

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

DATE: November 24, 2021

TO: Renee Mezo, Development Project Manager III, Planning Department

FROM: Sureena Basra, Associate Planner, Planning Department

SUBJECT: Housing Action Package – CEQA Guidelines Section 15162 Evaluation

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The Environmental Policy Section of the Planning Department has completed a California Environmental Quality Act (CEQA) Guidelines Section 15162 consistency evaluation in compliance with Public Resources Code Section 21166 for the Housing Action Package (herein after referred to as the “Project”). This evaluation was performed to determine if conditions specified in CEQA Guidelines Section 15162 would require preparation of a subsequent Environmental Impact Report (EIR) or subsequent negative declaration (ND) for the project.

As outlined in this memo, the Planning Department has determined that the Project is consistent with the following certified environmental documents:

1. Final Environmental Impact Report (EIR) for the Land Development Code (LDC; DEP No. 96-033/SCH No. 1996081056) certified by the San Diego City Council on November 18, 1997 (Resolution R-289458);
2. Final Program EIR (PEIR) for the General Plan (Project No. 104495/SCH No. 2006091032) certified by the San Diego City Council on March 10, 2008 (Resolution R-313099);
3. Addendum to the General Plan PEIR for the Housing Element Update (SCH No. 2006091032) adopted by the San Diego City Council on June 18, 2020 (Resolution R-313099); and
4. Final PEIR for Complete Communities: Housing Solutions and Mobility Choices (SCH No. 2019060003) certified by the San Diego City Council on November 9, 2020 (Resolution R-313279).

Implementation of the Project would not result in new or more severe significant impacts over and above those disclosed in the previously certified and adopted environmental documents.

**Background and Project Description**

The Housing Action Package includes a variety of local housing programs and incentives;

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implementing regulations for California Senate Bill 9 (SB 9); and amendments to the City's Accessory Dwelling Unit and Junior Accessory Dwelling Unit (ADU/JADU) Regulations that address privacy, enhancement of the urban tree canopy, and contributions to needed infrastructure. The Project is proposing the following amendments to the San Diego Municipal Code (SDMC):

### **Local Housing Programs and Incentives**

#### *Employee Housing Incentive Program*

Amend SDMC Sections 98.0502 and 143.0742 to allow non-residential development in Transit Priority Areas (TPAs) to receive incentives if it pays into the Affordable Housing Trust Fund or builds affordable homes.

#### *Live/Work Flexibility*

Amend SDMC Sections 131.0623 and 141.0311 to amend requirements for Live/Work units to encourage more opportunities for residents to work from home or live in closer proximity to their place of work.

#### *Affordable Housing in All Communities*

Amend SDMC Sections 142.1305, 143.0745 and 143.0746 to allow 100% affordable housing and density bonus units in TPAs/Highest and High Resource Communities with less than 5% affordable housing.

#### *Housing for Families*

Amend SDMC Section 143.0720 to incentivize the construction of housing units with 3+ rooms for families including intergenerational families.

#### *Housing at City Facilities*

Amend SDMC Section 143.0746 to allow for by-right housing development on City-owned sites.

#### *Housing Accessibility Program*

The proposed Housing Accessibility Program will replace the entire existing program as provided in SDMC Chapter 14, Article 5, Division 40 to incentivize the construction of American Disabilities Act (ADA) accessible housing.

### **Senate Bill 9 Implementation**

Adopt SDMC Chapter 14, Article 3, Division 13 which will allow lot split and duplexes on single family zones in accordance with SB 9.

### **Amendments to the Accessory Dwelling Unit and Junior Accessory Dwelling Unit Regulations**

Amend SDMC Sections 141.0302, 142.0640, 151.0401, 155.0238, 1516.0107, 1516.0112, 1516.0117, 1516.0122, and 1516.0131 to require the following:

1. Require 4' interior side yard and rear yard setback along property lines that abut other properties zoned for or developed with residential uses (currently 0' setback is allowed);

2. Require one tree on the premises for every 5,000 square feet of lot area (with a minimum of one tree), and if the project exceeds three ADUs, compliance with the street tree regulations; and
3. Impose Development Impact Fees (DIF) for ADUs over 750 square feet (after the first two ADUs).

### **Previously Certified and Adopted CEQA Documents**

#### *Final EIR for the LDC (1997)*

The LDC 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 (MMRP) was adopted with the 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.

#### *Final PEIR for the General Plan (2008) and Addendum to the General Plan PEIR for the Housing Element Update (2020)*

The Final PEIR for the General Plan found that, although significant impacts could be mitigated through a review of discretionary projects, implementation of the General Plan would result in significant and unavoidable impacts to Agricultural Resources, Air Quality, Biological Resources, Geologic Conditions, Health and Safety, Historic 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 as site-specific details of future development projects are unknown at this time. An MMRP was adopted with the General Plan Final PEIR to reduce potentially significant impacts.

The Addendum to the General Plan for the Housing Element Update found that implementation of the Housing Element Update would not result in new or more severe significant impacts than what was previously analyzed in the Final PEIR for the General Plan.

#### *Final PEIR for Complete Communities: Housing Solutions and Mobility Choices (2020)*

The Final PEIR for Complete Communities: Housing Solutions and Mobility Choices found that implementation of the project would result in significant and unavoidable impacts to Air Quality; Biological Resources; Historical, Archaeological, and Tribal Cultural Resources; Hydrology and Water Quality; Noise; Public Services and Facilities; Transportation; Public Utilities and Infrastructure; Wildfire; and Visual Effects and Neighborhood Character.

### **Senate Bill 9 Implementation**

SB 9 adds Section 65852.21 to the Government Code, which allows a second unit to be built on a single-family zoned lot ministerially. Section 65852.21(j) states, "A local agency may adopt an ordinance to implement the provisions of this section. An ordinance adopted to implement this section shall not be considered a project under Division 13 (commencing with Section 21000) of the Public Resources Code." SB 9 also adds Section 66411.7 to the Government Code, which allows an urban lot split of one single family zoned lot into two with a ministerial parcel map action. Section 66411.7(n) states, "A local agency may adopt an ordinance to implement the provisions of this section. An ordinance adopted to implement this section shall not be considered a project under Division 13 (commencing with Section 21000) of the Public Resources Code." Thus, the proposed adoption of SDMC Chapter 14, Article 3, Division 13 to implement the provisions of SB 9 is not a project subject to CEQA.

### **CEQA Guidelines Section 15162 Criteria**

CEQA Guidelines Section 15162 states:

When an EIR has been certified or an ND 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.

None of the three criteria listed above has occurred, therefore the Environmental Policy

Section of the Planning Department has determined that there is no need to prepare subsequent or supplemental environmental documents for the project.

### **CEQA Guidelines Section 15162 Consistency Evaluation**

#### ***Final EIR for the LDC (1997)***

The Final EIR for the LDC anticipated that regular updates of the LDC would need to occur to improve the clarity of the regulations; ensure objectivity, consistency, and predictability in the regulations; and allow for adaptability in tailoring the regulations to fit the City's needs. The proposed Project meets the goals of the LDC through amendments which provide consistency with State law and incentivize the development of affordable housing to address the City's critical housing needs. For example, the proposed amendment for Live/Work Flexibility improves the clarity of the City's regulations regarding Live/Work units and allows for flexibility within the regulations to encourage more opportunities for residents to work from home. In addition, the amendments to the City's ADU/JADU Regulations also improve the clarity of the City's regulations and allow for flexibility within the regulations to encourage the construction of ADUs and JADUs. Thus, the proposed amendments would not result in new or more severe significant impacts than what was previously identified in the Final EIR of the LDC.

#### ***Final PEIR for the General Plan (2008)***

The City's General Plan provides a long-range, comprehensive policy framework for how the City will grow and develop and provide public services. The proposed amendments including increasing affordable housing density and incentivizing the construction of housing for families as well as the proposed amendments to the City's ADU/JADU Regulations, will address the City's critical housing needs and will implement the following policies within the City's General Plan:

- LU-C.3. Maintain or increase the City's supply of land designated for various residential densities as community plans are prepared, updated, or amended.
- LU-C.4. Ensure efficient use of remaining land available for residential development and redevelopment by requiring that new development meet the density minimums of applicable plan designations.
- LU-H.1. e. Provide affordable housing opportunities within the community to help offset the displacement of the existing population.
- LU-H.2. Provide affordable housing throughout the City so that no single area experiences a disproportionate concentration.
- LU-H.3 Provide a variety of housing types and sizes with varying levels of affordability in residential and village developments.

Thus, the proposed amendments fall within the scope of the General Plan and would not result in new or more severe significant impacts than what was previously analyzed in the Final PEIR.

#### ***Addendum to the General Plan Final PEIR for the Housing Element Update (2020)***

The Housing Element of the General Plan provides a coordinated strategy for addressing the comprehensive housing needs of the City. The proposed amendments including incentivizing the construction of ADA accessible housing, increasing affordable housing in TPAs,

increasing construction of housing for families, and promoting an employee housing incentive program, will help implement the Housing Element's following policies:

- HE-C.1 Develop and maintain policies and programs that identify obstacles to building affordable housing, infill housing, and smart growth housing development, and provide regulatory strategies and tools that will streamline the development process.
- HE-C.3 Develop a comprehensive strategy to address the need for more housing near employment centers, serving moderate- to middle-income workers in San Diego, and strive to promote the location of housing proximate to employment and multimodal transportation facilities.
- HE-C.11 Allow densities that exceed ranges defined in the zone for projects using State bonus provisions and for projects within designated TPAs.
- HE-I.4 Emphasize the need for affordable housing options for seniors and people with disabilities and / or special needs near transit, healthcare services, shopping areas, and other amenities.
- HE-I.12 Include policies in each community plan, as it is updated, that encourage the development of affordable housing and its location close to transit, employment centers, opportunity areas, and resource-rich areas.
- HE-A.4 Allow residential densities that exceed the ranges defined in the General Plan and community plans for projects using State density bonus provisions (including senior housing and affordable housing) and City housing incentive programs.
- HE-A.5 Identify and evaluate options to increase housing opportunities in areas planned and zoned for single-family residential densities.
- HE-B.2 Administer initiatives that prioritize affordable housing, especially units that are easier and faster to build.
- HE-C.1 Develop and maintain policies and programs that identify obstacles to building affordable housing, infill housing, and smart growth housing development, and provide regulatory strategies and tools that will streamline the development process.
- HE-C.2 Create and promote programs and incentives that stimulate the production of new units across all household incomes, ages, types, and needs.
- HE-C.5 Consider developing a program that incentivizes development of housing with three or more bedrooms to accommodate large households.
- HE-C.11 Allow densities that exceed ranges defined in the zone for projects using State density bonus provisions and for projects within designated TPAs.
- HE-E.6 Support research efforts of the State and other agencies to identify and adopt new construction methods and technologies to facilitate affordable housing and energy efficiency.
- HE-E.11 Support the provision of an array of housing for persons with physical and developmental disabilities.
- HE-I.1 Promote affordable alternative forms of housing, including those that offer opportunities for economies of scale and shared facilities and services.
- HE-I.4 Emphasize the need for affordable housing options for seniors and people with disabilities and / or special needs near transit, healthcare services, shopping areas, and other amenities.

- HE-I.7 Utilize the City's regulatory powers (e.g., land use and fees) to increase affordable and accessible housing.
- HE-I.8 Support research efforts by the State and other agencies to identify and adopt new construction methods and technologies to facilitate affordable housing development.
- HE-K.4 Identify new ways to leverage public dollars allocated for affordable housing to maximize revenues for expanding housing resources.
- HE-N.2 Deter practices that decrease the City's affordable housing supply.
- HE-R.1 Develop campaigns that raise awareness about the importance of and need for housing and affordable housing citywide.

Thus, the proposed amendments fall within the scope of the General Plan Housing Element Update and would not result in new or more severe significant impacts than what was previously analyzed in the Addendum to the General Plan Final PEIR for the Housing Element Update.

***Final PEIR for Complete Communities: Housing Solutions and Mobility Choices (2020)***

The Final PEIR for Complete Communities: Housing Solutions and Mobility Choices analyzed the environmental impacts associated with implementing the Housing Solutions Program, which would permit increasing density to allow for the development of more housing units within TPAs. The amendments for the Employee Housing Incentive Program and Affordable Housing in All Communities involve increasing development and allowing for affordable housing in TPAs, which would be consistent with what was analyzed in the Final PEIR. The proposed amendments also meet the following Housing Solutions and Mobility Choices Program goals and objectives:

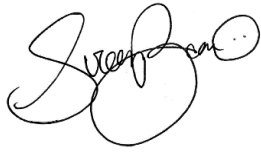
- Focus housing construction in multi-family and mixed-use commercial areas served by transit in TPAs.
- Remove regulatory barriers to housing at all income levels, especially low, very low, median, and moderate-income households.
- Identify and make available for development adequate sites to meet the City's diverse housing needs.
- Incentivize new construction of all types of multi-family housing, with an emphasis on affordable housing units.
- Implement the City's General Plan to achieve planned residential buildout and meet the City's Regional Housing Needs Assessment (RHNA) targets.

Thus, the proposed amendments fall within the scope of the Complete Communities: Housing Solutions and Mobility Choices Programs and would not result in new or more severe significant impacts than what was previously analyzed in the Final PEIR.

**Conclusion**

The Environmental Policy Section has reviewed the proposed amendments included within the Housing Action Package and conducted a consistency evaluation pursuant to CEQA Guidelines Section 15162. Implementation of the proposed amendments will not result in new significant direct, indirect, or cumulative impacts over and above those disclosed in the abovementioned environmental documents.

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A handwritten signature in black ink, appearing to read 'Sureena Basra', written over a vertical line.

Sureena Basra  
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Cc: Rebecca Malone, Program Manager, Planning Department  
Heidi Vonblum, Deputy Director, Planning Department