* ~~and~~;
 - (4) A brief statement to support the reasons for the *environmental determination*, including citation to applicable State CEQA Guidelines or statutes; and
 - (5) The date of notice and a brief statement indicating the time for filing an appeal in accordance with Section 112.0520(b).
- (d) The Notice of Right to Appeal Environmental Determination shall be posted at the City of San Diego, Development Services Department at a location easily accessible to the public, and in addition, shall be provided as follows:
- (1) On the City of San Diego's website;
 - (2) To the Council Office for the Council District in which the project is proposed;

- (3) To the officially recognized community planning group, if any, that represents the area in which the project is proposed; and
- (4) To any person who has submitted a written request for notification of the proposed *development* to the City staff person named in the Notice of Future Decision.
- (e) The Notice of Right to Appeal Environmental Determination shall remain posted at the Development Services Department for a period of 15 *business days*, and shall be provided by electronic mail (or by U.S. mail if electronic mail is unavailable) to the distribution in Section 112.0310(d) at least 15 *business days* before the date of decision on the project.

112.0520 Environmental Determination Appeals

(a) Persons Who Can Appeal

Notwithstanding other provisions of this Code, any person may appeal an *environmental determination* not made by the City Council.

(b) Time for Filing an Appeal

An application to appeal a decision described in Section 112.0520(a) shall be filed in the Office of the City Clerk as follows:

- (1) ~~within~~ Within 10 *business days* from the date of the posting of the Notice of Right to Appeal Environmental Determination; or
- (2) Within 10 *business days* from the date of a decision made by a Hearing Officer or the Planning Commission to adopt or certify an environmental document.

(c) Scheduling Appeal Hearings. The appeal hearing before the City Council shall be held, or the City Clerk shall set a date for the appeal hearing, no later than 30 calendar days after the date on which the application for an appeal is filed. The appeal hearing shall be noticed in accordance with Section 112.0308.

(d) Power to Act on Appeal. The City Council shall consider the appeal and shall, by a majority vote:

- (1) Deny the appeal, approve the *environmental determination* and adopt the CEQA findings and statement of overriding considerations of the previous decision-maker, where appropriate; or
- (2) Grant the appeal and set aside the *environmental determination*, in accordance with Section 112.0520(e).

- (e) If the City Council grants the appeal under Section 112.0520(d)(2):
- (1) The lower decision-maker's decision to approve the project shall be held in abeyance. The City Council shall retain jurisdiction to act on the revised environmental document and associated project at a subsequent public hearing.
 - (2) The Development Services Director shall reconsider the *environmental determination* in accordance with Section 128.0103 and prepare a revised environmental document as appropriate, in consideration of any direction from the City Council.
 - (3) At a subsequent hearing, the City Council shall again consider the *environmental determination* and associated projects, and take action in accordance with Section 112.0520(e)(3)(A), (B), or (C) to:
 - (A) Certify or adopt the environmental document; adopt CEQA *findings* and statement of overriding considerations as appropriate; and affirm the previous decision to approve the associated project;
 - (B) Certify or adopt the environmental document; adopt CEQA *findings* and statement of overriding considerations as appropriate; condition and approve the associated project as modified; or
 - (C) Find that the environmental document is insufficient, in which case the document shall not be certified. The associated project shall be denied and the decision shall be deemed the final administrative action.



THE CITY OF SAN DIEGO

MEMORANDUM

DATE: March 1, 2013

TO: Members of the Technical Advisory Committee

FROM: Amanda Lee, Senior Planner, Development Services

SUBJECT: Land Development Code Amendments Related to Microbreweries

Staff is requesting that the Technical Advisory Committee provide a recommendation to the City Council regarding proposed amendments to the Land Development Code (LDC) to allow manufacturers of malt beverages or distilled spirits to develop an accessory restaurant or tasting room up to a maximum of 25 percent of the total gross floor area dedicated to manufacturing use. The restaurants and tasting rooms covered by the ordinance would be located only in industrial zones and must be incidental and subordinate to a primary beverage manufacturing component at least 12,000 square feet in size.

Craft beer manufacturing is an important base sector industry cluster as noted in the City's Draft Economic Development Strategy. The resulting economic activity from craft beer manufacturing generates additional jobs in wholesale, retail, and various service sectors at a ratio of 5.7:1, thus generating significant economic benefits to the City as a whole. In addition, the sale of prepared food and craft beer for consumption on site generates net new sales tax revenue for the City's General Fund.

Staff is aware of at least two craft beer manufacturers that are actively seeking sites in the region, and are reportedly evaluating sites outside the City of San Diego due to the limited number of industrial sites and buildings at feasible prices within the City. Staff understands that the allowable size for an accessory restaurant or tasting room is a key factor that is considered during the site selection process by beverage manufacturers, and that the larger craft beer manufacturers are seeking sites in industrial zones that can accommodate new or expanded breweries with full-service restaurants in order to introduce more customers to their products that are manufactured on the same premises. The proposed amendment to LDC Section 131.0623 will allow for manufacturers of malt beverages or distilled spirits at least 12,000 square feet in size to have an accessory restaurant or tasting room that is greater than 3,000 square feet in gross floor area.

The proposed amendment is being processed in accordance with the typical code update process. In addition to TAC, recommendations are also being requested from the Code Monitoring Team and Community Planners Committee, prior to presentation to the Planning Commission and City Council.

Following is the proposed amendment to Section 131.0623(b) in strikeout-underline format:

§131.0623 Additional Use Regulations of Industrial Zones

- (b) Eating and drinking establishments are permitted subject to the following:
- (1) Individual establishments are limited to 3,000 square feet of *gross floor area*, except where provided in accordance with Section 131.0623(b)(4);
 - (2) No live entertainment is permitted on the *premises*; and
 - (3) No drive-through services are permitted.
 - (4) Industrial *development* with at least 12,000 square feet of *gross floor area* that is *primarily engaged in the manufacturing of malt beverages or distilled spirits in sealed cans, bottles, or kegs, may include an eating and drinking establishment greater than 3,000 square feet as an accessory use, subject to applicable state and local regulations, if the eating and drinking establishment does not exceed 25 percent of the gross floor area of the structures on the premises.*

If you have any questions, please feel free to contact me at (619) 446-5367 or ajohnsonlee@sandiego.gov.



Amanda Lee
Senior Planner