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REPORT TO THE LAND USE AND
HOUSING COMMISSION

ANALYSIS OF ISSUES RELATED TO "MINI-DORMS"

INTRODUCTION

In response to Councilmember Jim Madaffer's request via Memorandum M-06-10-03 (the "Madaffer Memo"), dated October 11, 2006, regarding the impact of "mini-dorms" in the City of San Diego, the following report to the Land Use and Housing Committee is provided.

Although the term "mini-dorm" is not defined in the San Diego Municipal Code [SDMC], the problems associated with overcrowded dwellings and temporary residences are ones that the City has attempted to address in various ways over the years. Recently, the issues were raised again in the context of students renting single-family homes in the San Diego State University [SDSU] area, although the issues that arise there are not limited to that area. The responses to the issues raised are discussed below, grouped by subject matter instead of in the order set forth in the request memorandum.

DISCUSSION

The basic areas of discussion raised by the questions presented are Moratorium and Zoning Issues, Treating Rentals as Businesses, Parking Issues and Working with SDSU.

A. Moratorium and Zoning Issues:

Issue 1: **(Madaffer Memo #1)** Please outline the appropriate steps to impose a temporary building/conversion moratorium in the College Area until a reasonable solution can be crafted to stop the destruction of a single family neighborhood. This would be similar to the Interim Development Ordinance that was adopted by the City Council in the late 1980s.

Short Answer: The City must specify a contemplated general plan or measure which the Council or its planning entities are considering, studying or intending to study. In addition, the City will need to establish that there is a current and immediate threat to the public health, safety,

or welfare and that the approval of any additional entitlements would result in a threat to public health, safety, or welfare. The requisite findings of a "current and immediate threat" may be a difficult standard to reach because of the length of time that the "mini-dorms" have been an issue for the community.

Response: The requirements for imposing a moratorium are set forth in the California Government Code [GC] and can be summarized as follows:

Government Code section 65858 allows for a moratorium on any uses in order to protect the public safety, health and welfare. The otherwise applicable procedures for the adoption of a zoning ordinance need not be complied with. The requirements and limitations of this section are as follows: [1]

- The prohibited use must be in conflict with a contemplated general plan, specific plan or zoning proposal that the legislative body, planning commission or planning department is considering, studying or will consider or will study within a reasonable time.

- The urgency measure requires a four-fifths vote.

- The interim ordinance is of no effect 45 days after adoption.[2]

- An extension of the ordinance may be obtained for 10 months and 15 days, and a subsequent one year extension, after compliance with the requirements of GC section 65090 and a public hearing. These extensions also require a four-fifths vote.

- Alternatively, an extension may be obtained for 22 months and 15 days by compliance with GC section 65090 and a public hearing; also with a four-fifths vote.

- The adoption and any extension must contain a finding that there is a current and immediate threat to the public health, safety, or welfare and that the approval of any additional entitlements would result in a threat to public health, safety, or welfare.

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1 If the interim ordinance has the effect of denying approvals needed for multi-family housing, there are additional findings that must be made.

2 This Government Code section was expressly made applicable to charter cities with the passage of Senate Bill 1098 in 2001. The intent of the SB 1098 amendments, which added the provisions relating to multi-family development, was to ensure that charter cities did not enact any interim ordinances effective for extended periods of time, without compliance with specific measures. Reading this limitation in conjunction with the requirements of San Diego City Charter section 17, the interim ordinance would be effective 30 days after passage and would be in effective for only 15 days before expiration. Before that time, the City would need to enact an extension, in order for the moratorium to be of continued effect. An exception would be an ordinance adopted as an emergency, to "provide for the immediate preservation of the public peace, property, health, or safety." San Diego City Charter § 17.

- 10 days prior to the expiration of the interim ordinance or any extension, the legislative body must issue a written report describing the measures taken to alleviate the condition that lead to the adoption of the ordinance.

- At the end of the effective date or any extensions, a new urgency ordinance may not be enacted to address the same threat to public safety, health and welfare as the prior interim ordinance.

Past subjects of moratoriums in the City of San Diego include land development in the North City Future Urbanizing Area (1991) the and adult entertainment permits (1993). A moratorium that is reasonable in purpose and duration is not considered a taking of private property. *Consaul v. City of San Diego*, 6 Cal. App. 4th 1781 (1992). To avoid a takings claim, developers with vested rights prior to the enactment of the moratorium should be allowed to proceed with development. *Id.*; *Avco Community Developers, Inc. v. South Coast Regional Commission*, 17 Cal. 3d 785 (1976).

Issue 2: **(Madaffer Memo #5)** Please explain the process and changes we need to make to the municipal code that would require any rentals in an R-1 zone to have a Conditional Use Permit.

Short Answer: Any proposed regulations must focus on a legitimate governmental interest in the use of the property, and not attempt to regulate the users of the property. The regulations must not discriminate between the users of the property without a rational relationship between the regulation and the reason for the regulation. Furthermore, any definitions that attempt to define "family" and any regulations that attempt to regulate use by a "family" will be deemed unconstitutional, based on the cases discussed above.

Response: The ability of the government to regulate the living arrangements of individuals is limited by the constitutional rights to privacy and equal protection. *City of Santa Barbara v. Adamson*, 27 Cal. 3d 123 (1980); *College Area Renters and Landlord Association v. City of San Diego*, 43 Cal. App. 4th 677 (1996). In *Adamson*, the court invalidated, based on the right to privacy, a City of Santa Barbara ordinance that prohibited an unrelated group of five persons or more from living in a single-family residential zone. The court stated that zoning ordinances are "much less suspect when they focus on the use than when they command inquiry into who are the users." *Adamson*, 27 Cal. 3d at 133.

An attempt to define "family" for the purpose of single-family dwelling zoning was also struck down as an unconstitutional invasion of the right to privacy. *City of Chula Vista v. Pagard*, 115 Cal. App.3d 785 (1981). In this case, the City of Chula Vista attempted to abate as a nuisance a group of more than three and up to twenty-four unrelated individuals that lived together in single-family dwellings.

Because the right to privacy is constitutionally protected, the government can only abridge the right when there is a compelling public interest, and the governmental means proposed are the least restrictive. *Adamson*, 27 Cal. 3d at 123. In *Adamson*, the Court found that there were other, less restrictive means to achieve the stated goal of preserving the residential environment. The examples provided by the Court were placing restrictions on transient and institutional uses, regulating floor space and facilities, criminal enforcement of noise, and parking requirements. In *Pagard*, the court, relying on the ruling in *Adamson*, also found that Chula Vista's ordinance was not the least restrictive means to address what it found to be a legitimate governmental interest (overcrowding).

In *College Area Renters and Landlord Association* [*CARLA*], the court invalidated a City of San Diego Municipal Code ordinance which attempted to regulate, by an overlay zone, the number of renters in mini-dorms in single family dwellings in the college area. The court found that the ordinance violated equal protection principals in that it discriminated against similarly situated groups (i.e., renter-occupied dwellings and homeowner-occupied dwellings), without a rational relationship between the law and the reason for the law. The problems presented by the City as associated with renter-occupied dwellings, such as noise, litter, over-crowding, and parking, could just as easily exist with homeowner occupied dwellings. However, the ordinance would only regulate one group of potential offenders, while leaving the other group unregulated.

In 2003, the California Attorney General issued an opinion that concluded that a municipal code section that regulated the operation of a rooming or boarding house, in a city's single-family dwelling zone, would be a permissible use of the city's police powers. The proposed ordinance prohibited a boarding house for more than two boarders and the stated rationale was to preserve the residential character of the neighborhood. 86 Op. Cal. Att'y. Gen. 30 (2003). The Attorney General distinguished cases such as *Adamson* and *CARLA* because the regulations in those cases focused on the identity of the users of the property (i.e., renters) and not on the use of the property (i.e., commercial use of the property that was inconsistent with the residential character of the neighborhood). The opinion notes that restrictions based on transient and institutional uses and for the purpose of upholding residential character have been upheld. It should be noted that the Attorney General opinion has not been relied on by any court.

The City of San Diego already regulates some rental lodging. For instance, the SDMC defines "boarder" and "lodger," and regulates boarder and lodger accommodations as a separately regulated residential use. "Boarder means an individual resident who is furnished sleeping accommodations and meals in a residential structure." SDMC § 113.0103. "Lodger means any person renting a room in a residential structure for living or sleeping purposes without having free access to and use of the rest of the structure." *Id.* [3]

Boarder and lodger accommodations are currently permitted as a limited use in some areas, subject to the following restrictions: a) the accommodations are an accessory use to a primary dwelling unit; b) no more than two boarders or lodgers are permitted per dwelling unit; c) in the RM (Residential-Multiple Unit) and commercial zones, boarders and lodgers must

occupy the premises for at least seven consecutive calendar days (in other zones, they must occupy the premises for at least 30 consecutive calendar days); and d) off-street parking is required at the rate of 1 space per 2 boarders or lodgers.[4] SDMC § 141.0301. Chapter 13, Article 1, Division 4, Table 131-04B indicates that boarder and lodger accommodations are a permitted limited use in all residential zones.[5]

The stated purpose for separately regulating some residential uses is to "provide regulations for specific uses that may be desirable and appropriate in a particular zone if limitations or conditions are placed on the *development* of those uses to minimize detrimental effects to neighboring properties or incompatibility with the permitted uses of the base zone." SDMC § 141.0101. If the current definitions of boarder and lodger are insufficient to address the health, safety and welfare of the citizens of San Diego, then they may be amended to more accurately address valid governmental concerns. The supplemental regulations for boarder and lodger accommodations may need to be revisited as part of an effort to preserve the residential character of neighborhoods.

To issue Conditional Use Permits, the City must have established criteria for granting or denying the permit. Cal. Gov't. Code § 65901. Such a permit system should be limited to "uses for which it is difficult to specify adequate conditions in advance, i.e., schools, hospitals, service stations. . . ." *People v Perez*, 214 Cal.App.2d Supp. 881, 885 (1963). "It can not be legitimately argued that a single-family dwelling, a duplex or a multiple family dwelling present special use problems which can not be resolved by restrictions of general applicability established legislatively." *Perez*, 214 Cal.App. 2d Supp. at 885-886. Therefore, the better course of action would be for the Council to consider modifying any relevant development criteria of general applicability. Some examples are the number of required parking spaces and the amount of landscaping required.

Issue 3: **(Madaffer Memo #6)** Please explain the process where we could establish an overlay zone for the College Area that would spell out specific guidelines for maintaining residences as single family homes.

Short Answer: The use of the RS (Residential-Single Unit) zone and accompanying regulations govern the development and uses of single dwelling units. Any request to rezone an area is processed in accordance with the requirements in SDMC Chapter 12, Article 3, Division 1.

Response: As discussed above, regulation of a "single family" zoning ordinance cannot turn on a definition of a "family" that invades the privacy of the occupants. The SDMC does not

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[3] The proposed ordinance analyzed in the Attorney General Opinion was effective with or without individual or group cooking facilities and whether or not an owner, agent or rental manager was in residence.

[4] The beach impact area of the Parking Impact Overlay Zone requires parking at a 1:1 ratio.

[5] Limited uses are those uses permitted by right, subject to supplemental regulations. SDMC § 141.0102(b).

currently define "single family" *per se*. It does define "single dwelling unit" as "a detached dwelling unit or attached dwelling units where each dwelling unit is on an individual lot." SDMC § 113.0103. A "dwelling unit," in turn, is defined as "a room or suite of rooms in a building or portion thereof, used, intended or designed to be used or occupied for living purposes by one family, and containing only one kitchen." *Id.* "Family" is defined as "two or more persons related through blood, marriage, or legal adoption or joined through a judicial or administrative order of placement of guardianship; or unrelated persons who jointly occupy and have equal access to all areas of a dwelling unit and who function together as an integrated economic unit." *Id.*

The City Council may approve a rezoning action "whenever public necessity or convenience, the general welfare, or good zoning practice justifies this action." SDMC § 123.0105(b). An overlay zone, created through adoption of an ordinance, may be created to address issues unique to an area, such as the Parking Impact Overlay Zone which currently exists. SDMC § 141.0301.

Issue 4: (Madaffer Memo #7) Please detail how we can impose a moratorium on garage conversions in the College Area.

Short Answer: The City must specify a contemplated general plan or measure which the Council or its planning entities are considering, studying or intending to study. In addition, the City will need to establish that there is a current and immediate threat to the public health, safety, or welfare and that the approval of any additional entitlements would result in a threat to public health, safety, or welfare.

Response: The steps for imposing a moratorium are set forth above.

B. Treating Rentals as Businesses:

Issue 1: (Madaffer Memo #2) Virtually every mini dorm is operated by an off-site owner. The rental of these properties constitutes a business. This requires a rental unit business tax be paid. Mini dorms are effectively a multi-family dwelling unit business. Why aren't these businesses subject to the same rules/regulations that apply to operating a home business? Home occupation permits require lengthy zoning reviews and scrutiny. How is it that a mini dorm operator can escape these requirements when in fact they are operating as a business? This one issue alone would make great strides toward solving the parking dilemma. Businesses are also required to maintain their landscaping. The same should apply to rental housing units. Please explain how these businesses have been escaping these requirements. Please provide suggested modification to the municipal code so we can pursue these ideas.

Short Answer: Assuming for the purposes of this discussion that a landlord renting rooms to tenants is a business conducted by a resident, the remaining home occupation regulations that must be met do nothing to resolve the issues presented. Possible modifications to

the SDMC include developing regulations on the business of residential rentals, if sufficient justification exists.

Response: Residences that are rented out must obtain a business tax certificate. SDMC § 31.0305; 1996 City Att'y MOL 437; 1999 City Att'y Report 162. As discussed above, a "dwelling unit" as currently defined has one kitchen. SDMC § 113.0103.

The current regulations on home occupations are set forth in SDMC Chapter 14, Article 1, Division 3, Residential Use Category-Separately Regulated Uses. "Home occupations are businesses conducted by residents on the premises of their homes." SDMC § 141.0308. The regulations are:

a) the home occupation can only be an accessory use[2] to a residential one;
b) any products produced for sale must be handmade or grown on the premises;
c) there cannot be any elimination or reduction of required off-street parking;
d) advertising signs are not permitted;
e) home occupations other than horticulture shall be conducted in an enclosed structure on the premises;
f) materials associated with the business must be stored in an enclosed structure;
g) indoor storage of the material must not exceed 1000 cubic feet;
h) the operation of the business must be consistent with permitted residential uses, shall not create a nuisance or be detrimental to the neighborhood by causing increased noise, traffic, lighting, odor, or by violating any applicable laws
i) the resident of the premises shall not rent space to others in association with a home occupation;
j) only a resident may engage in a home occupation;
k) all product sales, service performances, or work requiring the presence of an employee, customer, or partner shall take place off-premises;
l) only one business-related vehicle is allowed on the premises or adjacent residentially zoned area; and
m) the following exceptions are allowed with a Neighborhood Use Permit: one employee from 8 am through 5 pm, Monday through Friday, one customer on the premises by appointment between 8 am and 5 pm, Monday through Friday, and more than one business related vehicle.

[2] Accessory use is defined as "customarily incidental to, related to, and clearly subordinate to a primary use of the land or building located on the same premises." SDMC § 113.0103. Primary use is defined as "the allowed use on a premises that occupies a majority of the area of the premises." *Id.*

With the exception of subsection (h), none of the above regulations addresses the issues complained of in the College Area. Furthermore, the regulation in subsection (h), which is basically to not create a nuisance, is already prohibited by law.

Home occupations are allowed in most residential areas. The purpose of the limitation of the right to conduct a home occupation to persons who "reside" on the premises is to limit encroachment of commercial users in the residential zone. A home occupation exception to residential zoning use restrictions is an accommodation between the values fostered by those restrictions and the conflicting value served by permitting a person the liberty to conduct economic activity at his home. *County of Butte v. Bach*, 172 Cal. App. 3d 848, 865 (1985).

Possible modifications to the SDMC include developing regulations on the business of residential rentals, if sufficient justification exists. An example of possible justification would be that landlords are not maintaining adequate control over the use of the rentals. Some communities, such as Columbia, Missouri, require annual inspections as part of the landlord permitting process.

The Attorney General's opinion (86 Op. Cal. Att'y Gen. 30 (2003)) evaluated a proposed ordinance from the City of Lompoc, California, that created a definition of a rooming or boarding house and regulated use based on commercial aspects and the impact on the residential character of the neighborhood. Contact with the City of Lompoc determined that there had been community support for the enactment of this regulation. To date, the City of Lompoc reports that there have not been any challenges to their ordinance.

Issue 2: (Madaffer Memo #4) How can the City ensure that as soon as a building permit is signed off, that beds are not added to rooms not designed as a bedroom? Routinely, houses are being expanded and the plans say the additional rooms are for a den or family room when in fact they are used as rental bedrooms. Currently the construction must be approved as submitted. Contacting the property owner in advance and arranging for a site visit gives them ample time to move the beds out of the room or to cut walls to create simple partitions that do not qualify as bedrooms. Increasing fines for non-compliance of permitted construction is another area that should be explored.

Short Answer: No law or regulations can guarantee compliance. The City may consider increasing fines for non-compliance with regulations as a valid exercise of its police powers.

Response: A "bedroom" is currently defined in the SDMC as:

> An enclosed space within a dwelling unit that is designed or could be used for sleeping and has a permanent door permitting complete closure and separation from all kitchen, living room and hallway areas. A room or other enclosed space is not considered a bedroom if it is the sole access to another bedroom.

SDMC § 113.0103. As for size or square footage requirements for a bedroom to qualify as such, the City must follow the standards set forth in the California Uniform Housing Code. Dwelling units and congregate facilities must have at least one room with not less than 120 square feet of floor area, and other habitable rooms (except kitchens), must have not less than 70 square feet of floor area. Cal. Unif. Housing Code § 503.2. For areas used for sleeping, the floor area shall be increased at the rate of 50 square feet for each occupant in excess of two. *Id.* Further, no habitable room other than a kitchen shall be less than seven feet in any dimension. *Id.* The City may consider regulating the number of parking spaces based on the amount of square footage in the unit, instead of the number of bedrooms.

Requiring landlords to permit an annual inspection may help prevent overcrowding. Unannounced visits to the residence are not prohibited; however, the occupants would be within their Fourth Amendment rights to refuse entry to a Code Compliance Officer without a warrant.

Issue 3: (Madaffer Memo #9) Mini dorms are basically apartments. How can the City regulate mini-dorms using apartment guidelines?

Short Answer: Assuming, for the purposes of discussion, that the definition of multiple dwelling units does apply to the use of a home for rent by various individuals, the current regulations for the construction and use of multiple dwelling units are unlikely to address any of the problems at hand.

Response: There is no definition of "apartment" in the Land Development Code. The definition of "multiple dwelling unit" is "a building containing two or more dwelling units on a single lot. The term does not include companion units or employee housing." SDMC § 113.0103. "Apartment house" does appear as a defined term in SDMC Chapter 3, Article 1, Division 3, Taxing Provisions. An "apartment house" is defined for tax purposes as "a building arranged in separate units, each unit containing a kitchen and a bathroom, designed to house several families living independently of each other." SDMC § 31.0305(a).

The definition and dimensions of a bedroom do not change; the illegalities of littering or creating a nuisance do not change. Multiple dwelling units are allowed in most residential zones. The parking requirements are slightly higher for multiple dwelling units in the campus impact area; however, that change could be accomplished with an amendment to the Parking Impact Overlay Zone.

Issue 4: (Madaffer Memo #12) We need a more stringent program for enforcing illegal room conversions and more serious repercussions for landlords and tenants for excessive trash and noise, failure to maintain landscaping, and continued unruly behavior of tenants. This includes a review of fines for non-compliance - they may be too low and increasing fines could be a better deterrent.

Response: Levying fines for non-compliance with regulations is within the City's police powers. Some of the violations may be enforced by existing civil and criminal laws, such as public nuisance under San Diego Municipal Code sections 59.5.0101 et seq., California Civil Code section 3479, and California Penal Code sections 370 and 374. San Diego Municipal Code section 59.5.0501 specifically regulates public nuisance for noise. Littering is prohibited by San Diego Municipal Code section 54.0210 and Penal Code sections 374 and 374.4.

C. Parking Issues and Working with SDSU:

Issue 1: (Madaffer Memo #3) How can SDSU be required to provide a larger percentage of on-campus housing?

We are painfully aware the Paseo project has been delayed indefinitely. This project must be reactivated as it provides housing for over 1,000 students. There are other dormitories pending at SDSU but nothing is happening. The Sorority Row project, which would have provided even more housing in the area, was recently canceled by SDSU. We are moving backward here, not forward. The City must be more aggressive in making University to do its part to provide housing. No work or action on any Master Plan for SDSU should be considered unless these basic and fundamental issues are addressed. Perhaps the City might seek a moratorium on student population growth at SDSU until the student housing matter is better addressed.

Short Answer: The creation of special districts based on actual impacts to the local area could potentially require a complete overhaul of the existing regulations.

Response: The guidelines for a moratorium are set forth above; however, a moratorium is not an appropriate vehicle to address population growth, as that is not a "use" that may be in conflict with a contemplated general plan, specific plan, or zoning ordinance. Recently, cases have held that "projects" (as defined by the California Environmental Quality Act[3]) by colleges and universities must be evaluated for impacts to the environment, which was interpreted to mean impact to the surrounding public agencies. *City of Marina v. Board of Trustees of the California State University*, 39 Cal. 4th 341 (2006); *County of San Diego v. Grossmont-Cuyamuca Community College District*, 141 Cal. App. 4th 86 (2006). The expenditure of college district money could properly be spent on mitigation measures. *Id.* These cases are mentioned not for the proposition that student population growth is an impact on the physical environment, but that a state legislative change could be proposed that would require colleges and universities to identify sufficient student housing before any increase in student population could be granted; much like the identification of mitigation in an environmental context.

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[3] The California Environmental Quality Act defines "project" *in part* as "the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, ..." Cal. Pub. Res. Code § 21065; 14 Cal. Code of Regs. § 15378.

An alternative to the current parking problem would be to create separate zoning districts, special districts or an overall zone to address the unique issues created by institutional uses. This strategy would enable the community to apply regulations based on the actual impacts on the local area by accounting for the fact that residential land uses in colleges and universities' adjacent neighborhoods inordinately promote greater density and activity. The City of Davis and some out-of-state jurisdictions have created these types of zoning districts.

The creation of special districts based on actual impacts to the local area could potentially require a complete overhaul of the existing parking regulations.

Issue 2: **(Madaffer Memo #8)** Since the residents of our City are rightfully complaining and expect us to provide them the peaceful enjoyment of their single family homes in their single family neighborhoods, and because the overwhelming majority of problems are caused by SDSU students occupying these single family homes, what liability can the City assess against SDSU?

Short Answer: There does not appear to be any basis for liability against SDSU.

Response: In *Goldberg v. Regents of University of California*, 248 Cal. App. 2d 867, 876-77 (1967), the court stated that for constitutional purposes, state universities no longer stand *in loco parentis* in relation to their students. Rather, attendance at publicly financed institutions of higher education should be regarded a benefit somewhat analogous to that of public employment.

In *Baldwin v. Zoradi*, 123 Cal. App. 3d 275, 281 (1981), a negligence case, the court found that in a case alleging nonfeasance rather than misfeasance, liability could attach only if a special relationship existed between the University Trustees and the plaintiff and student defendants. *Id.* at 281. The court found no special relationship. *Id.* at p. 285. The court analyzed the factors related to the existence of a duty to third persons. In connection with the factor, "the moral blame attached to the defendant's conduct," *Baldwin* rejected the "*in loco parentis*" role of college administrators and faculties to control student conduct. *Baldwin,*123 Cal. App. 3d at 287. The *Baldwin* court concluded that defendants had no duty of care to plaintiff. *Id.* at 291.

In addition, the students are not agents of SDSU, and therefore, SDSU would not be liable under an agency theory. Cal. Civ. Code §§ 2295-2357. Furthermore, as a public entity, SDSU is protected by the same immunities that protect the City of San Diego. Cal. Gov. Code § 815(b).

Issue 3: **(Madaffer Memo #10)** Can the "B" Permit Parking Program include wording that if a residence is classified as a mini dorm, only two permits can be issued?

Response: The SDMC does not currently contain a definition of a "mini-dorm." Any definition and regulations created must comply with the constitutional protections of privacy and equal protection. For example, would the proposal to limit the parking permits treat students differently than other residents, and if so, is there a rational relationship between the law and the reason for the difference?

Issue 4: (Madaffer Memo #11) How can the City stop front yards from being cemented over to accommodate more off-street parking? Currently, only 30 percent of a portion of the front yard needs to be landscaped. The percentage needs to be greatly increased.

Response: Under the current regulations, within the required front yard of the RE and RS zones, the amount of paving and hardscape, including architectural projections, is limited to 70 percent of the total required yard. SDMC § 131.0447. In addition, this does not actually require that the remaining 30 percent be landscaped. An amendment to this section may be considered, however, any new regulation for single family dwellings must apply to both the owner–occupied and renter-occupied units.

CONCLUSION

Any proposed regulations or enforcement regarding mini-dorms must take into account constitutional rights to privacy and equal protection. Regulations currently exist to address construction standards, noise, littering, parking and landscaping enforcement. Should any new regulations be considered, they will have enforcement costs that must be accounted for in order to be effective.

Most of the problems associated with mini-dorms, such as littering, noise, and traffic are already prohibited or regulated. Further discussion and direction is needed to evaluate whether new regulations would be useful.

Respectfully submitted,

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