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CITY OF SAN DIEGO
OFFICE OF THE CITY CLERK

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RECOMMENDATIONS

COMMUNITY PLANNING GROUP /STAFF'S /PLANNING COMMISSION

Project Manager **must** complete the following information for the Council docket:

CASE NO. Residential High Occupancy Permit

STAFF RECOMMENDATION

Introduce the Residential High Occupancy Permit ordinance amending the Land Development Code and Local Coastal Program, and either adopt, modify, or do not adopt.

Approve the associated request to add 1 Administrative Aide II, 1 Word Processing Operator, and 1 Senior Zoning Investigator (\$231,623 general fund) through a mid-year budget adjustment. Since the RHOP revenue and impacts are difficult to predict, enforcement staff levels should be re-evaluated at a future date.

PLANNING COMMISSION (List names of Commissioners voting yea or nay)

YEAS: Chairman Schultz, Vice-Chair Garcia, and Commissioners Otsuji, Griswold, Naslund, and Smiley

NAYS: None

ABSTAINING: Commissioner Ontai absent

TO: Recommend that the City Council adopt amendments to the Land Development Code and Local Coastal Program to create a Residential High Occupancy Permit, with the following recommendations:

- 1) Evaluate whether six adult occupants is the appropriate threshold.
 - 2) Identify how the penalties may be increased.
 - 3) Approve enforcement staff to meet the associated need.
 - 4) Evaluate whether additional hardscape restrictions may be necessary.
 - 5) Require that an on-site responsible party be designated as part of the application. Evaluate whether it also makes sense to require the owner to post the responsible party contact information on-site.
 - 6) Evaluate whether a waiver provision may be incorporated to exempt economic integrated units and families from the permit requirement and/or permit fee.
 - 7) Allow time for CPC, planning groups, universities and the public to consider information, but not too much time to slow momentum. Recommended City Council in November.
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COMMUNITY PLANNING GROUP (choose one)

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NAME OF GROUP:

- No officially recognized community planning group for this area.
- Community Planning Group has been notified of this project and has not submitted a recommendation.
- Community Planning Group has been notified of this project and has not taken a position.
- Community Planning Group has recommended approval of this project.
- Community Planning Group has recommended denial of this project.
- This is a matter of City-wide effect. The following community group(s) have taken a position on the item:

In favor: On September 29, 2007, the College Area Community Council voted (7-2-2) to support the Residential High Occupancy Permit with the following recommendations:

- 1) Provide time for community planning boards to discuss and respond to RHOP.
- 2) Present to City Council as action item before end of November.
- 3) Address concerns about unintended consequences of the RHOP such as widespread paving of backyards.

Opposed: N/A

By Stan Lee
Project Manager

CS-6 (03-14-07)

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SECRET



THE CITY OF SAN DIEGO
REPORT TO THE CITY COUNCIL

DATE ISSUED: November 14, 2007 REPORT NO: 07-179

ATTENTION: Council President and City Council
Agenda of November 19, 2007

SUBJECT: Residential High Occupancy Permit and Enforcement Efforts to
Address Mini Dorms

REFERENCES: Reports 07-115, 07-048 and 06-180, PC-07-137

REQUESTED ACTION:

Consider whether to approve amendments to the Land Development Code and Local Coastal Program to address "mini dorms" by requiring a Residential High Occupancy Permit (RHOP) for single dwelling units with six or more adult occupants (age 18 and older) that reside for 30 or more consecutive days, and establish the date for existing high occupancy units to comply.

STAFF RECOMMENDATION:

Introduce the Residential High Occupancy Permit ordinance amending the Land Development Code and Local Coastal Program, and either adopt, modify or do not adopt the ordinance. Since the RHOP revenue and impacts are difficult to predict, enforcement staff levels should be re-evaluated at a future date.

SUMMARY:

As requested by the City Council on July 9, 2007, the Residential High Occupancy Permit ordinance was drafted to provide an additional enforcement tool to address mini dorms by ensuring that high occupancy single dwelling units provide adequate parking and minimize impacts on surrounding properties. RHOP would apply to residences with six or more adult occupants (age 18 and older) residing for 30 or more consecutive days. The permit would require additional parking per adult occupant less one, thereby limiting the number of vehicles and requiring lower occupancies where there is not adequate space for the associated parking need. An annual application fee would be collected to recover associated administrative, inspection, and enforcement costs. The permit would be revocable in case of noncompliance.

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BACKGROUND:

Mini dorms are not defined in the Land Development Code or California Building Code, but the term is commonly used by members of the community to describe single dwelling units occupied by multiple adult tenants, which have been identified as a threat to communities due to a variety of negative impacts (i.e. loud parties, noise, trash, parking impacts). While this type of living arrangement exists citywide, the majority of disturbance and loud party calls registered with the police are concentrated in the neighborhoods surrounding San Diego State University, followed closely by the beach areas. On September 19, 2006, Council District seven hosted a mini-dorm community forum in the College Area where staff from Development Services, Police, and City Attorney listened to concerns related to mini dorms and fielded a variety of questions from the community. Since that time, the Mayor and Council have been working to develop solutions to address mini dorms and restore peace in local residential neighborhoods. A second public forum was held downtown on May 10, 2007, followed by City Council on July 9, 2007, which resulted in a multi-faceted strategy to address mini dorms that includes 1) a more aggressive enforcement program, 2) greater cost recovery, 3) code amendments to address inconsistent physical development, 4) and other options such as the Rooming House Ordinance (processed separately by City Attorney) and the proposed Residential High Occupancy Permit. Following are the related components of this strategy:

Administrative Remedies

Fines were increased in an effort to recover costs for repeat disturbance violations through a more aggressive code compliance program. Prior to adoption of the Administrative Enforcement Remedies Ordinance (O-19579) in February 2007, the City's administrative remedies had last been updated in 1990. The ordinance increased the City's penalty fine amounts, granted authority for broader use of administrative citations, and clarified language to allow for greater cost recovery. Code compliance officers now have the flexibility to impose penalties that are appropriate in relationship to the severity of the violation (up to a maximum \$1,000 administrative citation). Fines are no longer required to start with the lowest \$100 penalty and increase sequentially with subsequent violations. Cases are referred to the City Attorney's code enforcement unit in cases where voluntary compliance is not achieved.

CAPP Program

The Community Assisted Party Program is a joint effort between police and the community to curb nuisance behavior at chronic party houses, whereby the Police Department monitors disturbance calls and maintains a database of chronic party houses that are CAPP designated. The program evolved from the Mid City College Area Party Program that was created by the Mid City Police Division in 1989, and from a similar program implemented by the Northern Police Division in 1997. In response to concerns regarding consistency and effectiveness, the CAPP programs were merged into a single program to address chronic party houses citywide. Properties may be CAPP designated if there are two police responses in a 30-day period, if police response results in an immediate arrest(s), or as concluded by an investigation conducted in response to neighbor petition. Property owners and tenants are notified that the house has been CAPP designated and are put on notice of a zero tolerance policy for future disturbance calls. Responsible property owners have appreciated this program, which in some cases has resulted in the eviction of problem tenants; however, other property owners have seemingly ignored the CAPP designation until implementation of the Administrative Citation Program. As

described below, police officers responding to a loud party or disturbance call may issue \$1000 citations to the tenants and property owner of a CAPP designated house, which should lead to greater participation by landlords in the management of their rental properties.

SDPD-NCC Administrative Citation Program

The Administrative Citation Program has proven to be a critical component of the City's strategy for a more aggressive code compliance program, while also providing for some recovery of enforcement costs. A pilot program was developed for the Mid City Police Division as an additional enforcement tool in response to complaints about loud parties in the College Area. The program was initiated jointly by the San Diego Police Department and Development Services Department on April 30, 2007, as a 6-month trial program to address nuisance behavior at identified party houses in the College Area. The program encourages landlords to become more involved in the management of their properties by holding tenants and property owners accountable for neighborhood disturbances. Citations (\$1000) may be issued to each tenant involved in the disturbance violation, and to property owners in cases where prior warning has been given (i.e. CAPP designation). The program has been an effective enforcement tool for police officers responding to disturbance calls since citations may be delivered personally, or posted on the door where officers are denied access. The program appears to be the most effective strategy for protecting quality of life in local neighborhoods since it can be utilized to address a variety of community threats including mini dorms and short term vacation rentals. During the pilot program, 75 administrative citations were issued including 70 tenant citations and 5 property owner citations. On October 17, 2007, the Land Use and Housing Committee received a status update on the pilot program and recommended expansion of the Administrative Citation Program citywide. Public comment was overwhelmingly in support of expansion of the program. It is estimated that expansion citywide can be accomplished within a 6-month period. SDPD is currently training the Northern Division and conducting outreach activities with stakeholders in the area including the University of San Diego, University of California-San Diego, and community groups and organizations in anticipation of expanding the program to Northern Division on December 1.

Amendments to Address Inconsistent Physical Development

On July 9, 2007, the City Council unanimously approved amendments to the Land Development Code to address inconsistent physical development. The amendments placed a limitation on the number of bedrooms and the number of vehicles parked outside of a garage on lots less than 10,000 square feet. The ordinance also placed limitations on hardscape and design of parking spaces for all single dwelling unit lots. Two amendments specifically addressed parking impacts in the campus impact area of the Parking Impact Overlay Zone (surrounding SDSU, UCSD, and USD) by requiring homes with five or more bedrooms to provide one parking space per bedroom, with at least two of those parking spaces in a garage. The ordinance is currently effective in areas outside of the coastal overlay zone. For applicability in the coastal overlay zone, the ordinance is subject to certification by the California Coastal Commission.

Rooming House Ordinance

As requested by the City Council on July 9, 2007, the proposed Rooming House Ordinance is an additional tool to be considered by the City Council to address the commercialization of single dwelling unit neighborhoods. The proposed ordinance has been prepared and analyzed by the

City Attorney as a separate project, but generally defines rooming houses as dwelling units with three or more bedrooms rented separately, and then prohibits rooming houses from locating in single dwelling unit residential zones.

Residential High Occupancy Permit

As requested by the City Council on July 9, 2007, the Residential High Occupancy Permit ordinance was drafted as an additional enforcement tool to address mini dorms. In accordance with the Council motion, an existing City of San Luis Obispo ordinance that regulates high occupancy dwelling units was adapted for consistency with the Land Development Code. As is typical of code amendment proposals, the proposed code language was presented to the Code Monitoring Team, Community Planners Committee, and Planning Commission. The College Area Community Council also provided a recommendation in support of the RHOP ordinance.

On August 8, 2007, the Code Monitoring Team supported the concept of a Residential High Occupancy Permit. CMT recommended that the parking requirement (based on occupancy) be the criteria for permit approval, and that the permit be revocable in case of violations.

On September 6, 2007, the Planning Commission voted 6-0-1 to recommend approval of the Residential High Occupancy Permit to the City Council with additional direction for staff generally related to enforcement and process. Based on input from the City Attorney, the ordinance has not been revised to incorporate suggestions with potential legal conflicts such as the waiver or exemption provision for families and economic integrated units. Within the discussion section of the report, additional analysis is provided regarding the permit threshold and designation of an on-site responsible party.

On September 25, 2007, the ordinance was presented to the Community Planners Committee. No formal action was taken by the committee. Discussion was generally in favor of the ordinance; however concerns were raised regarding potential impacts to large families.

On September 29, 2007, the College Area Community Council voted (7-2-2) to support the Residential High Occupancy Permit with the following recommendations: 1) provide time for community planning boards to discuss and respond to RHOP, 2) present to City Council as action item before end of November, and 3) address concerns about unintended consequences of the RHOP such as widespread paving of backyards.

DISCUSSION:

In accordance with City Council direction on July 9, 2007, the proposed Residential High Occupancy Permit was modeled after a similar ordinance in the City of San Luis Obispo. In summary, San Luis Obispo requires an annual "administrative use permit" for dwelling units occupied by six or more adult occupants (aged 18 and older) to encourage lower occupancies per dwelling unit. The use permits are issued to developments that meet the performance standards. According to their Deputy Director of Community Development, since the ordinance became effective in 1990, there have been six administrative permits denied, one revoked, and there are currently two active permits. This type of ordinance is generally more difficult to enforce than

000007

measurable development standards, but in the case of San Luis Obispo, it has provided a sufficient deterrent to high occupancy units and has resulted in a cultural change by landlords who now limit their rental units to a maximum of five adult occupants.

The purpose of the ordinance is to ensure that high occupancy single dwelling units provide adequate parking and minimize impacts on surrounding properties. As proposed, the Residential High Occupancy Permit would apply to residences with six or more adult occupants (aged 18 and older) residing for 30 or more consecutive days. The permit would require additional parking per adult occupant less one, thereby limiting the number of vehicles at high occupancy residences and requiring lower occupancies where there is not adequate space for the associated parking need. An annual fee would be collected with the Residential High Occupancy Permit application to recover associated administrative, inspection, and enforcement costs. The permit would be revocable in case of noncompliance.

The main policy question related to the proposal is how to balance the desired limitations on single dwelling units to prevent mini dorms, with the competing goals to meet the housing needs of all segments of the population and avoid unintended consequences for single family homeowners. The proposed Residential High Occupancy Permit encourages lower occupancy dwelling units consistent with the RS zone, which when combined with increased enforcement programs and the new development regulations is expected to reduce the prevalence of problem mini dorms. However, decision makers must also consider the fact that the regulations must be applied equally to renter and owner occupied units, which may have unintended consequences for large families and homes that are not considered to be part of the mini dorm problem. In addition, the annual permit fee may further impact housing affordability for some groups that currently live together out of financial necessity.

Following are some frequently asked questions related to the proposal:

Why is the threshold for the Residential High Occupancy Permit six adult occupants?

The ordinance was modeled after the City of San Luis Obispo per City Council direction, which established six adult occupants (age 18 and older) as the threshold. San Luis Obispo has not been challenged on their ordinance since it became effective in 1990. Additionally, in the context of San Diego, the threshold makes sense from a parking perspective, since the goal is to ensure that high occupancy units provide adequate off-street parking. The existing parking requirement for a single dwelling unit is two off-street parking spaces located outside of the front yard setback, which allows for a typical single dwelling unit to accommodate four cars (utilizing two tandem parking spaces as temporary parking). To the contrary, most single dwelling unit lots do not have existing parking for five or more vehicles on-site to meet the proposed requirement for six or more occupants. Lowering the RHOP threshold to five or fewer would unnecessarily subject a large number of single dwelling units to a permit process and fee where they are already providing adequate parking.

000008

Can the City set a maximum occupancy per dwelling unit?

No. As advised by the City Attorney, the City is unable to set occupancy limits for single dwelling units that would conflict with federal or state law such as the California Building Code. The City can, however, require that sufficient parking is provided to support high occupancy living situations. The Residential High Occupancy Permit would not prevent multiple adults from living together in a single dwelling unit, but it would generally encourage lower occupancies of five or fewer adults, and permits could be revoked based on findings of deficient parking or as documented by associated enforcement actions.

Can the City exempt or waive permit fees for owner occupied properties and/or families with six or more adults?

No. As advised by the City Attorney, the permit requirement must apply equally to renter and owner occupied properties and may not distinguish between family status and economic units. The parking impacts associated with adult occupants are expected to be the same regardless of the relationship between the adult occupants. Application of the ordinance to families with six or more adult occupants may have unintended consequences in certain communities, however, where an adult occupant does not have a vehicle, such as a multi generational family in a single dwelling unit where the elderly parents no longer drive, the parking requirement may be reduced. Historically, the average household size in San Diego has been approximately 2.5 and average family size has been approximately 3.3.

Would the Residential High Occupancy Permit apply citywide?

Yes. Currently single dwelling units are required to provide two parking spaces everywhere in the City, except in the campus impact area of the parking impact overlay zone where homes with five or more bedrooms must provide one parking space per bedroom. Some communities outside the campus impact area expressed concerns that the parking requirement of two spaces per dwelling unit does not meet the parking needs for units with higher occupancies. The Residential High Occupancy Permit would apply consistently throughout the City to require additional parking to meet an identified parking need for high occupancy dwelling units. Prior to applicability in the coastal zone, the ordinance will be subject to certification by the California Coastal Commission.

What is the relationship between the previously approved physical development regulations and the Residential High Occupancy Permit regulations?

In July 2007, the Council approved limitations on the amount of hardscape and the number of bedrooms in single dwelling unit zones to address inconsistent physical development associated with mini dorms. If the Residential High Occupancy Permit parking requirement is also passed, it would be especially difficult to accommodate high occupancy dwelling units on lots less than 10,000 square feet. Required parking spaces are subject to minimum dimensions and design standards and must be located outside of the front yard setback. Lots less than 10,000 square feet are further limited to a maximum of four surface parking spaces on the site as a whole, and a maximum of six bedrooms. Additionally, in the campus impact area, single dwelling units with

000009

five or more bedrooms are required to provide one parking space per bedroom with at least two of those required spaces provided in a garage. In a case where the Residential High Occupancy Permit requirement may conflict with the requirement per dwelling unit, the higher parking requirement would apply. For example, a single dwelling unit in the campus impact overlay zone with six bedrooms would require six parking spaces for any occupancy of seven or fewer occupants under the Residential High Occupancy Permit, but would require additional parking for each occupant beyond seven.

Should new hardscape regulations be incorporated into the RHOP parking requirement?

Proposed development would be subject to all existing regulations including storm water quality standards and associated best management practices. It is not anticipated that additional hardscape regulations will be necessary. As explained above, the existing regulations ensure that lots accommodate the required off-street parking and associated hardscape in conformance with all setback and parking stall size and access requirements. New hardscape is subject to a maximum of 60 percent within the front yard setback in single dwelling unit zones, and to a maximum of four surface parking spaces on lots less than 10,000 square feet, as approved in July 2007.

Does the ordinance make reasonable accommodations for disabled persons?

Yes. The ordinance does not apply to residential care facilities, transitional housing facilities, or housing for senior citizens. In addition to the existing reasonable accommodations regulations in Section 131.0466, the Residential High Occupancy Permit would allow for a reduced parking requirement in cases of demonstrated need such as where an adult occupant does not have a driver's license or a vehicle.

Should responsible party information be posted on-site as a permit requirement?

The Residential High Occupancy Permit application would require that the applicant designate a responsible party as the primary contact for the property. However, the question was raised both at Code Monitoring Team and at Planning Commission as to whether; additionally a requirement should be established that responsible party contact information be posted and visible to the public. Since the ordinance applies equally to related and unrelated individuals, CMT recommended against a provision for the responsible party information to be posted onsite. As proposed, the responsible party information would be available to the public as part of the permit record, but would not be required to be posted on-site.

Which mini dorm related regulations would apply to existing situations and which apply only to new development?

The ordinance related to physical development and the proposed Rooming House Ordinance apply to new development only. Existing development and/or rooming houses would have previously conforming rights, except that an amortization period is proposed after which all rooming houses must conform to new regulations. The Residential High Occupancy Permit would apply to all existing and new development with six or more adults residing in a single

000010

dwelling unit for 30 or more consecutive days. The Council is being asked to establish a grace period during which public outreach would be conducted to inform the public of the new regulations before penalties would be assessed to existing high occupancy units without a permit.

Would Parking Permit Districts be exempt from the Residential High Occupancy Permit?

No. Parking permit districts have been established in areas where there is an identified parking impact. A high occupancy unit is considered to be an additional impact on the neighborhood. Currently, property owners in permit parking districts may purchase up to four parking district permits per property. As proposed, a property owner may not use the parking district permits to satisfy on-premises parking requirements for the Residential High Occupancy Permit.

Would the Residential High Occupancy Permit apply to short term vacation rentals?

No. Short term vacation rentals involve a period of less than 30 days, therefore the Residential High Occupancy Permit would not apply. However, a similar type of permit strategy could also be considered to address short term vacation rentals. The short term rental of single dwelling units is a similar issue impacting the character of established single family neighborhoods that will be discussed in the forum of the City Council Committee on Land Use and Housing as part of a separate project. In the meantime, expansion of the administrative citation program citywide is expected to address disturbance issues at short term vacation rentals by issuing \$1000 citations to property owners with a pattern of repeat disturbance incidents at a particular rental property.

What is the relationship between the Rooming House Ordinance and the Residential High Occupancy Permit?

The Residential High Occupancy Permit may be implemented together with, or independent of, the Rooming House Ordinance. The Rooming House Ordinance regulates the number of individual guest rooms that may be rented in a dwelling unit; it does not limit the occupancy of a dwelling unit. Due to concerns that property owners could circumvent the Rooming House Ordinance with rentals to groups of adults on a single lease, the Council directed staff to research additional options to address high occupancy dwelling units and provide the City with multiple options to address problem mini dorms. The Residential High Occupancy Permit may influence occupancy via parking requirements and other regulatory controls and enforcement remedies that allow the permit to be revoked. It is expected that calls of perceived violation will occur in similar volumes under either ordinance.

A hypothetical scenario would be that NCC receives a call alerting the City that six or more adults are living together in a single dwelling unit. The neighbors may likely perceive there is some type of violation based on the number of cars and people they see associated with the residence on a daily basis. The Rooming House Ordinance may help limit the number of individual guest rooms rented in a single dwelling unit, however, groups of adults would still be permitted to rent a house together under a rental contract for the single dwelling unit as a whole. The Residential High Occupancy Permit would provide an additional enforcement tool in cases where there are six or more adults by requiring the property owner to apply for a permit to

000011

demonstrate that there is adequate parking per adult occupant. The permit would be revocable in case of adverse impacts on the neighborhood as documented by multiple enforcement actions.

ENVIRONMENTAL IMPACT:

The proposed amendments are adequately addressed by three previous environmental documents which include: "Amendments to Address Mini Dorms and Preserve the Character of RS Zones Project No. 129501, Addendum to EIR No. 96-0333"; "Revisions to Land Development Code Project No. 96-7897, Addendum to EIR No. 96-0333"; and "Land Development Code EIR No. 96-0333". There is no change in circumstance, additional information, or project changes to warrant additional environmental review. Therefore, the activity is not a separate project for purposes of CEQA review pursuant to State CEQA Guidelines Section §15060(c)(3).

CODE ENFORCEMENT IMPACT:

Neighborhood Code Compliance enforcement efforts have been impacted by a recent increase in the number of appeal cases related to loud party and loud music noise violations. The increase in noise violations can be attributed to the Administrative Citation Program currently being conducted jointly by San Diego Police and Neighborhood Code Compliance staff. In a six month period, the program has generated 75 administrative citations, 64 of which have been appealed, causing a significant increase in the number of appeal hearings administered by Neighborhood Code Compliance staff.

Neighborhood Code Compliance has not been as heavily impacted in its enforcement of the new RS (Residential-Single Unit) zone regulations to address inconsistent physical development related to mini dorms. NCC received approximately 60 requests for investigations related to mini dorms since the first set of mini dorms related regulations were passed by the Council in July 2007 (O-19650). This represents approximately one percent of the total open cases currently under investigation by the Neighborhood Code Compliance Division. It is difficult to estimate the type of case volume that may be generated in response to citywide application of the Residential High Occupancy Permit and/or Rooming House Ordinance. However, if these ordinances yield results similar to that of the mini dorm related physical development regulations, an additional 60-120 requests for investigation could be expected.

It should be noted, however, that regulation of the number of occupants, vehicles, and/or leases will be more challenging to enforce than current measurable codes such as setback, floor area ratio or parking. In response to reported violations under the proposed code, NCC staff will be required to collect documentation such as the number of vehicles or occupants per dwelling unit, with assistance from the City Attorney Code Enforcement Unit, as appropriate. This type of investigation may require obtaining a court issued warrant to inspect inside of a private residence and to obtain copies of lease agreements, copies of utility bills, tax records, DMV records etc. all of which may be difficult to obtain. As a result, actions taken on a Residential High Occupancy Permit (issuance, denial, or revocation) could be contentious and require a significant amount of staff time. If the Residential High Occupancy permit and/or Rooming House Ordinance are approved, additional zoning investigation staff may be considered as necessary through a future budget adjustment.

000012

HOUSING IMPACT:

High occupancy units are considered to be a negative impact on single dwelling unit neighborhoods due to associated noise and deficient parking. The proposed ordinance, which would require high occupancy units to provide adequate parking and minimize impacts to adjacent properties, is generally consistent with the General Plan, Community Plans, and the Land Development Code as they apply to single dwelling unit zones. The RS (Residential-Single Unit) zones are intended to “accommodate a variety of lot sizes and residential dwelling types” and “promote neighborhood quality, character, and livability.” The ordinance would not apply to residential care facilities, housing for senior citizens, or transitional housing facilities. The ordinance may reduce available housing options for other groups or families that are unable to meet the proposed parking requirement on a particular lot; however, the parking requirement may be reduced where applicants can demonstrate that the actual number of vehicles would not exceed the number of required spaces per adult occupant. Housing affordability for some groups that currently live together out of financial necessity may be negatively impacted due to the annual permit fee.

FISCAL CONSIDERATIONS:

In order to address the volume of mini dorm related complaints, both the City’s general fund and Development Services Department enterprise fund have been impacted. The processing of amendments to the Land Development Code is funded as an overhead expense of the Development Services Department (DSD) budget enterprise fund, while the Neighborhood Code Compliance (NCC) function is funded by the general fund. In accordance with Mayor and Council direction, staff will utilize the City’s existing administrative remedies to obtain greater cost recovery for enforcement cases related to mini dorms, and will continue to search for additional methods to achieve cost recovery. Currently, where NCC opens a case, the general fund service includes one initial inspection to determine whether a violation exists and a second inspection to verify compliance. A reinspection fee may be charged to the property owner for each additional inspection, in cases where the compliance measures have not been fully corrected within the first two inspections. It was determined that the current reinspection fees, which were last increased in 2004, are still valid rates (\$98 for each Zoning Investigator inspection or \$105 for each Combination Building Inspector inspection), however, the Development Services Department fee study is currently evaluating whether a single, hourly reinspection fee would be more appropriate, the results of which will be reported to the City Council at a future date.

The administrative citation program is currently recovering a portion of the general fund costs related to its implementation directly from the parties responsible for the nuisance noise. To date, 75 (\$1000) administrative citations have been issued through the program, although some penalties have been modified by the Hearing Officer through the appeal process averaging approximately \$800 per citation. Nine citations have been paid in full to date (\$11,274.40). Citation revenue collected is applied towards expenses related to investigations, issuance of citations, and preparation of materials for appeal hearings. It is anticipated that expansion of the program would result in approximately 400 citations and 340 appeal hearings per year and generate approximately \$272,000 in revenue (taking into account the appeal process and debt collection rates.) In order to effectively expand the program citywide, a mid year budget adjustment may be necessary in order to manage the noise violation cases and the associated increase in appeal hearings administered by Neighborhood Code Compliance. It is expected that

000013

administrative costs will be reduced within both the Police and Development Services Departments through increased efficiency during long term implementation of the program.

It is difficult to estimate the type of case volume that may be generated in response to citywide application of the Residential High Occupancy Permit and/or Rooming House Ordinance. However, as stated above, if these ordinances yield results similar to that of the previous mini dorm regulations, staff expects about 60-120 requests for investigation to be generated. Field work related to these impacts can initially be absorbed by the existing 38 field staff in Neighborhood Code Compliance. If the number of investigation requests exceeds the anticipated 120, additional staff (at a cost of \$90,196 per Zoning Investigator) may be requested through future budget adjustments. The Residential High Occupancy Permit would allow for recovery of some administrative and enforcement costs through adoption of an annual application fee of \$1000 (includes administrative, plan check and inspection costs). The Rooming House Ordinance has been analyzed separately by the City Attorney. The staffing need to enforce the Rooming House Ordinance may be similar to enforcement for the Residential High Occupancy Permit; however, there would be no mechanism to recover associated enforcement costs for the Rooming House Ordinance.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

Land Use and Housing Committee

On November 29, 2006, the Committee on Land Use and Housing (LU&H) received a report related to mini dorms/nuisance rental properties, and directed staff to prepare an ordinance to address mini dorms by amending the Land Development Code. LU&H also requested that staff return with information on the CAPP program including an analysis of whether SDPD has the authority to issue administrative citations directly to offenders for loud party calls, and requested clarification regarding the Neighborhood Code Compliance budget.

On March 7, 2007, LU&H received a follow up report related to mini dorms/nuisance rental properties, and voted 4-0 to support the 6-month SDPD/NCC Administrative Citation Pilot Program and report back to the Land Use and Housing Committee. LU&H also supported amendments to the Land Development Code to address mini dorms, encouraged monthly meetings within the community between various stakeholders, and supported SDSU's proposal to add a code enforcement representative to their staff.

On October 17, 2007, LU&H received a status report on the Administrative Citation Pilot Program. The Committee voted to support expansion of the program citywide and requested that staff return with a status report in six months following expansion citywide.

City Council

On July 9, 2007, the City Council unanimously approved amendments to the Land Development Code to address inconsistent physical development in single dwelling unit zones to address mini dorms (O-19650). As part of the motion, the Council requested that staff prepare ordinances for additional options to address the mini dorm problem including a Rooming House Ordinance and Residential High Occupancy Permit, and requested that staff identify funding sources to achieve greater cost recovery in order to hire additional code enforcement staff positions.

Code Monitoring Team

On August 8, 2007, the Rooming House Ordinance and Residential High Occupancy Permit concepts were presented to the Code Monitoring Team jointly by the City Attorney and DSD staff. The Code Monitoring Team (CMT) voted 7-0-1 to not support the Rooming House Ordinance based on concerns related to enforcement. CMT took a separate vote that passed 8-0 to encourage the Mayor and Council to hire additional enforcement staff to meet the need for both existing and proposed regulations. CMT did not take a formal vote on the Residential High Occupancy Permit, but generally supported the concept of requiring parking and a revocable permit for high occupancy dwelling units.

Planning Commission

On September 6, 2007, the Planning Commission voted 6-0-1 to recommend approval of the Residential High Occupancy Permit with the following recommendations that have been addressed within the body of the report:

- 1) Evaluate whether six adult occupants is the appropriate threshold.
- 2) Identify how the code enforcement penalties may be increased.
- 3) Evaluate the number of code enforcement staff to meet the associated need.
- 4) Require that an on-site responsible party be designated as part of the application.
Evaluate whether it also makes sense to require the owner to post the responsible party information on-site.
- 5) Evaluate whether an exemption/waiver provision may be incorporated to exempt economic integrated units from the permit requirement and/or permit fee.
- 6) Allow time for CPC, planning groups, universities, and public to consider information, but not too much time to slow momentum.

Community Planners Committee

On September 25, 2007, the Residential High Occupancy Permit ordinance was presented to the Community Planners Committee. No action was taken on the item.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

A significant amount of media coverage has occurred on the topic of mini dorms in recent months to solicit community participation including multiple press conferences and local television and newspaper coverage. On September 19, 2006, Development Services, Police, and City Attorney staff attended the "Mini Dorm Community Forum" where staff fielded a variety of questions from the community. The Forum was well attended by the College Area community (approximately 330 residents), and was broadcast live on City Channel 24. Enforcement staff

000015

now regularly meets with a variety of community stakeholders and residents groups including the College Area Community Council and San Diego State University.

The September 2006 Mini Dorm Forum lead to other opportunities for community participation in the mini dorm issue including: a May 2007 mini dorm discussion forum, individual Community Planning Group meetings, three Land Use and Housing Committee hearings (November 2006, and March and October 2007); two Code Monitoring Team meetings (April and August 2007); two City Council public hearings related the ordinance to address inconsistent physical development (July 2007); one Planning Commission meeting (September 2007); and one Community Planners Committee meeting (September 2007). Information has been distributed in formal staff reports and posted on a dedicated webpage for public review and comment. Announcements were made at public meetings and multiple email blasts were distributed (to citywide interest lists and other parties specifically interested in the mini dorm issue) to encourage public involvement in the code amendment process. A 6-week notice of availability was distributed and published in the Daily Transcript in accordance with the Coastal Act, as well as other typical hearing notices.

On September 29, 2007, the College Area Community Council (CACC) voted (7-2-2) to support the Residential High Occupancy Permit. CACC has been active in the mini dorm issue and has helped to distribute information about the various proposals and strategies to address mini dorms in their monthly community newsletters. The San Diego County Apartment Association also created a pamphlet and informational flyers. San Diego State University has participated in outreach efforts by including articles in the student paper and via the Associated Student sponsored Good Neighbor Program. SDPD is coordinating with SDSU, USD, and UCSD as related to the City's expansion of the Administrative Citation Program and related efforts to address mini dorms.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

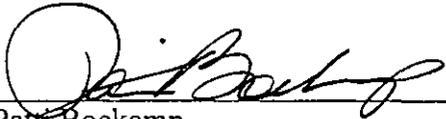
There are many stakeholders representing a wide spectrum of concerns with interest in the City's efforts to address mini-dorms, short term vacation rentals, and nuisance rental properties. They include, but are not limited to, single dwelling unit owners who occupy their residence, single dwelling unit owners who rent out their residence (short term and long term rentals), existing tenants, prospective home buyers, the College Area Community Council, the College Area Rental Landlord Association, the San Diego County Apartment Association, local colleges and universities, members of the real estate industry, and community planning groups such as Pacific Beach. Other groups with specific interest in the Residential High Occupancy Permit may include large families and individuals such as students that rely on shared housing accommodations. Various City enforcement services (police, neighborhood code enforcement, and city attorney code enforcement unit) are being impacted by the approximately 22,000 disturbance calls per year received, many of which are repeat offenders at identified nuisance rental properties.

000016

CONCLUSION:

The proposed Residential High Occupancy Permit would provide an additional enforcement tool to address "mini dorms" (high occupancy dwelling units). The Residential High Occupancy Permit may be implemented together with, or independent of, the Rooming House Ordinance. If approved, the Residential High Occupancy Permit would be used together with the zoning regulations, administrative citation program, CAPP program, and other enforcement tools to address problem "mini dorms" in order to preserve the character of single dwelling unit zones.

Respectfully submitted,



Patti Boekamp
Interim Development Services Director



William Anderson
Deputy Chief Operating Officer of
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BOEKAMP/KGB/AJL

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THE CITY OF SAN DIEGO

REPORT TO THE PLANNING COMMISSION

DATE ISSUED: August 29, 2007 **REPORT NO. PC-07-137**

ATTENTION: Planning Commission, Agenda of September 6, 2007

SUBJECT: RESIDENTIAL HIGH OCCUPANCY PERMIT - PROCESS 5

REFERENCE: Reports to Council 07-115, 07-048, 06-180, and 06-158, and IBA Report 07-69

SUMMARY

Issue(s): Should the Planning Commission recommend approval to the City Council of proposed amendments to the Land Development Code and Local Coastal Program to address "mini dorms" by requiring a Residential High Occupancy Permit for single dwelling units occupied by six or more adults?

Staff Recommendation: That the Planning Commission review and consider the proposed amendments related to a Residential High Occupancy Permit, and make a recommendation to the City Council.

Environmental Review: The proposed amendments are adequately addressed by three previous environmental documents which include: "Amendments to Address Mini Dorms and Preserve the Character of RS Zones Project No. 129501, Addendum to EIR No. 96-0333"; "Revisions to Land Development Code Project No. 96-7897, Addendum to EIR No. 96-0333"; and "Land Development Code EIR No. 96-0333". There is no change in circumstance, additional information, or project changes to warrant additional environmental review. Therefore, the activity is not a separate project for purposes of CEQA review pursuant to State CEQA Guidelines Section §15060(c)(3).

Fiscal Impact Statement: In order to address the volume of mini dorm related complaints, both the City's general fund and Development Services Department enterprise fund have been heavily impacted. The processing of amendments to the Land Development Code is funded as an overhead expense of the Development Services Department (DSD) budget enterprise fund, while the Neighborhood Code Compliance (NCC) function is funded by the general fund. In accordance with Mayor and Council

000018

direction, staff will utilize the City's existing administrative remedies to obtain greater cost recovery for enforcement cases related to mini dorms, and will continue to search for additional methods to achieve cost recovery. Currently, where NCC opens a case, the general fund service includes one initial inspection to determine whether a violation exists and a second inspection to verify compliance. A reinspection fee may be charged to the property owner for each additional inspection, in cases where the compliance measures have not been fully corrected within the first two inspections. The reinspection fees were last increased in 2004 to the current rate of \$98 for each Zoning Investigator inspection or \$105 for each Combination Building Inspector inspection. Staff is analyzing whether an increase in existing inspection fees is warranted and will make a recommendation to the City Council accordingly.

The proposed Residential High Occupancy Permit would have an associated annual fee of approximately \$1000 to recover administrative and enforcement costs including plan check and inspection costs. It is anticipated that four Zoning Investigator II positions and one Public Information Clerk position would be necessary to implement the Residential High Occupancy Permit at an approximate general fund cost of \$424,138. The Residential High Occupancy Permit would allow for recovery of some costs incurred for enforcement actions.

The Rooming House Ordinance has been analyzed separately by the City Attorney. It is anticipated that the staffing need to enforce the Rooming House Ordinance would be similar to enforcement for the Residential High Occupancy Permit, however, there would be no mechanism to recover associated enforcement costs for the Rooming House Ordinance. The administrative citation program is currently recovering some of the general fund costs related to its implementation. To date, 55 administrative citations (\$1000) have been issued at 22 properties, some of which have been reduced through the appeal process. Citation revenue collected is applied towards enforcement costs.

Code Enforcement Impact: The Neighborhood Code Compliance program has recently been impacted by an increase in calls to report "mini dorms", which are currently evaluated against physical development regulations in the Land Development Code or behavior related limitations in the Municipal Code to determine whether notices of violation and/or administrative citations are appropriate. In order to effectively address mini dorms, it is anticipated that additional code enforcement staff will be necessary. Staffing impacts for the proposed Residential High Occupancy Permit will likely have some overlap with impacts for the Rooming House Ordinance, and with the City's administrative citation program that is anticipated to be expanded citywide. (See fiscal impact analysis above.)

The proposed Residential High Occupancy Permit would add an additional enforcement tool to address single dwelling unit occupancy. Regulation of the number of occupants and/or leases is more challenging to enforce than current measurable codes such as setback, floor area ratio or parking. In response to reported violations under the proposed code, NCC staff will be required to collect documentation such as the number of vehicles or occupants per dwelling unit, with assistance from the City Attorney Code Enforcement

Unit, as appropriate. This type of investigation may require obtaining a court issued warrant to inspect inside of a private residence and to obtain copies of lease agreements, copies of utility bills, tax records, DMV records etc. all of which may be difficult to obtain. As a result, actions taken on a Residential High Occupancy Permit (issuance, denial, or revocation) could be contentious and require a significant amount of staff time.

Housing Impact Statement: High occupancy units are considered to be a negative impact on single dwelling unit neighborhoods due to associated noise and deficient parking. The proposed ordinance, which would require high occupancy units to provide adequate parking and minimize impacts to adjacent properties, is consistent with the General Plan, Community Plans, and the Land Development Code as they apply to single dwelling unit zones. The RS (Residential-Single Unit) zones are intended to "accommodate a variety of lot sizes and residential dwelling types" and "promote neighborhood quality, character, and livability." The ordinance would not apply to residential care facilities, housing for senior citizens, or transitional housing facilities, but may reduce available housing options for other groups or families that are unable to meet the proposed high occupancy parking requirement on a particular lot. The ordinance would allow for a reduced parking requirement in cases where an adult occupant does not have a driver's license or a vehicle.

BACKGROUND

"Mini dorms" are not defined in the Land Development Code or California Building Code, but the term is commonly used by members of the community to describe single dwelling units occupied by multiple adult tenants, which have been identified as a threat to communities throughout the City. As requested by the City Council on July 9, 2007, the proposed code amendments provide an additional tool to the City to address high occupancy single dwelling units. The Residential High Occupancy Permit would require additional parking per occupant with a revocable permit and includes an annual permit fee to recover associated administrative and enforcement costs. The Residential High Occupancy Permit could be implemented together with, or independent of, the Rooming House Ordinance, to supplement the regulations and enforcement programs currently in place to address mini dorms. (Draft code amendment language is provided in Attachment 1.)

The issue of how to regulate mini dorms has been a concern within the City for years due to associated disturbance and nuisance problems, especially in zones where such units are over-concentrated in a single neighborhood. On May 26, 1987, the City adopted the Single Family Rental Overlay Zone, which was followed by the One-Family Dwelling Rental Regulations, adopted on June 3, 1991. Both ordinances were legally challenged by the College Area Rental Landlord Association (CARLA), and were repealed December 9, 1997 after being declared unconstitutional by the courts. Since that time, the City has struggled with how to address the issue at the local level due to constraints at the state and federal levels that do not allow for renters and owners occupying properties that are similarly situated to be regulated differently. The resulting legal opinion suggested that the City can enforce different development standards (such as parking requirements) as long as they are applied equally to similarly situated properties.

Parking Regulations

The City currently utilizes permit districts and overlay zones to address parking impacted areas. Parking permit districts have been created to preserve on-street parking in campus impacted neighborhoods surrounding San Diego State University (District B) and Mesa College (District E). In addition, the parking impact overlay zone was created to require supplemental parking in beach impact areas (Map C-731) and campus impact areas (Map C-795). The campus impact area applies to neighborhoods surrounding SDSU, UCSD, and USD, where single dwelling units with five or more bedrooms are required to provide one parking space per bedroom.

One criticism of the existing parking requirements has been that they do not capture impacts of high occupancy dwelling units in locations outside of the designated campus impact area. The proposed Residential High Occupancy Permit would supplement the existing citywide parking requirements and ensure that high occupancy single dwelling units (six or more adults) provide adequate parking to minimize impacts to adjacent properties throughout the City.

Enforcement Programs

The majority of mini dorm complaints are related to tenant behavior in violation of existing codes such as noise, trash, parties, and threats/intimidation. In response, fines were recently increased in an effort to recover costs for repeat disturbance violations through a more aggressive code compliance program (Administrative Remedies Ordinance (O-19579)), a trial police administrative citation program is in process (\$1000 citations issued to tenants and property owners), and an improved Community Assisted Party Program (CAPP) was created to address chronic party houses. The trial administrative citation program has been especially successful in addressing nuisance behavior at identified party houses in the Mid City communities and the College Area. To date, 55 administrative citations have been issued through the trial program at 22 properties. The program is planned for expansion citywide as resources become available. (See Attachment 2 for additional information on enforcement efforts to address tenant behavior.)

The proposed Residential High Occupancy Permit would provide an additional enforcement tool to address mini dorms by limiting properties to lower occupancies (five or fewer adult tenants) where there is not adequate space for the associated parking need. Annual, unannounced inspections would be conducted and the Residential High Occupancy Permit would be revocable in case of multiple enforcement actions in a year, including administrative citations for noise violations as described above.

Public Outreach and Community Participation

Various grass roots activities have been organized to emphasize the importance of the issue to local communities, and a significant amount of media coverage has occurred including multiple press conferences and local television and newspaper coverage. The City has encouraged community participation in the solution by creating a dedicated web page with information and draft code language specific to mini dorms, distributing updates via email, attending and making announcements at public meetings, and publishing and mailing public notices, including the 6-week notice of availability and notice of public hearings.

Two community forums were held on September 19, 2006 and May 10, 2007, to listen to community concerns regarding mini dorms. The Land Use and Housing Committee considered

000021

reports on November 29, 2006 and March 7, 2007, with a variety of solutions to address mini dorms. LU&H voted to immediately pursue amendments to the Land Development Code, make improvements to the CAPP program, approve a trial Mid-City administrative citation program, and support the proposal by SDSU to add a code enforcement representative to their staff. At the time, LU&H did not take action on the more complex alternatives presented such as a rooming house ordinance, administrative use permit, or rental business permit.

City Council

On July 9, 2007, the City Council approved amendments related to physical development that are effective outside of the coastal zone. In order to become effective in the coastal zone, the amendments are subject to Coastal Commission certification. The approved amendments limit the number of bedrooms on smaller lots; limit hardscape areas for vehicular use; require additional parking per bedroom and limit garage conversions in campus impact areas; and modify single dwelling unit parking regulations. As part of the motion, the City Council requested Intergovernmental Affairs investigate changes that can be made to state law to address mini dorms, that the Mayor and Independent Budget Analyst report back to Council on the hiring of additional code enforcement staff to work specifically on neighborhood issues related to mini dorms, and directed the City Attorney to work with the Mayors staff to analyze additional strategies to address mini dorms such as the Rooming House Ordinance and Residential High Occupancy Permit. An exceptionally tight processing timeline was set for staff to return to Council for final action following Planning Commission.

Code Monitoring Team

On August 8, 2007, the Rooming House Ordinance and Residential High Occupancy Permit concepts were presented to the Code Monitoring Team jointly by the City Attorney and DSD staff. The Code Monitoring Team (CMT) voted 7-0-1 to not support the Rooming House Ordinance based on concerns related to enforcement. CMT took a separate vote that passed 8-0 to encourage the Mayor and Council to hire additional enforcement staff to meet the need for both existing and proposed regulations. CMT did not take a formal vote on the Residential High Occupancy Permit, but generally supported the concept of requiring parking and a revocable permit for high occupancy dwelling units.

DISCUSSION

In accordance with City Council direction on July 9, 2007, the proposed Residential High Occupancy Permit was modeled after a similar ordinance in the City of San Luis Obispo (Attachment 3). In summary, San Luis Obispo requires an annual "administrative use permit" for dwelling units occupied by six or more adults to encourage lower occupancies per dwelling unit. The use permits are issued to developments that meet the performance standards. According to their Deputy Director of Community Development, since the ordinance became effective in 1990, there have been six administrative permits denied, one revoked, and there are currently two active permits. This type of ordinance is generally more difficult to enforce than measurable development standards, but in the case of San Luis Obispo, it has provided a sufficient deterrent to high occupancy units and has resulted in a cultural change by landlords who now limit their rental units to a maximum of five adult occupants.

000022

Development Services, in consultation with the City Attorney, drafted language to implement a similar type of requirement, consistent with San Diego's Land Development Code. As is typical of all code amendment proposals, the code language was presented to the Code Monitoring Team for discussion. CMT recommended that the parking requirement (based on occupancy) be the criteria for permit approval, and that Residential High Occupancy Permits be revocable in case of violations. Due to the fact that the ordinance applies equally to related and unrelated individuals, CMT recommended against a provision for the responsible party information to be posted onsite. The responsible party information would instead be available to the public as part of the permit record.

The main policy question related to the proposal is how to balance the desired limitations on single dwelling units to prevent mini dorms, with the competing goals to meet the housing needs of all segments of the population and avoid unintended consequences for single family homeowners. The proposed Residential High Occupancy Permit encourages lower occupancy dwelling units consistent with the RS zone, which when combined with increased enforcement programs and the new development regulations is expected to reduce the prevalence of problem mini dorms. However, decision makers must also consider the fact that the regulations must be applied equally to renter and owner occupied units, which may have unintended consequences for large families and homes that are not considered to be part of the mini dorm problem.

Following are some frequently asked questions related to the proposal:

Can the City limit occupancy to a maximum of five adults per dwelling unit?

As advised by the City Attorney, the City is unable to set occupancy limits for single dwelling units that would conflict with federal or state law such as the California Building Code. The City can, however, require that sufficient parking is provided to support high occupancy living situations. The Residential High Occupancy Permit would not prevent multiple adults from living together in a single dwelling unit, but it would generally encourage lower occupancies of five or fewer adults, and permits could be revoked based on findings of deficient parking or as documented by associated enforcement actions. The City of San Luis Obispo has not been challenged on their ordinance since it became effective in 1990.

What is the relationship between the Rooming House Ordinance and the Residential High Occupancy Permit?

The Residential High Occupancy Permit may be implemented together with, or independent of, the Rooming House Ordinance. The Rooming House Ordinance regulates the number of lease agreements in a dwelling unit; it does not limit the occupancy of a dwelling unit. Due to concerns that property owners could circumvent the Rooming House Ordinance by utilizing a single lease agreement, the Council directed staff to research additional options to address high occupancy dwelling units to provide the City with multiple options to address problem mini dorms. The Residential High Occupancy Permit influences occupancy via parking requirements and other regulatory controls and enforcement remedies that allow the permit to be revoked. It is expected that calls of perceived violation will occur in similar volumes under either ordinance.

A hypothetical scenario would be that NCC receives a call alerting the City that six or more adults are living together in a single dwelling unit. The neighbors may likely perceive there is some type of violation based on the number of cars and people they see associated with the residence on a daily basis. Under the Rooming House Ordinance, the City is limited to enforcing the number of leases. So if NCC opened a rooming house violation case, the property owner could correct the violation by reducing the number of leases to less than three leases and the City's case would be closed. The Residential High Occupancy Permit provides an additional enforcement tool so that in addition, the property owner would also have to apply for a Residential High Occupancy Permit to demonstrate that there is adequate parking per adult occupant and the permit would be revocable in case of adverse impacts on the neighborhood as documented by multiple enforcement actions.

Would the Residential High Occupancy Permit apply citywide?

Yes. Currently single dwelling units are required to provide two parking spaces everywhere in the City, except in the campus impact area of the parking impact overlay zone where homes with five or more bedrooms must provide one parking space per bedroom. Some communities outside the campus impact area expressed concerns that the parking requirement of two spaces per dwelling unit does not meet the parking needs for units with higher occupancies. The Residential High Occupancy Permit would apply consistently throughout the City to require additional parking to meet an identified parking need for high occupancy dwelling units. Prior to applicability in the coastal zone, the ordinance will be subject to certification by the California Coastal Commission.

What is the relationship between the previously approved physical development regulations and the Residential High Occupancy Permit regulations?

In July 2007, the Council approved limitations on the number of bedrooms and the amount of hardscape in single dwelling unit zones to address inconsistent physical development associated with mini dorms. If the Residential High Occupancy Permit parking requirement is also passed, it would be especially difficult to accommodate high occupancy dwelling units on lots less than 10,000 square feet. Required parking spaces are subject to minimum dimensions and design standards and must be located outside of the front yard setback. Lots less than 10,000 square feet are further limited to a maximum of four surface parking spaces on the site as a whole, and a maximum of six bedrooms. Additionally, in the campus impact area, single dwelling units with five or more bedrooms are required to provide one parking space per bedroom with at least two of those required spaces provided in a garage. In a case where the Residential High Occupancy Permit requirement may conflict with the requirement per dwelling unit, the higher parking requirement would apply. For example, a single dwelling unit in the campus impact overlay zone with six bedrooms would require six parking spaces for any occupancy of seven or fewer occupants under the Residential High Occupancy Permit, but would require additional parking for each occupant beyond seven.

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Does the ordinance make reasonable accommodations for disabled persons?

Yes. The ordinance does not apply to residential care facilities, transitional housing facilities, or housing for senior citizens. In addition to the existing reasonable accommodations regulations in Section 131.0466, the Residential High Occupancy Permit would allow for a reduced parking requirement in cases of demonstrated need such as where an adult occupant does not have a driver's license or a vehicle.

Will the Residential High Occupancy Permit apply to owner occupied properties and/or families with six or more adults?

Yes. The permit requirement applies equally to renter and owner occupied properties. The parking impacts associated with adult occupants are expected to be the same regardless of the relationship between the adult occupants. Application of the ordinance to families with six or more adult occupants, may have some unintended consequences in certain communities, however, as explained above, where an adult occupant does not have a driver's license or a vehicle, such as a multi generational family in a single dwelling unit where the elderly parents no longer drive, the parking requirement may be reduced. Historically, the average household size in San Diego has been approximately 2.5 and average family size has been approximately 3.3.

Which mini dorm related regulations would apply to existing situations and which apply only to new development?

The ordinance related to physical development and the proposed Rooming House Ordinance apply to new development only. Existing development and/or rooming houses would have previously conforming rights, except that a 7-year amortization period is proposed after which all rooming houses must conform to new regulations. Since the Rooming House Ordinance affects only the number of lease agreements it is anticipated that owners will move from multiple lease agreements to a single lease to exempt themselves from the ordinance within the seven years. The Residential High Occupancy Permit would apply to all existing and new development with six or more adults residing in a single dwelling unit for 30 or more consecutive days. The Council will be asked to establish a grace period during which public outreach would be conducted to inform the public of the new regulations before penalties would be assessed for non compliance.

Would Parking Permit Districts be exempt from the Residential High Occupancy Permit?

No. Parking permit districts have been established in areas where there is an identified parking impact. A high occupancy unit is considered to be an additional impact on the neighborhood. Currently, property owners in permit parking districts may purchase up to four parking district permits per property. As proposed, a property owner may not use the parking district permits to satisfy on-premises parking requirements for the Residential High Occupancy Permit.

Would the Residential High Occupancy Permit apply to short term vacation rentals?

Short term vacation rentals involve a period of less than 30 days, therefore the Residential High

000025

Occupancy Permit would not apply. However, a similar type of permit strategy could also be considered to address short term vacation rentals. The short term rental of single dwelling units is a similar issue impacting the character of established single family neighborhoods that will be discussed in the forum of the City Council Committee on Land Use and Housing as part of a separate project.

Conclusion:

The proposed Residential High Occupancy Permit would provide an additional enforcement tool to address "mini dorms" (high occupancy dwelling units). The Residential High Occupancy Permit may be implemented together with, or independent of, the Rooming House Ordinance. If approved, the Residential High Occupancy Permit would be used together with the zoning regulations, administrative citation program, CAPP program, and other enforcement tools to address problem "mini dorms" in order to preserve the character if single dwelling unit zones.

ALTERNATIVES

1. Recommend Approval of the Residential High Occupancy Permit code amendments,
2. Recommend Approval of the Residential High Occupancy Permit code amendments, with modifications, or
3. Recommend Denial of the Residential High Occupancy Permit code amendments.

Respectfully submitted,



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Acting Director
Development Services Department



Amanda Lee, Senior Planner
Development Services Department

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Attachments:

1. Draft Ordinance Language
2. Enforcement Efforts to Address Mini Dorms
3. San Luis Obispo Administrative Use Permit

Article 3: Zoning
Division 5: Residential High Occupancy Permit

§123.0501 Purpose of Residential High Occupancy Permit

The purpose of these procedures is to provide for annual review of high occupancy *single dwelling units* for conformance with the applicable zoning regulations by ensuring that high occupancy units provide adequate parking and minimize impacts to adjacent properties.

§123.0502 When a Residential High Occupancy Permit Is Required

(a) A Residential High Occupancy Permit is required for a *single dwelling unit* when the occupancy of the dwelling unit would consist of six or more persons eighteen years of age and older residing in the dwelling unit for a period of 30 or more consecutive days.

(1) Prior to the rental or sale of a *single dwelling unit*, the property owner shall disclose the requirement for a Residential High Occupancy Permit to prospective tenants.

(2) The Residential High Occupancy Permit requirement shall apply to a *single dwelling unit* described in Section 123.0502(a) regardless of whether six or more persons eighteen years of age and older resided in the dwelling unit prior to the effective date of this ordinance.

(b) Housing for senior citizens, residential care facilities, and transitional housing facilities are exempt from the requirement for a Residential High Occupancy Permit, but are otherwise subject to the use regulations in Chapter 14, Article 1.

[Language will be included in the implementing ordinance to set a phase in period to allow existing high occupancy dwelling units time without penalty to apply for the required Residential High Occupancy Permit.]

§123.0503 How to Apply for a Residential High Occupancy Permit

(a) Within 30 days of an increase in *single dwelling unit* occupancy that results in six or more persons eighteen years of age and older residing in a *single dwelling unit* for a period of 30 or more consecutive days, a

property owner shall apply for a Residential High Occupancy Permit in accordance with Section 112.0102.

- (b) The Residential High Occupancy Permit application and applicable fees shall be resubmitted annually by the property owner to ensure compliance with the provisions of this division.

§123.0504 Decision on a Residential High Occupancy Permit

- (a) A decision on an application for a Residential High Occupancy Permit shall be approved in accordance with Process One.
- (b) The applicant shall demonstrate on submitted plans that one off-street parking space per occupant eighteen years of age and older, less one, will be accommodated on the premises. In cases where an occupant eighteen years of age and older does not have a vehicle or a valid driver's license, the applicant shall provide evidence to the satisfaction of the City Manager to demonstrate the need for a lower parking requirement, which shall be documented in the permit record.
- (c) In case of conflict between the requirements of this section and the Parking Impact Overlay Zone, the higher of the applicable parking requirements shall apply.
- (d) Parking spaces shall conform to regulations in Chapter 14, Article 2.

§123.0505 Issuance of a Residential High Occupancy Permit

- (a) The City Manager shall issue the Residential High Occupancy Permit when the required fees have been paid, a copy of the lease agreement has been provided, and the permit has been approved.
- (b) A Residential High Occupancy Permit shall not be issued to a property with a pending code violation case.
- (c) The permit shall be valid for a 12-month period, except that an increase in occupancy or the number of vehicles in excess of that authorized under the permit shall require a new permit application and fees.

§123.0506 Enforcement and Administrative Remedies

Violations shall be subject to the identified enforcement and administrative remedies identified in Chapter 12, Article 1, including revocation of a previously approved Residential High Occupancy Permit in the event two or more administrative enforcement actions are taken regarding the subject property within a calendar year. The City shall have the authority to recover costs from the

applicant associated with staff time investigating legitimate complaints that result in the issuance of a citation.

§131.0422 Use Regulations Table for Residential Zones

The uses allowed in the residential zones are shown in the Table 131-04B.

Legend for Table 131-04B

Symbol In Table 131-04B	Description Of Symbol
P	Use or use category is permitted. Regulations pertaining to a specific use may be referenced.
L	Use is permitted with limitations, which may include location limitations or the requirement for a use or development permit. Regulations are located in Chapter 14, Article 1 (Separately Regulated Use Regulations).
N	Neighborhood Use Permit Required. Regulations are located in Chapter 14, Article 1 (Separately Regulated Use Regulations).
C	Conditional Use Permit Required. Regulations are located in Chapter 14, Article 1 (Separately Regulated Use Regulations).
-	Use or use category is not permitted.

**Table 131-04B
Use Regulations Table of Residential Zones**

Use Categories/ Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator		Zones																						
	1st & 2nd >>	RE-	RS-												RX-		RT-								
		3rd >>	I-	I-												I-	I-								
		4th >>	1	2	3	1	2	3	4	5	6	7	8	9	10	11	12	13	14	1	2	1	2	3	4
Residential																									
Group Living Accommodations		-																	-						
Mobilehome Parks		-																	P ⁽¹⁾						
Multiple Dwelling Units		-																	-						
Single Dwelling Units		P																	P ⁽¹⁾						
Separately Regulated Residential Uses																									
Boarder & Lodger Accommodations		L																	L						
Companion Units		L																	L						
Employee Housing:																									
6 or Fewer Employees		L																	L						
12 or Fewer Employees		-																	-						
Greater than 12 Employees		-																	-						
Fraternities, Sororities and Student Dormitories		-																	-						
Garage, Yard, & Estate Sales		L																	L						
Guest Quarters		N																	N						
Home Occupations		L																	L						

Use Categories/ Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator		Zones																				
	1st & 2nd >>	RE-	RS-												RX-		RT-						
		3rd >>	I-												I-		I-						
		4th >>	1	2	3	1	2	3	4	5	6	7	8	9	10	11	12	13	14	1	2	1	2
Housing for Senior Citizens		C	C												C		C						
Live/Work Quarters		-	-												-		-						
Residential Care Facilities:																							
6 or Fewer Persons		P	P												P		P						
7 or More Persons		C	C												C		C						
Transitional Housing:																							
6 or Fewer Persons		P	P												P		P						
7 or More Persons		C	C												C		C						
Watchkeeper Quarters		-	-												-		-						

Footnotes for Table 131-04B

- 1 Development of a mobilehome park in any RS or RX zone is subject to Section 143.0302.
- 2 Development of a mobilehome park in the RM zones is subject to Section 143.0302.
- 3 This use is permitted only if as an accessory use, but shall not be subject to the accessory use regulations in Section 131.0125.
- 4 The 40,000 square feet includes all indoor and outdoor areas that are devoted to the recreational use; it does not include customer parking areas.
- 5 Non-owner occupants must reside on the premises for at least 7 consecutive calendar days.
- 6 Two guest rooms are permitted for visitor accommodations per the specified square footage of lot area required per dwelling unit (maximum permitted density), as indicated on Table 131-04G.
- 7 See Section 131.0423(c).
- 8 See Section 131.0423(a).
- 9 See Section 131.0423(b).
- 10 Maintaining, raising, feeding, or keeping of 10 or more domestic animals requires a premises of at least 5 acres. Maintaining, raising, feeding, or keeping of swine is not permitted.

11. A Residential High Occupancy Permit is required in accordance with Section 123.0502 for a single dwelling unit when the occupancy of the dwelling unit would consist of six or more persons eighteen years of age and older residing in the dwelling unit for a period of 30 or more consecutive days.

§142.0520 Single Dwelling Unit Residential Uses — Required Parking Ratios

The required number of *off-street parking spaces* for *single dwelling units* and related uses are shown in Table 142-05B.

Table 142-05B
Minimum Required Parking Spaces for
Single Dwelling Units and Related Uses

Type of Unit and Related Uses	Number of Required Parking Spaces
All <i>single dwelling units</i> , except those with five or more <i>bedrooms</i> in campus impact areas (See Chapter 13, Article 2, Division 8)	2 spaces per dwelling unit ⁽¹⁾
<i>Single dwelling units</i> with five or more <i>bedrooms</i> in campus impact areas (See Chapter 13, Article 2, Division 8)	1 space per <i>bedroom</i> (previously conforming parking regulations in Section 142.0510 (d) do not apply) ⁽²⁾
<u>High occupancy <i>single dwelling units</i> subject to Section 123.0502</u>	<u>1 space per occupant eighteen years of age and older, less one space (previously conforming parking regulations in Section 142.0510 (d) do not apply)</u>
Housing for senior citizens (maximum 1 bedroom)	1 space per dwelling unit

Footnotes for Table 142-05B

- 1 *Single dwelling units* that do not provide a driveway at least 20 feet long, measured from the back of the sidewalk to that portion of the driveway most distant from the sidewalk, as illustrated in Diagram 142-05A, shall provide two additional parking spaces. These parking spaces may be on-street, abutting the subject property, but shall conform to Section 142.0525(c)(4).
- 2 In campus impact areas, new *single dwelling unit development* with 5 or more *bedrooms* shall provide a minimum of 2 parking spaces in a garage. Where an existing garage is proposed for conversion to habitable area, garage parking shall be replaced with an equivalent number of garage parking spaces on the *premises*.

Enforcement Efforts to Address Mini Dorm Tenant Behavior

Administrative Citation Program

- The Administrative Citation Pilot Program allows SDPD when responding to a party call to issue a warning or administrative citations (\$1,000) to the tenants of the house. Property owners are also cited where houses have been CAPP designated. The program allows issuance of the citation at the time of the disturbance and has been an effective tool where police officers are denied access by tenants.
- Since the program was initiated on April 30, 2007, 55 administrative citations have been issued at 22 properties; including 4 property owners.
- The Mid City pilot administrative citation program will be evaluated for potential expansion in November 2007 by the LU&H Council Committee. Expansion of the administrative citation program will require hiring and training additional staff (general fund impact).
- For additional information on the administrative citation program or to report a code violation, please contact Neighborhood Code Compliance at (619) 236-5500. To report a loud party, please contact the SDPD non emergency line at (619) 531-2000.

Administrative Enforcement Remedies Ordinance

- The Administrative Enforcement Remedies Ordinance (O-19579) was passed in February 2007 to increase the City's penalty fine amounts, grant authority for broader use of administrative citations, and clarify language to allow for greater cost recovery. (The City's administrative remedies had last been updated in 1990.)
- Code Compliance officers/inspectors have flexibility to impose penalty as appropriate in relationship to the severity of the violation up to a maximum \$1,000 administrative citation. Fines are no longer required to start with the lowest \$100 penalty and increase sequentially with subsequent violations.

CAPP Program

- Program administered by Police Department to track chronic party houses. SDPD enforces zero tolerance policy at future calls to CAPP designated houses. Properties may be CAPP'd if there are two police responses in a 30 day period, if police response results in an immediate arrest(s), or as concluded by an investigation conducted in response to neighbor petition. As of January 19, 2007, 19 houses CAPP'd by the Police Department; with 2 additional houses CAPP'd in June 2007.
- Mid City (1989) and Northern (1997) Division programs were merged into a single program which has improved efficiency and consistency in CAPP program citywide

- For additional information on the CAPP program or to report a chronic party house, please contact the SDPD CAPP coordinator at (619) 516-3000.

Mid City Community Court

- Community court is comprised of a Deputy City Attorney, Case Manager, and two trained community members. Over 100 cases were heard in 2006.
- For some misdemeanor quality of life violations, offenders can avoid a criminal record by attending community court, complying with penalty (ie community service, rehab programs, fines and administrative fees), and remaining law abiding for 1 year

SDSU Participation in College Area Enforcement Efforts

- SDSU code enforcement (trained by City staff) is now issuing citations on evenings and weekends for code violations visible from the public right-of-way
- SDSU police address all disturbance complaints related to SDSU fraternity, sorority or residence halls including issuance of misdemeanor citations and citations for noise. SDSU police coordinates with SDPD to exchange information on party locations.
- SDSU Associated Students sponsor a Good Neighbor Program which sends out student teams to identify and meet with party houses. This has been effective; SDPD revisited only 3 of the 150+ properties the Associated Students visited.
- The SDSU student code of conduct was expanded to include some off campus areas and allows for academic sanctions; 92 students were disciplined since the modified CSU Trustee policy went into effect.

Second Response Ordinance

- The Second Response Ordinance(O-17303) was approved in 1989 (SDMC Chapter 5, Article 1, Division 10) to allow for recovery of costs (up to \$500 for a single incident) for use of Police Services to respond to disturbance calls for events on private property with five or more persons

Social Host Ordinance

- The Social Host Ordinance was adopted in 2003 and amended in 2006 (O-19482).
- It is unlawful for any person to knowingly host a gathering and allow a minor to consume alcohol on the premises. A social host shall take all reasonable steps to prevent consumption of alcoholic beverages by a minor (SDMC Chapter 5, Article 6).
- Criminal violations shall be punishable, on a first offense, by a mandatory minimum fine of \$100.00, plus statutory penalty assessments, and, on second and subsequent offenses, by a fine of \$200.00, plus statutory penalty assessments.

000035

city of san luis obispo
 zoning regulations

FEBRUARY 2007

Chapter 17.93: High-Occupancy Residential Use Regulations

Sections:

- 17.93.010 Purpose.
- 17.93.020 Definitions.
- 17.93.030 General requirements.
- 17.93.040 Performance standards.
- 17.93.050 Administration.
- 17.93.060 Periodic review, violations and enforcement.

17.93.010 Purpose.

This chapter is intended to promote the quality of life in low-density and medium-density residential neighborhoods by ensuring that dwellings provide adequate support facilities. (Ord. 1154 § 1 (part), 1990)

17.93.020 Definitions.

- A. "Adult" means a person eighteen years of age and older.
- B. "High-occupancy residential use" means any dwelling, other than a "residential care facility" as defined in Section 17.100.180, in the R-1 or R-2 zones when the occupancy of the dwelling consists of six or more adults.
- C. "Tandem parking" means the arrangement of parking where no more than two cars are arranged in tandem, one in front of the other. (Ord. 1154 § 1 (part), 1990)

17.93.030 General requirements.

- A. **Applicability.** A high-occupancy residential use is allowed in the R-1 and R-2 zones subject to the performance standards set forth in Section 17.93.040.
- B. **Relation to Zone Standards.** Where this chapter does not contain a particular type of standard or procedure, conventional zoning standards shall apply.
- C. **Exceptions or Variances.** Nothing in this section prohibits applicants from requesting exceptions or variances from the strict interpretation of zoning regulations to the extent allowed by said regulations for any use. (Ord. 1154 § 1 (part), 1990)

17.93.040 Performance standards.

- A. Upon approval of an administrative use permit, as defined by Chapter 17.58, a high-occupancy residential use may be established with occupancy of six or more adults. The purpose of the use permit is to ensure compliance with the performance standards described in this section, and to ensure the compatibility of the use at particular locations.
 1. The dwelling must contain a minimum three hundred square feet of gross floor area, less garage area, per adult.

000036

city of san luis obispo
zoning regulations

FEBRUARY 2007

2. The parking requirement shall be the greater of:
 - a. The number of spaces required for dwellings as described in Section 17.16.060; or
 - b. One off-street parking space per adult occupant, less one.
3. The parking of one vehicle within a required street yard or setback is allowed. Parking in other yards is prohibited.
4. Each required parking space shall be of an all-weather surface.
5. Upon approval of the community development director, parking may be provided in tandem.
6. There shall be a minimum of one bathroom provided for every three adult occupants.
7. The dwelling must meet all current building, health, safety and fire codes and have been built with all required permits. (Ord. 1154 § 1 (part), 1990)

17.93.050 Administration.

- A. Permit Requirement. For high-occupancy residential uses with six or more adult occupants, the applicant shall apply for and obtain an administrative use permit as defined by zoning regulations. The applicant shall submit and certify the following information as part of the application for an administrative use permit:
1. Address of dwelling;
 2. A site plan which shows:
 - a. The entire boundary of the site as well as adjacent structures within twenty feet;
 - b. The number and location of off-street parking spaces;
 - c. The gross floor area of the dwelling in square feet;
 - d. The floor plan for the dwelling with the rooms clearly labeled;
 3. The number of proposed adult occupants;
 4. Owner's signature;
 5. Any other information deemed necessary by the community development director. (Ord. 1154 § 1 (part), 1990)

17.93.060 Periodic review, violations and enforcement.

- A. Period Review. High-occupancy residential uses shall be reviewed annually to ensure compliance with the provisions of this chapter. The use permit shall be reviewed annually for compliance with this chapter. It shall be the responsibility of the property owner to initiate the review and pay applicable fees.

000037

city of san luis obispo
zoning regulations

february 2007

- B. **Violations.** Violation of any of the provisions of this chapter shall be the basis for enforcement action by the city which may include revocation of a previously approved use permit. (Ord. 1154 § 1 (part), 1990)

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REQUEST FOR COUNCIL ACTION
CITY OF SAN DIEGO

1. CERTIFICATE NUMBER
(FOR AUDITOR'S USE ONLY)
N/A

TO: CITY ATTORNEY
2. FROM (ORIGINATING DEPARTMENT): DEVELOPMENT SERVICES DEPARTMENT
3. DATE: 10/18/2007

4. SUBJECT: RESIDENTIAL HIGH OCCUPANCY PERMIT AND ENFORCEMENT EFFORTS TO ADDRESS MINI DORMS

5. PRIMARY CONTACT (NAME, PHONE, & MAIL STA.)
Amanda Lee (619) 446-5367, MS 501
6. SECONDARY CONTACT (NAME, PHONE, & MAIL STA.)
Dan Joyce (619) 446-5388, MS 501
Anna McPherson (619) 446-5276, MS 501
7. CHECK BOX IF REPORT TO COUNCIL IS ATTACHED
 Executive Summary

8. COMPLETE FOR ACCOUNTING PURPOSES

FUND					9. ADDITIONAL INFORMATION / ESTIMATED COST:
DEPT.	1300				Work on this project is funded as an overhead expense in the Development Services (enterprise fund) budget. A fee is being established for the permit to cover a portion of the associated administrative costs.
ORGANIZATION	1291				
OBJECT ACCOUNT					
JOB ORDER	55503				
C.I.P. NUMBER					
AMOUNT	\$0				

10. ROUTING AND APPROVALS

ROUTE (#)	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED	ROUTE (#)	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED
1	ORIG. DEPT	KELLY BROUGHTON	10/29/07	8	CITY ATTORNEY	MARIANNE GREENE	11/2/07
2	ENVIRONMENTAL	KENNETH TEASLE	10/26/07	9			
3	DEPARTMENT DIRECTOR	PATTI BOEKAMP	10/29/07	10			
4	CFO			11	ORIG. DEPT		
5	AUDITOR	SALLY ENRIQUEZ	10/29/07	DOCKET COORD: _____ COUNCIL LIAISON _____			
6	DEPUTY CHIEF	WILLIAM ANDERSON	10/29/07	COUNCIL PRESIDENT <input type="checkbox"/> SPOB <input type="checkbox"/> CONSENT <input type="checkbox"/> ADOPTION <input type="checkbox"/>			
7	COO			REFER TO: _____ COUNCIL DATE: _____			

11. PREPARATION OF: RESOLUTION(S) ORDINANCE(S) AGREEMENT(S) DEED(S)

Preparation of ordinance to amend Land Development Code Chapter 12, Article 3; Chapter 13, Article 1; and Chapter 14, Article 2 to:

- Create a new Chapter 13, Article 3, Division 5 Residential High Occupancy Permit. Specify the permit purpose, when required, how to apply, decision process, issuance of permit, and enforcement in new sections 123.0501 et al. The permit would require annual review and permit fees to ensure the parking requirement is met, and would be revocable in the case of violations.
- Amend Section 131.0422 Table 131-04B to indicate that the Residential High Occupancy Permit applies to single dwelling units in all RS zones with six or more adults (age 18 years of age and older) residing for 30 or more consecutive days.
- Amend Section 142.0520 Table 142-05B to indicate the parking requirement of 1 space per occupant (age eighteen years of age and older) less one parking space.
- Ordinance to become effective outside of the coastal zone 30 days from final action by the City Council. Ordinance to become effective in the coastal zone upon the date of unconditional certification by the California Coastal Commission.
- That a \$1000 application fee shall be adopted as part of this ordinance to cover administrative, plan check, and inspection costs associated with the Residential High Occupancy Permit.
- That application for a Residential High Occupancy Permit shall not be required until six months after final passage to allow for additional public outreach and education.

11A. STAFF RECOMMENDATIONS:

Introduce the Residential High Occupancy Permit ordinance amending the Land Development Code and Local Coastal Program, and either adopt, modify or do not adopt. (Adoption of the ordinance would include adoption of a \$1000 Residential High Occupancy Permit application fee to cover administrative, plan check, and inspection costs.)

12. SPECIAL CONDITIONS (REFER TO A.R. 3.20 FOR INFORMATION ON COMPLETING THIS SECTION.)**COUNCIL DISTRICT(S):** Citywide**COMMUNITY AREA(S):** Citywide

ENVIRONMENTAL IMPACT: This activity is covered under Amendments to Address "Mini Dorms" and Preserve the Character of RS Zones Project No. 129501, Addendum to EIR No. 96-0333; Revisions to Land Development Code Project No. 96-7897, Addendum to EIR No. 96-0333; and Land Development Code EIR No. 96-0333. The activity is adequately addressed in the environmental documents and there is no change in circumstance, additional information, or project changes to warrant additional environmental review. Therefore, the activity is not a separate project for purposes of CEQA review pursuant to State CEQA Guidelines Section §15060(c)(3).

FISCAL CONSIDERATIONS: In order to address the volume of mini dorm related complaints, both the City's general fund and Development Services Department enterprise fund have been impacted. The processing of amendments to the Land Development Code is funded as an overhead expense of the Development Services Department (DSD) budget enterprise fund, while the Neighborhood Code Compliance (NCC) function is funded by the general fund. In accordance with Mayor and Council direction, staff will utilize the City's existing administrative remedies to obtain greater cost recovery for enforcement cases related to mini dorms, and will continue to search for additional methods to achieve cost recovery. Currently, where NCC opens a case, the general fund service includes one initial inspection to determine whether a violation exists and a second inspection to verify compliance. A reinspection fee may be charged to the property owner for each additional inspection, in cases where the compliance measures have not been fully corrected within the first two inspections. It was determined that the current reinspection fees, which were last increased in 2004, are still valid rates (\$98 for each Zoning Investigator inspection or \$105 for each Combination Building Inspector inspection), however, the Development Services Department fee study is currently evaluating whether a single, hourly reinspection fee would be more appropriate, the results of which will be reported to the City Council at a future date.

The administrative citation program is currently recovering a portion of the general fund costs related to its implementation directly from the parties responsible for the nuisance noise. To date, 75 (\$1000) administrative citations have been issued through the program, although some penalties have been modified by the Hearing Officer through the appeal process averaging approximately \$800 per citation. Nine citations have been paid in full to date (\$11,274.40). Citation revenue collected is applied towards expenses related to investigations, issuance of citations, and preparation of materials for appeal hearings. It is anticipated that expansion of the program would result in approximately 400 citations and 340 appeal hearings per year and generate approximately \$272,000 in revenue (taking into account the appeal process and debt collection rates.) In order to effectively expand the program citywide, a mid year budget adjustment may be necessary in order to manage the noise violation cases and the associated increase in appeal hearings administered by Neighborhood Code Compliance. It is expected that administrative costs will be reduced within both the Police and Development Services Departments through increased efficiency during long term implementation of the program.

It is difficult to estimate the type of case volume that may be generated in response to citywide application of the Residential High Occupancy Permit and/or Rooming House Ordinance. However, as stated above, if these ordinances yield results similar to that of the previous mini dorm regulations, staff expects about 60-120 requests for investigation to be generated. Field work related to these impacts can initially be absorbed by the existing 38 field staff in Neighborhood Code Compliance. If the number of investigation requests exceeds the anticipated 120, additional staff (at a cost of \$90,196 per Zoning Investigator) may be requested through future budget adjustments. The Residential High Occupancy Permit would allow for recovery of some administrative and enforcement costs through an adoption of an annual application fee of \$1000 (includes administrative, plan check, and inspection costs). The Rooming House Ordinance has been analyzed separately by the City Attorney. It is anticipated that the staffing need to enforce the Rooming House Ordinance would be similar to enforcement for the Residential High Occupancy Permit; however, there would be no mechanism to recover associated enforcement costs for the Rooming House Ordinance.

HOUSING IMPACT: High occupancy units are considered to be a negative impact on single dwelling unit neighborhoods due to associated noise and deficient parking. The proposed ordinance, which would require high occupancy units to provide adequate parking and minimize impacts to adjacent properties, is generally consistent with the General Plan, Community Plans, and the Land Development Code as they apply to single dwelling unit zones. The RS (Residential-Single Unit) zones are intended to "accommodate a variety of lot sizes and residential dwelling types" and "promote neighborhood quality, character, and livability." The ordinance would not apply to residential care facilities, housing for senior citizens, or transitional housing facilities. The ordinance may reduce available housing options for other groups or families that are unable to meet the proposed parking requirement on a particular lot; however, the parking requirement may be reduced where applicants can demonstrate that the actual number of vehicles would not exceed the number of required spaces per adult occupant. Housing affordability for some groups that currently live together out of financial necessity may be negatively impacted due to the annual permit fee.

CITY CLERK INSTRUCTIONS: Mail Notice of Public Hearing to citywide, always and local coastal program lists. Publish Notice of Public Hearing as one-eighth page advertisement in newspaper. Send draft copy of docket entry to Project Manager for review. Please notify Project Manager of the effective date of the ordinance (following adoption by the City Council and Mayor signature process).

000041

EXECUTIVE SUMMARY SHEET
CITY OF SAN DIEGO

DATE ISSUED: November 14, 2007 REPORT NO: 07-179
ATTENTION: Council President and City Council
ORIGINATING DEPARTMENT: Development Services
SUBJECT: Residential High Occupancy Permit and Enforcement Efforts
to Address Mini Dorms
COUNCIL DISTRICT(S): Citywide
CONTACT/PHONE NUMBER: Amanda Lee (619) 446-5367

REQUESTED ACTION:

Consider whether to approve amendments to the Land Development Code and Local Coastal Program to address "mini dorms" by requiring a Residential High Occupancy Permit (RHOP) for single dwelling units with six or more adult occupants (age 18 and older) that reside for 30 or more consecutive days, and establish the date for existing high occupancy units to comply.

STAFF RECOMMENDATION:

Introduce the Residential High Occupancy Permit ordinance amending the Land Development Code and Local Coastal Program, and either adopt, modify or do not adopt the ordinance. Since the RHOP revenue and impacts are difficult to predict, enforcement staff levels should be re-evaluated at a future date.

EXECUTIVE SUMMARY:

As requested by the City Council on July 9, 2007, the Residential High Occupancy Permit ordinance was drafted to provide an additional enforcement tool to address mini dorms by ensuring that high occupancy single dwelling units provide adequate parking and minimize impacts on surrounding properties. RHOP would apply to residences with six or more adult occupants (age 18 and older) residing for 30 or more consecutive days. The permit would require additional parking per adult occupant less one, thereby limiting the number of vehicles and requiring lower occupancies where there is not adequate space for the associated parking need. An annual application fee would be collected to recover associated administrative, inspection, and enforcement costs. The permit would be revocable in case of noncompliance.

FISCAL CONSIDERATIONS:

It is difficult to estimate the type of case volume that may be generated in response to citywide application of the Residential High Occupancy Permit and/or Rooming House Ordinance. However, as stated above, if these ordinances yield results similar to that of the previous mini dorm regulations, staff expects about 60-120 requests for investigation to be generated. Field work related to these impacts can initially be absorbed by the existing 38 field staff in Neighborhood Code Compliance. If the number of investigation requests exceeds the anticipated 120, additional staff (at a cost of \$90,196 per Zoning Investigator) may be requested through future budget adjustments. The Residential High Occupancy Permit would allow for recovery of some administrative and enforcement costs through adoption of an annual application fee of \$1000 (includes administrative, plan check, and inspection costs). The Rooming House Ordinance has been analyzed separately by the City Attorney. It is anticipated that the staffing need to enforce the Rooming House Ordinance would be similar to enforcement for the

Residential High Occupancy Permit; however, there would be no mechanism to recover associated enforcement costs for the Rooming House Ordinance.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

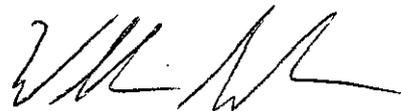
On November 29, 2006, the Committee on Land Use and Housing (LU&H) received a report related to mini dorms/nuisance rental properties, and directed staff to prepare an ordinance to address mini dorms by amending the Land Development Code. LU&H also requested that staff return with an analysis of whether SDPD has the authority to issue administrative citations directly to offenders for loud party calls, and requested clarification regarding the Neighborhood Code Compliance budget. On March 7, 2007, LU&H received a follow up report related to mini dorms/nuisance rental properties, and voted 4-0 to support the 6-month SDPD/NCC Administrative Citation Pilot Program and report back to the Land Use and Housing Committee. LU&H also supported amendments to the Land Development Code to address mini dorms, encouraged monthly meetings within the community between various stakeholders, and supported SDSU's proposal to add a code enforcement representative to their staff. On July 9, 2007, the City Council unanimously approved amendments to the Land Development Code to address inconsistent physical development in single dwelling unit zones to address mini dorms. As part of the motion, the Council requested that staff prepare ordinances for additional options to address the mini dorm problem including a Rooming House Ordinance and Residential High Occupancy Permit, and requested that staff identify funding sources to achieve greater cost recovery in order to hire additional code enforcement staff positions. On October 17, 2007, LU&H received a status report on the Administrative Citation Pilot Program. The Committee voted to support expansion of the program citywide and requested that staff return with a status report in six months following expansion citywide.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

A significant amount of media coverage has occurred on the topic of mini dorms in recent months to solicit community participation including multiple press conferences and local television and newspaper coverage. Opportunities for community participation in the mini dorm issue include: two mini dorm discussion forums (September 2006 and May 2007), individual Community Planning Group meetings, three Land Use and Housing Committee hearings (November 2006, and March and October 2007); two Code Monitoring Team meetings (April and August 2007); two City Council public hearings related the ordinance to address inconsistent physical development (July 2007); one Planning Commission meeting (September 2007); and one Community Planners Committee meeting (September 2007). Information has been posted on a dedicated webpage for public review and comment with multiple email blasts distributed (to citywide interest lists and other parties specifically interested in the mini dorm issue) to encourage public involvement in the code amendment process.



Patti Boekamp, Interim Director
Development Services Department



William Anderson
Deputy Chief/Chief Operating Officer

CITY ATTORNEY DIGEST

DATE OF FINAL PASSAGE _____

EFFECTIVE DATE _____

The purpose of the Residential High Occupancy Permit ordinance is to ensure that high occupancy single dwelling units with six or more adult occupants (age 18 and older) residing for a period of thirty or more consecutive days provide adequate parking, including one parking space per adult occupant less one parking space.

The intent of this ordinance is to preserve community character in single dwelling units zones consistent with the residential-single unit zones which are intended to "accommodate a variety of lot sizes and residential dwelling types" and "promote neighborhood quality, character, and livability." The adoption of the Residential High Occupancy Permit ordinance would establish an annual permit, with an annual fee and inspections, that would allow for revocation of the permit in case of administrative enforcement actions.

The ordinance would amend both the Land Development Code and the Local Coastal Program and apply Citywide.

This ordinance contains a notice that a full reading of this ordinance is dispensed with prior to its final passage, since a written or printed copy will be available to the City Council and the public a day prior to its final passage.

The ordinance takes effect outside the Coastal Overlay Zone thirty days after final passage; inside the Coastal Overlay Zone it takes effect upon unconditional certification by the California Coastal Commission.

A complete copy of the Ordinance is available for inspection in the Office of the City Clerk of the City of San Diego, 2nd Floor, City Administration Building, 202 C Street, San Diego, CA 92101.

MG:mg
11/02/07
Or.Dept: City Attorney
O-2008-57

ORDINANCE NUMBER O-_____ (NEW SERIES)

DATE OF FINAL PASSAGE _____

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO AMENDING THE LAND DEVELOPMENT CODE BY ADDING CHAPTER 12, ARTICLE 3, DIVISION 5, BY ADDING SECTIONS 123.0501, 123.0502, 123.0503, 123.0504, 123.0505 AND 123.0506; BY AMENDING CHAPTER 13, ARTICLE 1, DIVISION 4, BY AMENDING SECTION 131.0422 TABLE 131-04B BY ADDING FOOTNOTE 11; AND BY AMENDING CHAPTER 14, ARTICLE 2, DIVISION 5, BY AMENDING SECTION 142.0520 TABLE 142-05B, ALL PERTAINING TO RESIDENTIAL HIGH OCCUPANCY PERMITS.

WHEREAS, single dwelling units occupied by multiple adult tenants, also commonly referred to as "mini dorms," have been identified as a threat to local communities due to a variety of negative impacts including, but not limited to, loud parties, noise, trash, parking impacts, nuisance activity, and inconsistent physical development impacts; and;

WHEREAS, a variety of public outreach tools including media coverage, email blasts, mailed public notices, published public notices, a dedicated web page, and public announcements have been used to encourage community participation in the development of strategies to address "mini dorms" and to widely distribute information related to proposed strategies; and

WHEREAS, a variety of public meetings and hearings have been held to allow for community input and participation in the development of strategies to address "mini dorms" including two public discussion forums (September 2006 and May 2007), individual community planning group meetings, three Land Use and Housing Committee meetings (November 2006, March 2007, October 2007), two Code Monitoring Team meetings (April and August 2007), two City Council hearings (July 2007), one Planning Commission meeting (September 2007), and

one Community Planners Committee meetings (September 2007), which resulted in participation by hundreds of local residents and community leaders; and

WHEREAS, the City Council amended the Administrative Citation Ordinance (O-19579) in February 2007, to update the City's penalty fine amounts, grant authority for broader use of administrative citations, and clarify language to allow for greater cost recovery in enforcement cases; and

WHEREAS, on March 7, 2007, the City Council Committee on Land Use and Housing supported a pilot program for issuance of \$1000 administrative citations by the Mid City Division of the San Diego Police Department for noise violations related to loud parties and loud music violations of San Diego Municipal Code Sections 59.5.0501 and 59.5.0502, which has proven to be a critical component of the City's strategy for a more aggressive code compliance program by helping to reduce the number of noise violations, and therefore is planned for expansion to address noise violations citywide; and

WHEREAS, on July 9, 2007, the City Council introduced an ordinance regulating physical development of single dwelling units and requested that staff draft an ordinance to regulate high occupancy single dwelling units as part of a multi faceted strategy to address mini dorms including a more aggressive enforcement program, greater cost recovery, code amendments to address inconsistent physical development, and other ordinance options such as a rooming house ordinance and/or residential high occupancy permit; and

WHEREAS, on July 24, 2007, the City Council adopted ordinance (O-19650) regulating the physical development of single dwelling units to prevent inconsistent physical development commonly associated with mini dorms such as a large number of bedrooms per dwelling unit,

excessive hardscape, inadequate parking, and development out of scale with the existing lot size and the surrounding neighborhood; and

WHEREAS, the parking requirement for a single dwelling unit is two parking spaces citywide, except for single dwelling units with five or more bedrooms located in the campus impact area of the parking impact overlay zone where the requirement is one parking space per bedroom, which does not account for the associated occupancy or number of vehicles per dwelling unit; and

WHEREAS, the purpose of the Residential High Occupancy Permit ordinance is to ensure that high occupancy single dwelling units with six or more adult occupants (age 18 and older) residing for a period of 30 or more consecutive days provide adequate parking, including one parking space per adult occupant less one parking space; and

WHEREAS, the intent of this ordinance is to preserve community character in single dwelling units zones consistent with the RS (Residential-Single Unit) zones which are intended to “accommodate a variety of lot sizes and residential dwelling types” and “promote neighborhood quality, character, and livability;” and

WHEREAS, the proposed ordinance would regulate similarly situated properties the same, provide equal protection for rental and owner occupied single dwelling units; and

WHEREAS, the proposed ordinance has been reviewed and considered by various interest groups and organizations as well as by the Code Monitoring Team, Community Planners Committee, and Planning Commission; and

WHEREAS, on September 6, 2007, the Planning Commission recommended approval of the Residential High Occupancy Permit ordinance to the City Council; and

WHEREAS, adoption of the Residential High Occupancy Permit ordinance would establish an annual permit, with an annual fee and inspections, that would allow for revocation of the permit in case of administrative enforcement actions; NOW, THEREFORE,

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

Section 1. That Chapter 12, Article 3, Division 5, is added by adding Sections 123.0501, 123.0502, 123.0503, 123.0504, 123.0505, and 123.0506 to read as follows:

§123.0501 Purpose of Residential High Occupancy Permit

The purpose of these procedures is to provide for annual review of high occupancy *single dwelling units* for conformance with the applicable zoning regulations by ensuring that high occupancy units provide adequate parking and minimize impacts to adjacent properties.

§123.0502 When a Residential High Occupancy Permit Is Required

- (a) A Residential High Occupancy Permit is required for a *single dwelling unit* when the occupancy of the *dwelling unit* would consist of six or more persons eighteen years of age and older residing in the *dwelling unit* for a period of 30 or more consecutive days.
- (1) Prior to the rental or sale of a *single dwelling unit*, the property owner shall disclose the requirement for a Residential High Occupancy Permit to prospective tenants or buyers.
 - (2) The Residential High Occupancy Permit requirement shall apply to a *single dwelling unit* described in Section 123.0502(a) regardless of whether six or more persons eighteen years of age and older

resided in the *dwelling unit* prior to the effective date of this ordinance.

- (b) Housing for senior citizens, residential care facilities, and transitional housing facilities are exempt from the requirement for a Residential High Occupancy Permit, but are otherwise subject to the use regulations in Chapter 14, Article 1.

§123.0503 How to Apply for a Residential High Occupancy Permit

- (a) Within 30 days of an increase in *single dwelling unit* occupancy that results in six or more persons eighteen years of age and older residing in a *single dwelling unit* for a period of 30 or more consecutive days, a property owner shall apply for a Residential High Occupancy Permit in accordance with Section 112.0102.
- (b) The Residential High Occupancy Permit application and applicable fees shall be resubmitted annually by the property owner to ensure compliance with the provisions of this division.
- (c) It is unlawful for any Responsible Person to violate any requirement of this Division.

§123.0504 Decision on a Residential High Occupancy Permit

- (a) A decision on an application for a Residential High Occupancy Permit shall be approved in accordance with Process One.
- (b) The applicant shall demonstrate on submitted plans that one off-street parking space per occupant eighteen years of age and older, less one will

be accommodated on the premises. In cases where an occupant eighteen years of age and older does not have a vehicle or a valid driver's license, the applicant shall provide evidence to the satisfaction of the City Manager to demonstrate the need for a lower parking requirement, which shall be documented in the permit record.

- (c) In case of conflict between the requirements of this section and the Parking Impact Overlay Zone, the higher of the applicable parking requirements shall apply.
- (d) Parking spaces shall conform to regulations in Chapter 14, Article 2..

§123.0505 Issuance of a Residential High Occupancy Permit

- (a) The City Manager shall issue the Residential High Occupancy Permit when the required fees have been paid, a copy of the lease agreement(s) has been provided where applicable, and the permit has been approved.
- (b) A Residential High Occupancy Permit shall not be issued to a property with a pending code violation case.
- (c) The permit shall be valid for a 12 month period, except that an increase in occupancy or the number of vehicles in excess of that authorized under the permit shall require a new permit application and fees.

§123.0506 Enforcement and Administrative Remedies

- (a) Violations of this Division are subject to the judicial and administrative enforcement remedies identified in Section 121.0311 of this Code.

000051

(b) Violations of this Division may also result in the revocation of a previously approved Residential High Occupancy Permit , in the event of two or more code violations, within the same calendar year, have been determined to exist either prior to or pursuant to the final adjudication of any of the enforcement remedies available under Section 123.0311 of this Code.

Section 2. That Chapter 13, Article 1, Division 4, is amended by amending Section 131.0422 Table 131-04B, to read as follows:

§131.0422 Use Regulations Table for Residential Zones

The uses allowed in the residential zones are shown in the Table 131-04B.

Legend for Table 131-04B

Symbol In Table 131-04B	Description Of Symbol
P	Use or use category is permitted. Regulations pertaining to a specific use may be referenced.
L	Use is permitted with limitations, which may include location limitations or the requirement for a use or <i>development permit</i> . Regulations are located in Chapter 14, Article 1 (Separately Regulated Use Regulations).
N	Neighborhood Use Permit Required. Regulations are located in Chapter 14, Article 1 (Separately Regulated Use Regulations).
C	Conditional Use Permit Required. Regulations are located in Chapter 14, Article 1 (Separately Regulated Use Regulations).
-	Use or use category is not permitted.

**Table 131-04B
Use Regulations Table of Residential Zones**

Use Categories/ Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator		Zones															
	1st & 2nd >>	RE-	RS-												RX-		RT-	
	3rd >>	1-	1-												1-	1-		
	4th >>	1 2 3	1 2 3 4 5 6 7 8 9 10 11 12 13 14	1 2	1 2 3 4													
Residential																		
Group Living Accommodations	-	-																
Mobilehome Parks	-	P ⁽¹⁾															P ⁽¹⁾	-
Multiple Dwelling Units	-	-															-	-

Use Categories/ Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator		Zones																				
	1st & 2nd >>	RE-	RS-												RX-		RT-						
	3rd >>	1-	1-												1-	1-							
4th >>	1	2	3	1	2	3	4	5	6	7	8	9	10	11	12	13	14	1	2	1	2	3	4
Single Dwelling Units	P	P ⁽¹⁾												P ⁽¹⁾		P ⁽¹⁾							
Separately Regulated Residential Uses																							
Boarder & Lodger Accommodations	L	L												L	L								
Companion Units	L	L												L	L								
Employee Housing:																							
6 or Fewer Employees	L	L												L	L								
12 or Fewer Employees	-	-												-	-								
Greater than 12 Employees	-	-												-	-								
Fraternities, Sororities and Student Dormitories	-	-												-	-								
Garage, Yard, & Estate Sales	L	L												L	L								
Guest Quarters	N	N												N	-								
Home Occupations	L	L												L	L								
Housing for Senior Citizens	C	C												C	C								
Live/Work Quarters	-	-												-	-								
Residential Care Facilities:																							
6 or Fewer Persons	P	P												P	P								
7 or More Persons	C	C												C	C								
Transitional Housing:																							
6 or Fewer Persons	P	P												P	P								
7 or More Persons	C	C												C	C								
Watchkeeper Quarters	-	-												-	-								

Footnotes for Table 131-04B

- 1 Development of a mobilehome park in any RS or RX zone is subject to Section 143.0302.
- 2 Development of a mobilehome park in the RM zones is subject to Section 143.0302.
- 3 This use is permitted only if as an accessory use, but shall not be subject to the accessory use regulations in Section 131.0125.
- 4 The 40,000 square feet includes all indoor and outdoor areas that are devoted to the recreational use; it does not include customer parking areas.
- 5 Non-owner occupants must reside on the premises for at least 7 consecutive calendar days.
- 6 Two guest rooms are permitted for visitor accommodations per the specified square footage of lot area required per dwelling unit (maximum permitted density), as indicated on Table 131-04G.
- 7 See Section 131.0423(c).

- 8 See Section 131.0423(a).
- 9 See Section 131.0423(b).
- 10 Maintaining, raising, feeding, or keeping of 10 or more domestic animals requires a *premises* of at least 5 acres. Maintaining, raising, feeding, or keeping of swine is not permitted.
- 11 A Residential High Occupancy Permit is required in accordance with Section 123.0502 for a *single dwelling unit* when the occupancy of the *dwelling unit* would consist of six or more persons eighteen years of age and older residing in the *dwelling unit* for a period of 30 or more consecutive days.

Section 3. That Chapter 14, Article 2, Division 5, is amended by amending Section 142.0520 Table 142-05B to read as follows:

§142.0520 Single Dwelling Unit Residential Uses — Required Parking Ratios

The required number of *off-street parking spaces* for *single dwelling units* and related uses are shown in Table 142-05B.

**Table 142-05B
Minimum Required Parking Spaces for
Single Dwelling Units and Related Uses**

Type of Unit and Related Uses	Number of Required Parking Spaces
All <i>single dwelling units</i> , except those with five or more <i>bedrooms</i> in campus impact areas (See Chapter 13, Article 2, Division 8)	2 spaces per dwelling unit ⁽¹⁾
<i>Single dwelling units</i> with five or more <i>bedrooms</i> in campus impact areas (See Chapter 13, Article 2, Division 8)	1 space per <i>bedroom</i> (previously conforming parking regulations in Section 142.0510 (d) do not apply) ⁽²⁾
High occupancy <i>single dwelling units</i> subject to Section 123.0502	1 space per occupant eighteen years of age and older, less one space (previously conforming parking regulations in Section 142.0510 (d) do not apply)
Housing for senior citizens (maximum 1 bedroom)	1 space per dwelling unit

Footnotes for Table 142-05B

¹ *Single dwelling units* that do not provide a driveway at least 20 feet long, measured from the back of the sidewalk to that portion of the driveway most distant from the sidewalk, as illustrated in Diagram 142-05A, shall provide two additional parking spaces. These

parking spaces may be on-street, abutting the subject property, but shall conform to Section 142.0525(c)(4).

- 2 In campus impact areas, new *single dwelling unit development* with 5 or more *bedrooms* shall provide a minimum of 2 parking spaces in a garage. Where an existing garage is proposed for conversion to habitable area, garage parking shall be replaced with an equivalent number of garage parking spaces on the *premises*.

Section 4. That a \$1000 application fee shall be adopted as part of this ordinance to cover administrative, plan check, and inspection costs associated with the Residential High Occupancy Permit.

Section 5. That this activity is adequately addressed by three previous environmental documents which include: "Amendments to Address Mini Dorms and Preserve the Character of RS Zones Project No. 129501, Addendum to EIR No. 96-0333;" "Revisions to Land Development Code Project No. 96-7897, Addendum to EIR No. 96-0333;" and "Land Development Code EIR No. 96-0333." There is no change in circumstance, additional information, or project changes to warrant additional environmental review. Therefore, the activity is not a separate project for the purposes of CEQA review pursuant to State CEQA Guidelines Section §15060(c)(3).

Section 6. That a full reading of this ordinance is dispensed with prior to its final passage, a written or printed copy having been available to the City Council and the public a day prior to its final passage.

Section 7. That this ordinance shall take effect and be in force thirty days from and after its passage, except that the provisions of this ordinance applicable inside the Coastal Overlay Zone, which are subject to California Coastal Commission jurisdiction as a City of San Diego

Local Coastal Program amendment, shall not take effect until the date the California Coastal Commission unconditionally certifies those provisions as a local coastal program amendment.

Section 8. That existing single dwelling units occupied by six or more adults age eighteen and older shall not be issued penalties for failure to submit application within the first six months from the effective date of the ordinance.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By Marianne Greene
Marianne Greene
Deputy City Attorney

MG:als
11/05/07
Or.Dept:DSD
O-2008-57

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of _____.

ELIZABETH S. MALAND
City Clerk

By _____
Deputy City Clerk

Approved: _____
(date)

JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor

STRIKEOUT ORDINANCE

OLD LANGUAGE: ~~Struck Out~~

NEW LANGUAGE: Underlined

(O-2008-57)

ORDINANCE NUMBER O-_____ (NEW SERIES)

DATE OF FINAL PASSAGE _____

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO AMENDING THE LAND DEVELOPMENT CODE BY ADDING CHAPTER 12, ARTICLE 3, DIVISION 5, BY ADDING SECTIONS 123.0501, 123.0502, 123.0503, 123.0504, 123.0505 AND 123.0506; BY AMENDING CHAPTER 13, ARTICLE 1, DIVISION 4, BY AMENDING SECTION 131.0422 TABLE 131-04B BY ADDING FOOTNOTE 11; AND BY AMENDING CHAPTER 14, ARTICLE 2, DIVISION 5, BY AMENDING SECTION 142.0520 TABLE 142-05B, ALL PERTAINING TO RESIDENTIAL HIGH OCCUPANCY PERMITS.

§123.0501 Purpose of Residential High Occupancy Permit

The purpose of these procedures is to provide for annual review of high occupancy single dwelling units for conformance with the applicable zoning regulations by ensuring that high occupancy units provide adequate parking and minimize impacts to adjacent properties.

§123.0502 When a Residential High Occupancy Permit Is Required

(a) A Residential High Occupancy Permit is required for a single dwelling unit when the occupancy of the dwelling unit would consist of six or more persons eighteen years of age and older residing in the dwelling unit for a period of 30 or more consecutive days.

000058

(1) Prior to the rental or sale of a *single dwelling unit*, the property owner shall disclose the requirement for a Residential High Occupancy Permit to prospective tenants or buyers.

(2) The Residential High Occupancy Permit requirement shall apply to a *single dwelling unit* described in Section 123.0502(a) regardless of whether six or more persons eighteen years of age and older resided in the *dwelling unit* prior to the effective date of this ordinance.

(b) Housing for senior citizens, residential care facilities, and transitional housing facilities are exempt from the requirement for a Residential High Occupancy Permit, but are otherwise subject to the use regulations in Chapter 14, Article 1.

§123.0503 How to Apply for a Residential High Occupancy Permit

(a) Within 30 days of an increase in *single dwelling unit* occupancy that results in six or more persons eighteen years of age and older residing in a *single dwelling unit* for a period of 30 or more consecutive days, a property owner shall apply for a Residential High Occupancy Permit in accordance with Section 112.0102.

(b) The Residential High Occupancy Permit application and applicable fees shall be resubmitted annually by the property owner to ensure compliance with the provisions of this division.

(c) It is unlawful for any Responsible Person to violate any requirement of this Division.

§123.0504 Decision on a Residential High Occupancy Permit

- (a) A decision on an application for a Residential High Occupancy Permit shall be approved in accordance with Process One.
- (b) The applicant shall demonstrate on submitted plans that one off-street parking space per occupant eighteen years of age and older, less one will be accommodated on the premises. In cases where an occupant eighteen years of age and older does not have a vehicle or a valid driver's license, the applicant shall provide evidence to the satisfaction of the City Manager to demonstrate the need for a lower parking requirement, which shall be documented in the permit record.
- (c) In case of conflict between the requirements of this section and the Parking Impact Overlay Zone, the higher of the applicable parking requirements shall apply.
- (d) Parking spaces shall conform to regulations in Chapter 14, Article 2.

§123.0505 Issuance of a Residential High Occupancy Permit

- (a) The City Manager shall issue the Residential High Occupancy Permit when the required fees have been paid, a copy of the lease agreement(s) has been provided where applicable, and the permit has been approved.
- (b) A Residential High Occupancy Permit shall not be issued to a property with a pending code violation case.

000060

(c) The permit shall be valid for a 12 month period, except that an increase in occupancy or the number of vehicles in excess of that authorized under the permit shall require a new permit application and fees.

§123.0506 Enforcement and Administrative Remedies

(a) Violations of this Division are subject to the judicial and administrative enforcement remedies identified in Section 121.0311 of this Code.

(b) Violations of this Division may also result in the revocation of a previously approved Residential High Occupancy Permit, in the event of two or more code violations, within the same calendar year, have been determined to exist either prior to or pursuant to the final adjudication of any of the enforcement remedies available under Section 123.0311 of this Code.

§131.0422 Use Regulations Table for Residential Zones

The uses allowed in the residential zones are shown in the Table 131-04B.

Legend for Table 131-04B

Symbol in Table 131-04B	Description Of Symbol
P	Use or use category is permitted. Regulations pertaining to a specific use may be referenced.
L	Use is permitted with limitations, which may include location limitations or the requirement for a use or <i>development permit</i> . Regulations are located in Chapter 14, Article 1 (Separately Regulated Use Regulations).
N	Neighborhood Use Permit Required. Regulations are located in Chapter 14, Article 1 (Separately Regulated Use Regulations).
C	Conditional Use Permit Required. Regulations are located in Chapter 14, Article 1 (Separately Regulated Use Regulations).
-	Use or use category is not permitted.

**Table 131-04B
Use Regulations Table of Residential Zones**

Use Categories/ Subcategories <small>[See Section 131.0112 for an explanation and</small>	Zone Designator	Zones
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	1st & 2nd >>		RE-														RS-		RX-		RT-																										
	3rd >>		1-														1-		1-																												
	4th >>		1	2	3	1	2	3	4	5	6	7	8	9	10	11	12	13	14	1	2	1	2	3	4																						
Residential																																															
Group Living Accommodations																																															
Group Living Accommodations																									-															-			-				
Mobilehome Parks																									-															P ⁽¹⁾			P ⁽¹⁾				
Multiple Dwelling Units																									-															-			-				
Single Dwelling Units																									P															P ⁽¹⁾			P ⁽¹⁾				
Separately Regulated Residential Uses																																															
Boarder & Lodger Accommodations																									L															L			L				
Companion Units																									L															L			L				
Employee Housing:																																															
6 or Fewer Employees																									L															L			L				
12 or Fewer Employees																									-															-			-				
Greater than 12 Employees																									-															-			-				
Fraternalities, Sororities and Student Dormitories																									-															-			-				
Garage, Yard, & Estate Sales																									L															L			L				
Guest Quarters																									N															N			N				
Home Occupations																									L															L			L				
Housing for Senior Citizens																									C															C			C				
Live/Work Quarters																									-															-			-				
Residential Care Facilities:																																															
6 or Fewer Persons																									P															P			P				
7 or More Persons																									C															C			C				
Transitional Housing:																																															
6 or Fewer Persons																									P															P			P				
7 or More Persons																									C															C			C				
Watchkeeper Quarters																									-															-			-				

Footnotes for Table 131-04B

- 1 Development of a mobilehome park in any RS or RX zone is subject to Section 143.0302.
- 2 Development of a mobilehome park in the RM zones is subject to Section 143.0302.
- 3 This use is permitted only if as an accessory use, but shall not be subject to the accessory use regulations in Section 131.0125.
- 4 The 40,000 square feet includes all indoor and outdoor areas that are devoted to the recreational use; it does not include customer parking areas.
- 5 Non-owner occupants must reside on the premises for at least 7 consecutive calendar days.

- 6 Two *guest rooms* are permitted for visitor accommodations per the specified square footage of lot area required per dwelling unit (maximum permitted *density*), as indicated on Table 131-04G.
- 7 See Section 131.0423(c).
- 8 See Section 131.0423(a).
- 9 See Section 131.0423(b).
- 10 Maintaining, raising, feeding, or keeping of 10 or more domestic animals requires a *premises* of at least 5 acres. Maintaining, raising, feeding, or keeping of swine is not permitted.
- 11 A Residential High Occupancy Permit is required in accordance with Section 123.0502 for a single dwelling unit when the occupancy of the dwelling unit would consist of six or more persons eighteen years of age and older residing in the dwelling unit for a period of 30 or more consecutive days.

§142.0520 Single Dwelling Unit Residential Uses — Required Parking Ratios

The required number of *off-street parking spaces* for *single dwelling units* and related uses are shown in Table 142-05B.

**Table 142-05B
Minimum Required Parking Spaces for
Single Dwelling Units and Related Uses**

Type of Unit and Related Uses	Number of Required Parking Spaces
All <i>single dwelling units</i> , except those with five or more <i>bedrooms</i> in campus impact areas (See Chapter 13, Article 2, Division 8)	2 spaces per dwelling unit ⁽¹⁾
<i>Single dwelling units</i> with five or more <i>bedrooms</i> in campus impact areas (See Chapter 13, Article 2, Division 8)	1 space per <i>bedroom</i> (previously conforming parking regulations in Section 142.0510 (d) do not apply) ⁽²⁾
<u>High occupancy single dwelling units subject to Section 123.0502</u>	<u>1 space per occupant eighteen years of age and older, less one space (previously conforming parking regulations in Section 142.0510 (d) do not apply)</u>
Housing for senior citizens (maximum 1 bedroom)	1 space per dwelling unit

Footnotes for Table 142-05B

¹ *Single dwelling units* that do not provide a driveway at least 20 feet long, measured from the back of the sidewalk to that portion of the driveway most distant from the sidewalk, as illustrated in Diagram 142-05A, shall provide two additional parking spaces. These

000063

parking spaces may be on-street, abutting the subject property, but shall conform to Section 142.0525(c)(4).

- 2 In campus impact areas, new *single dwelling unit development* with 5 or more *bedrooms* shall provide a minimum of 2 parking spaces in a garage. Where an existing garage is proposed for conversion to habitable area, garage parking shall be replaced with an equivalent number of garage parking spaces on the *premises*.

MG:als
11/05/07
Or.Dept:DSD
O-2008-57

**Presentation to the Planning Commission 9/6/07 by Diane Milber
(Regarding a High Occupancy Ordinance)**

Extreme Measures beget Extreme Responses:

It is best to work with, not against students and landlords. **When** enacting an ordinance, moderation is the key. Extreme measures usually illicit extreme responses, particularly when we are dealing with one of the most primal needs of a person, that being housing. In response to what threatens to be highly disruptive to the University community, students are already exploring innovative arrangements such as the "**Guest Rotational Networks**", "**Student Alternate Families**" and "**Alternate Vehicle Arrangements**" to name a few. **Landlords are designing "Specialized Master Leases"**. It is best to find moderate, fair solutions that are not perceived as antagonistic towards any one group in the community. We do not want to foster these types of unconventional responses and further fracture the community spirit

I have a few moderate suggestions:

First Five Occupants

First, it appears that the High Occupancy Ordinance proposal would only require two parking spaces for a group of five or less. Yet if the group were to add just one more occupant to the household, the ordinance would suddenly require **five** parking spaces, which would be excessive. One additional resident should not trigger three more parking requirements. If anything, the occupant or occupants **over & above** the original five, could be subject to a new requirement. The first five occupants of low **or** high occupancy households, being essentially the same, should be regulated the same.

Street Permits:

Also, requiring on-site parking spaces for cars that have already been assigned parking permits by the City would likewise be excessive. Each house in a restricted parking zone has the right to park a limited number of cars on the street. No one needs **two** parking spaces and so requiring cars with parking stickers to have an on-site parking space as well, would appear antagonistic in intent. Any Ordinance should exempt those with parking stickers from the requirement of a paved on-site spot as this would be superfluous. If the purpose of the High Occupancy Permit as per § 123.0501, is truly to ensure that high occupancy units "provide adequate parking" then we all know that those with permits already have adequate parking, thus their presence creates no additional impact on the streets.

Pavement & Motorcycles: One undesirable outcome of encouraging excess parking spaces on premises is that we may see more paving. Since such an ordinance would affect families as well as students, you may see many large families begin to pave their homes as well in fear of the city forcing evictions on their adult children or under 65 year old parents who might be living with them. I don't think that San Diego wants to encourage more paving and I don't think we want to evict family members either.

In addition, such an ordinance will encourage the use of motorcycles, scooters and mopeds, which is not necessarily a welcome thing either. More and more students will be forced to abandon their vehicles or switch to **motorcycles and scooters** in order to live in the college area, a trend that could actually result in higher occupancy than before.

Discrimination:

Targeting select groups would be discriminatory. **Dana McGarrity, the San Diego**

Planner of Turlock, advised our Council: "I would warn you that trying to exact requirements that you wouldn't from any other duplex or single family home may make you vulnerable to discrimination complaints".

The high cost of housing in San Diego has necessitated adults everywhere to ban together in order to stay housed. The city cannot single out the College Area and ignore the other high occupancy neighborhoods in regards to enforcement. **A local data analysis company, has prepared a detailed demographic report on households within the City of San Diego. They reported over 300,000 adult-only households in the city, and over 15,000 high occupancy households with 6 or more persons.** And this is only a partial listing. An extreme ordinance targeting so many people throughout the city could trigger a social and financial challenge for all of us. San Luis Obispo with its population of around 44,000, should not be used as a model for a city with well over a million occupants.

Many of you might recall a Chevy Chase movie during the 1980's called "Caddyshack". In an effort to catch a gopher, a country club golf course is literally blown up, bomb by bomb. Let's not blow up the whole city "Caddyshack Style" trying to catch a couple so called "gophers": There are more moderate solutions.

Here are a few more suggestions:

1 Uphold the **California Housing Guideline of "Two Per Bedroom Plus One"**. This allows for limits on the number of occupants according to the number of bedrooms, and is the most reasonable, indisputable approach. This is not only the California guideline, it is the Federal one as well

2 **BuyBacks, Incentives:** I understand that the City is exploring ways to buy back student housings when they come on the market. We might also consider the city taking long-term leases on some of these housings, or offering **property tax exemptions & other monetary incentives to families who agree to live in select properties for at least five years without** renting out any rooms. In some cities, similar programs are already in effect.

3 I have suggested a **pre-requisite on-line class** that each student must complete **each semester** to apprise them of neighborhood conduct expectations and the **consequences** for non-compliance. The University is in a optimal position to bring awareness to the entire student community. Preventive

measures are **always** the best, and the cost to the University would be negligible.

4. Selecting Good Tenants: Since students are not going to disappear, successful housing requires the full cooperation of landlords. Landlords must make every effort to bring quality tenants to their homes, those who can conform to a residential lifestyle. Large groups have always existed in neighborhoods. Many traditional families are large and they have a right to enjoy the use of their homes as well. It is the quality not the quantity of students and landlords that may ultimately determine the success in this clean-up project. **Landlord Peer Pressure groups** could help bring the slackers up to par, assisting those with deficient management skills.

5. Grandfather Clause: Without a grandfather clause, landlords would be put in jeopardy of lawsuits for breaking existing leases and evicting tenants unlawfully. Those of us who have made substantial investments in this city in good faith and in full compliance with all laws, should be eligible for the grandfather clause as we have already been approved for our existing housing arrangements.

6. Tandem Parking: In the event that some form of this ordinance should eventually pass, **legal tandem accommodations** on a premise should be allowed in counting parking spaces for the Hi-Oc Ordinance as these are already permitted, and so their designation as a parking space for an occupant does not negatively impact anything. Once again, the ordinance should be motivated by a genuine need, not by a "get the students out of the neighborhood" agenda.

7. Surprise Inspections: Any such notion will certainly be contested in court as a severe invasion of privacy. Even landlords can never enter a tenant's private dwelling without giving 24 or 48 hour notice and following specific notification rules. No one should ever be allowed to enter and search someone's home at will without a search warrant unless we are willing to give up one of our most prized possessions...the right to our privacy.

The Report to the Planning Commission states that the majority of mini dorm complaints are related to tenant behavior, such as noise, trash and parties. The **good** news is that all of these complaint issues should be solvable, and without the need for costly, extreme measures: My housings have been free of all of these nuisances for years. For instance:

1. Parties The threat of \$1000 fines will squelch virtually **every** large disruptive party in the affected areas. I believe we are already seeing a marked improvement since the active implementation of this policy. **So this major plague should soon vanish.**

2. Trash: This should be the easiest thing to control. Even the largest of student housings can control trash. The city offers second, even third bins for trash at the nominal price of \$50 or less. There can be mid-week tidy services

000068

and there are also plenty of haulers who can make special pickups. Negligent landlords (and resident owners as well) who don't take the time to address this simple task of litter control should be cited. **This is not an insolvable problem.**

U. **Parking and Congestion:** **Safeguard # 1** is that no one can park more cars on their own premises than is legally allowed without risking citations. So **on-site parking** is already regulated. **Safeguard # 2** is that the affected streets should be **designated restricted parking zones**. Each house then has limited access to street parking. Perhaps **the hours of restricted parking could be extended to Friday and Saturday nights** as well. When implemented, these two safeguards should be effective in keeping parking issues in check. For example, on our street, Stone Ct., we have a limit of 4 parking permits per house. This 4-car restriction has already thinned out our street **so significantly** that around 70% is typically vacant, hardly qualifying as a problem zone. With these two safeguards in place, there really is no other place to park without getting cited or towed. Students will not bring cars if there is no place to park them or they will receive fines. **Once again, a solvable problem.**

In conclusion, Since students are not going to disappear, and landlords will always need to rent to them, it might be a more effective approach to nurture cooperation between all of us, including the caring landlords like myself and the quality, responsible students who should feel welcome in their own community.

We have some wonderful students here today, please stand up.

4. Overbuilt Houses: The recent passing of the new land ordinance will control future building expansions, so this has already been resolved to a great extent.

A further step could be to create a temporary moratorium on all future construction in select areas, giving the city more time to assess the situation. San Diego did not have the safeguards in place to prevent 8 or nine bedroom homes from cropping up in 3-4 bedroom neighborhoods. In my home city, this would most likely never have happened. All neighbors within a certain radius are informed of pending permit applications that would impact them and their neighborhood. We are even given the blueprints of the proposed expansion and a chance to protest at a hearing. If negative impact can be demonstrated, the permit will be blocked. Thus overgrowth is effectively monitored. San Diego might look into adopting such a policy.

As for permits already approved, those room additions are here to stay, and so those areas are now going to be more densely populated no matter how much regret we feel. Susan Hillnski of the Community Development Department of Soledad recognizes that **"the ultimate cause being a lack of affordable housing"**. She further has suggested to our council that **if one or more blocks have effectively become student housing, perhaps it's time to adapt to this reality. She even mentions the "R" word... Re-zoning.** This is probably not what everyone wants to hear, but it may be something that we have to face realistically. While we may be able to control future growth, we will have to live with what already exists if it is in compliance with current regulations. Increased density on certain blocks should not be confused with rowdiness, delinquency or irresponsibility as that would be a dis-service to those who do not create these problems. There are around 35,000 students at SDSU alone. Only a fraction of these have caused nuisances. Students are part of the community and the city has an obligation to address their housing needs. They are not going to disappear.

Our Mission Statement Regarding Student Housings:

There is a bridge of development between childhood and adulthood. Learning to live in society responsibly is an important part of this process, maybe more so than job skills. Landlords have the opportunity to participate in this growth process by providing a model for excellence in student housings.

000070

What is a Mini-Dorm?

After sharing commentary with many on Café San Diego the other day, I learned a lot. I've concluded that no one seems to have a definitive criteria for what actually constitutes a Mini-Dorm. Many people expressed their concerns over the growing number of mini-dorms but were clearly confused as to what they wanted abolished. The following Mini-Dorm Quiz has no established answers at this time. How would you define a Mini-Dorm?

~Diane M.

MINI-DORM QUIZ

The following meets the definition of a Mini Dorm: (Circle all that apply, can have multiple answers)

1. A Mini-Dorm Structure includes:

- a) A home that has legal expansions for the purpose of adding additional rooms for students
- b) A home that has legal expansions for the purpose of adding rooms in the college area for NON-students, such as families.
- c) A home that has not been legally expanded but has more than 5 bedrooms regardless of the type of renter.
- d) *Any home greater than 5 bedrooms rented to students.*
- e) None of the above

2. A Mini-Dorm Occupant includes:

- a) Any student living in selected neighborhoods
- b) A person of any age, even a senior citizen, living in a Mini-Dorm Structure.
- c) A student living with a separate lease in a house with 3 or more leases
- d) A student living with three or more other students, all on a master lease
- e) None of the above

3. The Unacceptable Occupancy level of a Mini-Dorm should be:

- a) Any amount if there are parties and trash
- b) Any amount over two if there are separate leases in a residential home regardless of the size of the house.
- c) Any amount that exceeds established Housing code requirements
- d) More than five occupants regardless of style of lease, but only if they appear to be under 25
- e) None of the above

000071

4. A Mini-Dorm:

- a) Can be identified because it has unkempt grounds, excessive noise & behavioral complaints, and/or excessive cars
- b) May have occupants who appear to be under age 25 who DO NOT cause any of the above disturbances
- c) May have NON-student occupants of any age, including senior citizens, who DO cause the above disturbances
- d) might be occupied by persons related by blood, such as siblings (related parties)
- e) None of the above

5. The following should NOT be permitted:

- a) A family with ten children, and two adults in a 6-bedroom house)
- b) Eight faculty members living in a 4-bedroom house, renting with separate leases
- c) Any group of ten in a 4-bedroom house, but only if they cause a nuisance
- d) A group of twelve students in a 6-bedroom house, but only if on separate leases
- e) None of the above

6. The following should be permitted:

- a) A family of eight living in a three-bedroom house in the college area
- b) A children's birthday or slumber party after 10:00 PM, but not a similar party with young adults.
- c) A single person who appears to be under age 25 in the college area having a quiet birthday party where 20 guests arrive with 12 cars.
- d) A quiet 55th Birthday party in the college area where 20 guests arrive with 12 cars
- e) None of the above

7. Parking on a Mini-Dorm structure should

- a) be allowed for any amount of cars but only in legal parking spaces
- b) be less than five cars even if there is additional legal space
- c) be the same as for non-mini-dorm structures
- e) None of the above

8. True or False:

- a) (T) (F) It should be illegal for more than 5 unmarried friends to rent together anywhere in the college area.
- b) (T) (F) A group of 6 individuals in their 50's should be allowed to live in a Mini-Dorm structure on separate leases.
- c) (T) (F) Courteous, considerate students should be allowed in a mini-dorm structure.
- d) (T) (F) Disruptive students living in a NON-mini-dorm structure, such as a 2-bedroom structure, should not be allowed.
- e) (T) (F) It should be the policy of San Diego to enforce any housing laws used in the College Area throughout the entire city.
- f) (T) (F) It should be the policy of San Diego to comply with California housing regulations.
- g) (T) (F) If a mini-dorm has no discernable negative impact on a neighborhood, it should be allowed

I hope this test helps everyone focus on defining the real issues.

000073

Item 12

**PLANNING COMMISSION OF THE CITY OF SAN DIEGO
MINUTES OF REGULAR SCHEDULED MEETING OF
SEPTEMBER 6, 2007
IN CITY COUNCIL CHAMBERS - 12TH FLOOR
CITY ADMINISTRATION BUILDING**

CHRONOLOGY OF THE MEETING:

Chairperson Schultz called the meeting to order at 9:07 a.m. Chairperson Schultz adjourned the meeting at 5:03 p.m.

ATTENDANCE DURING THE MEETING:

Chairperson Barry Schultz- Not present
Vice-Chairperson Kathleen Garcia- Only present for 11, 12, & 13
Commissioner Robert Griswold- present
Commissioner Gil Ontai-present
Commissioner Dennis Otsuji- present
Commissioner Eric Naslund- present
Commissioner Mike Smiley – present

Staff

Andrea Dixon, City Attorney- present
Cecilia Gallardo Planning Department – present
Mike Westlake, Development Services Department-present
Sabrina Curtin, Recorder-present

PLANNING COMMISSION MINUTES FOR SEPTEMBER 6, 2007

Was taken out of order; heard after items 12 and 13

ITEM-11: VIA DE LA VALLE COMMUNITY PLAN AMENDMENT - INITIATION

City Council District: 1 Plan Area: Via de la Valle

Jennifer Cordeau presented Report No. PC-07-120 to the Planning Commission

Speaker slips submitted in favor by Asha Saunders, Andrew Chang, and Ali Shaouri.

No one present to speak in opposition.

Public Testimony was closed.

COMMISSIONER ACTION:

MOTION BY COMMISSIONER NASLUND TO APPROVE TO INITIATE A LAND USE PLAN AMENDMENT TO THE VIA DE LA VALLE SPECIFIC PLAN AND PROGRESS GUIDE AND GENERAL PLAN PURSUANT TO MUNICIPAL CODE SECTION 122.0103 TO ALLOW AN ADJUSTMENT OF THE DEVELOPMENT BOUNDARIES SHOWN IN DEVELOPMENT AREA 5 OF THE SPECIFIC PLAN AND REPORT NO. PC-07-120.

Second by Vice-Chairperson Garcia. Passed by a 4-2-1 vote with Chairperson Schultz and Commissioner Griswold voting nay and Commissioner Ontai not present.

ITEM-12: RESIDENTIAL HIGH OCCUPANCY PERMIT

City Council District: All Plan Area: Citywide

Amanda Lee presented Report No. PC-07-137 to the Planning Commission.

Speaker slips submitted in opposition by Diane Milber, Jeff Milber, Marian Stauffer, Cassandra Purazo, Bi Li, Margie Lin, Nicole Pasten, Xue Zhang, Sherrie Lightner,

Speaker slips submitted in favor by Rhae Kuhlman, Edward Wartman, Armin Kuhlman, Paul Martin, Daniel Schwimmer, Gary DeBussaheve, Mitch Younker, Ann Cottrell, James Krokee, Cathleen Kenney, Michael D. Jenkins, Jim Corrigan, and Bernardine Harrsaman.

Public Testimony was closed.

PLANNING COMMISSION MINUTES FOR SEPTEMBER 6, 2007

COMMISSIONER ACTION:

MOTION BY COMMISSIONER NASLUND TO RECOMMEND TO THE CITY COUNCIL THE ADOPTION OF THE RESIDENTIAL HIGH OCCUPANCY PERMIT AMENDMENTS TO THE LAND DEVELOPMENT CODE AND LOCAL COASTAL PROGRAM, WITH THE FOLLOWING CHANGES AND/OR ADJUSTMENTS FOR CONSIDERATION:

TAKE SOME CONSIDERATION TO THE APPROPRIATE NUMBER AS THE THRESHOLD POINT. EVALUATE WHETHER 6 ADULT OCCUPANTS IS APPROPRIATE.

CONSIDER THE INCLUSION OF SIGNIFICANT PENALTIES, BOTH AS A DETERRENT AND REVENUE SOURCE FOR THE ENFORCEMENT ACTION.

PUT IN THE METHODOLOGY ON HOW AND WHY THE PAYMENT, AND HAVE ADEQUATE ENFORCEMENT STAFF TO MEET THE ASSOCIATED NEED.

REQUIRE THAT AN ON-SITE RESPONSIBLE PARTY BE DESIGNATED AS PART OF THE APPLICATION. EVALUATE WHETHER POST THE RESPONSIBLE PARTY CONTACT INFORMATION ON SITE.

EVALUATE WHETHER A WAIVER PROVISION MAY BE INCORPORATED TO EXEMPT ECONOMIC INTEGRATED UNITS FROM THE PERMIT REQUIREMENT AND/OR THE PERMIT FEE. TOTAL COMMUNITY INVOLVEMENT - ALLOW TIME FOR CPC, PLANNING GROUPS, UNIVERSITIES, AND THE PUBLIC TO CONSIDER INFORMATION, BUT KEEP IT ON THE FAST TRACK. Second by Commissioner Griswold. Passed by a 6-0-1 vote with Commissioner Ontai not present. Resolution No. 4306-PC

November 15, 2007

Mayor Sanders and City Council
City Administration Building -
202 "C" Street
San Diego, CA 92101-3862, Mail Sta. 2A

TESTIMONY IN SUPPORT OF 1) RESIDENTIAL HIGH OCCUPANCY PERMIT
AND 2) ROOMING HOUSE ORDINANCE, PUBLIC HEARING ON MONDAY,
NOVEMBER 19, 2007 AT 5:00 P.M.

Dear Mayor Sanders and City Council Members:

We are writing to confirm our support and request your approval of the proposed code amendments to incorporate the Residential High Occupancy Permit requirements and the Rooming House Ordinance.

COMMENTS:

- Residential High Occupancy Permit

The proposed code amendments that require a permit, fee, additional parking for occupants, etc. should provide a very effective means of mitigating the destructive impact the overwhelming number of high occupancy dwellings has had on our community and of deterring further increases in the number of such dwellings.

We especially appreciate that, if the Residential High Occupancy Permit amendments are approved, full implementation can begin without delay, because there are no "grandfathering in" components. This will help insure that the permit requirements will be effective in addressing the immediate, as well as future needs of the community for regulatory controls on high occupancy dwellings.

- Rooming House Ordinance

We hope this ordinance will also prove to be very effective in dealing with the serious problems inflicted on the community by the proliferation of mini-dorms. Our main concern is that many of the mini-dorms that should be classified as rooming houses will manage to elude that classification by representing themselves as integrated economic units.

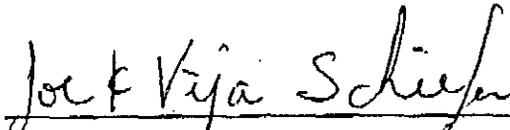
It is unfortunate that the full impact and benefits of the ordinance will not be realized for three years, because of the amortization provision for owners of pre-existing rooming houses. On the plus side, however, the ordinance should have the immediate effect of providing a disincentive for property owners/developers who would otherwise continue their lucrative practice of converting single-family dwellings into rooming houses.

Mayor Sanders and City Council

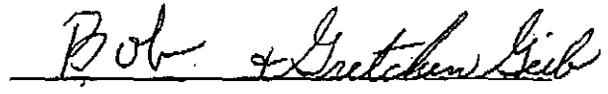
November 15, 2007

Thank you for your consideration of our request that you approve the proposed code amendments. The need for these measures has become even more critical because of the approval of the SDSU master plan yesterday by the CSU trustees. It is very unlikely that SDSU will provide an adequate number of housing units to accommodate the increased housing need that will accompany the projected increase of 10,000. The community can therefore anticipate even more mini-dorms taking over single family dwellings unless effective ordinances are in place to control them.

Sincerely,



Joe and Vija Schiefer



Bob and Gretchen Geib