

ORDINANCE NUMBER O- 17250 (NEW SERIES)

ADOPTED ON FEB 21 1989

AN INTERIM ORDINANCE OF THE CITY OF SAN DIEGO
TO PROTECT SINGLE-FAMILY NEIGHBORHOODS IN
MULTI-FAMILY ZONED AREAS FROM INCOMPATIBLE
DEVELOPMENT PENDING THE IDENTIFICATION OF SUCH
NEIGHBORHOODS.

WHEREAS, this ordinance amends Ordinance No. O-17128 (New Series), adopted August 9, 1988; and

WHEREAS, The City of San Diego, California (hereinafter "City"), has adopted a Charter pursuant to California Constitution, article 11, section 3, and has, pursuant to section 5 of the same article, the authority by virtue of its Charter to make and enforce all ordinances and regulations in respect to municipal affairs, including the authority to enact and enforce plans and interim and permanent land use control measures to protect and promote the public health, safety and welfare of its citizens; and

WHEREAS, the City, in 1979, adopted the Progress Guide and General Plan (hereinafter "General Plan") which contains the following guidelines and standards: (1) that the environment of existing communities shall be stabilized and improved; (2) that the small scale visual qualities that make the City a comfortable and often exciting place in which to live shall be retained; (3) that densification of existing communities shall only occur in accordance with community plans; and (4) that only development which is sensitive to the particular needs of individual areas should be promoted; and

WHEREAS, there are neighborhoods in the City which are primarily single-family in character, but which are zoned for multi-family residential uses; and

WHEREAS, the single-family character of such neighborhoods is jeopardized by the underlying multi-family zoning which allows the replacement of single-family dwelling units with multi-family residential and nonresidential development; and

WHEREAS, such single-family neighborhoods in multi-family zoned areas are increasingly being converted to multi-family and nonresidential land uses; and

WHEREAS, continued multi-family and nonresidential development at densities permitted by the present zoning will adversely affect and threaten the character of certain existing single-family neighborhoods which the City intends to maintain; and

WHEREAS, the City has embarked upon a program to identify all neighborhoods to be protected by single-family zoning, and designated as Protected Single-Family Neighborhoods; and

WHEREAS, an interim ordinance is needed to preserve the status quo in existing single-family neighborhoods pending the completion of this program; and

WHEREAS, an interim ordinance is needed to prevent accelerated multi-family residential development in single-family neighborhoods from unduly influencing the outcome of the study; and

WHEREAS, the public interest, convenience, health, safety, welfare and necessity require the immediate enactment of this

interim ordinance as an urgency measure so as (1) to prevent the replacement of single-family residences by multi-family and nonresidential development, and (2) to preserve the status quo, thereby prohibiting uses of property which may be in conflict with the contemplated changes to the General Plan and applicable community plans, pending the completion, consideration, review and implementation of the single-family neighborhood identification program; and

WHEREAS, Municipal Code section 101.0203.1 empowers the Council to adopt, as an emergency measure in the interest of public safety, health and welfare, a temporary interim zoning ordinance pending the neighborhood classifications and implementation thereof; and

WHEREAS, the specific housing programs and activities being undertaken by the City to fulfill the City's housing goals as required by California law will not be impaired by the adoption of this ordinance; and

WHEREAS, with reference to and based on each of the facts set forth above, the Council finds that there exists a current and immediate threat to public health, safety and welfare with regard to protection of the environment for the public benefit and with regard to evaluating the best uses for the subject area to provide for the immediate and future needs of the public; NOW, THEREFORE,

BE IT ORDAINED, by the Council of The City of San Diego, as follows:

SECTION 1. RESTRICTION ON REPLACEMENT OF SINGLE-FAMILY RESIDENCES IN MULTI-FAMILY ZONED AREAS.

The Council does hereby adopt as an urgency measure, an interim ordinance restricting the issuance of building permits on any lot or premises which:

A. Is in a multi-family zone (including multi-family areas of planned districts); and

B. Was the site of one single-family residence on or after August 9, 1988.

This restriction shall not apply to any lot or premises with a valid Interim Development Ordinance (O-17015 N.S.) allocation granted prior to August 9, 1988.

SECTION 2. BUILDING PERMITS WHICH MAY BE ISSUED.

On such lots or premises identified in Section 1. above, building permits may be issued and plans accepted by the Building Inspection Department only for the following:

A. One single-family residence per lot or premises where there will be no more than one residence upon completion of construction.

B. Accessory structures customarily incidental to a single-family residence.

C. A structure or structures in a public park.

D. A structure or structures serving a use allowed by Conditional Use Permit in the R-1 Zones, as specified in Section 101.0510 of the San Diego Municipal Code; provided, however, that such uses are required to first obtain a Conditional Use Permit, as if the use were located in an R-1 zone.

E. Repairs, remodeling, alterations, and rehabilitation of existing structures, provided there is no increase in the number of dwelling units.

F. Low-income housing developments as approved by the San Diego Housing Authority.

G. Demolition or relocation of a single-family residence, provided:

1. The Demolition or Relocation Permit clearly notes that only the uses listed in paragraphs A. through F. of this section may replace the demolished or removed residence; and
2. The Building Inspection Department notes such limitation on its records.

SECTION 3. APPLICABILITY TO INDIVIDUAL NEIGHBORHOODS.

This ordinance shall be applicable and shall remain in effect with respect to individual neighborhoods until:

A. The City Council, by resolution, confirms that the neighborhood is not a Protected Single-Family Neighborhood, and pursuant to such resolution releases the neighborhood from the provisions of this ordinance; or

B. The City Council identifies the neighborhood, by resolution, as a Protected Single-Family Neighborhood, and pursuant to such resolution imposes by ordinance measures to protect the single-family character of such neighborhood.

Prior to City Council adoption of maps identifying Protected Single-Family Neighborhoods, the appropriate community planning groups and the Planning Commission shall review and make recommendations regarding the maps.

SECTION 4. EARLY RELEASE.

Prior to the City Council's determination as to whether or not a neighborhood should be identified as a Protected Single-Family Neighborhood, a project applicant affected by the restrictions of this ordinance may seek a release from those restrictions.

A. Planning Director Public Hearing. The Planning Director is granted the authority to conduct noticed public hearings at which specific project sites may be released from the restrictions of this ordinance, subject to compliance with the requirements of this section.

B. Submittal Requirements. The following information is required with each release application:

1. A board-mounted color photo display of all properties having any boundary within 500 feet of the subject site's exterior boundaries. All properties must be clearly and separately identified on the photo display by street address and assessor's parcel number.

2. Assessor's parcel maps and land use information for all properties within 500 feet of the subject property.

3. Any other information as may be deemed necessary by the Planning Director.

C. Community Planning Group Review Prior to Public Hearing. Prior to issuance of the notice of public hearing for a release request, the applicant shall provide evidence that the submittal material required above was presented for review at a meeting of the City-recognized community planning group for the site in question.

The applicant is relieved of this responsibility if the appropriate community planning group recommends that an area including the applicant's property should be released from the restrictions of this ordinance.

The applicant is also relieved of this responsibility if he or she can provide verifiable evidence that the planning group was unable to schedule a presentation within 31 days from the day an officer of the group was first made aware of the request. The lack of a planning group review in such a case shall not be the basis for a continuance of the Planning Director public hearing.

D. Scope of Planning Group Review; Recommendations. The purpose of the planning group review requirement is to afford the planning group an opportunity to recommend whether or not the project site should be released from the restrictions on development imposed by this ordinance. The purpose of the review requirement is not to impose discretionary review of project plans where (1) no discretionary permit is required, or (2) where a discretionary permit would be required, but where the applicant elects to seek a determination of the neighborhood's status before preparing project plans.

Except where a discretionary permit approval is concurrently sought, the planning group's review shall be limited to the issue of whether or not the single-family restriction should remain. A recommendation to release a project site from the single-family restriction shall not be conditioned upon the submittal or modification of project plans.

Where a discretionary permit approval is concurrently sought, the planning group's recommendation regarding neighborhood status shall be separate from any recommendations regarding the specific project proposal.

Nothing in this section shall be construed to restrict the planning group's authority to review and make recommendations regarding a discretionary project proposal.

The planning group may take any of the following actions regarding a request for a release from single-family restrictions:

1. Recommend to the Planning Director that the restrictions be removed from the project site or any larger area which may be defined by the planning group.

2. Recommend to the Planning Director that the restrictions not be removed, citing specific reasons why the neighborhood surrounding the project site should be considered a Protected Single-Family Neighborhood when those neighborhoods are permanently identified by the City Council.

3. Take no action.

The planning group may make its recommendations a part of the public record by oral presentation at the Planning Director hearing, or in writing prior to or at the hearing. Any written recommendation submitted prior to the hearing should be delivered to the staff planner assigned to the community. A copy of the planning group's regular meeting minutes, addressing the issues enumerated above, shall suffice for meeting this requirement.

E. Noticing Requirement. At least 10 days prior to a Planning Director public hearing for early release, notice shall be given of the time, place, and purpose of such hearing to the property owners and community organizations identified in Section 101.0220.A.2. of the Municipal Code.

F. Findings and Decision. The Planning Director's findings regarding a request for release from single-family restrictions shall address the following issues:

1. Relationship of the subject site or area to surrounding properties and uses.
2. Topography and other physical factors which may influence the decision.
3. Whether or not a decision to release the single-family restriction would be in conformance with existing community plan goals and proposed plan revisions.

The Planning Director's decision regarding a release from the single-family restrictions of this interim ordinance may be appealed to the City Council within ten (10) calendar days of the Planning Director hearing, on forms provided by the City Clerk. The provisions of Municipal Code Section 101.0240 shall govern the appeal procedure. The Planning Director's decisions shall not in any way limit the City Council's power to identify and define boundaries of Protected Single-Family Neighborhoods when final maps are adopted.

G. Consolidated Hearing--Planning Group Initiative. Where the planning group for a given community has recommended that an area larger than a project site be released from the restrictions of this ordinance, the Planning Director may consolidate the public hearing for all sites within that area, and may modify the submittal requirements (including fees or deposits) as determined to be appropriate.

Nothing shall deprive an applicant of the right to a separate hearing if so desired by the applicant.

H. Consolidated Hearing--Applicant Initiative. An applicant for release of single-family restrictions at one project site may request a consolidated hearing with the applicant for any other affected project site which is:

1. In the same zone; and
2. On the same side of the same street, in the same block.

The Planning Director modify submittal requirements (including fees or deposits) to accommodate such a request.

Pairing of applicants and negotiations between applicants regarding costs or responsibilities shall be solely the responsibility and to the mutual agreement of the applicants; failure of joint applicants to meet submittal or other requirements will delay or stop processing for both or all properties joined in application.

I. Fees/Deposits. Prior to the filing of any application for early release, the applicant shall pay to the City fees/deposits equal to the cost of processing said request. Fees/deposits may be adjusted periodically by resolution of the City Council to ensure full cost recovery for the services. A list of current fees/deposits is on file in the office of the City Clerk. If the deposit is insufficient to cover the actual cost to the City, plus an applicable percentage to cover general overhead, the applicant shall be required to make additional deposits.

Unless adjusted at a later date by resolution of the Council, the fee for an early release application shall be equivalent to that required for a noticed public hearing for a zoning variance.

SECTION 5. EFFECTIVE DATE.

For the reasons expressed in the preamble hereto, this ordinance shall take effect immediately upon its passage as an emergency measure necessary to protect and preserve the public health, safety and general welfare, and from and after its effective date no building permits for development inconsistent with the provisions of this ordinance shall be issued.

SECTION 6. DURATION.

Unless extended pursuant to Section 101.0203.2 of the Municipal Code, this ordinance shall expire at the earlier of the following occurrences:

A. August 9, 1989; or

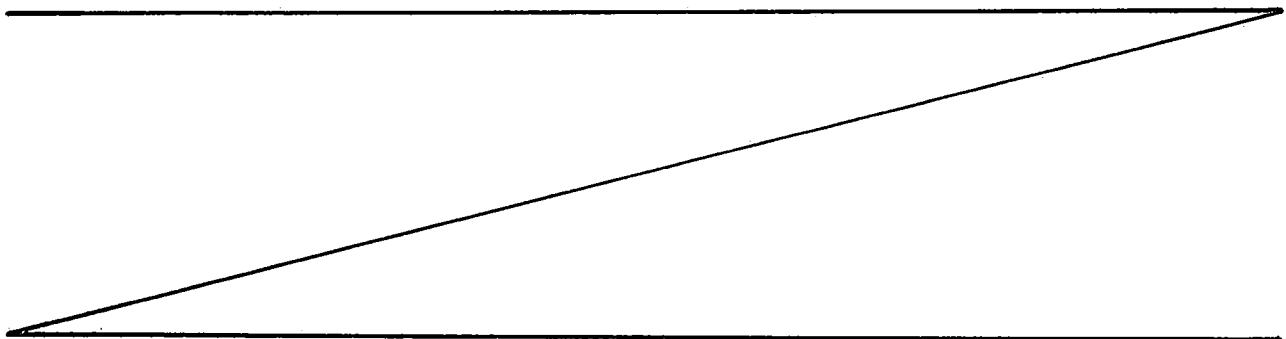
B. When all neighborhoods have been classified by the City Council as set forth in Section 3, above.

SECTION 7. EFFECT OF INTERIM REGULATIONS ON EXISTING CITY REGULATIONS AND ORDINANCES.

This ordinance is additional and supplemental to and shall not affect, except as specifically provided herein, any provision of the San Diego Municipal Code relating to the permissible use of property, density of development, design standards, improvement standards and requirements or any other aspect of the development of land or provision of public improvements which shall continue to be subject to the zoning, subdivision, building or other regulations of the City, which shall be operative and remain in full force and effect without limitation with respect to all such development.

SECTION 8. SEVERABILITY.

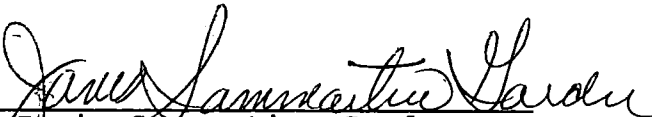
If any section, subsection, sentence, clause, phrase or portion of this ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent



provision and such holding shall not affect the validity of the remaining portions of this ordinance.

APPROVED: John W. Witt, City Attorney

By


Janis Sammartino Gardner
Deputy City Attorney

JSG:lc
01/18/89
02/10/89 REV. 1
02/16/89 REV. 2
02/21/89 REV. 3
02/23/89 REV. 4
Or.Dept:Plan.
O-89-158
Form=o.none

FEB 21 1989

Passed and adopted by the Council of The City of San Diego on....., by the following vote:

Council Members	Yeas	Nays	Not Present	Ineligible
Abbe Wolfsheimer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ron Roberts	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Gloria McColl	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
H. Wes Pratt	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ed Struiksma	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
J. Bruce Henderson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Judy McCarty	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bob Filner	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Maureen O'Connor	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

AUTHENTICATED BY:

MAUREEN O'CONNOR

Mayor of The City of San Diego, California.

CHARLES G. ABDELNOUR

City Clerk of The City of San Diego, California.

(Seal)

By *Blonda R. Barnes*, Deputy.

I HEREBY CERTIFY that the foregoing ordinance was passed on the day of its introduction, to wit, on FEB 21 1989, said ordinance being of the kind and character authorized for passage on its introduction by Section 16 of the Charter.

~~I FURTHER CERTIFY that the final reading of said ordinance was in full.~~

I FURTHER CERTIFY that the reading of said ordinance in full was dispensed with by a vote of not less than a majority of the members elected to the Council, and that there was available for the consideration of each member of the Council and the public prior to the day of its passage a written or printed copy of said ordinance.

CHARLES G. ABDELNOUR

City Clerk of The City of San Diego, California.

(Seal)

By *Blonda R. Barnes*, Deputy.

Office of the City Clerk, San Diego, California

Ordinance Number 0-17250 Adopted FEB 21 1989