

LESLIE E. DEVANEY  
ANITA M. NOONE  
LESLIE J. GIRARD  
SUSAN M. HEATH  
GAEL B. STRACK  
ASSISTANT CITY ATTORNEYS

CASEY GWINN  
CITY ATTORNEY

OFFICE OF  
**THE CITY ATTORNEY**  
CITY OF SAN DIEGO

**Casey Gwinn**  
CITY ATTORNEY

CIVIL DIVISION  
1200 THIRD AVENUE, SUITE 1620  
SAN DIEGO, CALIFORNIA 92101-4199  
TELEPHONE (619) 236-6220  
FAX (619) 236-7215

May 15, 2003

**REPORT TO THE COMMITTEE ON NATURAL  
RESOURCES AND CULTURE**

**LAND DEVELOPMENT CODE DEFINITIONS**

At the April 9, 2003, meeting of the Committee on Natural Resources and Culture, Councilmember Frye asked the City Attorney to report on how the Land Development Code [LDC] defines the terms "residential" and "mixed-use." In addition, Councilmember Frye asked the City Attorney to consider amending the LDC to clarify the definitions of these terms.

The LDC does not specifically define either "residential" or "mixed-use." However, both words appear throughout the LDC in combination with other terms. In Chapter 13, Article 1, the LDC describes the use categories it applies in its zoning scheme. Section 131.0112 describes the "residential use category" as including group living accommodations, mobile home parks, multiple dwelling units and single dwelling units. Further in Chapter 13, the LDC describes the allowable uses in different zones. In this context, the LDC requires "mixed-use" to contain combinations of residential with commercial or public uses. *See* Land Development Code §§ 131.0423(b)(1), 131.0540(b), 131.0546(a) and 132.1105(a).

Where no definition of a term exists, the San Diego Municipal Code states: "Words and phrases used in this Code and not specifically defined shall be construed according to the context and approved usage of the language." San Diego Municipal Code § 11.0209(e). As a result, specific definitions of "residential" and "mixed-use" in the LDC are not legally necessary, particularly in light of the LDC's broad use of both terms in its zoning scheme.

However, definitions could be added to other chapters of the Municipal Code if needed to better regulate the City's non-zoning interests. For example, section 66.0127 of the Municipal Code regulates refuse collection, and includes definitions for "residential refuse," "nonresidential refuse," and "residential facility." If the Committee has regulatory concerns regarding refuse collection, our office can propose amendments or additional definitions to this section.

THE COMMITTEE ON NATURAL  
RESOURCES AND CULTURE

May 15, 2003

Page 2

Respectfully submitted,

CASEY GWINN  
City Attorney

WWW:cdk  
RC-2003-14