



THE CITY OF SAN DIEGO
M E M O R A N D U M

DATE: October 7, 2015

TO: Ryan Purdy, Smart Growth & Land Use Committee Consultant,
Council District 2

FROM: Mark Brunette, Senior Planner, Development Services Department

SUBJECT: Amendments to the Land Development Code and the City's Local Coastal
Program Pertaining to Short Term Vacation Rentals/Home Sharing; California
Environmental Quality Act - 15162 Evaluation

The Development Services Department (DSD) has completed a California Environmental Quality Act (CEQA) Section 15162 – Subsequent EIRs and Negative Declaration consistency evaluation in compliance with Public Resources Code 21166 for the proposed amendments to Land Development Code (LDC) pertaining to short term vacation rentals. A short term vacation rental is the rental of a dwelling unit for a term of less than one calendar month where the property owner does not live in the dwelling unit. Home sharing is an activity whereby the property owner or a resident host provides lodging accommodations for boarders, lodgers, or visitors in their home in exchange for compensation.

This evaluation was performed to determine if conditions specified in CEQA Guidelines Section 15162 would require preparation of additional CEQA review. DSD has determined that the proposed amendments are consistent with the original LDC Environmental Impact Report (EIR) No. 96-0333/SCH No. 96081056, certified by City Council on November 18, 1997, Resolution No. 98-288; as well as the City of San Diego General Plan Program EIR No. 104495/SCH No. 20006091032, certified by City Council on March 10, 2008, Resolution No. 2008-685; and would not result in new impacts.

BACKGROUND

The LDC was created to consolidate development regulations into a sequence of chapters of the Municipal Code (Chapters 11-15) to simplify the City's land development regulations; make the land development regulations more objective; make the code more adaptable; eliminate redundancies and contradictions; standardize the code framework; and increase predictability in the application of land development regulations. The certified LDC EIR anticipated that regular updates of the LDC would occur to maintain the code in accordance with the goals described above.

The associated EIR analyzed the environmental effects associated with adoption and implementation of the proposed LDC, related regulations, amendments and appeals. The LDC EIR identified significant unmitigated impacts in the following issue areas: Land Use, Biological Resources, Landform Alteration, Historical Resources, Paleontological Resources, and Human Health and Public Safety. Cumulative impacts were also identified to Soils/Erosion Hazard, Air Quality, Hydrology/Water Quality, Biological Resources, Land Use, Transportation/Circulation, Landform Alteration, Historical Resources, and Paleontological Resources. A Mitigation Monitoring and Reporting Program was adopted with LDC EIR to reduce potentially significant impacts to Land Use, Biological Resources, Historical Resources, Landform Alteration/Neighborhood Character, Paleontological Resources, Natural Resources, and Human Health and Safety. The proposed amendments would not result in new significant environmental effects or substantially increase the severity of previously identified significant effects in any of these issue areas or mitigation requirements; therefore, no further documentation is required for the proposed project.

The City of San Diego General Plan (General Plan) is a citywide comprehensive policy-level document that anticipated future actions, including community plan updates, land development code amendments and applicable ordinances to be required as a result of its implementation. The General Plan's City of Villages strategy implements policies that encourage mixed-use development that are pedestrian-friendly, centers of community, and linked to regional transit system. The associated Program EIR (PEIR) analyzed the environmental effects associated with its adoption and implementation. The General Plan PEIR identified significant unmitigated impacts in the following issue areas: Air Quality, Biological Resources, Geologic Conditions, Health and Safety, Historical Resources, Hydrology, Land Use, Mineral Resources, Noise, Paleontological Resources, Population and Housing, Public Facilities, Public Utilities, Transportation/Traffic/Circulation/Parking, Visual Effects and Neighborhood Character, and Water Quality. The General Plan PEIR included a Mitigation Framework to identify means by which potentially significant impacts could be reduced or avoided in cases where the PEIR analysis determined such impacts to be potentially significant. Standard existing regulations requirements, programs and procedures that are applied to all similar projects were taken into account in identifying additional project specific mitigation that may be needed to reduce identified significant impacts. The proposed amendments would not result in new significant environmental effects or substantially increase the severity of previously identified significant effects in any of these issue areas or mitigation requirements; therefore, no further documentation is required for the proposed project.

CHANGES TO THE LAND DEVELOPMENT CODE

The proposed changes to incorporate regulations related to short term vacation rentals and home sharing would modify the following:

- Chapter 13, Article 1, Divisions 2 through 6, Section(s) 131.0222 (Use Regulations Table for Open Space Zones) / Table 131-02B (Use Regulations for Open Space Zones); 131.0322 (Use Regulations Table for Agricultural Zones) / Table 131-03B (Use Regulations for Agricultural Zones); 131.0422 (Use Regulations Table for Residential Zones) / Table 131-04B (Use Regulations for Residential Zones); 131.0522 (Use Regulations Table for Commercial Zones) / Table 131-05B (Use Regulations for

Commercial Zones); 131.0622 (Use Regulations Table for Industrial Zones) / Table 131-06B (Use Regulations for Industrial Zones)

- Chapter 14, Article 1, Division 3, Section(s) 141.0301 (Boarder and Lodger Accommodations);
- Chapter 14, Article 1, Division 6, Section(s) 141.0603 (Bed and Breakfast Establishments).
- Chapter 15, Article 13, Division 3: Mission Beach Planned District Ordinance, Section(s) 1513.0303 (Permitted Uses – Residential)

The proposed changes to incorporate regulations related to short term vacation rentals would add the following section and subsections to the Land Development Code:

- Add Chapter 14, Article 1, Division 3, Section 141.0315 (Short Term Vacation Rental of a Dwelling Unit)
- Add subsections (p) and (q) to Chapter 14, Article 1, Division 3, Section 141.0302 (Companion Units)

CEQA 15162 CONSISTENCY EVALUATION

DSD reviewed the proposed amendments and conducted an 15162 consistency evaluation in compliance with Public Resources Code Section 21166 with the previously certified LDC EIR No. 96-0333/SCH No. 96081056 and the General Plan PEIR No. 104495/SCH No. 2006091032. The evaluation matrix (Attachment 1) substantiates the conclusion that supports a determination that no subsequent document is required.

CONCLUSION

Overall, it is not anticipated that the implementation of the proposed amendments would result in any significant direct, indirect or cumulative impacts over and above those disclosed in the previously certified LDC EIR No. 96-0333/SCH No. 96081056 and the General Plan EIR No. 104495/SCH No. 2006091032. The project would not result in new impacts or changed circumstances that would require a new environmental document.

Section 15162 of the CEQA Guidelines states:

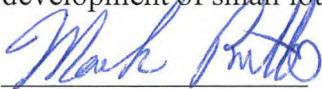
When an EIR has been certified or a negative declaration adopted for a project, no subsequent EIR shall be prepared for that project unless the lead agency determines, on the basis of substantial evidence in the light of the whole record, one or more of the following:

- (1) Substantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
- (2) Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
- (3) New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was

certified as complete or the negative declaration was adopted, shows any of the following:

- (A) The project will have one or more significant effects not discussed in the previous EIR or negative declaration;
- (B) Significant effects previously examined will be substantially more severe than shown in the previous EIR;
- (C) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or
- (D) Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

DSD finds that none of the three criteria listed above has occurred. In addition, this evaluation supports the use of the previous environmental documents for the proposed amendments pursuant to Public Resources Code 21166 and CEQA Guidelines Section 15162. Therefore, the certified EIR No. 96-0333/SCH No. 96081056 and General Plan PEIR No. 104495/SCH No. 2006091032 adequately covers the modifications to the LDC pertaining to residential development of small lot subdivisions being proposed.



Mark Brunette
Senior Planner

Attachment: 1. CEQA Guidelines Section 15162 Consistency Evaluation Matrix

cc: Kerry Santoro, Deputy Director, Development Services Department
Amanda Lee, Development Project Manager III, Development Services Department

**CEQA Guidelines Section 15162 Consistency Evaluation Matrix
Short Term Vacation Rental/Home Sharing Regulations**

Following is an analysis of the proposed Small Lot Subdivision regulations amending the Land Development Code in accordance with CEQA Guidelines Section 15162.

No.	AMENDMENT DESCRIPTION and CEQA 15162 EVALUATION
1	<p><u>New Regulations for Short Term Vacation Rental of a Dwelling Unit</u> Adds Chapter 14, Article 1, Division 3, Section 141.0315 (Short Term Vacation Rental of a Dwelling Unit) to add limited use regulations and neighborhood use permit requirements related to the rentals of a dwelling unit for a term of less than one calendar month for exclusive transient use.</p> <p>CEQA 15162 Evaluation: As discussed in the LDC EIR, Chapter 14 provides information on General Regulations. These regulations include the Residential Use Category - Separately Regulated Uses such as Boarder and Lodger Accommodations, Companion Units, and Bed and Breakfast Accommodations. The proposed amendment to Chapter 14 would permit short term vacation rentals of a dwelling unit for a term of less than 30 calendar days within specific limits such as occupancy and frequency, and includes flexibility to deviate beyond the limits with a discretionary Neighborhood Use permit.</p> <p>As analyzed in the Certified LDC EIR, the Land Development Code, including Separately Regulated Use Regulations of separately regulated residential uses, is intended to protect the character and design of the surrounding community. Furthermore, Section 141.0101 of the LDC states that the purpose of Separately Regulated Use Regulations is to provide regulations for specific uses that may be desirable and appropriate in a particular zone if limitations or conditions are placed on the development of those uses to minimize detrimental effect to neighboring properties or incompatibility with the permitted uses of the base zone.</p> <p>The proposed general and limited use regulations in the new Short Term Vacation Rental of a Dwelling Unit section of Chapter 14 would minimize detrimental effects on neighboring properties or incompatibility with the permitted uses of the base zone through limitations on the type of occupancy, length of vacation occupancy, a required rental agreement, and designation of a local contact.</p> <p>Any proposed deviations to the general or limited use regulations would require a discretionary Neighborhood Use Permit to ensure that the applicant demonstrates that the proposed development will effectively minimized disturbances to the surrounding neighborhood and will not adversely affect the residential character of the neighborhood. Each discretionary permit would be evaluated separately under the requirements of CEQA.</p> <p>Therefore, the proposed amendment is consistent with the environmental analysis performed with the LDC EIR. As such, the proposed amendment would not result in new significant environmental effects or substantially increase the severity of previously identified significant effects in any of the issue areas or mitigation requirements beyond those identified in the previously certified LDC EIR No. 96-0333/SCH No. 96081056; therefore, no further documentation or environmental analysis is required.</p>

No.	AMENDMENT DESCRIPTION and CEQA 15162 EVALUATION
2	<p><u>Short Term Vacation Rentals in the Use Regulations Tables for Open Space, Agricultural, Residential, Commercial and Industrial Zones</u></p> <p>Amends Chapter 13, Article 1, Division 4, Section(s) 131.0222 (Use Regulations Table for Open Space Zones) / Table 131-02B (Use Regulations for Open Space Zones); 131.0322 (Use Regulations Table for Agricultural Zones) / Table 131-03B (Use Regulations for Agricultural Zones); 131.0422 (Use Regulations Table for Residential Zones) / Table 131-04B (Use Regulations for Residential Zones); 131.0522 (Use Regulations Table for Commercial Zones) / Table 131-05B (Use Regulations for Commercial Zones); 131.0622 (Use Regulations Table for Industrial Zones) / Table 131-06B (Use Regulations for Industrial Zones) to add the short term vacation rental of a dwelling unit Use Category.</p> <p>CEQA 15162 Evaluation: As discussed in the LDC EIR, Chapter 13 provides information on proposed Base Zones and Overlay Zones including identifying whether a Use Categories/Subcategories in various zones are either not permitted, permitted, permitted with limitations, or require a neighborhood use permit or conditional use permit. The proposed amendments to Chapter 13 would add references to the Short Term Vacation Rental of a Dwelling Unit Use Category in the Use Regulations Tables for Open Space, Agricultural, Residential, Commercial and Industrial Zones to indicate whether the use is not permitted or permitted as a limited use consistent with the purpose of the Use Regulations Table.</p> <p>As the proposed amendment is consistent with analysis and scope of the LDC EIR, it would not result in new significant environmental effects or substantially increase the severity of previously identified significant effects in any of the issue areas or mitigation requirements beyond those identified in the previously certified LDC EIR No. 96-0333/SCH No. 96081056; therefore, no further documentation or environmental analysis is required.</p>
3	<p><u>Boarder, Lodger, and Home Sharing Accommodations</u></p> <p>Amends Chapter 13, Article 1, Division 4, Section(s) 131.0222 (Use Regulations Table for Open Space Zones) / Table 131-02B (Use Regulations for Open Space Zones); 131.0322 (Use Regulations Table for Agricultural Zones) / Table 131-03B (Use Regulations for Agricultural Zones); 131.0422 (Use Regulations Table for Residential Zones) / Table 131-04B (Use Regulations for Residential Zones); 131.0522 (Use Regulations Table for Commercial Zones) / Table 131-05B (Use Regulations for Commercial Zones); 131.0622 (Use Regulations Table for Industrial Zones) / Table 131-06B (Use Regulations for Industrial Zones) to add references to Home Sharing in the Boarder and Lodger Accommodations Use Category in the Use Regulations Table.</p> <p>Amends Chapter 14, Article 1, Division 3, Section(s) 141.0301 (Boarder and Lodger Accommodations) to add reference to home sharing accommodations and modify regulations related to frequency and occupancy of boarder, lodger and home sharing accommodations.</p> <p>CEQA 15162 Evaluation: As discussed in the LDC EIR, Chapter 13 provides information</p>

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	<p>on proposed Base Zones and Overlay Zones. The proposed amendment to Chapter 13 would add references to Home Sharing in the Boarder and Lodger Accommodations Use Category in the Use Regulations Table.</p> <p>As discussed in the LDC EIR, Chapter 14 provides information on General Regulations including the Commercial Services Use Category – Separately Regulated Uses such as Boarder and Lodger Accommodations. Furthermore, Section 141.0101 of the LDC states that the purpose of Separately Regulated Use Regulations is to provide regulations for specific uses that may be desirable and appropriate in a particular zone if limitations or conditions are placed on the development of those uses to minimize detrimental effect to neighboring properties or incompatibility with the permitted uses of the base zone.</p> <p>The proposed amendments to Chapter 14 would modify existing boarder/lodger regulations to allow home sharing on a short term basis for a maximum of two adults where the owner resides on the premises and is present during the visitor stay. The regulations would establish additional limitations on Boarder, Lodger and Home Sharing accommodations to minimize detrimental effect to neighboring properties or incompatibilities with the permitted uses of the base zone, consistent with the purpose of Separately Regulated Uses that was evaluated by the LDC EIR.</p> <p>The proposed amendments would not result in new significant environmental effects or substantially increase the severity of previously identified significant effects in any of the issue areas or mitigation requirements beyond those identified in the previously certified LDC EIR No. 96-0333/SCH No. 96081056; therefore, no further documentation or environmental analysis is required.</p>
4	<p><u>Companion Units</u> Adds subsections 141.0302 (p) and (q) (Companion Unit) to add that there is no minimum stay required in all residential zones and to establish occupancy requirements for Companion Units.</p> <p>CEQA 15162 Evaluation: As discussed in the LDC EIR, Chapter 14 of the Land Development Code discusses General Regulations including the Commercial Services Use Category - Separately Regulated Uses such as Companion units. Furthermore, Section 141.0101 of the LDC states that the purpose of Separately Regulated Use Regulations is to provide regulations for specific uses that may be desirable and appropriate in a particular zone if limitations or conditions are placed on the development of those uses to minimize detrimental effect to neighboring properties or incompatibility with the permitted uses of the base zone.</p> <p>The proposed amendment to the Companion Unit Regulations would add information to the existing regulations to require that the property owner or designated resident host be present during any visitor stay less than 30 days and that there will be no minimum stay requirement in all residential zones. These additional limitations on Companion Units would minimize detrimental effects to neighboring properties or incompatibilities with the permitted uses of the base zone, consistent with the purpose of Separately Regulated Uses</p>

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	<p>that was evaluated by the LDC EIR.</p> <p>The proposed amendment would not result in new significant environmental effects or substantially increase the severity of previously identified significant effects in any of the issue areas or mitigation requirements beyond those identified in the previously certified LDC EIR No. 96-0333/SCH No. 96081056; therefore, no further documentation or environmental analysis is required.</p>
5	<p><u>Bed and Breakfast Establishments</u> Chapter 14, Article 1, Division 6, Section(s) 141.0603 (Bed and Breakfast Establishments).</p> <p>CEQA 15162 Evaluation: As discussed in the LDC EIR, Chapter 14 of the Land Development Code discusses General Regulations including the Residential Use Category Separately Regulated Uses such as Bed and Breakfast Establishments. Furthermore, Section 141.0101 of the LDC states that the purpose of Separately Regulated Use Regulations is to provide regulations for specific uses that may be desirable and appropriate in a particular zone if limitations or conditions are placed on the development of those uses to minimize detrimental effect to neighboring properties or incompatibility with the permitted uses of the base zone.</p> <p>The proposed amendments to the Bed and Breakfast Establishments Regulations would add information to the existing regulations to require that the property owner or designated resident host be present during any visitor stay less than 30 days and that there will be no minimum stay requirement in all residential zones. These additional limitations on Bed and Breakfast Establishments would minimize detrimental effects to neighboring properties or incompatibilities with the permitted uses of the base zone, consistent with the purpose of Separately Regulated Uses that was evaluated by the LDC EIR.</p> <p>The proposed amendments would not result in new significant environmental effects or substantially increase the severity of previously identified significant effects in any of the issue areas or mitigation requirements beyond those identified in the previously certified LDC EIR No. 96-0333/SCH No. 96081056; therefore, no further documentation or environmental analysis is required.</p>
6	<p><u>Mission Beach Planned District Ordinance</u> Amends Chapter 15, Article 13, Division 3: Mission Beach Planned District Ordinance, Section(s) 1513.0303 (Permitted Uses – Residential)</p> <p>CEQA 15162 Evaluation: As discussed in the LDC EIR, the City has established Planned Districts under Chapter 15, which are defined geographic areas with special land use control measures which are different in some respect from City-wide ordinances. The Mission Beach Planned District Ordinance currently references Lodgers as a permitted accessory use, but does not reference Boarders, Lodgers, and Home Sharing accommodations or short term vacation rentals as permitted uses. The proposed amendment would replace the reference to Boarders with Boarders, Lodgers, and Home</p>

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	<p>Sharing accommodations and would add reference to the regulations for short term vacation rentals to be consistent with the previously referenced proposed amendments to the City wide regulations.</p> <p>Implementation of this proposed amendment would not result in a physical impact to the environment analyzed under CEQA. Changes to the PDO would not result in new significant environmental effects or substantially increase the severity of previously identified significant effects in any of the issue areas or mitigation requirements beyond those identified in the previously certified LDC EIR No. 96-0333/SCH No. 96081056; therefore, no further documentation or environmental analysis is required.</p>