

DATE ISSUED: September 13, 2000

REPORT NO. 00-181

ATTENTION: Committee on Land Use and Housing
Agenda of September 20, 2000

SUBJECT: Second Quarterly Update to the Land Development Code (LDC)

SUMMARY

Issues -

1. Should the City Council approve the minor format and reference corrections to the Land Development Code?
2. Should the City Council approve the consistency corrections to the Land Development Code?
3. Should the City Council approve the amendments to the telecommunications facilities regulations?
4. Should the City Council amend Council Policy 600-14 and approve corresponding amendments to the Land Development Code floodplain regulations?
5. Should the City Council approve the amendments to the subdivision procedures?
6. Should the City Council approve the amendments to the Carmel Valley Planned District Ordinance parking regulations?
7. Should the City Council approve the amendments to the Transit Area Overlay Zone?

Planning and Development Review Recommendations -

1. Recommend that the City Council approve the format and reference corrections to the Land Development Code.
2. Recommend that the City Council approve the consistency corrections to the Land Development Code.
3. Recommend that the City Council approve the amendments to the telecommunications facilities regulations.
4. Recommend that the City Council amend Council Policy 600-14 and approve corresponding amendments to the floodplain regulations.
5. Recommend that the City Council approve the amendments to the subdivision procedures.
6. Recommend that the City Council approve the amendments to the Carmel Valley Planned District Ordinance parking regulations.
7. Recommend that the City Council approve the Transit Area Overlay Zone update.

Environmental Impact - Action on the minor format and reference corrections, consistency corrections, amendments to telecommunication facilities regulations, floodplain regulations, subdivision procedures, Carmel Valley Planned District Ordinance parking regulations, and the Transit Area Overlay Zone are categorically exempt from CEQA pursuant to the State Guidelines Section 15061(b)(3).

Planning Commission Recommendation - On August 17, 2000, the Planning Commission voted 5-0 to recommend approval of the minor format and reference corrections, consistency corrections, subdivision procedures, Carmel Valley Planned District Ordinance parking regulations, and the Transit Area Overlay Zone update. The Planning Commission voted

5-0 to continue the hearing on amendments to telecommunication facilities regulations, floodplain regulations, and the issue relating to curation procedures in the Historical Resources Guidelines until the September 28, 2000 hearing.

Code Monitoring Team - On July 26, 2000, the Code Monitoring Team voted unanimously to recommend approval of the minor format and reference corrections, the consistency corrections, the telecommunication facilities regulations and the Carmel Valley Planned District Ordinance parking regulations. On August 9, 2000, the Code Monitoring Team voted unanimously to recommend approval of the floodplain regulations, subdivision procedures, and the Transit Area Overlay Zone amendments.

Fiscal Impact - None.

BACKGROUND

The Second Quarterly Update to the Land Development Code (LDC) is part of the Code Monitoring Program directed by the City Council in September 1997. The first update, approved by the City Council on June 19, 2000 focused primarily on minor format and reference corrections. This second update also includes minor format and reference corrections as well as proposed amendments that clarify various discrepancies in the regulations that have surfaced during the first six months of implementation.

Because it was anticipated that the Quarterly Update Process would also be the vehicle for bringing forth any policy issues and future amendments to the LDC, five additional issues have been included relating to telecommunication facilities, floodplain regulations, subdivision procedures, parking regulations in the Carmel Valley Planned District Ordinance, and the Transit Area Overlay Zone update.

On August 17, 2000, the Planning Commission voted 5-0 to recommend approval of the minor format and reference corrections, consistency corrections, subdivision procedures, Carmel Valley Planned District Ordinance parking regulations, and the Transit Area Overlay Zone. The Planning Commission voted 5-0 to continue the hearing on amendments to telecommunication facilities regulations, floodplain regulations, and the issue relating to curation procedures in the Historical Resources Guidelines until the September 28, 2000 hearing and directed staff to re-evaluate the regulations based on public testimony. Specifically, staff was directed to consider performance criteria for telecommunication facilities located in the public right-of way; examine the definitions, variance criteria, and the duties of the Floodplain Administrator relating to the floodplain regulations; and review the methods for curating archaeological artifacts in the Historical Resources Guidelines. Revisions to the telecommunication facilities and floodplain regulations were made and are reflected in the strikeout/underline language in the respective attachments. The Archaeological Subcommittee of the Historical Resources Board and City staff are currently working towards resolution on the curation procedures. It is anticipated that it will be grouped with the 3rd Quarterly Update cycle.

DISCUSSION

The Second Quarterly Update includes a number of issues that were identified by staff and the public during the first six months of implementation. The first set of issues are the minor format

and reference corrections. The second set of issues titled “consistency issues” include various proposed changes that will clarify inconsistencies in the regulations and improve implementation of existing city policies. The five additional issues are amendments to the telecommunication facilities regulations, the floodplain regulations, subdivision procedures, the parking regulations in the Carmel Valley Planned District Ordinance, and the Transit Area Overlay Zone. These five issues are discussed individually in the following pages under separate headings. Attachment 1 provides a summary of all the issues in a matrix format. Attachments 2 through 7 provide draft strikeout/underline language. Attachment 8 contains the Transit Area Overlay Zone areas.

1. Minor Format and Reference Corrections

Minor format and reference corrections include corrections to typographical errors, simple clarifications, and reference corrections. For example, Section 121.0309(c) of the LDC refers to the “Director of Development Services.” This title has been changed to “Planning and Development Review Director.” The proposed correction would simply amend this minor reference error. Another example is that the LDC does not reference the Del Mar Mesa Specific Plan which has different development regulations for the community. The proposed corrections would simply add references to the applicable sections.

2. Consistency Corrections

Amendments to the following ten items are proposed to either correct inconsistencies in the regulations, clarify confusing aspects of the regulations, or correct provisions that have created unintended consequences during the first six months of implementation.

- a. Determining Existing Grade in the Coastal Overlay Zone - During the California Coastal Commission certification process, the determination of existing grade was modified. The Coastal Commission eliminated the date of March 4, 1972 for establishing existing grade within the Coastal Overlay Zone. After numerous discussions, City staff assured Coastal staff of the importance of having a specific date for determining existing grade. The proposed change would reverse the Coastal Commission’s modification.
- b. Description of Light Manufacturing Use Subcategory - During the Zoning Code Update process, descriptions of broad use categories and subcategories were developed to classify particular uses based on their operational characteristics. The description of light manufacturing in the Land Development Code was derived from the Permitted Uses section of the M-LI Zone (Manufacturing - Light Industrial) in the previous zoning code, but with an additional provision. The added provision precludes the use of radioactive materials in light manufacturing. The use of limited radioactive materials in confined spaces is a common industry standard for certain companies involved in the manufacturing or research and development of biomedical, biochemical, pharmaceutical products or scientific, engineering, or medical instruments, or other advanced technologies. It was never intended to exclude these companies from locating in light industrial zones. The proposed change would delete the reference to radioactive materials as a prohibited characteristic in the light manufacturing use category, thus allowing these companies to locate in light industrial zones as was permitted under the previous zoning code.

The Land Development Code does, in fact, regulate radioactivity as an external effect through the citywide Off-Site Development Impact Regulations in Chapter 14, Article 2, General Development Regulations.

c. Accessory Structures in Residential Zones - As currently written, the regulations for accessory structures in residential zones are unclear. The number of accessory structures allowed on a lot and to what extent they can encroach into required yards needs to be more clearly specified. The proposed changes would clarify that there is no limit to the number of accessory structures, but the square footage of all combined accessory structures would be limited to 25 percent of the allowable gross floor area of the premises. The 25 percent limit is not a change, but the proposed language will clarify this provision. Additionally, the proposed language clarifies the circumstances under which a structure may encroach into required yards.

d. Maximum Floor Area Ratio (FAR) in the IP, IL and IH Zones - During the Zoning Code Update process the maximum FAR in industrial zones was reduced from 2.0 to 1.0 because typical development proposals were not exceeding a FAR of 1.0. Today, industrial development proposals are showing a need to exceed a FAR of 1.0 due to higher land values and limited availability of industrial land. Changing the maximum FAR from 1.0 to 2.0 in the industrial zones would reinstate the former provision. (This change would not affect the existing FAR restrictions in the Kearny Mesa Community Plan area.)

e. Parking Requirement for Guest Quarters - The previous zoning code permitted guest quarters in single-household zones (R-1 and A-1) with a Conditional Use Permit, but did not require additional parking to be provided. Parking for guest quarters was however, often recommended through a set of Zoning Administrator's guidelines entitled "Procedures and Criteria for Guest Quarters for Conditional Use Permits." All guest quarters regulations are now integrated into the Separately Regulated Use Regulations. The current regulations allow guest quarters in most residential zones with a Neighborhood Use Permit, but the regulations do not require an additional parking space. During the discretionary review process, transportation and permit review staff often recommend an additional parking space even though it is not required. Staff considers such factors as the existing development pattern and existing parking conditions in the community to determine if an extra parking space should be recommended. The proposed change would add the one space parking requirement into the Separately Regulated Use Regulations for Guest Quarters. The change would clarify and codify the City's standard practices and alleviate community concerns relating to parking issues.

f. Satellite Antennas as Accessory Uses in the Industrial Zones - As currently written, the regulations require a Conditional Use Permit for satellite antennas exceeding 10 feet in diameter. Because many industrial businesses need to use large satellite antennas for communication purposes as part of their integral business functions, it would benefit these users if antennas would be allowed by right as an accessory use in industrial zones. The proposed change would clarify that satellite antennas are allowed by right in industrial zones if they are accessory to the primary use.

g. Public Interest Messages on Signs - As currently written, the sign regulations do not clearly

identify the size and location limitations for sponsors or supporters of public interest messages on signs. The proposed changes would clarify that sponsors and supporters of public interest messages, for public or private nonprofit or charitable organizations, be limited to fifteen percent of the total sign area.

h. Residential Density as Part of Mixed-Use Projects - This proposed change would allow a project to deviate from residential density requirements if it is part of a mixed-use (commercial/residential) project and the applicable community plan establishes a higher density than the base zone. This type of deviation would be allowed through a Planned Development Permit decided in accordance with Process Four. This is necessary because some community plans call for a higher residential density in mixed-use projects than is currently allowed in the underlying base zone regulations.

i. Slope Gradient - The current regulations allow cut slopes as steep as 1 :1 (1 horizontal feet to 1 vertical foot) under certain conditions. The industry standard is generally no steeper than 2:1 (2 horizontal feet to 1 vertical foot) unless extraordinary conditions exist, e.g., if the underlying bedrock would support the steepness. The proposed change would delete the section allowing 1 :1 slopes because the regulations already allow for steeper slopes with the approval of the City Engineer where extraordinary conditions exist.

3. Telecommunication Facilities

On January 26, 2000, City staff was directed by the Land Use and Housing Committee to analyze the regulations for telecommunication facilities regarding the penetration of facilities into residential areas and limiting the number of facilities on a per site basis. A committee was formed with representatives from the telecommunication industry providers, City Council districts and Community Planning Groups. The committee reached consensus on the proposed amendments to the regulations.

The issue of penetration into residential areas is addressed by two proposed changes. Minor telecommunication facilities proposed on properties zoned for residential, but containing nonresidential uses, such as churches or schools, would require a Neighborhood Use Permit Process Two. This change addresses the desire of the public to be notified, as well as the opportunity to appeal the decision to the Planning Commission. The committee's intent was to provide notification to surrounding residents who may be affected by the installation of a telecommunication facility. The committee also decided to revise the regulations to require a Conditional Use Permit Process Three, for all major telecommunication facilities located on residential properties, either vacant or developed with residential uses.

With respect to limiting the number of facilities on a per site basis, the committee's solutions were limited because of the Telecommunication Act of 1996, which contains a nondiscriminating clause that prohibits local jurisdictions from giving preferential treatment to any one carrier. The original policy was written with this in mind and the proposed changes include similar language. The limiting factors available to the City for regulating the number of facilities per site are through the base zone use and development regulations. The proposed regulations would require minor telecommunication facilities to comply with the underlying zoning regulations. If the facility proposes to deviate from any development regulation, the facility is then reclassified from a minor facility to a major facility, thus

requiring a Conditional Use Permit (CUP) Process Three. Additionally, a deviation from base zone regulations would require a Planned Development Permit (PDP) Process Four. Therefore, the restricting factors available to the City for limiting the number of facilities per site are the underlying base zone regulations, the conditions placed on the project through the CUP process, and any other locational or design requirements placed on the project through discretionary review.

The committee is also proposing to include a disclosure provision for the Radio Frequency (RF). Though the Telecommunication Act of 1996 preempts local jurisdictions from regulating the placement of telecommunication facilities based on the associated RF energy, the committee believes that requiring RF disclosure with the application provides valuable information for the public while meeting the overall intent of the Act.

An additional change recommended by the committee involves telecommunication facilities that are proposed on existing vertical elements and associated equipment located in the public right-of-way, such as antennas located on light poles. In such cases, the associated equipment may be an additional box-like element, similar to a utility box, that would also be located in the public right-of-way. As a ministerial action, Planning staff would not be involved in the review process therefore, the committee determined that it was necessary to include a requirement for undergrounding the associated equipment to avoid additional visual impacts.

4. Floodplain Regulations

In anticipation of updating the City's references to the most recent Flood Insurance Study promulgated by the Federal Emergency Management Agency (FEMA), City engineering staff conducted a thorough review of all the existing policies and regulations for flood hazard areas. As currently written, these policies and regulations are scattered throughout various chapters in the Municipal Code, the Land Development Code and in City Council Policy 600-14-Development within Areas of Special Flood Hazard. The proposed amendments would entail the following:

- a. Transfer regulatory language from Council Policy 600-14 into the LDC.
- b. Reference the most recent Flood Insurance Study prepared for San Diego County.
- c. Correct references to Flood Hazard Boundary Maps that are no longer applicable.
- d. Correct inconsistent terminology by defining or redefining terms (base flood, flood, floodplain fringe, and 100-year flood) and using these terms consistently throughout the LDC.

5. Subdivision Procedures for Final Maps

The California Subdivision Map Act was amended on January 1, 1999 to allow final subdivision maps to be approved ministerially by the City Engineer. City staff is recommending parallel amendments to the Subdivision Procedures in the LDC. The amendments to the Subdivision Map Act would allow the City Council to authorize the City

Engineer to approve and record final subdivision maps as a ministerial action. The City Council must be notified prior to the approval by the City Engineer and the decision can be appealed to the City Council. The approval of the map, agreements, and documents is ministerial and is only granted if all the conditions of approval contained in the previously approved tentative map and associated permits are satisfied.

Currently, the approval of final subdivision maps is a Process Five decision by the City Council and is most often approved on the consent agenda. The City Council must approve the map if all conditions of the approved tentative map and associated permits have been met. City Council depends on staff to make the preliminary findings and report the findings to Council prior to final approval.

The state legislature realized that City Councils would lose no prerogatives if staff were allowed to finalize the maps without a City Council hearing, thus saving much time and expense to the applicant. The City Council and the public would be notified of a pending map approval by the publication of an announcement as an information item in the Council Docket. The map would not be finalized until 10 days after the City Council hearing, allowing the public or Council members time to make inquiries or request an appeal. The Subdivision Map Act amendment requires City Councils to annually review the delegation of approval authority.

This proposed amendment would allow City staff to better manage map approvals by eliminating the time and expense of the 1472 (Request for Council Action) process needed to take a final map to Council. This item is enthusiastically supported by the industry.

6. Carmel Valley Planned District Ordinance

In April of 1997, the Carmel Valley Community Planning Group requested that City staff review the adequacy of the commercial parking ratios for the Employment Center (EC) Zone within their community. The planning group was concerned with the overflow of parking into residential neighborhoods from nearby employment centers. However, during the preparation of the LDC, direction was given by the City Council to defer substantive changes to any of the Planned District Ordinances (PDO) until after the adoption of the LDC. In February of 2000, City staff was directed by the Land Use and Housing Committee to implement a PDO Update Work Program to update all 18 of the PDOs and specifically address this issue within the Carmel Valley PDO. City staff worked with representatives of the planning group to come up with a solution to the community parking issues. The consensus is to increase the parking ratio from 3.3 per 1,000 square feet of gross floor area (as required in the LDC) to 4.0 per 1,000 square feet of gross floor area for the Business and Professional Office/ Government/Regional and Corporate Headquarters category in the Employment Center Zone within the Carmel Valley PDO.

7. Transit Area Overlay Zone Update

The Planning Commission previously recommended approval of the update to the Transit Area Overlay Zone Maps on February 10, 2000 as part the regulatory relief package. Due to delays with other items included in the regulatory relief package, this item has been added to the Second Quarterly Update to the LDC for approval by the City Council and the California Coastal Commission.

The purpose of the Transit Area Overlay Zone is to provide supplemental parking regulations for areas receiving a high level of transit service. The Transit Area Overlay Zone maps were last updated in 1992. Since then, significant expansion of bus and trolley service have been implemented or funded. The proposed amendment will add these new areas to the overlay zone. Attachment 8 provides a list of the new areas.

CONCLUSION

Planning and Development Review recommends approval of the proposed Second Quarterly Update issues which includes minor format and reference corrections, consistency corrections, amendments to telecommunication facilities regulations, floodplain regulations, subdivision procedures, parking regulations of the Carmel Valley PDO, and the Transit Area Overlay Zone.

ALTERNATIVES

1. Modify the recommendations proposed for the minor format and reference corrections, regulatory amendments, amendments to telecommunication facilities regulations, floodplain regulations, subdivision procedures, Carmel Valley PDO parking regulations, and the Transit Area Overlay Zone.
2. Deny the format and reference corrections, consistency corrections, amendments to telecommunication facilities regulations, floodplain regulations, subdivision procedures, Carmel Valley PDO parking regulations, and the Transit Area Overlay Zone.

Respectfully submitted,

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- Attachments:.. 1. Second Quarterly Update Issues Matrix
- 2.Draft strikeout/underline language for the minor format corrections
 - 3.Draft strikeout/underline language for consistency corrections
 - 4.Draft strikeout/underline language for the telecommunication facilities regulations
 - 5.Draft strikeout/underline language for the floodplain regulations
 - 5a.Draft strikeout/underline language for Council Policy 600-14
 - 6.Draft strikeout/underline language for the Subdivision Procedures
 - 7.Draft strikeout/underline language for the Carmel Valley PDO parking regulations
 - 8.Transit Area Overlay Zone Update areas