



THE CITY OF SAN DIEGO

Report to the Planning Commission

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REPORT NO. PC-23-009

HEARING DATE: April 6, 2023

SUBJECT: Homes for All of Us: Housing Action Package 2.0 Amendments to the Municipal Code and Local Coastal Program Workshop

REFERENCE: [Homes for All of Us: Housing Action Package](#)

SUMMARY

This is a workshop for the Planning Commission to provide input on the Housing Action Package (HAP) 2.0 Amendments to the Municipal Code and Local Coastal Program. No action is required on the part of the Planning Commission at this time. This workshop is meant to serve as an opportunity for Planning Commission and the public to provide input on the proposed programs and initiatives in HAP 2.0 that would amend the Land Development Code and Local Coastal Program.

BACKGROUND

How does the Housing Action Package address the City's [Strategic Plan](#)?

Housing Action Package 2.0 focuses on the following priority areas of the Strategic Plan:

- [Create Homes for All of Us](#). Allows additional opportunities for homes for people of all incomes, abilities and family compositions in all communities, especially in higher-resource communities currently lacking affordable homes.
- [Champion Sustainability](#). Allows for more homes where residents can walk, roll, bike and take transit.
- [Foster Regional Prosperity](#). Promotes homes for people of all incomes in all communities, so San Diego continues to have a strong economy.

What is the Housing Action Package?

The first Housing Action Package was a part of the Homes for All of Us initiative. HAP 2.0 builds upon the adoption of the first Housing Action Package, adopted in February 2022, by encouraging more homes and a greater variety of homes through the adoption of new programs and initiatives and the amendment of existing programs. Through amendments to the [Land Development Code](#), the Housing Action Package aims to incentivize and promote new home opportunities throughout the City that San Diegans of all income levels can afford.

Why is the City proposing amendments to the Land Development Code to address housing?

The regulations in the Land Development Code implement the policies in the City's General Plan and community plans. Housing is a critical component of the City's economic well-being and quality of life for all community members. Therefore, it is imperative that San Diego has an adequate supply of homes to meet its present and future demands. For decades, the rate of construction of new homes within the City has not kept pace with demand. This is especially true for affordable homes, where production has only met a very small fraction of the need.

Adding to and amending the City's home incentive programs in the Land Development Code will assist in meeting the housing crisis facing the City. As population and job growth occur, the City needs policies and programs that make it easier to build more homes at all income levels. Without more home opportunities, the City risks losing its community members to areas outside of San Diego, making it more difficult for businesses to attract and retain high quality employees and straining the budgets of moderate and low income community members as more of their income is used to pay for a home. Longer commutes between home and work also contributes to greenhouse gas emissions, poor air quality and overall lower quality of life. In addition to developing new homes, protections are needed to ensure that new development does not displace existing residents and negatively affect communities and neighborhoods.

General Plan

The [General Plan](#) is the comprehensive guide for development, providing policy guidance to address the needs of the City over the next 20 to 30 years. The General Plan includes the City of Villages strategy which focuses growth into mixed-use centers, districts and corridors that are pedestrian-friendly and linked to the regional transit system. The General Plan consists of multiple elements or chapters which include the Housing Element.

Housing Element

The [Housing Element](#) serves as the City's housing plan. The foundation for the Housing Element is the Regional Housing Needs Assessment (RHNA), in which estimates the region's housing needs for all income groups for the upcoming eight years. The City's portion of the San Diego RHNA target for the 2021-2029 Housing Element period is 108,036 new homes. This goal is further broken down by income group. The City must identify enough potentially developable land zoned for residential use to meet the City's RHNA housing capacity/production target and must provide goals, objectives, policies, and programs to meet the City's housing needs.

Community Plan Updates

Community plans build upon the General Plan policies include the City of Villages strategy. Since the adoption of the General Plan in 2008, the Planning Department has completed a comprehensive plan update to fifteen community plans to better reflect current conditions and the long-term vision under the City of Villages strategy. As part of the [community plan updates](#), the City has planned for the development of higher density residential development near transit to provide opportunities for additional homes for all income groups in alignment with the City's climate and housing goals.

Climate Action Plan

The [Climate Action Plan](#) (CAP) establishes a Citywide goal of net zero greenhouse gas (GHG) emissions by 2035. Strategy 3 of the CAP establishes citywide goals for reducing vehicle miles traveled and increasing the ability for people to safely and enjoyably walk, roll, bike or use transit, resulting in GHG emissions reductions. As part of community plan updates, the City has planned

for the development of higher density residential development near transit to address the CAP goals.

Complete Communities: Housing Solutions and Mobility Choices

In 2020, the City Council adopted [Complete Communities](#): Housing Solutions and Mobility Choices. These regulations are intended to increase new home production in areas located closest to transit, and to provide more pedestrian, bicyclist, and transit investments, particularly in areas with the greatest needs, and where such investments would serve the most people. These investments in the areas that would serve the most people also result in the greatest potential to increase the amount of people that are able to safely and enjoyably walk, roll, bike or use transit, resulting in GHG emissions reductions while providing new homes needed in the City's communities.

Parking - Transit Priority Areas

The City also amended parking requirements in Transit Priority Areas (TPAs) in 2019, with the following goals: increasing housing affordability and supply, creating communities as places to live and work, and reducing individuals' reliance on cars, which not only reduces the vehicle generated GHG emissions, but also further reduces vehicular congestion on the surrounding roadway for all residents.

Sustainable Development Areas

In February 2023, the Land Development Code was amended to include a new geographic designation - Sustainable Development Areas (SDA) - for certain City housing programs that had previously used the geographic area defined as a Transit Priority Area (TPA). The SDA aligns with the CAP goals to ensure that the City's home development incentive programs have convenient access to high quality transit and safe and enjoyable walking/rolling and biking options for moving around. Locating new homes near transit where people are more likely to have lower rates of vehicular travel is a key component identified in CAP Strategy 3.

Annual Housing Report

The City's 2021 [Annual Report on Homes](#) presents progress made in 2020 towards the City's housing production goals and initiatives. The Annual Report on Homes details the City's progress in building new homes and implementing new housing initiatives. During 2021, the City approved over 5,000 new homes, including 871 accessory dwelling unit homes. The report demonstrates that housing initiatives like the Complete Communities program have had a positive impact on the City, but also underscores the need for further action to create more homes for more people in all communities. The Planning Department anticipates releasing the 2022 Annual Report on Homes during the summer of 2023.

DISCUSSION

HAP 2.0 is comprised of eleven items that are separated into the following four parts:

- **Part 1: Encouraging New Homes** – would promote the development of new homes by implementing recently adopted state law, revising existing regulations and affordable housing programs to encourage new homes on public land and for students.
- **Part 2: Fair Housing for All** – would strengthen regulations to further fair housing and promotes the development of new homes for families and middle-income San Diegans.

- **Part 3: Thriving Neighborhoods** – would fortify regulations and adds new language to reduce displacement caused by new development, as well as amends existing regulations that govern the continuation of harmful uses near residential areas.
- **Part 4: Missing Middle Housing** – would implement recently adopted state Senate Bill 10 to encourage the development of missing middle homes within areas that can most efficiently be served with investments in transit, walking/rolling, and biking.

The Draft Land Development Code amendments for each item are posted on the Planning Department’s [Housing Action Package](#) webpage.

A. Part 1: Encouraging New Homes

1. Assembly Bill 2097 (AB 2097) Implementation

How would the implementation of [Assembly Bill 2097](#) effect the City?

Justification: AB 2097 removes parking minimums from properties within Transit Priority Areas (TPAs). This would result in an increase in the areas without parking minimums. AB 2097 prohibits a public agency from imposing or enforcing any minimum automobile parking requirement on a residential, commercial, or other development project if the project is located within one-half mile of major transit stop.

Amendment: AB 2097 is presently in effect and mandatory for the City to adhere to. HAP 2.0 would implement AB 2097 by amending the City’s existing parking regulations to eliminate parking minimums for new residential and commercial developments within TPAs in compliance with the state law requirement.

2. Junior Accessory Dwelling Unit (JADU) Revisions

Why is the City proposing to revise the current Junior Accessory Dwelling Unit Regulations and include a new definition for Minor Accessory Dwelling Units?

Justification: The proposed code amendment better aligns the City’s current JADU regulations with guidelines recommended by the California Department of Housing and Community Development (HCD) in its letter to the City (Attachment 1) by no longer allowing JADUs to be built inside detached garages and other ADUs. The proposal also includes a new definition of “Minor Accessory Dwelling Units” (MADU), which are like JADUs, but are only allowed in detached garages and ADUs. This will help to meet Housing Element goals.

Amendment: HAP 2.0 would modify Junior Accessory Dwelling Unit Regulations by doing the following:

- No longer allowing JADUs to be built inside detached garages and other ADUs,
- Including a new definition of “Minor Accessory Dwelling Units” (MADU), which are like JADUs, but are only allowed in detached garages and ADUs, and
- Specifying only one MADU or JADU would be allowed on a property.

3. ADA Accessible Accessory Dwelling Units (ADU) Home Incentive

Why is the City proposing to provide an incentive to build ADA accessible Accessory Dwelling Unit Homes?

Justification: By providing an incentive, the proposed code amendment would expand housing opportunities for people with disabilities, mobility limitations and special needs including veterans. As the population of people in the city continues to age, the need for more accessible homes to accommodate people with disabilities will continue to rise. This will help to meet Housing Element goals.

Amendment: HAP 2.0 would modify the ADU Home Density Bonus program to incentivize the development of ADUs that meet the accessibility requirements in the California Building Code. The amendment would allow one additional market rate ADU home if a residential development includes one ADA accessible ADU home. The development would be eligible for the ADA accessible ADU home incentive if the project includes at least two deed restricted affordable ADU homes.

4. Housing on Publicly Owned Land

Why is the City proposing to allow additional floor area and flexibility to develop homes on publicly owned land?

Justification: The proposed code amendment would provide public agencies greater flexibility in developing homes on publicly owned land by increasing the building Floor Area Ratio (FAR) bonuses and allowing affordable homes development on properties zoned as commercial or residential. The first Housing Action Package amended the land development code to allow by-right affordable and middle-income housing developments on publicly owned properties to increase affordable opportunities for middle-income community members like teachers, first responders, and nurses to live near where they work. Providing additional opportunities for affordable and middle-income homes would help to meet the General Plan Housing Element goals.

Amendment: HAP 2.0 would amend the Land Development Code to increase building Floor Area Ratio (FAR) bonuses for qualifying housing developments that increase the base-unit affordable homes to allow for greater flexibility in developing affordable homes on publicly owned land as shown in the table below.

Floor Area Ratios by Mobility Zone, Income Level and Percent of Homes that are Affordable

Mobility Zone	Affordable Income Level	Floor Area Ratio by Percent of Homes that are Affordable		
		25-34%	35-49%	50-100%
1	Very Low, Low and Moderate	-	-	-
2	Very Low, Low	6.0	7.0	8.0
	Moderate	5.0	6.0	7.0
3	Very Low, Low	4.0	5.0	6.0
	Moderate	3.0	4.0	5.0
4	Very Low, Low	2.0	3.0	4.0
	Moderate	1.5	2.0	3.0

5. Housing on Underutilized Commercial Sites

Why is the City proposing incentives for homes on sites with commercial uses?

Justification: The proposed amendment would provide an incentive to encourage the production of mixed-used development with homes on commercial sites to support the implementation of community plan updates. As part of past and recent community plan updates, the City has planned for the development of higher density residential development on sites designated in community plans for commercial and mixed-use along corridors and nodes. These sites are served by existing or planned higher frequency transit service and within the recently adopted Sustainable Development Areas. This will help to meet Housing Element goals.

Amendment: HAP 2.0 would amend the Land Development Code to provide a 0.5 FAR bonus for residential or mixed-use development on sites in Sustainable Development Areas that have a base commercial zone that allows for residential or mixed-use, but have a current use that is non-residential. This FAR bonus may be used in addition to other incentives found in the Affordable Housing in All Communities program.

6. Off Campus Student Housing

Why is the City proposing revisions to the code for off campus student housing?

Justification: Providing additional opportunities for affordable student homes near college and university campuses and within Sustainable Development Areas would help to meet the General Plan Housing Element and Climate Action Plan goals. The City is home to multiple community colleges and major universities, however, the supply of on campus homes has not been able to meet the demand for student housing given the shortage of more affordable off campus rental housing options. The shortage in on campus housing creates a need for more student housing off campus, especially housing affordable to low income students.

While the City's existing affordable home density bonus program encourages the development of affordable homes for students, it limits it to a fixed 35 percent affordable density bonus. The City also has development regulations that only allow student housing in higher density multifamily zones near a college or university campus which can limit the locations that student housing can be constructed. Both the affordable density bonus and development regulations have requirements to have an agreement with a college or university which has served as a barrier to producing off campus student housing.

Amendment: HAP 2.0 would amend the following:

- Affordable Density Bonus: HAP 2.0 would amend the affordable home density bonus program to allow for a density bonus range based on the percentage of homes deed restricted for low income students consistent with the City's multifamily affordable home density bonus program. It also would remove the requirement for student housing to provide an operating agreement with a college or university.

- Supplemental Development Regulations: The amendment would allow for student housing to be in any zone that allows for multifamily housing within a Sustainable Development Area or 1-mile of a campus. It would also increase bicycle parking requirements while removing automobile parking minimums.

B. Part 2: Fair Housing for All

7. Single Room Occupancy (SRO) Incentive

Why is the City proposing incentives for Single Room Occupancy housing?

Justification: The proposed amendment would provide an incentive to construct new SRO developments to support the production of housing particularly at the very low-income level. SRO housing provides a low-cost home option for community members, especially seniors and people with disabilities. This will help to meet Housing Element goals. This housing type often provides homes and shelter for those most vulnerable of becoming homeless. SRO homes can provide either a hotel guest room or a small self-contained room. Generally existing SRO homes are within older buildings. Very few new SRO developments have been constructed in the last 30 years.

Amendment: HAP 2.0 amends the Affordable Housing in all Communities program to include SROs as a qualifying project. Amending this program will allow for ministerial approval for SRO homes in areas near transit where affordable housing is either unavailable or very limited.

8. Complete Communities: Housing Solutions (CCHS) Amendments

CCHS is a City housing incentive program that provides a building floor area ratio bonus to developments that provide affordable homes and neighborhood amenities.

A. CCHS Development Regulations

Why is the City proposing to amend the Complete Communities: Housing Solutions development regulations?

Justification: The proposed amendments would remove or waive development requirements that discourage use of the CCHS and/or discourage the development of new homes for families. Current regulations like current fence requirements or private exterior open space requirements can discourage the development of new homes under the CCHS programs.

Amendment: HAP 2.0 would adjust the development regulations that disincentivize family homes and/or use of the CCHS program. New projects may receive a waiver of the private exterior open space requirement for a development if at least 10 percent of all homes have three or more bedrooms.

B. CCHS Development Impact Fees

Why is the City proposing to amend the Development Impact Fees for the Complete Communities: Housing Solutions program?

Justification: The proposed amendments would eliminate Development Impact Fund (DIF) fee waivers that disincentivize the development of homes with two or more bedrooms by providing a DIF waiver for homes under 500 square feet. DIF waivers for small homes also prevents the City from collecting fees from a common type of development to help fund future facility and infrastructure improvements. Since CCHS was adopted in 2021, the City Council has adopted Citywide impact fees that are scaled based on unit size, with smaller homes generally subject to payment of lower fees than larger homes. Therefore, the scaled fees that were included in CCHS have become obsolete.

Amendment: HAP 2.0 amends CCHS program by removing scaled DIF, including the fee waiver for homes under 500 square feet.

C. 100 Percent Moderate Income Option

Why is the City proposing to provide a 100 percent moderate income option to the Complete Communities: Housing Solutions program?

Justification: The proposed amendments would provide an alternative pathway to providing deed-restricted affordable homes under the CCHS program. The current regulations provide two options for providing affordable homes:

- Setting aside 40 percent (10 percent of pre-density units for very-low income, 15 percent for low income, and 15 percent for moderate income), or
- Setting aside 40 percent of base units for low-income residents.

All levels of affordability are important to address the City's housing needs. In 2021, of the total homes permitted, less than 0.5 percent were deed restricted at levels affordable for moderate-income households (approximately 9 percent were deed restricted at levels affordable to very low- and low-income households). By amending the CCHS program to promote moderate-income homes, the City can incentivize the development of more homes for moderate-income families, who often compete with low and very low-income families for naturally affordable occurring homes.

Amendment: HAP 2.0 would create an alternative to 40 percent affordable homes requirement by introducing a 100 percent base unit moderate income option. The new moderate-income option would require that at least 100 percent of base units be deed-restricted as affordable for moderate income households. Additionally, at least half of all required rental units must be rented at a cost that does not exceed 30 percent of 80 percent of Area Median Income, and the remainder must be rented at a cost that does not exceed 30 percent of 120 percent of Area Median Income.

D. Incentivizing Family Housing

Why is the City proposing to provide a building FAR bonus for developments that create new homes for families?

Justification: The proposed amendment would provide an incentive to develop family housing by providing a floor area bonus. Recent developments in the City have tended to skew towards smaller single bedroom homes, which makes finding “starter homes” and homes for families with children and intergenerational families more difficult and competitive. By incentivizing the development of homes with two or more bedrooms, CCHS would better address the needs of families looking for homes closer to jobs, transit, and amenities. Additional development incentives for these larger homes can encourage the development of these needed housing product types.

Amendment: HAP 2.0 would provide up to a 1.5 FAR bonus to a development that creates homes for families. To qualify for the bonus, at least 30 percent of total homes must have at least two bedrooms, and 10 percent of total homes must have at least three bedrooms. Additionally, each home would be required to be under one lease agreement per home. The proposed FAR bonus would be in addition to other programs.

E. Off-Site Affordable Option

Why is the City proposing to provide an off-site affordable option to the Complete Communities: Housing Solutions program?

Justification: The proposed amendments would provide the option to develop CCHS required affordable homes off-site. Allowing for off-site development of affordable housing can provide greater flexibility for the development of affordable homes and overall total homes, therefore making it easier to develop more homes for all income-levels.

Amendment: HAP 2.0 would allow for affordable off-site homes under CCHS with the following additional requirements:

- *Locational:*
 - Would be within a Sustainable Development Area,
 - Would be within an area identified as a High or Highest Resource Area as determined by the California Tax Allocation Committee at the time of application, and
 - Would be in the same community planning area, or a community planning area that has less than five percent of its existing dwelling units as deed restricted as low, very low, or moderate-income, or within 1 mile of the development.
- *Amenities:*
 - Would have comparable amenities as the premises with market rate homes.

- *Neighborhood Enhancement Fund:*
 - Would pay the fee for both the market-rate and affordable sites.
- *Deed Restriction:*
 - Would record a deed restriction prior to the first building permit that documents the number of affordable units to be provided, and
 - Would assign foreclosure rights of the development to the San Diego Housing Commission.

C. Part 3: Thriving Communities

9. Anti-Displacement Measures

Why is the City proposing Anti-Displacement Measures?

Justification: The proposed amendments would promote the preservation of affordable homes and protect people from displacement caused by new market rate development. As part of past and recent community plan updates, the City has planned for the development of higher density residential development on sites designated in community plans for commercial and mixed-use along corridors and nodes. These sites are served by existing or planned higher frequency transit service and within the recently adopted Sustainable Development Areas. The City has embarked on an ambitious program to increase opportunities for additional housing in areas served by high frequency transit to address housing shortages and reduce greenhouse gas emissions with community plan updates and code amendments. However, there can be unintended consequences, in particular, the displacement of low-income community members especially in communities of concern. This proposal also creates new regulations about priority rental preference for affordable units, rental unit withdrawal from the market, and condo conversions. HAP 2.0 will complement the work of the Mayor and Council President to replace the Tenant’s Right to Know Regulations with new Residential Tenant Protection Regulations that strengthen noticing requirements and relocation assistance for tenants.

Amendment: HAP 2.0 would amend existing regulations and introduce new measures aimed at reducing displacement by development, as follows:

- Dwelling Unit Protections:
 - HAP 2.0 would remove the citywide expiration date of January 1, 2025 and make dwelling unit protection regulations permanent.
 - HAP 2.0 would also remove the exemption from housing unit replacement for commercial and all mixed-use projects.
 - HAP 2.0 would clarify that Dwelling Unit Protections only applies to previously renter-occupied units.
- Coastal Overlay Zone Affordable Housing Replacement:
 - HAP 2.0 would expand protections and required replacement of affordable dwelling units to very low-income units,

- HAP 2.0 would be expanded to apply to premises with two or more structures containing a total of five or more units.
- HAP 2.0 would eliminate the three-mile allowance for replacement of affordable units and disallow replacement affordable units in low or very low resource areas. Off-site replacement affordable units in high or highest resource communities would need to be relocated in an area that is also high/highest resource community.
- HAP 2.0 would clarify that affordable housing replacement requirements do not apply to previously owner-occupied units.
- Priority Rental Preference for Affordable Units: HAP 2.0 would introduce an ordinance that gives existing residents in Low or Lowest Resource California Tax Credit Allocation Committee Opportunity Areas, according to the most recent California State Treasurer TCAC/HCD Opportunity Area Maps, priority preference to rent new deed-restricted affordable units.
- Condo Conversion Regulations: HAP 2.0 would amend the regulations to allow tenants of rental units proposed for conversion into a condominium to have the first opportunity to buy before the seller accepts other offers.

10. Discontinued Harmful Uses

Why is the City proposing amendments to previously conforming use regulations?

Justification: The proposed amendments would provide an incentive to redevelop to a residential use, stop allowing the continuation of a discontinued use and no longer be permitted after 15 years for previously conforming uses considered to be harmful in the Promise Zone. As part of past and recent community plan updates, the City has planned for the development of higher density residential development on sites designated in community plans for residential, commercial and mixed-use near transit. These sites are served by existing or planned higher frequency transit service and within the recently adopted Sustainable Development Areas. The City has embarked on an ambitious program to increase opportunities for additional homes in areas served by high frequency transit to address housing shortages and reduce greenhouse gas emissions with community plan updates and code amendments.

Certain existing previously conforming uses, such as wrecking and dismantling of motor vehicles, storage and material scrap yards, are in areas that have been rezoned to allow for homes and mixed-use development as part of a community plan update. These uses can cause a negative affect to community members and reduce the quality of life in these neighborhoods. Many of these previously conforming uses are in the Promise Zone which has been recognized by the federal government as the most disadvantaged and underserved communities in the City which include portions of: Downtown, Barrio Logan, Southeastern San Diego, and the Encanto Neighborhoods. The Promise Zone goals include increasing economic activity, increasing access to affordable housing and promoting access to healthy communities. The community plan updates and rezones to allow for the additional production of homes would help meet the Promise Zone goals. However, without amendment, the existing previously conforming use regulations allow these uses to continue in perpetuity and even allow for further expansion in some cases. The proposed amendments provide legacy business owners a set period of time to

transition their premises to another use out of recognition that business operators may not be prepared and will require sufficient time to change uses. The specific period of time is still under consideration.

Amendment: HAP 2.0 would amend the following:

- FAR Incentive: HAP 2.0 would provide a building FAR incentive to sites with previously conforming uses considered to be harmful in the Promise Zone if the existing use is redeveloped into a conforming use with homes. This incentive would need to be used within a certain amount of years of the identification of the site as a harmful use. The amount of years is still being considered.
- Discontinuation: HAP 2.0 would amend the code to no longer allow the continuation of discontinued previously conforming use considered to be harmful in the Promise Zone if the use is ended for any reason other than building maintenance and repair or safety.
- No Longer Permitted: HAP 2.0 would amend the code to not allow previously conforming uses considered to be harmful in the Promise Zone after a specified period of time, which is still being considered.

D. Part 4: Missing Middle Housing

11. Senate Bill 10 (SB 10)

Why is the City proposing to implement SB 10?

Justification: SB 10 was signed by the Governor in September 2021. The bill allows a local jurisdiction the option to adopt an ordinance to zone a parcel for up to 10 units of residential density per parcel. Qualifying areas eligible for SB 10 development must be within 0.5 miles from a major transit stop or on urban infill sites, defined in the bill as parcels surrounded 75 percent by urban uses like homes, commercial uses, or other development. SB 10 cannot be used to reduce density or ministerially approve projects greater than 10 dwelling units. SB 10 specifies that ordinances to implement SB 10 are not considered as “projects” for California Environmental Quality Act (CEQA) consideration. SB 10 allows for the City to tailor its regulations to meet the needs and conditions of the City.

HAP 2.0 would create new opportunities to build “missing middle” homes near jobs, schools, transit, and other amenities. As part of the City Missing Middle Housing regulations, the implementation of SB 10 would provide an opportunity for missing middle homes like duplexes, townhomes, rowhomes, and small-scale multifamily development. The Missing Middle Housing regulations would also provide an opportunity to provide affordable homes, family homes, opportunities for home ownership, and furthering fair housing. The amendments would make it easier to build more homes on a single parcel of land to create more affordable, entry-level homes aimed at providing homeownership opportunities for middle-income individuals and families. These changes will provide additional home opportunities for homes for middle-income community members. Providing additional opportunities for middle-

income housing near transit would help to meet the General Plan Housing Element and Climate Action Plan objectives and goals.

Amendment: HAP 2.0 would amend the code to include the following requirements to implement the City's Missing Middle Housing regulations:

Applicability

- Would apply to parcels that are within Sustainable Development Areas.
- Would not apply to parcels that are:
 - More than 0.5 miles from a major transit stop and are not 75 percent surrounded by urban uses.
 - In Very High Fire Severity Zones, on hazardous waste sites, on earthquake fault zones, and floodways, unless mitigation measures are included to address the impact of these hazards.
 - In Multi-Habitat Planning Areas, environmentally sensitive lands, historic districts and designated historic resources, open space, and parks.
 - On sites with existing deed-restricted affordable homes or SROs.
 - On parcels that front streets that do not meet certain City standards such as without sidewalks.

Residential Maximums

- Would allow for up to a maximum of 10 homes on parcels zoned for multifamily residential.
- Would allow for one home for every 1,000 square feet of lot area on parcels zoned for single family or townhome residential with a maximum of 10 homes.

Affordable Homes

- For developments with more than four homes:
 - Would require one home affordable to very low, low, or moderate-income households.
 - Would require an additional home affordable to very low- or low-income residents in High or Highest Resource Areas as defined by the California Tax Credit Allocation Committee. This would result in two affordable homes.

Development Regulations

- Would apply the RM-1-1 base zone development requirements except for the following: lot area, lot dimensions, setback regulations, height restrictions, lot coverage, FAR, and common open space. As currently anticipated, the following would be required:
 - Setbacks: Four feet

- Maximum building height: 35 feet or the maximum height of the underlying zone, whichever is greater. Thirty-five feet is being proposed to accommodate three story townhome development.
- Lot area: Not less than 1,000 square feet.
- Floor Area Ratio (FAR): 3.0 or maximum of the underlying zone.

Bedrooms

- Would require the following:
 - at least two homes have three or more bedrooms, and
 - at least one home must have two or more bedrooms for developments with more than four homes.

Parking

- Inside a Transit Priority Area (TPA), would not be required to provide off-street parking (consistent with the state law requirements of AB 2097).
- Outside a TPA, additional parking would not be required for up to the first two homes. Each home after the first two would be required to provide one parking space per home.

Homeownership

- Would be required to ensure the parcel could be subdivided into individual ownership without requiring additional physical improvements to the property.

ADUs

- Would allow two attached or detached ADUs and two attached or detached JADUs (MADUs) to be included in accordance with the ADU and JADU regulations on multifamily zones.
- Would establish a maximum of no more than one ADU and one JADU permitted on single family zones.
- Would establish a maximum limit of 10 total homes allowed on a parcel including ADUs and JADUs (and MADUs).
- Would require any ADU or JADU (and MADU) constructed to be deed restricted for very low-or low-income households.

Fees

- To collect funds for future public improvements the following fees would be charged:
 - Development Impact Fee at the multifamily rate
 - Neighborhood Enhancement Fund Fees

Outreach

What type of outreach has the Planning Department undertaken to get feedback from the community regarding the proposed amendments in HAP 2.0?

The Planning Department has provided a summary of the proposals on the [Housing Action Package webpage](#) and has held two virtual public workshops and two in-person public workshops to discuss and obtain feedback from the community about the policy concepts and issues associated with the proposed regulations:

- Virtual Workshops on:
 - [February 21, 2023](#): to review policy proposals relating to *Encouraging New Homes*
 - [February 23, 2023](#): to review policy proposals relating to and *Furthering Fair Housing*
- In-Person Workshops on:
 - March 2, 2023 at the Mission Valley Branch Library to review policy proposals for the *Missing Middle regulations*.
 - March 13, 2023 at the Valencia Park - Malcolm X Branch Library to review policy proposals for *Anti-displacement and Discontinued Harmful Uses regulations*.

The Planning Department will continue to share information and receive feedback from stakeholders and community members throughout the process.

Next Steps

What are the next steps for HAP 2.0?

The Planning Department will incorporate feedback from this workshop into a revised Draft HAP 2.0 which will be presented to the Community Planners Committee April.

- The Planning Department anticipates the following hearing schedule for HAP 2.0:
 - Planning Commission: May 2023
 - Land Use & Housing Committee: June 2023
 - City Council: July 2023

The draft HAP 2.0 regulations are in draft form and are intended to elicit further feedback. The Planning Department will continue to share information and receive feedback from stakeholders and community members throughout the process and make refinements to the proposal based on this input.

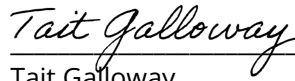
CONCLUSION

For decades, the rate of construction of new homes within the City has not kept pace with demand. This is especially true for affordable homes, where production has only met a very small fraction of the need. Prior housing initiatives like the Complete Communities program have had a positive impact on the City, but also underscores the need for further action to create more homes for more people in all communities. HAP 2.0 builds upon the adoption of the first Housing Action Package, adopted in

February 2022, by encouraging more homes and a greater variety of homes through the adoption of new programs and the amendment of existing programs. The Planning Department seeks Planning Commission feedback to help guide the preparation of the Draft HAP 2.0 Land Development Code amendment language. Documents and information pertaining to the Housing Action Package process as well as the draft code amendments are available on the project website:

<https://www.sandiego.gov/planning/work/housing-action-package>

Respectfully submitted,



Tait Galloway
Deputy Director
Planning Department



Jeffrey Ryan
Development Project Manager
Planning Department

Attachment:

1. Letter from the Department of Housing and Community Development recommending changes to the City Accessory Dwelling Unit regulations

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF HOUSING POLICY DEVELOPMENT**

2020 W. El Camino Avenue, Suite 500
Sacramento, CA 95833
(916) 263-2911 / FAX (916) 263-7453
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October 14, 2022

Heidi Vonblum, Planning Director
Planning Department
City of San Diego
9485 Aero Dr, M.S. 413
San Diego, CA 92123

Dear Heidi Vonblum:

RE: Review of the City of San Diego's Accessory Dwelling Unit (ADU) Ordinance under State ADU Law (Gov. Code, § 65852.2)

Thank you for submitting the City of San Diego's (City) accessory dwelling unit (ADU) Ordinance No 21254 (Ordinance), adopted October 30, 2020, to the California Department of Housing and Community Development (HCD). The Ordinance was received on September 15, 2021. HCD has reviewed the Ordinance and submits these written findings pursuant to Government Code section 65852.2, subdivision (h). HCD finds that the Ordinance does not comply with section 65852.2 in the manner noted below. Under that statute, the City has up to 30 days to respond to these findings. Accordingly, the City must provide a written response to these findings no later than November 12, 2022.

HCD commends the City's commitment to ADU and junior accessory dwelling unit (JADU) creation and understands that the JADU provisions are meant to provide a wider range of options. HCD also recognizes that the Ordinance is more permissive in some areas than required by statute, such as requiring smaller setbacks and waiving parking requirements, and that the Ordinance offers incentives to encourage ADU production. HCD appreciates these efforts and encourages the City to continue to seek creative solutions within the opportunities and constraints provided by statute.

The ADU Ordinance addresses many statutory requirements; however, HCD finds that the Ordinance does not comply with State ADU Law in the following respects:

- Section 113.0103 – Efficiency Kitchen Definition – The Ordinance states that “*Efficiency kitchen* means a food storage and preparation area of containing a kitchen sink, cooking appliance, and refrigeration facilities, each having a clear working space of not less than 30 inches in front.” However, the sink requirement, previously specified in Government Code section 65862.22,

subdivision (a)(6), was removed and efficiency kitchen is now defined as “[a] cooking facility with appliances.” (Gov. Code, § 65852.22, subd. (a)(6)(A).) It shall include “[a] food preparation counter and storage cabinets that are of reasonable size in relation to the size of the junior accessory dwelling unit.” (Gov. Code, § 65852.22, subd. (a)(6)(B).) The City must remove the sink requirement and the reference to refrigeration facilities and the working space of not less than 30 inches to comply with existing statute. HCD recommends adopting language strictly per the above-mentioned subdivisions for conciseness and compliance.

- Section 141.0302 (a)(2)(D)(ii) – JADUs & “New Structures” – The Ordinance states that “New ADU and JADU structures must comply with front yard and street side yard setbacks....” However, JADUs are only permitted within the walls of a primary single-family dwelling; therefore, separate setbacks do not apply to JADUs. The City should remove the reference to JADUs.
- Section 141.0302 (a)(2)(F) – Max Size – The Ordinance states that “the maximum gross floor area of an ADU shall not exceed 1,200 square feet.” However, converted ADUs created pursuant to Government Code section 65852.2, subdivision (e)(1)(A), may not be subject to size limitations. The City should add language to explain this exception.
- Section 141.0302 (c)(2)(B) – JADUs – The Ordinance states, “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.” The City’s provision to allow JADUs in ADUs and accessory structures—while allowing greater flexibility for JADU construction—goes beyond what State ADU and JADU law prescribe and conflicts with Government Code section 65852.22, subdivision (h)(1), which defines a JADU as a unit that is no more than 500 square feet in size and contained entirely within a single-family residence. HCD has maintained that this includes attached garages, as attached garages are considered within the walls of the existing single-family residence. (HCD ADU Handbook, July 2022, p. 24)

Please also note that JADUs are not allowed in accessory structures, ADUs, and *detached* garages. The creation of a JADU must be within the single-family residence per Government Code section 65852.22, subdivision (a)(4). Furthermore, only ADUs are allowed to add up to 150 square feet beyond the physical dimensions of the existing accessory structure to provide for ingress and egress. (Gov. Code, § 65852.2, subds. (e)(1)(A)(i) and (iv).) The City must remove this section from its ordinance to comply with state law.

In response to the findings in this letter, and pursuant to Government Code section 65852.2, subdivision (h)(2)(B), the City must either amend the Ordinance to comply with State ADU Law or adopt the Ordinance without changes. Should the City choose to adopt the Ordinance without the changes specified by HCD, the City must include findings in its resolution that explain the reasons the City finds that the Ordinance complies with State ADU Law despite the findings made by HCD. Accordingly, the City's response should provide a plan and timeline to bring the Ordinance into compliance.

Please note that, pursuant to Government Code section 65852.2, subdivision (h)(3)(A), if the City fails to take either course of action and bring the ordinance into compliance with State ADU Law, HCD may notify the City and the California Office of the Attorney General that the City is in violation of State ADU Law.

HCD appreciates the City's efforts in the preparation and adoption of the Ordinance and welcomes the opportunity to assist the City in fully complying with State ADU Law. Please feel free to contact Mike Van Gorder, of our staff, at (916) 776-7541 or at mike.vangorder@hcd.ca.gov.

Sincerely,

A handwritten signature in black ink that reads "Shannan West". The signature is written in a cursive, flowing style.

Shannan West
Housing Accountability Unit Chief
Housing Policy Development Division