Article 6: Development Permits

Division 4: Neighborhood Development Permit Procedures
(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

§126.0401 Purpose of The Neighborhood Development Permit Procedures

The purpose of these procedures is to establish a review process for proposed development that may be desirable but may have some limited physical impacts on the surrounding properties. The intent of these procedures is to determine if the proposed development complies with the development regulations of the applicable zone, as well as supplemental regulations for the type of development proposed, and to apply limited conditions if necessary to achieve conformance with these regulations.
(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

§126.0402 When a Neighborhood Development Permit Is Required

(a) A Neighborhood Development Permit is required for the following types of development on sites with previously conforming premises or uses:

(1) Maintenance, repair, or alteration of a previously conforming structure that incorporates previously conforming uses or density if costs would exceed 50 percent of market value as described in Section 127.0104;

(2) Reconstruction of a structure with previously conforming nonresidential uses if costs would exceed 50 percent of market value as described in Section 127.0105;

(3) Expansion or enlargement of a previously conforming structural envelope where the existing previously conforming structure does not conform with current zoning regulations for density or use as described in Section 127.0106;

(4) Expansion or enlargement of a previously conforming structure where the new construction proposes up to 20 percent reduction in the required setback as described in Section 127.0106; and
(5) Maintenance, repair, rebuilding, or alteration of a previously conforming advertising display sign where the costs of new construction would exceed 50 percent of the assessed value of the existing advertising display sign, but would not expand beyond the existing structural envelope as provided in Section 127.0303.

(b) A Neighborhood Development Permit is required for single dwelling unit development on an individual lot that is less than or equal to 15,000 square feet and contains steep hillsides, Special Flood Hazard Areas, or sensitive biological resources as described in Section 143.0110.

(c) A Neighborhood Development Permit is required for single dwelling unit development on a lot containing historical resources other than designated historical resources and historical districts as described in Section 143.0210 unless exempted in accordance with Section 143.0220.

(d) A Neighborhood Development Permit is required for commercial development proposing tandem parking as described in Section 142.0555(b).

(e) A Neighborhood Development Permit is required for mobilehome parks in any RM zone, as described in Section 143.0302, regardless of the unit number requirements in Table 126-05A.

(f) A Neighborhood Development Permit is required for relocating a building to a premises where an existing building is to remain as described in Section 143.0302.

(g) A Neighborhood Development Permit is required for development proposing fences, walls, or retaining walls that exceed the height permitted in Chapter 14, Article 2, Division 3, by 20 percent or less as described in Section 142.0350.

(h) A Neighborhood Development Permit is required for nonresidential development exceeding the maximum permitted parking as described in Section 142.0540(b).

(i) A Neighborhood Development is required for development providing shared parking for uses not specified in Section 142.0545(c) as described in Section 142.0545(b)(7).

(j) A Neighborhood Development Permit is required for construction of a privately owned structure proposed in the public right-of-way dedicated for a street or an alley, where the applicant is the record owner of the underlying fee title as described in Section 129.0710(a).
(k) A Neighborhood Development Permit is required for development of a large retail establishment of 50,000 or more square feet gross floor area in all commercial, industrial, and mixed-use zones, and in all planned districts, except the Centre City Planned District.

(l) A Neighborhood Development Permit is required for the following types of development within the Airport Land Use Compatibility Overlay Zone:

   (1) Non-residential development where alternative compliance is requested to demonstrate safety compatibility in accordance with Section 132.1515(d) using an equivalent calculation of intensity (people per acre).

   (2) Non-residential development within the Brown Field or Montgomery Field airport influence areas where additional intensity (people per acre) is requested for a building designed to minimize risk and increase the safety of building occupants beyond the minimum requirements of the California Building Code in accordance with Section 132.1515(g)(2).

(m) A Neighborhood Development Permit is required for development of a wireless communication facility with an equipment enclosure that exceeds 250 square feet as described in Section 141.0420(e)(3), or that includes equipment enclosures not placed underground as described in Section 141.0420(g)(2).

(n) A Neighborhood Development Permit is required for development of a college, university, vocational, or trade school on a premises identified as Prime Industrial Land in a land use plan as described in Section 141.0407(e)(2).

(o) A Neighborhood Development Permit is required for development on a site that contains a designated historical resource, traditional cultural property, important archaeological site, or a designated contributing resource to a historical district and includes a specific historic preservation development incentive as described in Section 143.0240.

(p) A Neighborhood Development Permit is required for development that proposes deviations to the development regulations within the mixed-use zones. A Neighborhood Development Permit may not be used to request deviations listed in Section 131.0710(c).
(q) A Neighborhood Development Permit is required for development that provides affordable housing, in-fill projects, and/or sustainable buildings identified in Section 143.0915, where a Site Development Permit or Planned Development Permit would otherwise be required.

(r) A Neighborhood Development Permit is required for a Lot Line Adjustment on a premises containing environmentally sensitive lands as described in Section 143.0110.

[Editors Note: Amendments as adopted by O-21254 N.S. will not apply within the Coastal Overlay Zone until the California Coastal Commission certifies it as a Local Coastal Program Amendment. Click the link to view the Strikeout Ordinance highlighting changes to prior language http://docs.sandiego.gov/municode_strikeout_ord/O-21254-SO.pdf ]

(Added 1-27-2022 by O-21416 N.S.; effective 2-26-2022.)

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§126.0403 Decision Process for a Neighborhood Development Permit
A decision on a Neighborhood Development Permit shall be made in accordance with Process Two.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)
§126.0404   Findings for Neighborhood Development Permit Approval

A Neighborhood Development Permit may be approved or conditionally approved only if the decision maker makes all of the findings in Section 126.0404(a) and the supplemental findings in Section 126.0404(b) through (g) that are applicable to the proposed development as specified in this section.

These findings are not required for affordable housing that is provided pursuant to Chapter 14, Article 3, Division 7, unless the development will exceed the allowed incentives.

(a) Findings for all Neighborhood Development Permits

(1) The proposed development will not adversely affect the applicable land use plan;

(2) The proposed development will not be detrimental to the public health, safety, and welfare; and

(3) The proposed development will comply with the applicable regulations of the Land Development Code including any allowable deviations pursuant to the Land Development Code.

(b) Supplemental Findings--Environmentally Sensitive Lands

A Neighborhood Development Permit required in accordance with Section 143.0110 because of potential impacts to environmentally sensitive lands may be approved or conditionally approved only if the decision maker makes the following supplemental findings in addition to the findings in Section 126.0404(a):

(1) The site is physically suitable for the design and siting of the proposed development and the development will result in minimum disturbance to environmentally sensitive lands;

(2) The proposed development will minimize the alteration of natural land forms and will not result in undue risk from geologic and erosional forces, flood hazards, or fire hazards;

(3) The proposed development will be sited and designed to prevent adverse impacts on any adjacent environmentally sensitive lands; and
(4) The proposed development will be consistent with the City of San Diego’s MSCP Subarea Plan and VPHCP.

(5) The nature and extent of mitigation required as a condition of the permit is reasonably calculated to alleviate negative impacts created by the proposed development.

(c) Supplemental Findings--Environmentally Sensitive Lands Deviation

A Neighborhood Development Permit required in accordance with Section 143.0110 because of potential impacts to environmentally sensitive lands where a deviation is requested in accordance with Sections 143.0150, 143.0151, and 143.0920 may be approved or conditionally approved only if the decision maker makes the following supplemental findings in addition to the findings in Section 126.0404(a) and the supplemental findings in Section 126.0404(b):

(1) There are no feasible measures that can further minimize the potential adverse effects on environmentally sensitive lands; and

(2) The deviation requested is the minimum necessary to afford relief from special circumstances or conditions applicable to the land and not of the applicant’s making.

(d) Supplemental Findings--Important Archaeological Sites and Traditional Cultural Properties

A Neighborhood Development Permit required in accordance with Section 143.0210 because of potential impacts to an important archaeological site or a traditional cultural property may be approved or conditionally approved only if the decision maker makes the following supplemental findings in addition to the findings in Section 126.0404(a):

(1) The site is physically suitable for the design and siting of the proposed development, the development will result in minimum disturbance to historical resources, and measures to fully mitigate for any disturbance have been provided by the applicant; and

(2) All feasible measures to protect and preserve the special character or the special historical, archaeological, or cultural value of the resource have been provided by the applicant.
(e) **Supplemental Findings – Additional Intensity for Non-residential Development in the Brown Field or Montgomery Field Airport Influence Areas.** The applicant shall demonstrate that the building has been designed to minimize risk and increase the safety of the occupants beyond the minimum requirements of the California Building Code through evaluation of the following:

1. The proposed building provides increased fire resistant rated construction to prevent or delay fire-induced structural damage;
2. The proposed building provides increased fire protection systems to allow occupants more time to exit the building and to delay the spread of fire to adjacent buildings;
3. The building provides enhanced means for building egress; and
4. The design of the building's structural systems addresses light aircraft impact loads to reduce the potential for structural damage.

(f) **Supplemental Findings -- Affordable Housing, In-Fill Projects, or Sustainable Buildings Deviation**

A Neighborhood Development Permit required in accordance with Section 143.0915 because a deviation is requested in accordance with Section 143.0920 may be approved or conditionally approved only if the decision maker makes the following supplemental findings in addition to the findings in Section 126.0404(a):

1. The development will materially assist in accomplishing the goal of providing affordable housing, in-fill projects, or sustainable buildings opportunities; and
2. Any proposed deviations are appropriate for the proposed location.

(g) **Supplemental Findings -- Development Incentives for Preservation of Designated Historical Resources, Historical Districts, Traditional Cultural Properties and Important Archaeological Sites**
A Neighborhood Development Permit required because a historic preservation development incentive is included in accordance with Section 143.0240 may be approved or conditionally approved only if the decision maker makes the findings in Section 126.0404(a) and at least one of the following supplemental findings:

1. The proposed development contains a traditional cultural property or important archaeological site, and the historic preservation development incentive is necessary to avoid impacts to the resource; or

2. The proposed development contains a designated historical resource or a contributing resource to a designated historical district and the historic preservation development incentive is required to comply with the U.S. Secretary of the Interior’s Standards and Guidelines for the Treatment of Historic Properties.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000; amended 6-19-2000 by O-18814 N.S.)

(Amended 11-13-08 by O-19805 N.S.; effective 12-13-2008.)

(Amended 8-4-2011 by O-20081 N.S.; effective 10-6-2011.)

(Amended 10-25-2011 by O-20047 N.S.; effective 1-1-2012.)


(Amended 3-22-2018 by O-20920 N.S.; effective 4-21-2018.)

(Amended 10-30-2020 by O-21254 N.S.; effective 11-29-2020.)

[Editors Note: Amendments as adopted by O-21254 N.S. will not apply within the Coastal Overlay Zone until the California Coastal Commission certifies it as a Local Coastal Program Amendment. Click the link to view the Strikeout Ordinance highlighting changes to prior language http://docs.sandiego.gov/municode_strikeout_ord/O-21254-SO.pdf ]

§126.0405 Violations of a Neighborhood Development Permit

It is unlawful for any person to maintain, use, or develop any premises without a Neighborhood Development Permit if such a permit is required for that use or development or to maintain, use or develop any premises contrary to the requirements or conditions of an existing Neighborhood Development Permit, except as provided in Sections 126.0112 or 126.0113. Violation of any provision of this Division shall be subject to the enforcement provisions contained in Chapter 12, Article 1. Violations of this Division shall be treated as strict liability offenses regardless of intent.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

(Amended 1-8-2020 by O-21161 N.S.; effective 2-9-2020.)
§126.0406 Judicial Review

For a Neighborhood Development Permit required by Chapter 12, Article 7, Division 3 an applicant may seek judicial review of a final decision on the permit application, pursuant to California Code of Civil Procedure section 1094.8. This provision does not limit an applicant’s ability to seek judicial review by other means.

(“Judicial Review” added 1-13-2004 by O-19253 N.S.)