THE CITY OF SAN DIEGO

# Report to the Planning Commission

## SUMMARY

**Issue**:  Should the Planning Commission recommend to the City Council approval of the Planning Department's proposed Middle Income Housing Regulations?

**Staff Recommendation:**  Recommend approval of the proposed Land Development Code amendments to the City Council.

### Environmental Review:

The proposed amendments were reviewed for consistency with the 2008 General Plan Environmental Impact Report No. 104495/SCH No. 2006091032, certified by the City Council on March 10, 2008, Resolution No. R-303473, the 2013 Addendum to the 2008 General Plan Environmental Impact Report No. 104495/SCH No. 2006091032 for the General Plan Housing Element Update, certified by the City Council on March 4, 2013, Resolution No. R-308015, and the Land Development Code Environmental Impact Report No. 96-0333/SCH No. 96081056, certified by City Council on November 18, 1997, Resolution No. 98-288. The proposed project was reviewed for consistency with these applicable certified California Environmental Quality Act (CEQA) documents, in accordance with Public Resources Code Section 21166 and the criteria set forth under CEQA Guidelines Section 15162. Based on this evaluation, Planning Department staff determined that the proposed amendments to the LDC would not result in new impacts or changed circumstances that would require a new environmental document, and that the previous environmental documents adequately covers the proposed amendment.

### Housing Impact Statement:

The intent of the proposed modifications is to increase the production of middle income housing as well as affordable and market-rate housing, citywide.

## BACKGROUND

**The Mayor's Housing Initiative:** HOUSING SD

Over the past decade, new housing development has not kept pace with job or population growth, resulting in housing costs that have increased at a much faster rate than income levels. With a growing population and a county median home purchase price exceeding $500,000 and an average home rental price exceeding $1,800 per month, more and more families are finding it increasingly difficult to find an affordable place to live in San Diego.

In response, the Mayor has developed a series of strategies and initiatives that will help increase housing production in the City. The plan is called ***Housing-SD*** and includes multiple regulatory reforms that are intended to improve housing affordability, improve review processes, facilitate more affordable housing and support the Climate Action Plan.

In November 2017 the Planning Commission reviewed and recommended approval of amendments to the City's Affordable Housing Regulations and in March of this year the City Council adopted the regulations. The intent of these Middle Income Regulations is to attract the segment of the development community that has not taken advantage of the Affordable Housing Regulations but may be more inclined to include middle income housing in their projects. These regulations are not intended to detract from participation in the Affordable Housing Regulations.

## DISCUSSION

The proposed Middle Income Housing Regulations are modeled after the City's Affordable Housing Regulations. Below is a summary of the proposed regulations. The draft strikeout/underline of the proposed regulations are found in Attachment 1.

- The following definition of "middle income" has been added to Chapter 11, Article 3, Division 1 of the Land Development Code.

    *Middle Income* means any household whose income exceeds 120 percent but does not exceed 150 percent of the area median income as adjusted for household size as defined by the U.S. Department of Housing and Urban Development for the San Diego Metropolitan Statistical Area.

- Applicants can take advantage of the density bonus, incentives and waivers in the regulations when a proposed project reserves at least 10% percent of the pre-density bonus dwelling units for households earning more than 120% of the area median income (AMI) but not more than 150% of the AMI, and at least a portion of the project is located with a Transit Priority Area (TPA).

- The terms of affordability mirror the requirements of the City's Affordable Housing Regulations; rental dwelling units are required to be affordable for 55 years and for-sale dwelling units are required to be affordable for 15 years with an equity sharing agreement with the San Diego Housing Commission.

- Applicants that provide the required number of middle income dwelling units are entitled to a density bonus of up to a maximum of 25%. It is important to note that applicants

agreeing to reserve units for middle income households are still required to pay inclusionary housing fees.

- Applicants that also comply with the Affordable Housing Regulations are allowed to combine the density bonuses of both regulations.

- The regulations and the findings for denial of waivers and incentives are the same as in the Affordable Housing Regulations except that up to a maximum of 3 incentives are granted for providing the required number of middle income dwelling units.

- Applicants that provide the required number of middle income dwelling units are not required to process a rezone or land use plan amendment.

- Projects that propose to include middle income and affordable housing units in accordance with these regulations and the Affordable Housing Regulations may combine the density bonuses offered in both ordinances.

- The regulations, similar to the Affordable Housing Regulations, provide parking ratios based on the percentage and income levels of the reserved dwelling units as follows:

  o Applicants that reserve 10% but less than 50% of the dwelling units as middle income are entitled to moderate reductions in parking ratios (See Table 143-10A in Attachment 2);

  o Applicants that provide 50% or more of the dwelling units as middle income are entitled to a parking ratio of 0.5 parking spaces per bedroom for the entire project inclusive of guest and disabled parking; and

  o Applicants that reserve 10% of the dwelling units as middle income and provide either 5% of the dwelling units for very low income or 10 % of the dwelling units for low income, are entitled to a parking ratio of 0.5 parking spaces per bedroom for the entire project inclusive of guest and disabled parking.

**Code Monitoring Team (CMT) Recommendation**: On March 14, 2018, the CMT voted 10-3 to recommend approval of the proposed regulations. Votes against were related to the proposed parking reductions.

**Technical Advisory Committee (TAC) Recommendation**: On March 14, 2018, the TAC considered CMT's recommendations and after deliberations voted 11-2 to recommend approval of the proposed regulations. Votes against were related to the proposed parking reductions.

**Community Planning Committee (CPC) Recommendation**: On March 27, the CPC voted 12-3-3 to oppose the regulations. The motion to oppose referred to overly generous parking ratios and a 25 percent density bonus in exchange for only 10 percent of the dwelling units for middle income households.

## CONCLUSION

The proposed amendments are intended to increase production of middle income housing citywide. As previously stated, San Diego County's median home sales price exceeds $500,000 and

the average home rental price exceeds $1,800 per month making it increasingly difficult for families and individuals to find an affordable place to live.  The Middle Income Housing Regulations are intended to attract segments of the development community that do not take advantage of the City's Affordable Housing Regulations while offering even greater incentives for developers that provide both middle and low/very low income housing in their projects.

Respectfully submitted,

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Attachments:

1. Proposed Middle Income Housing Regulations Ordinance (Strikeout/Underline)

**§113.0103**       *Abutting property* to *MHPA* [No change in text.]

*Middle income* means any household whose income exceeds 120 percent but does not exceed 150 percent of the area median income as adjusted for household size as defined by the U.S. Department of Housing and Urban Development for the San Diego Metropolitan Statistical Area.

*Mined lands* to *Yard* [No change in text.]

**§113.0222**     **Calculating Maximum Permitted Density**

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

(c)       For purposes of calculating *density* for a *development* proposing a *density* bonus pursuant to Chapter 14, Article 3, Divisions 7 and 10, where the maximum *density* of the base zone and the *land use plan* are inconsistent, the maximum *density* allowed under the *land use plan* shall prevail. All Ccalculations for *density* bonus resulting in any fractional number shall be increased to the next whole number.

**§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) through (d) [No change in text]

(e)     RM Zones

**Footnotes for Table 131-04G**
[1]   One dwelling unit per specified square foot of lot area as determined in accordance with Section 113.0222.
[2]   An exception to the maximum permitted *density* may be permitted in accordance with Chapter 14, Article 3, Divisions 7 or 10 (Affordable Housing Regulations and Middle Income Housing Regulations).

**§143.0340**     **Supplemental Neighborhood Development Permit and Site Development Permit Regulations for Mobilehome Parks**

The following supplemental regulations apply to Neighborhood Development Permits and Site Development Permits for *mobilehome parks*.

(a)      Maximum *Density*

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

(3)      The maximum permitted *density* may be exceeded in accordance with Chapter 14, Article 3, Divisions 7 or10 (Affordable Housing Regulations and Middle Income Housing Regulations).

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

### §143.0410     General Development Regulations for Planned Development Permits

(a)     Deviations

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

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

(A) and (B) [No change in text.]

(C)     Residential *density* unless an affordable housing a density *density* bonus is obtained in accordance with Chapter 14, Article 3, Divisions 7 or 10 (Affordable Housing Regulations and Middle Income Housing Regulations);

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

### §143.0720     Density Bonus in Exchange for Affordable Housing Units

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

(j)     For purposes of this Division *density* bonus means an increase in density in accordance with Tables 143-07A, 143-07B, and 143-07C beyond the otherwise maximum allowable *density*; or, if elected by the *applicant*, a lesser percentage of *density* or no increase in *density*.

### Article 3: Supplemental Development Regulations

### Division 10: Middle Income Housing Regulations

### §143.1010     Purpose of Middle Income Housing Regulations

The purpose of these regulations is to provide incentives for *development* to materially assist in providing affordable housing to multiple segments of the community and to provide a greater balance of housing opportunities throughout the City.

§143.1015        **When Middle Income Housing Regulations Apply**

This Division applies to any *development* where zoning allows for five or more *dwelling units*, not including *density* bonus units, in exchange for a portion of the total *dwelling units* in the *development* being reserved for *middle income* household*s*.

§143.1017        **Density Bonus in Exchange for Middle Income Housing Units**

(a)      For purposes of this Division *density* bonus means a 25 percent increase in the otherwise maximum allowable *density*, or, if elected by the *applicant* a lesser percentage of density or no increase in *density*.

(b)      A *development* shall be entitled to a *density* bonus 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.

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

(1)      At least 10 percent of the pre-*density* bonus *dwelling units* in the *development* shall be affordable to and occupied by *middle income* households

(2)      The *middle income dwelling units* shall be designated units, be comparable in bedroom mix and amenities to the market-rate *dwelling units* in the *development,* and be dispersed throughout the *development.*

(3)      The *middle income dwelling units* shall remain available and affordable for a period of at least 55 years or longer.

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

(1)      At least 10 percent of the pre-*density* bonus *dwelling units* in the *development* shall be affordable to and occupied by *middle income* households.

(2)      The initial occupants of all for-sale *middle income dwelling units* shall be households consistent with the qualifying criteria in Section 143.1017(d)(1).

(3)      Prior to, or concurrent with, the sale of each *density* bonus *middle income 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.

(4)     The *middle income dwelling units* shall remain available and affordable for a period of at least 15 years.

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

(6)     The *middle income dwelling unit*s shall be designated, be comparable in bedroom mix and amenities to the market-rate *dwelling units* in the *development*, and be dispersed throughout the *development*.

(7)     All for-sale *middle income dwelling units* shall be subject to an equity sharing agreement to the satisfaction of the San Diego Housing Commission.

(e)     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 *dwelling unit*, as applicable, prior to construction or permanent financing.

(f)     A *development* proposal requesting a *middle income* housing *density* bonus is subject to the following:

(1)     A *density* bonus up to 25 percent of the base zone *density*.

(2)     At least a portion of the *premises* shall be located within a *Transit Priority Area*.

(3)     Except for *density* bonus *dwelling units* authorized by Section 143.1017(c)(1) or Section 143.1017(d)(1), the *density* bonus *dwelling units* authorized by this Division shall be subject to the Inclusionary Housing Regulations set forth in Chapter 14, Article 2, Division 13.

(4)     If the *premises* are 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.

(5)     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.

(6)     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 by *middle income* households shall be distributed among community planning areas in the same proportion as the total number of *dwelling units* constructed within the *development.*

(7)     Notwithstanding Sections 143.1017(f)(1) and 143.1017(f)(3), a *development* proposal that also provides affordable *dwelling units* in accordance with Chapter 14, Article 3, Division 7 (Affordable Housing Regulations) shall be entitled to the following:

(A)     The applicable *density* bonus permitted in accordance with Section 143.0720 plus the *density* bonus permitted in accordance with Section 143.1017(f)(1).

(B)     An exemption to the Inclusionary Housing Regulations as set forth in Section 143.0720(b).

(g)     The granting of a density bonus shall not require, or be interpreted, in and of itself, to require a *land use plan* amendment or zoning change.

**§143.1020     Incentives in Exchange for Middle Income Housing**

An *applicant* proposing *density* bonus shall be entitled to request a maximum of three incentives as described in Section 143.0740(a) and (b). The City shall process an incentive as set forth in Section 143.0740(c).

**§143. 1030     Waivers in Exchange for Middle Income Housing**

An *applicant* proposing a *density* bonus shall be entitled to request a waiver(s) to waive or reduce a *development* standard that physically precludes construction of *development* meeting the criteria of Section 143.1017(c) or (d).  The City shall process a waiver requested by an *applicant* as set forth in Section 143.0743(b) through (e).

**§143.1040     Parking Ratios for Middle Income Housing**

The parking ratios in Table 143-10A shall apply upon the request of an *applicant* to a *development* providing *middle income* housing in accordance with this Division; or providing middle income housing in accordance with this Division and *very low* or *low income* housing in accordance with Chapter 14, Article 3, Division 7 (Affordable Housing Regulations).

### Table 143-10A
### Parking Reductions for the Development

| Percent of *Dwelling Units* Reserved | Level of Affordability | Parking Ratio[1, 2, 3] |
|---|---|---|
| 10% | *Middle Income* | 0 - 1 *bedroom* = 1 space<br>2 - 3 *bedrooms* = two spaces<br>4+ *bedrooms* = 2.5 spaces |
| ≥ 50% | *Middle Income* | 0.5 spaces per *bedroom* |
| ≥ 10%<br>≥ 5% | *Middle Income*<br>*Very Low Income* | 0.5 spaces per *bedroom* |
| ≥ 10%<br>≥ 10% | *Middle Income*<br>*Low Income* | 0.5 spaces per *bedroom* |

Footnotes for Table 143-10A
[1] The parking reductions shall not be subject to the parking regulations of the Transit Overlay Zone and the *development* shall not be entitled to parking reductions provided in Section 142.0550 (Parking Assessment District Calculation Exception).
[2] Inclusive of guest and disabled parking.
[3] The parking ratios shall apply to the entire *development*.

### §143.1050     Affordable Housing Incentives and Waivers Report

An *applicant* requesting a *density* bonus, incentive(s), waiver(s), or parking reductions provided under this Division shall submit, at the time of application, an Affordable Housing Incentives and Waivers Report to the satisfaction of the City Manager. The report shall document the basis for the requested incentive(s), waiver(s), or parking reductions.

### §151.0201     Processing of Planned District Permits

Planned district permits will be processed in accordance with the Land Development Code as follows:

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

(d)     A development consistent with Chapter 14, Article 3, Divisions 7 or 10 (Affordable Housing Regulations and Middle Income Housing Regulations) located in a planned district that requires a Process Three planned district permit shall be processed in accordance with Process Two as a Neighborhood Development Permit. The findings required for approval shall be the general findings for Site Development Permits in Land Development Code Section 126.0504(a), any applicable supplemental findings in Section 126.0504, and any additional findings required in the planned district.

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

## §152.0318   Redevelopment District Intensity of Development

(a)   Maximum Density for Residential Development Maximum residential density within the Redevelopment Subdistrict shall be one dwelling unit per 1,000 square feet, or 43 units per gross acre, ~~plus an optional 25 percent bonus density for very low, low and moderate income dwelling units (in compliance with Land Development Code~~ however, additional density may be achieved in accordance with Chapter 14, Article 3, Divisions 7 or 10 (Affordable Housing Regulations and Middle Income Housing Regulations) ~~up to a maximum density of 53 dwelling units per gross acre, as shown in Figure 3 of Section 152.0318~~.

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

## §154.0301   Permitted Uses

In the Cass Street Commercial Planned District, no building or improvement, or portion thereof, shall be altered, constructed, converted, demolished, erected, established, or enlarged, nor shall any premises be used except for one or more of the following purposes; provided, however, that no premises shall contain a single establishment exceeding a total of 5,000 square feet in gross floor area; and further provided, that no premises shall contain auto repair services, live entertainment or funeral parlors unless approved pursuant to a Special Use Permit. Business and professional offices may be permitted on the ground floor in accordance with the provisions of Section 154.0301(f). Building occupancy shall be limited to those uses identified in Sections 154.0301(a) through 154.0301(k) in accordance with the provisions of those paragraphs.

(a)   [No change in text.]

(b)   Residential and apartment development to a maximum density of one dwelling unit per 1,500 square feet of lot area, except that this density may be exceeded in conjunction with a density bonus ~~for the provision of affordable housing~~ pursuant to Land Development Code Chapter 14, Article 3, Divisions 7 or 10 (Affordable Housing Regulations and Middle Income Housing Regulations)

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