



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.

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

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.

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

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

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

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.

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

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 6-01 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

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.

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.

Respectfully submitted,

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BOEKAMP/KGB/AJL