Article 6: Development Permits

Division 5: Site Development Permit Procedures
(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

§126.0501 Purpose of the Site Development Permit Procedures

The purpose of the Site Development Permit procedures is to establish a review process for proposed development that, because of its site, location, size, or some other characteristic, may have significant impacts on resources or on the surrounding area, even if developed in conformance with all regulations. The intent of these procedures is to apply site-specific conditions as necessary to assure that the development does not adversely affect the applicable land use plan and to help ensure that all regulations are met.
(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

§126.0502 When a Site Development Permit is Required

(a) A Site Development Permit decided in accordance with Process Three is required where environmentally sensitive lands are present for the following types of development, except that if the development is affordable housing, an in-fill project, and/or a sustainable building, as described in Section 143.0915, it shall be processed in accordance with Section 126.0503 and Section 143.0110, Table 143-01A:

(1) Single dwelling unit development that involves any of the following:

   (A) Development on a premises containing sensitive coastal bluffs or coastal beaches, as described in Section 143.0110;

   (B) Development on lots greater than 15,000 square feet containing sensitive biological resources or steep hillsides— as described in Section 143.0110; or

   (C) Development on lots less than or equal to 15,000 square feet that are joined in ownership to a contiguous lot so that the total area of contiguous ownership exceeds 15,000 square feet where sensitive biological resources or steep hillsides are present, as described in Section 143.0110.

(2) Multiple unit residential development on a premises containing environmentally sensitive lands, as described in Section 143.0110.
(3) Commercial development on a premises containing environmentally sensitive lands, as described in Section 143.0110.

(4) Industrial development on a premises containing environmentally sensitive lands, as described in Section 143.0110.

(b) A Site Development Permit decided in accordance with Process Three is required for residential development that involves any of the following:

(1) Development of mobilehome parks within the RS or RX zones, as described in Section 143.0302.

(2) Within the Mobilehome Park Overlay Zone, discontinuance of a mobilehome park, as described in Section 143.0630.

(3) Multiple unit residential development that varies from minimum parking requirements, as described in Section 142.0525(a).

(4) Development of a small lot subdivision in accordance with Section 143.0365.

(c) A Site Development Permit decided in accordance with Process Three is required for the following types of development.

(1) In the Community Plan Implementation Overlay Zone, as described in Section 132.1402, development in the area designated “Type B” or development in the area designated “Type A” that does not comply with the development standards in the applicable community plan, except that if the development is affordable housing, an in-fill project, and/or a sustainable building, as described in Section 143.0915, it shall be processed in accordance with Section 126.0503 and Section 132.1402, Table 132-14B.

(2) Development in the Mission Trails Design District, as described in Section 132.1202.

(3) Development in the Urban Village Overlay Zone, as described in Section 132.1102.

(4) Public improvements required in association with private development that involve development of more than 3,000 feet of property frontage, as described in Section 142.0612.
(5) Public improvements required in association with private development for which adopted City standards do not apply, as described in Section 142.0612.

(6) Development of manufactured slopes at a gradient steeper than 25 percent (4 horizontal feet to 1 vertical foot) and a height of 25 feet or more as described in Section 142.0103, except that if the grading is for underground parking, then a Site Development Permit is not required.

(7) Nonresidential development that varies from the minimum parking requirements by proposing a Transportation Demand Management Plan, as described in Section 142.0540(c).

(8) Development within the Airport Land Use Compatibility Overlay Zone as required for safety compatibility in accordance with Section 132.1515.

(d) A Site Development Permit decided in accordance with Process Four is required for the following types of development.

(1) Within historical districts or when designated historical resources are present, unless exempt under Section 143.0220:

   (A) Subdivisions;
   
   (B) Single or multiple unit residential development;
   
   (C) Commercial or industrial development;
   
   (D) Public works projects; and
   
   (E) Development that deviates from the historical resources regulations, as described in Section 143.0210.

(2) Where historical resources other than historical districts or designated historical resources are present, unless exempt under Section 143.0220:

   (A) Subdivisions;
   
   (B) Multiple dwelling unit residential development;
   
   (C) Commercial or industrial development;
(D) Public works construction projects; and

(E) Development that deviates from the historical resources regulations, as described in Section 143.0210.

(3) Subdivision of a premises that contains environmentally sensitive lands, as described in Section 143.0110.

(4) Development that deviates from any portion of the environmentally sensitive lands regulations, as described in Section 143.0110.

(5) Development for which the applicant seeks a deviation from the development regulations in Section 144.0507 for condominium conversions.

(6) Any encroachment or object which is erected, placed, constructed, established or maintained in the public right-of-way when the applicant is not the record owner of the property on which the proposed encroachment will be located in accordance with Section 129.0710(b).

(7) Development of a large retail establishment of 100,000 or more square feet gross floor area in all commercial, industrial, and mixed-use zones, and in all planned districts.

(e) A Site Development Permit decided in accordance with Process Five is required for the following types of development.

(1) In the Airport Approach Overlay Zone, development proposals that receive an FAA determination of hazard and that are not exempt, as described in Section 132.0202.

(2) In the Airport Environs Overlay Zone, development for which a City Council override is requested, as described in Section 132.0302.

(3) In the Clairemont Mesa Height Limit Overlay Zone, development for which an exception to the height limit is requested, as described in Section 132.1306.

(4) Development within the Airport Land Use Compatibility Overlay Zone proposing deviations from the overlay zone requirements, or development that includes a rezone or land use plan approval.
(5) Development in accordance with section 129.0710(c) that includes major underground or overhead structures which extend into the public right-of-way beyond the ultimate curb line or other encroachments which, in the opinion of the City Manager, are of sufficient public interest to warrant City Council approval.

(f) A Site Development permit in accordance with Process CIP/Public Project-Two is required for the following types of development.

(1) Capital improvement program projects or public projects on a premises containing environmentally sensitive lands or that deviate from the Environmentally Sensitive Lands Regulations pursuant to Section 143.0110, Table 142-01A.

(2) Capital improvement program projects or public projects on a premises containing historical resources where the development complies with the Historical Resources Regulations without deviation, unless exempt under Section 143.0220.

(g) A Site Development Permit in accordance with Process CIP/Public Project-Five is required for capital improvement program projects or public projects on a premises containing historical resources that deviate from the Historical Resources Regulations, unless exempt under Section 143.0220.

(Amended 4-22-2002 by O-19051 N.S.; effective 10-8-2002.)
(Amended 2-9-2006 by O-19461 N.S.; effective 3-9-2006.)
(Amended 11-13-08 by O-19803 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 1-23-2013 by O-20235 N.S.; effective 2-22-2013.)
(Amended 10-22-2013 by O-20309 N.S.; effective 12-12-2013.)
(Amended 5-5-2015 by O-20481 and O-20483 N.S.; effective 6-4-2015.)
(Amended 3-22-2018 by O-20916 N.S.; effective 4-21-2018.)
(Amended 3-22-2018 by O-20917 N.S.; effective 4-21-2018.)
(Amended 9-12-2019 by O-21118 N.S.; effective 10-12-2019.)
(Amended 1-8-2020 by O-21164 N.S.; effective 2-9-2020.)
(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 ]

§126.0503 Reduced Permit and Processing for Affordable Housing, In-Fill Projects, and Sustainable Buildings

Development of affordable housing, in-fill projects, and/or sustainable buildings described in Section 143.0915 that requires a Site Development Permit in accordance with Section 126.0502(a) or 126.0502(c)(1) may be permitted in accordance with a Neighborhood Development Permit decided in accordance with Process Two, provided the findings in Section 126.0404(a) are made. Development of affordable housing, in-fill projects, and/or sustainable buildings impacting environmentally sensitive lands may be approved or conditionally approved only if the decision maker also makes the supplemental findings in Section 126.0404(b). In the event that a deviation is requested, the development may not be approved or conditionally approved unless the applicable supplemental findings in Section 126.0404(c) and 126.0404(f) are also made.

(“Exemption from a Site Development Permit” added 9-15-2017 by O-20856 N.S.; effective 10-20-2017. Former Section 126.0503 “Decision Processes for Site Development Permits” renumbered to Section 126.0504.)
(Amended 8-9-2019 by O-21114 N.S.; effective 9-8-2019.)
(Retitled from “Exemption from a Site Development Permit” to “Reduced Permit and Processing for Affordable Housing, In-Fill Projects, and Sustainable Buildings” and 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 ]

§126.0504 Decision Processes for Site Development Permits

(a) Process Three

A decision on an application for a Site Development Permit for the types of development listed in Section 126.0502(a), (b) and (c) shall be made in accordance with Process Three. The decision may be appealed to the Planning Commission in accordance with Section 112.0506.
(b) Process Four

(1) A decision on an application for a Site Development Permit for the types of development listed in Section 126.0502(d) shall be made in accordance with Process Four.

(2) A recommendation of the Historical Resources Board is required prior to the Planning Commission decision on a Site Development Permit when a historical district or designated historical resource is present.

(c) Process Five

A decision on an application for a Site Development Permit for the types of development listed in 126.0502(e) shall be made in accordance with Process Five.

(d) Process CIP/Public Project-Two

A decision on an application for a Site Development Permit for the types of development listed in Section 126.0502(f) shall be made in accordance with Process CIP/Public Project-Two.

(e) Process CIP/Public Project-Five

A decision on an application for a Site Development Permit for the types of development listed in Section 126.0502(g) shall be made in accordance with Process CIP/Public Project-Five.


(Amended 10-22-2013 by O-20309 N.S.; effective 12-12-2013.)

(Renumbered from Section 126.0503 on 9-15-2017 by O-20856 N.S.; effective 10-20-2017. Former Section 126.0504 “Findings for Site Development Permit Approval” renumbered to Section 126.0505.)

(Amended 1-8-2020 by O-21164 N.S.; effective 2-9-2020.)
§126.0505 Findings for Site Development Permit Approval

A Site Development Permit may be approved or conditionally approved only if the decision maker makes all of the findings in Section 126.0505(a) and the supplemental findings in Section 126.0505(b) through (m) that are applicable to the proposed development as specified in this section.

(a) Findings for all Site 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 regulations of the Land Development Code including any allowable deviations pursuant to the Land Development Code.

(b) Supplemental Findings--Environmentally Sensitive Lands

A Site 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 126.0505(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;

(4) The proposed development will be consistent with the City of San Diego’s Multiple Species Conservation Program (MSCP) Subarea Plan and Vernal Pool Habitat Conservation Plan (VPHCP);
(5) The proposed development will not contribute to the erosion of public beaches or adversely impact local shoreline sand supply; and

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

(c) Supplemental Findings--Environmentally Sensitive Lands Deviations

A Site Development Permit required in accordance with Section 143.0110 because of potential impacts to environment sensitive lands where a deviation is requested in accordance with Section 143.0150 may be approved or conditionally approved only if the decision maker makes the following supplemental findings in addition to the findings in Section 126.0505(a) and the supplemental findings in Section 126.0505(b):

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

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

(d) Supplemental Findings--Environmentally Sensitive Lands Deviation from Federal Emergency Management Agency Regulations

A Site Development Permit required in accordance with Section 143.0110 because of potential impacts to environment sensitive lands where a deviation is requested from the Special Flood Hazard Area regulations as specified in Section 143.0150(b) may be approved or conditionally approved only if the decision maker makes the following supplemental findings in addition to the findings in Section 126.0505(a) and the supplemental findings in Sections 126.0505(b) and 126.0505(c):

(1) The City Engineer has determined that the proposed development within a designated floodway will not result in an increase in flood levels during the base flood discharge except as allowed under Code of Federal Regulations Title 44, Chapter 1, Part 60.3(c)(13);

(2) The City Engineer has determined that the deviation would not result in additional threats to public safety, extraordinary public expense, or create a public nuisance.
(e) Supplemental Findings--Steep Hillsides Development Area Regulations

Alternative Compliance

A Site Development Permit required in accordance with Section 143.0110 because of potential impacts to steep hillsides where alternative compliance is requested in accordance with Section 143.0151 may be approved or conditionally approved only if the decision maker makes the following supplemental findings in addition to the findings in Section 126.0505(a) and the supplemental findings in Section 126.0505(b):

1. The proposed development is in conformance with the Steep Hillside Guidelines;
2. The proposed development conforms to the applicable land use plan; and
3. Strict application of the steep hillside development area regulations would result in conflicts with other City regulations, policies, or plans.

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

A Site Development Permit required in accordance with Section 143.0210 because of potential impacts to an important archaeological site or 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 126.0505(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, architectural, archaeological, or cultural value of the resource have been provided by the applicant.

(g) Supplemental Findings--Historical Resources Deviation for Important Archaeological Sites and Traditional Cultural Properties
A Site Development Permit required in accordance with Section 143.0210 because of potential impacts to an *important archaeological site or traditional cultural property* where a deviation is requested in accordance with Section 143.0260 may be approved or conditionally approved only if the decision maker makes the following supplemental *findings* in addition to the *findings* in Section 126.0505(a):

1. There are no feasible measures, including a less environmentally damaging location or alternative, that can further minimize the potential adverse effects on *historical resources*;

2. The proposed deviation is the minimum necessary to afford relief and accommodate the *development* and all feasible measures to mitigate for the loss of any portion of the resource have been provided by the *applicant*; and

3. There are special circumstances or conditions apart from the existence of *historical resources*, applying to the land that are peculiar to the land and are not of the applicant’s making, whereby the strict application of the provisions of the *historical resources* regulations would deprive the property owner of reasonable use of the land.

(h) Supplemental Findings--Historical Resources Deviation for Relocation of a Designated Historical Resource

A Site Development Permit required in accordance with Section 143.0210 because of potential impacts to *historical resources* where a deviation is requested in accordance with Section 143.0260 for relocation of a *designated historical resource* may be approved or conditionally approved only if the decision maker makes the following supplemental *findings* in addition to the *findings* in Section 126.0505(a):

1. There are no feasible measures, including maintaining the resource on site, that can further minimize the potential adverse effects on *historical resources*;

2. The proposed relocation will not destroy the historical, cultural, or architectural values of the *historical resource*, and the relocation is part of a definitive series of actions that will assure the preservation of the *designated historical resource*. 
(3) There are special circumstances or conditions apart from the existence of historical resources, applying to the land that are peculiar to the land and are not of the applicant’s making, whereby the strict application of the provisions of the historical resources regulations would deprive the property owner of reasonable use of the land.

(i) Supplemental Findings--Historical Resources Deviation for Substantial Alteration of a Designated Historical Resource or Within a Historical District

A Site Development Permit required in accordance with Section 143.0210 because of potential impacts to designated historical resources where a deviation is requested in accordance with Section 143.0260 for substantial alteration of a designated historical resource or within a historical district or new construction of a structure located within a historical district may be approved or conditionally approved only if the decision maker makes the following supplemental findings in addition to the findings in Section 126.0505(a):

(1) There are no feasible measures, including a less environmentally damaging alternative, that can further minimize the potential adverse effects on the designated historical resource or historical district;

(2) The deviation is the minimum necessary to afford relief and accommodate the development and all feasible measures to mitigate for the loss of any portion of the historical resource have been provided by the applicant; and

(3) The denial of the proposed development would result in economic hardship to the owner. For purposes of this finding, “economic hardship” means there is no reasonable beneficial use of a property and it is not feasible to derive a reasonable economic return from the property.

(j) Supplemental Findings--Clairemont Mesa Height Limit

A Site Development Permit required in accordance with Section 132.1306 because an exception from the Clairemont Mesa height limit is requested may be approved or conditionally approved only if the decision maker makes the following supplemental findings in addition to the findings in Section 126.0505(a):
(1) The granting of an exception will not significantly interfere with public views from western Clairemont Mesa to Mission Bay and the Pacific Ocean within the surrounding area; and

(2) The granting of an exception is appropriate because there are existing structures over 30 feet in height and the proposed development will be compatible with surrounding one, two, or three-story structures; or the granting of an exception is appropriate because there are topographic constraints peculiar to the land; or the granting of the exception is needed to permit roofline and facade variations, accents, tower elements, and other similar elements and the elements will not increase the floor area of the structure.

(k) Supplemental Findings--Mobilehome Park Discontinuance

A Site Development Permit required in accordance with Section 132.0702 because a discontinuance of a mobilehome park is proposed may be approved or conditionally approved only if the decision maker makes the following supplemental findings in addition to the findings in Section 126.0505(a):

(1) The discontinuance of use of the land for a mobilehome park or mobilehome spaces will not deprive the community of a needed facility;

(2) The discontinuance of use of the land for a mobilehome park or mobilehome spaces, because of the associated relocation plan and conditions that have been applied to the discontinuance, will not be detrimental to the public health, safety, and welfare of persons living in the mobilehome park; and

(3) The use to which the applicant proposes to put the property will provide a greater public benefit than continued use of the property as a mobilehome park or mobilehome spaces.

(l) Supplemental Findings--Condominium Conversions

A Site Development Permit required in accordance with Section 144.0509, because of potential impacts to the surrounding neighborhood, may be approved or conditionally approved only if the decision maker makes either of the following supplemental findings in addition to the findings in Section 126.0405(a):
(1) The decision maker has considered the project-specific constraints and has determined that the condominium conversion as proposed would, to the maximum extent feasible, address the requirements of Section 144.0507, and has been developed to provide specific community benefits; or

(2) Strict adherence to the requirements of Section 144.0507 would result in the demolition of structures or loss of the architectural character of structures that contribute to the community character.

(m) Supplemental Findings--Public Right-of-Way Encroachments.

A Site Development Permit in accordance with Section 126.0502(d)(6) for any encroachment or object which is erected, placed, constructed, established or maintained in the public right-of-way when the applicant is not the record owner of the property on which the proposed encroachment will be located may be approved or conditionally approved only if the decision maker makes the following supplemental findings in addition to the findings in Section 126.0505(a):

(1) The proposed encroachment is reasonably related to public travel, or benefits a public purpose, or all record owners have given the applicant written permission to maintain the encroachment on their property;

(2) The proposed encroachment does not interfere with the free and unobstructed use of the public right-of-way for public travel;

(3) The proposed encroachment will not adversely affect the aesthetic character of the community; and

(4) The proposed encroachment does not violate any other Municipal Code provisions or other local, state, or federal law; and

(5) For coastal development in the coastal overlay zone, the encroachment is consistent with Section 132.0403 (Supplemental Use Regulations of the Coastal Overlay Zone).

(Amended 6-3-2003 by O-19188 N.S.)
(Amended 11-28-2005 by O-19444 N.S.; effective 2-9-2006)
(Amended 2-9-2006 by O-19461 N.S.; effective 3-9-2006.)
(Amended 3-1-2006 by O-19466 N.S.; effective 4-1-2006)
(Amended 7-5-2006 by O-19505 N.S.; effective 8-5-2006.)
§126.0506 Violations of a Site Development Permit

It is unlawful for any person to maintain, use, or develop any premises without a Site Development Permit if such a permit is required for the use or development, or to maintain, use, or develop any premises contrary to the requirements or conditions of an existing Site 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.)
(Renumbered from Section 126.0505 on 9-15-2017 by O-20856 N.S.; effective 10-20-2017.)
(Amended 1-8-2020 by O-21161 N.S.; effective 2-9-2020.)