THE CITY OF SAN DIEGO

REPORT TO THE CITY COUNCIL

DATE ISSUED: March 1, 2007 REPORT NO: 07-048

ATTENTION: Committee on Land Use and Housing
Agenda of March 7, 2007

SUBJECT: Mini Dorms/Nuisance Rental Properties

STAFF RECOMMENDATION:
That the Committee provides direction to staff on the following issues:

1. To incorporate the proposed amendments to the Campus Impact Overlay Zone in the 6th Update to the Land Development Code;
2. Approval of the Mid-City Administrative Citation Proposal;
3. To get direction on reducing the number of residential parking permits from four to three per household in Residential Parking Permit District B; and
4. Support the proposal by San Diego State University to add a Code Enforcement Representative to their staff.

At this time, staff does not recommend the hiring of additional personnel to work specifically in the Campus Impact Overlay Zone on nuisance properties. Additionally, staff does not recommend the requirement for owners to register their property to record responsible owner information for each change in lease status.

Background

The issue of regulating nuisance rental properties located in single dwelling unit zones has been a concern within the City of San Diego for over 20 years. On May 26, 1987, the City adopted the Single Family Rental Overlay Zone, which was followed by the One-Family Dwelling Rental Regulations, adopted on June 3, 1991. Both ordinances were legally challenged by the College Area Rental Landlord Association (CARLA), and were repealed on December 9, 1997 after being declared unconstitutional by the Courts.

Since that time, the City has struggled with how to address the issue at the local level because State and Federal law does not allow jurisdictions to differentiate between renters and owners who occupy properties that are similarly situated. The City can enforce different development standards (such as parking requirements) upon a particular geographic area as long as they are applied equally to similarly situated properties. As of January 1, 2000, when the Land Development Code became effective, a Parking Impact Overlay Zone was applied specifically to campus impact areas (Section 132.0802) and requires additional parking spaces for single

dwelling units with five or more bedrooms. Parking Permit Districts (B and E) were also created to address community concerns related to availability of on-street parking in surrounding neighborhoods adjacent to San Diego State University (SDSU) and Mesa College.

On March 29, 2006, staff informed the Land Use and Housing Committee, that the nuisance rental property issue would be addressed through the enforcement of existing codes. It was also pointed out that due to the City limitations with legal regulatory options as well as limited staff resources, the issue would not be prioritized in the Land Development Code work program..

In order to alleviate concerns specifically related to parking, the Development Services Department issued a report to the Mayor and Council (06-158) on October 25, 2006 clarifying the Department policy on application of Parking Impact overlay zone requirements within the campus impact area. The report was also necessitated to address recent building permit applications for room additions to single dwelling units where additional parking was not required within the Campus Parking Impact Overlay Zone. The report clarified that for all future permit applications, any room that can be used for sleeping and contains a door (or opening of standard door width) that separates it from the kitchen, living room, hallway or bathroom will be determined to be a bedroom, and will require parking in accordance with Section 142.0520.

Other community complaints about nuisance properties are related to tenant behavior including noise, trash, parties, and threats/intimidation. These activities violate existing codes and are addressed through the Neighborhood Code Compliance Division. The community regularly expresses to staff that existing codes are not enforced or are not adequate to address their problems. In response to community concerns, Council District Seven (which represents the communities surrounding San Diego State University) has continued to pursue the item by scheduling meetings with staff (City Attorney, Development Services, and Police Department), and by scheduling a Mini Dorm Community Forum on September 19, 2006 in the College Area.

An October 11, 2006 memo issued by the Council District Seven contained a list of 12 community requests including requests for building moratoriums, to hold SDSU accountable, and to consider amendments to the Municipal Code such as special regulations for rental properties. On November 29, 2006, the Land Use and Housing Committee held a hearing to address the impacts of nuisance properties and to discuss potential solutions. Six action items and three follow-up requests resulted from the hearing. All nine items are discussed below.

Discussion

The following information is in response to the November 29, 2006 Land Use and Housing Committee's Record of Actions (attached). For easier reference, the report is organized according to the order of the Record of Actions.

- **Action Item A –Amend the Land Development Code to:**
    - **Reduce the campus impact parking threshold to 4 bedrooms to further restrict bedroom additions in existing structures**
    - **Require a minimum of two enclosed parking spaces on the premises.**

- **Modify the minimum parking design requirements to ensure proposed spaces are functional and minimize negative impacts on adjacent developments**
- **Reduce the amount of hardscape permitted within the front yard.**

Responsible Department: Development Services - Land Development Code Update Section
Staff intends to incorporate the proposed amendments described above into the 6th Update to the Land Development Code. As previously explained at the November 2006 LU&H Committee meeting, amendments to the LDC will require additional work by staff, as well as City Council approval, and Coastal Commission certification at a minimum. The 6th Update is tentatively scheduled to be reviewed by the Code Monitoring Team at their May 2007 meeting to officially begin the code amendment process.

While these physical development requirements may limit conversions of existing single dwelling units to rentals, or expansions of existing rentals, they may also restrict home owners from doing reasonable remodels to their property. Any proposed code amendments would need to be thoroughly analyzed to minimize these unintended impacts and are also subject to the California Environmental Quality Act (CEQA.

In a Memorandum dated December 11, 2006, Council President Peters requested that the aforementioned code amendments be applied citywide. Because the code changes are likely to impact proposed remodels by any other single dwelling owners, staff proposes that the code amendments (with the exception of the parking design requirements) be initially applied only to the Campus Parking Impact Overlay Zone, and then later be reevaluated to determine whether the regulation should be modified to apply citywide, or whether the Campus Impact area should instead be expanded to cover additional impact areas. The Campus Parking Impact Overlay Zone currently applies to single dwelling unit neighborhoods surrounding San Diego State University, the University of California, San Diego, and the University of San Diego..

- **Action Item B - Draft options to further restrict parking in the Residential Parking Permit District by reducing the number of permits allowed per home in Parking Permit Area B.**

Responsible Department: Engineering and Capital Projects
Staff is not opposed to reducing the total number of residential parking permits per household from four to three. The proposed change could be implemented by the City Council approving an Ordinance. Residents living in Parking Permit Area B would be impacted.

As illustrated in the table below, 227 households have four permits at the present time. If the proposed reduction from four permits to three permits is implemented, 227 households would have one less permit. Revenue to the City would be decreased by this action by $3,178 ($14/permit x 227 permits = $3,178.)

The impact on the cost of the permit would be negligible. There would be no need to modify the permit fee as costs would be fully recoverable.

EXISTING AREA B RESIDENTIAL PARKING PERMITS			
Number of Permits per Household (Includes Visitors Permit)	Number of Households	Total Permits Sold	Total Permit Revenue (@ $14/Permit)
0	439	0	$0
1	201	201	$2,814
2	285	570	$7,980
3	298	894	$12,516
4	227	908	$12,712
TOTALS	1450	2573	$36,022

- **Action Item C - Encourage the community to meet monthly with other partners (SDPD, SDSU, CACC) to discuss ongoing issues and solutions;**

The community has been meeting regularly to discuss the problems associated with nuisance properties and other issues. SDPD meets weekly with SDSU and monthly with CACC. SDPD also attends a CACC subcommittee that focuses on these very problems and associated potential solutions. Further, the Mid-City Community Court handles quality of life crimes where community members are given the opportunity to serve in an advisory capacity to the court, providing the community with a voice in the criminal justice process. Community courts ensure that offenders are held accountable to a community by requiring offenders to perform community service. Community courts also require offenders to participate in rehabilitative programs.

- **Action Item D - Enforce the CAPP program, and provide:**
    - **Legal analysis for changes to the municipal code to allow San Diego Police officers the authority to issue noise violation fines directly to offenders.**
    - **Legal analysis of the CAPP program with respect to the following: Can a fee be charged by the City to a newly CAPPed house? Would the City need to codify CAPP and establish a fine schedule in order to charge a fee once a house is CAPPed? Can it be done administratively?**

Responsible Department: San Diego Police Department
After legal analysis, it was determined that police officers have the legal authority to issue Administrative Fines for violations of the Municipal Code or equivalent State Code.

Loud parties or disturbances from CAPP houses or non-CAPP houses in the College area can be held financially responsible for creating disorder by using the Administrative Citation process. Per SDMC Section 12.0908, owners, tenants, and/or responsible parties can be fined $100; $200; $500; $750; or $1000 for each disturbance.

Mid-City Division has proposed a six-month trial program for issuing Administrative Citations in the College area. In addition, we are continuing to refine the existing CAPP Program to provide more information to patrol officers. A database is being created listing owner and tenant information. Patrol officers will have access to the information including photographs of CAPP house tenants via their MCT. The following proposal will give officers another enforcement tool for CAPP house disturbances as well as any other problem residences in the College area.

MID-CITY DIVISION ADMINISTRATIVE CITATION PROPOSAL

The increase in college enrollment has caused an increase in non-owner occupied rentals in the College area. Multiple occupants living in dwelling units designed for single families contribute to unreasonable noise levels, disturbances and parking problems near San Diego State University. These "Mini-Dorms" have created a growing concern for the community and responding police officers.

To better deal with the growing number of noise complaints and disturbances in the College area, Mid-City Division is proposing a trial program to all police officers to use the Administrative Citation process as an enforcement tool. The San Diego Municipal Code gives Enforcement Officials the authority to issue Administrative Citations in amounts up to $1000. Administrative Citations can give police officers the ability to fine persons responsible for creating disturbances as well as property owners whose tenants cause and/or contribute to such disturbances.

In 2006, Mid-City Division responded to 1600 calls for service for Noise Complaints, and/or Loud Party/Disturbances in a one-mile radius to San Diego State University. Traditional enforcement measures for such disturbances include Misdemeanor Citations, Second Response Notices, and the Citizen Assisted Party Program (CAPP).

Although it appears officers have numerous options available to manage noise related issues, several factors must be present for enforcement to occur. 415 Noise Complaints require a citizen's arrest to cite and/or affect a physical arrest. SDMC 59.5.0502 requires officers to hear loud amplified music from more than 50 feet. Officers then must be able to locate a person taking responsibility for the loud party. The Second Response Notice Ordinance has a maximum fine of $500. Over the last three years, one Second Response Notice was issued Department wide. If two or more calls for service are from one location in 30 days, the house can be designated a CAPP house. When a house is CAPPed, SDPD and/or SDSU Student Affairs contacts the tenants to educate them on the ramifications of being designated a CAPP house. A PAC File entry is placed on the address, which notifies responding officers of the houses CAPP status. The CAPP status encourages responding officers to take a zero tolerance stance at future calls. SDSU Administrative actions can result from on-going problems visible from the public right of way.

The above traditional enforcement strategies are time consuming and often ineffective. Past strategies have left the owner out of the enforcement process, which has resulted in persistent problem properties. Due to the large number of noise complaints, College area related disturbances have depleted our personnel resources, and often required multiple responses from officers. The Administrative Citation Program will give officers an additional tool to mitigate disturbances, specifically in situations when officers have been denied access to a party house, or when tenants refuse to answer the door. Tenants and owners will be held financially accountable for noise complaints and the chronic quality of life issues they create.

- **Action Item E – Options to provide for a greater role for Redevelopment to work with NCC (possibly to hire additional persons to work specifically on Mini Dorm issues)**

Responsible Department: Development Services-Neighborhood Code Compliance Division
There is currently no proposal to fund additional NCCD personnel with Redevelopment funds to specifically work on Mini-Dorm issues. SDSU is working with NCCD, however, to assist in reporting problems associated with nuisance properties by hiring a Code Enforcement Representative that will be trained and supported by NCCD staff. Please see the attached proposal provided by SDSU with consultation from NCCD (Attachment 1).

- **Action Item F – Request that staff and IBA to identify funding for the proposed changes or by creating a cost recovery system in order to hire two additional staff positions (a Land Development Investigator and Combination Dwelling Inspector, as outlined in the staff report) to work pro-actively in the Campus Impact Overlay Zone area to fully enforce existing codes.**

Responsible Department: Development Services - Neighborhood Code Compliance Division
NCCD is currently reviewing alternate funding source for the staff's positions and anticipates presenting to this committee soon. Currently, the City of San Diego's Neighborhood Code Compliance Division is funded primarily from the General Fund. While there are fines in place and the Administrative Citation Fines were recently increased, the actual amount of fines collected remains small when compared with the overall budget for NCCD. Last Fiscal Year, the fines collected were approximately $184,000 and fines to date are $88,800. NCCD is evaluating the fees currently charged by the City of Sacramento's Code Enforcement Unit which would enable NCCD to recover all administrative and investigative costs, in addition to penalties when appropriate.

- **Action Item G – Request that staff to draft a plan, based on cost recovery, to require owners of rental properties within the Campus Impact Overlay Zone to register their property to record responsible party information for each change in lease.**

Responsible Department: Development Services-Neighborhood Code Compliance Division
NCCD called the City of Santa Cruz and discussed their process of dealing with Mini-dorms and Dwelling Units with Multiple Bedrooms. Contact was made with Carol Bert, Housing and Community Development Manager and the City Attorney John Barisone. Both informed us that they had patterned their process on the San Diego Police Department's CAPP Model. They do not have any notification process regarding rental properties.

- **Follow-Up Item 1 - Clarification from the Mayor's Office regarding the nine current vacancies in the Neighborhood Code Compliance Department, to see if any of those positions have been identified for removal from the Fiscal Year 2008 Budget, or if they were removed from the City's budget in the Mayor's Five Year Plan. The Committee members also request confirmation from the Mayor that the vacant positions are not targeted for absorption by the department thus eliminating additional field positions for Neighborhood Code Compliance from future budgets.**

Responsible Department: Development Services-Neighborhood Code Compliance Division
Beginning Fiscal Year 2007, Neighborhood Code Compliance Department merged with Development Services Department. At the time of the merger there were 8 vacant positions. The merger resulted in the elimination of some staff positions such as the Director, Executive Secretary, 1 of the Deputy Director's positions and the vacant Systems Analyst position. There were 4 other vacant positions that were submitted to be reduced from the budget in October 2006: (1) Code Compliance Officer, (1) Word Processor Operator and (2) Utility Workers.

- **Follow Up Item 2 - Request for more information from SDSU about the number of Police officers on their staff, and if the University is increasing this number? What are the adjusted staff levels for weekend nights for the SDSU PD?**

Responsible Party: SDSU

San Diego State University has 34 sworn officers budgeted, but until recently have had a persistent vacancy rate of eight to nine officers. Historically, officers have been routinely recruited by other public safety agencies that offer increased pay and benefits. SDSU currently has only five vacancies for sworn officers.

SDSU has not budgeted for additional officers since they currently have vacancies in the Department, and are focusing their efforts on filling the positions currently budgeted.

SDSU assigns officers to match the volume of activity and will typically increase the number of officers on duty from Thursday evenings through Saturday evenings. A minimum of three officers and one sergeant are on duty during the day and evening from Sunday through Thursday afternoon. On Thursday, Friday and Saturday evenings, SDSU assigns an additional two to three officers. To that end, a minimum of six officers are on duty on Thursday, Friday and Saturday evenings which tend to have an increase in volume of activity.

SDSU's officers staff the trolley station and special events, as well as conduct investigations and court appearances. Additionally, the Department, in addition to its primary role in securing the campus, patrols the surrounding neighborhoods and participates in joint enforcement actions throughout the year with the San Diego Police Department and other public safety agencies to curb illegal or inappropriate behavior.

- **Follow Up Item 3 - Request for data on the Community Assisted Party Plan program's annual revenue generation. How much revenue is generated from fines collected**

through the Second Response Ordinance? How many students have been disciplined by San Diego State University as part of the required Student Code of Conduct?

Responsible Department and Party: SDPD and SDSU

The CAPP program does not generate revenue. As mentioned earlier in the report, one fine has been issued in the past three years through the Second Response Ordinance. The Administrative Citations proposed under Action Item D is expected to be an additional and effective tool in issuing fines to nuisance properties and assist in curbing the problems that are associated with them.

Pursuant to a recent CSU Trustee policy, SDSU has expanded the jurisdiction of the student code of conduct to certain areas adjacent to campus. Since the implementation of this policy, SDSU has disciplined 92 students based on their off campus as well as campus behavior.

In addition to the aforementioned policy, the Associated Students have sponsored the Good Neighbor program which has students patrol surrounding neighborhoods to help defuse potential noise or other problems between students and neighboring residents. The CACC also developed an informational brochure for landlords and tenants, and SDSU pays for half of the cost of distribution of this pamphlet annually.

As mentioned previously in the report, SDSU is also proposing to hire a Code Enforcement Representative assigned to identify and issue letters and/or citations as appropriate for property maintenance issues and code violations within a specified area adjacent to the University (Attachment 1).

FISCAL CONSIDERATIONS:

The Neighborhood Code Compliance program is a general funded service in the Development Services Department budget, while the Land Development Code Update is an enterprise funded service through department overhead via permit fees. The parking permit district programs are funded via other Department budgets such as Engineering and Capital Projects and General Services. Some of the options discussed in this report would increase City labor costs for a variety of Departments without any mechanism for cost recovery. Revenue may be generated if the Mid-City Division Administrative Citation Proposal by SDPD is adopted.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

On March 29, 2006, the Land Use and Housing Committee received a report indicating that the Mini-Dorm issue would be addressed through enforcement of existing codes and would not be prioritized for the 2006 Land Development Code work program. On November 29, 2006, the Land Use and Housing Committee requested staff to return to committee with proposals to help alleviate the problems associated with nuisance properties.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

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 received local media coverage including live broadcast on City Channel 24. Staff also participated in several follow up community meetings with the College Area Community Council. Community members were also present at the November 29, 2006 Land Use and Housing Committee hearing on nuisance properties. In addition, San Diego Police Department regularly meets with a variety of College Area representatives and residents like the College Area Community Council and San Diego State University. If staff is directed to proceed with code amendments, additional public outreach will be conducted for review and comment on specific draft code language through the established code amendment process.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

There are many stakeholders representing a wide spectrum of concerns regarding potential regulations to address mini-dorms/public 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 (including the College Area Rental Landlord Association), existing tenants, prospective home buyers, the San Diego County Apartment Association, local colleges and universities, members of the real estate industry, and community planning groups. Various City services including police, neighborhood code enforcement, parking enforcement, attorney, land development code, inspection, and permit review are required to regulate public nuisance rental properties. These existing constrained City services could be further negatively impacted depending on what alternative is selected.

Respectfully submitted,

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William Lansdowne
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Attachments:

1. Code Enforcement Representative Proposal by SDSU

San Diego State University
City of San Diego
Code Enforcement Partnership Proposal

San Diego State University will, through one of its auxiliary corporations, hire an individual to serve as a Code Enforcement Representative.

The Code Enforcement Representative will be assigned to identify and issue letters and/or citations as appropriate for property maintenance issues and code violations within a specified area adjacent to the University. The University, the College Area Community Council, and the College Neighborhood Foundation will work together to determine the enforcement area.

The Code Enforcement Representative will deliver the citations to the City, be available to meet periodically with Code Compliance, and be available to be present at hearings should citations be appealed. The individual will not enter structures or issue citations for anything that is not in clear view from the street front of a property.

The City will provide training, meet periodically with the Code Enforcement Representative, and interface with the Environmental Services department on the "two letter program" when it is applicable. Although there are specified time lines that apply to citations issued, the City will ensure that citations issued through this program will receive the highest possible priority.

San Diego State University and the City will work together to define examples of the neighborhood issues and violations for which letters and/or citations will be issued, so that members of the community have knowledge of potential fines that could be levied as well as a realistic expectation of the enhanced enforcement effort.

Anticipated hiring date would be within the next 30 days. From the University's perspective, training should begin immediately. The enforcement program could then begin as soon as training is complete and job responsibilities are finalized.

A status report by the Code Enforcement Representative will be given monthly to the College Area Community Council.