



**COUNCILMEMBER DAVID ALVAREZ**  
**City of San Diego**  
**Eighth District**  
**MEMORANDUM**

**DATE:** February 8, 2018

**TO:** Honorable Mayor Kevin Faulconer  
Honorable Councilmember Georgette Gomez, Chair, Smart Growth & Land Use Committee

**FROM:** Councilmember David Alvarez 

**SUBJECT:** Proposed changes to the 11<sup>th</sup> Update to the Land Development Code

---

On January 31, 2018, the Smart Growth and Land Use (SG&LU) Committee brought forward Item 6, titled “11<sup>th</sup> Update to the Land Development Code and Local Coastal Program.” During this meeting, 50 proposed amendments to the Land Development Code were considered and the final vote by the Committee members was to forward the item to City Council with no recommendation.

While I am supportive of most of the amendments proposed by City staff and commend the work they have done, I would like to clarification to some of the proposed amendments as well as include additional changes to the proposed 11<sup>th</sup> update prior to City Council consideration.

**Issue #3: Eliminate Site Development Permit Process Three for Consolidated Lots**

The proposed amendment by City staff will eliminate the discretionary permit when consolidating lots in RM zones. While I am pleased to see that the process for consolidation of lots is being streamlined, I would like to request an additional change to be considered. Under the proposed amendment, when the consolidation of lots takes place, each lot is still subject to the zone density. I am proposing the lot with the lower density prior to the consolidation, be granted the density of the highest lot. This would only apply for lots zoned RM-2, RM-3 and RM-4. Staff’s proposed amendment would still apply for lots that are zoned RM-1.

**Issue #15: Educational Facilities**

This amendment would allow for charter schools in commercial zones to be permitted under a Neighborhood Use Permit (NUP) for those schools that have 300 to 600 students and through a

Conditional Use Permit (CUP) for any schools that have over 600 students. Additionally, the amendment proposes to permit by right charter schools in RM zones, instead of through a limited use. I request staff provide clarification on what the justification is for allowing charter schools to operate by-right in RM zones. Additionally, with regards to the school size, I would also like clarification on why/how City staff determined requiring a NUP for 300-600 students versus a CUP for 600 or more students?

### **Issue #16: Use Regulations Table for Commercial Zones – Live/Work Quarters**

The proposed 11<sup>th</sup> update is recommending the expansion of live/work quarters. Under the Centre City Planned District Use Regulations, live/work quarters are permitted by right in all zones, except in the Public Facilities zone, which allows it as a limited use. I am very supportive of the City expanding this use to other zones because of the greater flexibility that it provide to developments. However, the proposed amendment to expand live/work quarters in CR and CN zones as a limited use, simply does not go far enough.

With this proposed amendment to add CC-2, CN-1 and CR-2 to allow live/work quarters as a limited use, the only commercial zones with residential development that would not be allowed to have this use are the CO-1 and CV-1. I would like for staff to clarify the following questions:

- Why was the CO-1 not proposed as a zone to allow this use? What is the rationale behind only allowing the CO-3 zone, but not the CO-1 zone to have live/work quarters?
- Why was the CV-1 zone not proposed as a zone to allow this use?

Furthermore, Chapter 14, Article 1, Division 3, Section 141.0311 of the Land Development Code, provides the current regulations for those zones that permit live/work quarters as a limited use. Below I have included proposed amendments to the limited use regulations, in order to increase the flexibility of this use.

- Amend Section 141.0311(a) which currently reads, “The minimum floor area of a live/work quarter shall be 750 square feet.” Rather than set a minimum floor area for this type of use, I am proposing this section impose a maximum size of 2,000 square feet for the live/work quarter. The amendment language could read as follows, “The maximum floor area of the live/work quarters shall not be over 2,000 square feet.”
- Currently, Section 141.0311(b) only allows for 33% of the floor area to be used for residential purposes. During the SG&LU Committee hearing, questions were raised about the maximum percentage of floor area that is allowed for each live/work quarter, how the 33% for residential purposes was determined and the potential for increasing the percentage of the livable space. It appears that the current percentage is antiquated and should be increased to allow for greater flexibility. It is my understanding that allowing for 50% of the floor area to be used for residential purposes would be considered as a primary use. For this reason, I would like to propose that the percentage of the floor area for residential purposes to be increased from 33% to 49%.
- Eliminate Section 141.0311(g) which states, “The live/work quarters may be occupied and used only by an artist, artisan or a similarly situated individual, or a family in which

at least one member is an artist, artisan, or similarly situated individual.” As the City’s workforce evolves, it is important to allow this use to be accessible beyond an individual who is considered to be an artist or artisan.

- Amend Section 141.0311(h) which currently states the following, “Person other than residents of the live/work quarters are not permitted to work in the live/work quarters.” The proposed change can be as follows, “A resident of the live/work quarters must live and work at that location (live/work quarter may not be leased out), and can be allowed to employ another person who does not live in the live/work quarter, to assist with the work.”

#### **Issue #48: Marijuana Production Facilities**

The proposed amendment clarifies that Marijuana Production Facilities must be conducted within a secure structure where the exterior walls cannot be of transparent materials. I am very supportive of the proposed amendment. I would like to bring to your attention that some concerns have been raised with regards to the location of the marijuana production facilities in the Otay Mesa area. The Otay Mesa community has facilities that participate in the Customs-Trade Partnership Against Terrorism (C-TPAT) Program. This is a supply-chain security program led by U.S. Customs and Border Protection (CBP) focused on improving the security of private companies' supply chains with respect to terrorism. Jeopardizing our border economy, specifically in the community of Otay Mesa should be a concern for the city. The City may want to consider adding a separating requirement between Marijuana Production Facilities and C-TPAT facilities. Should this separation requirement be deemed necessary between marijuana production facilities and C-TPAT, it could be incorporate under Section 141.1004(a)(1), which requires a 1,000 foot separation requirement for sensitive uses.

#### **Issue #50: Parking Ratios and Shared Parking**

Under this amendment, staff proposes to add the term “Transit Priority Area” to all the parking ratios tables, given that this is a new term that was added in the Land Development Code. Unfortunately, aside from this minor change, there is no proposed amendment to change the parking ratios for any of the uses. For this reason, I would like to propose the following changes to the parking ratios:

- For Table 142-05C, “Minimum Required Parking Spaces for Multiple Dwelling Units and Related Accessory Uses:” under the basic section it requires 1.25 parking spaces for studios up to 400 square feet. I would like for this requirement to be reduced to 0.5 parking space. Furthermore, under the Transit Priority Area for the studios up to 400 square feet, there is currently a requirement of 1 parking space, which I believe should be lowered to 0 parking spaces, given the fact that it is located within a transit priority area.
- The Centre City Planned District, Table 156-0313-A, Residential Off Street Parking Space Requirement, requires a minimum of 1 parking space per unit for a Live/Work or Shop Keeper Unit. As we are considering the expansion of zones that allow the

Live/Work Quarters to be permitted, I would like for this parking ratio of 1 parking space per unit to be adopted in the new zones as well.

**Other Proposed Amendments to the 11<sup>th</sup> update of the Land Development Code:**

There are additional amendments that I am proposing be included in the 11<sup>th</sup> update to the Land Development Code, which include the following:

- Shared Parking for Housing Developments: Given the lack of available land in the City to develop more housing, it is evident that many developments will be infill. Unfortunately, among the challenges with developments are land constraints and the high cost to meet parking requirements. For this reason, the City should explore creative ways in which developments can meet parking requirements, such as allowing for shared parking that is off-site from the development. Under this proposed change, a housing development would have the opportunity to enter into an agreement with a nearby commercial center, parking structure, etc. to meet the necessary parking requirements. The housing developer must demonstrate to the City that an agreement has been reached between the two parties to meet the appropriate number of parking spaces for the housing development. As we consider implementation of this proposed change, I would like for City staff to consider looking into the shared parking regulations for housing developments in the City of Los Angeles.
- Upzoning in Transit Priority Area: Last year, the San Diego Housing Commission published a report titled, “Addressing the Housing Affordability Crisis: San Diego Housing Production Objectives 2018-2028,” in which it looked at housing goals and identified five main sources that can provide additional housing units over the next ten years in order to reach our housing goal. One of the proposals from the report was for the City to rezone and increase density around transit opportunity areas. According to the report, if this were to be done, there is an estimate that between 47,000-146,000 units could be produced through this increase of density. As part of our Land Development Code amendments, I would like to request for the zoning to be increased by one level in all the Transit Priority Areas in the City.
- Process One for Affordable Housing: Chapter 14, Article 3, Division 9: Affordable Housing, In-Fill Projects, and Sustainable Buildings Development Regulations, Section 143.0920 “Affordable Housing, In-Fill Projects, and Sustainable Buildings Deviations,” currently notes that development identified in Section 143.0915 may be permitted with a Neighborhood Development Permit decided in accordance with Process Two, with some exceptions. Given the housing crisis that we are experiencing in the City, we must make changes to further incentivize affordable housing developments. Currently, affordable housing developments are approved through a Process Two. I would like to propose that we further streamline certain developments that are considered affordable under Section 143.0915 by approving them through a Process One, unless exceptions from Section 143.0920 apply to the proposed development. Under this proposed change, the following affordable developments would be processed under Process One:

- Include a new category to Section 143.0915 that a residential development that provides 100% of their dwelling units as affordable (including both for-sale and for-rent affordable housing) should be processed through a Process One.
- Section 143.0915(3) defines affordable housing as: “Residential development subject to a federal, state, or local governmental agreement that restricts tenancy and rents at or below 80 percent of area median income, as determined by the San Diego Housing Commission, for a period of at least 55 years.” These developments are currently processed under Process Two. Under the proposed amendment, these developments would be approved under Process One.
- Increase Commercial Flexibility: As the City continues to make efforts to incentivize the development of affordable and mixed use developments, one of the ways in which this can be accomplished is by allowing greater commercial flexibility to the ground floor level. Throughout the City, we have seen vacant commercial spaces in mixed use developments as a result of various factors. Rather than have vacant commercial space, the City should be creative in finding other ways to allow uses that can activate the development while the market is right to accommodate the proper commercial use. It is my understanding that the Centre City Planned District, allows for Alternative Interim Uses within Neighborhood Mixed Use Centers and along Main Streets and Commercial Streets. Under Section 156.0315(e), Alternative Interim Uses can be permitted upon approval of a CUP in accordance with Process Three. To obtain the CUP, an applicant must submit a market study or other evidence to demonstrate that active commercial uses are not economically viable in the location due to the level of development of the surrounding neighborhood. Additionally, this CUP is limited to a ten year period. Through this process, uses such as office space and even residential uses, have been allowed in this space. I would like to request for staff to explore this process as a potential alternative for other zones beyond those in the downtown area, where it is currently allowed.
- Shop Keeper Units: Lastly, given the similarity of live/work quarters to shopkeeper units, I would be interested in exploring the possibility of allowing shopkeeper units in other zones in the City. Currently, shopkeeper units are permitted by right in all zones in the Centre City Planned District Use Regulations, except in PF zones, which allows it as a limited use. Additionally, shopkeeper units are allowed in most commercial and residential zones. For this proposed change, I would be interested in exploring the possibility of allowing this use in commercial zone CC-2 and residential zones, RM-1 and RM-2.

Thank you for your consideration with this matter.

CC: Honorable Councilmembers  
 Honorable City Attorney Mara Elliott  
 Andrea Tevlin, Independent Budget Analyst