2025 LDC UPDATE RECOMMENDATIONS NFABSD
(Submitted 9/15/24)

Neighbors For A Better San Diego has submitted 26 proposed amendments for consideration in the 2025 Land Development Code Update. (https://www.sandiego.gov/planning/programs/land-development-code/ldc-update-request)

The 26 proposed code amendments focus on the following topic areas:

CCHS: Complete Communities Housing Solutions – 9 proposed amendments focused on ensuring that CCHS projects are appropriately scaled to the communities in which they are located and provide meaningful affordable housing.

ADU: Accessory Dwelling Unit – 9 proposed amendments focused on objective design standards, fire safety, and appropriate densities for accessory dwelling unit projects.

STR: Short Term (Vacation) Rentals – 3 proposed amendments focused on eliminating loopholes in current regulations and ensuring preservation of existing rental stock for long term renters.

JADU: Junior Accessory Dwelling Unit – 1 proposed amendment to ensure owner occupancy requirements conform to state law.

SDA: Sustainable Development Area – 2 proposed amendments to ensure that SDAs fulfill goals of transit-oriented development.

TPA: Transit Priority Area – 2 proposed amendments clarifying that the TPA should be interpreted as one-half mile walking distance to existing or planned transit in a transit improvement program.

NFABSD Proposed 2025 LDC Code Update Matrix (26 items)

Item	Title	Summary of Proposed LDC Amendment	Topic
1	**Complete Communities Off-site Affordable Housing Units**	Amend the Municipal Code to prohibit the use of public funding for CCHS affordable units and require the off-site affordable housing units to be new units, not rehabbed existing residential units. Re-use of existing commercial and industrial buildings (i.e., non-residential buildings) is permitted. **Affected Code:** §143.1015(a)(7), §143.1015(b)	CCHS
2	**Complete Communities Housing Solutions Threshold Changes**	Change the dwelling units per acre threshold for allowing Complete Communities development from a flat 20 dwelling units per acre to a graduated threshold from 44 to 290 dwelling units per acre depending on the assigned CCHS FAR tier as shown in the table provided with the recommended code. This will increase the percentage of deeded affordable units to a level commensurate to what would be required by the Inclusionary Affordable Housing Ordinance. Complete Communities and its incentives shouldn't be used to bypass San Diego's affordable housing goals. **Affected Code:** §143.1001(b), §143.1002(a)	CCHS

Item	Title	Summary of Proposed LDC Amendment	Topic
3	**Complete Communities Housing Solutions Moderate Income Household Replacement Units**	Include moderate income households in the calculation of the number of replacement units. **Affected Code:** §143.1005(a), §143.1005(b)	CCHS
4	**CCHS Consistency with Inclusionary Housing Ordinance**	Amend the CCHS regulations in the 143.1015 Municipal Code to require a minimum of 10% of the total dwelling units be made affordable at 50% and 60% AMI (split evenly with 5% each) to provide consistency with the City's Inclusionary Affordable Housing Regulations (Chapter 14, Article 2, Division 13). Retain the CCHS moderate income affordable housing requirement (15% of base dwelling units at 120% AMI). Delete 143.1010 (j) that states compliance with CCHS regulations satisfies compliance with the City's Inclusionary Affordable Housing Regulations (Chapter 14, Article 2, Division 13). **Affected Code:** §143.1010 (j), §143.1015 (4)	CCHS
5	**Suspension of CCHS following a CPU**	The CPU process is presumed to provide sufficient capacity to meet the foreseeable housing needs of the community. Further, the CPU process explicitly identifies where added density provides the greatest benefit to the community in terms of creating walkable community cores and encouraging use of transit. CCHS contravenes the CPU process because it targets the least dense areas of the community where the CPU intended to create transition zones between high density mixed use and lower density residential. To give community plan updates a chance to succeed, CCHS should be suspended in a community for a period of nine years, which is roughly equal to one RHNA housing cycle. **Affected Code:** §143.1030	CCHS
6	**Complete Communities Housing Solutions Replacement Units - Additive**	Amend the Municipal Code to mandate that replacement units required by 143.1005 be added to the CCHS deed-restricted affordable housing units required by 143.1015. **Affected Code:** §143.1005(a)(1)	CCHS
7	**Complete Communities Housing solutions FAR when off-siting units**	Clarify that the portion of the FAR contained by the off-sited affordable housing cannot be reused for market-rate units. Add a Section §143.1015(a)(7)(F) that would require the FAR of the units relocated to a receiving site to be deducted from the original project's allowable FAR. **Affected Code:** §143.1015(a)	CCHS

Item	Title	Summary of Proposed LDC Amendment	Topic
8	**Complete Communities Housing Solutions Regulations Map Correction**	Reissue the Complete Communities FAR Tier map with a map that identifies Mission Valley (and other employment areas) as an area within FAR Tier 2 with a Complete Communities Housing Solutions FAR of 8.0. Check all other portions of the CCHS Map to ensure alignment with CCHS Code. **Affected Code:** CCHS Map	CCHS
9	**Removal of CCHS FAR Tier 2 Campus/Medical Center Allowance**	Amend the code to eliminate the FAR Tier 2 designation for a "university campus that includes a medical center." **Affected Code:** §143.1001(b)(2)	CCHS
10	**Ready Public Access to Brush/Fire/ESL Reports and Permits**	Make all permits and reports associated with building projects (including but not limited to Fire Chief and Fire Marshal reports and permits, Neighborhood Development Permits, Site Development Permits, etc.) accessible to the public via Accela or whatever public project/permit access system the City is using at the time, concurrently to when they become available to DSD. **Affected Code:** Add §143.0115(c)(8), §142.0412(j)(1)	ADU
11	**Eliminate the Bonus ADU Program**	Align San Diego ADU code with California's ADU code. **Affected Code:** §141.0302(c)(2)(H), Table 143-01A, §141.0302(c)(2)(I)	ADU
12	**Eliminate SDAs from Bonus ADU Code**	The bonus ADU code should be limited to 2 ADUs (affordable + bonus) anywhere in the City, plus the state-required JADU. This will still exceed the state-required allowance of one ADU per parcel and will avoid creating pockets of dense development in places that may never be well served by transit and therefore will contribute to increased VMT and GHG, stymying achievement of the City's Climate Action goals. **Affected Code:** §141.0302(c)(2)(H), §141.0302(c)(2)(I)	ADU
13	**"Allowed Developable Area" for Bonus ADU Program**	Change the ADU Bonus Program Code 141.0302 and Section 131.0446(a) (2) to reflect that premises in OR Zones or that contain environmentally sensitive lands, floor area ratios (FARs) will be adjusted based on "allowed developable area," the same as the tree adjustments the City adopted as part of the 2024 LDC Update. **Affected Code:** §141.0302(c)(2)(H), §141.0302(b)(2)(C), §131.0446(a)(2)	ADU

Item	Title	Summary of Proposed LDC Amendment	Topic
14	**Prohibit Bonus ADU Program in Very High Fire Hazard Severity Zones**	Prohibit Bonus ADU Program projects in VHFHSZs. CA ADU Code Section 66314(a) allows the City the discretion to prohibit ADUs in selected areas based on public safety: "Designate areas within the jurisdiction of the local agency where accessory dwelling units may be permitted. The designation of areas may be based on the adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety…" While CA ADU code requires ministerial review of the state-required one ADU and one JADU, the San Diego Bonus ADU Program is not required under state law and it is therefore within the power of the City Council to prohibit building these projects in VHFHSZs based on the risks these dense developments place on public safety. **Affected Code:** §141.0302(c)(2)(H), §141.0302(c)(2)(I)	ADU
15	**Affordable ADUs Income Level**	Reduce the Moderate-income AMI from 110% to 80% AMI for a 15 year deed. **Affected Code:** §141.0302(c)(2)(H), TABLE 141-03A, §141.0302(c)(2)(I)	ADU
16	**By-Right ADU Correction**	In the interests of maximizing affordable housing and respecting the existing §141.0302(c)(2)(H) code, the City Council and Planning Department should amend the code to clarify that the first ADU on a parcel can and should be deed-restricted as part of the Bonus ADU program – that there is no "by-right" or base ADU that is immune from deed-restriction when the Bonus ADU Program is applied. **Affected Code:** §141.0302(c)(2)(H)	ADU
17	**Graduated Affordable ADU Income Levels**	The first pair of Bonus ADUs will allow a moderate-income ADU (110% AMI) or a low- (60% AMI) or very low-income (50% AMI) ADU; the second pair of Bonus ADUs will require a low- (60% AMI) or very low-income (50% AMI) ADU, and the third pair of Bonus ADUs will require a very low-income (50% AMI) ADU. If more than three sets of Bonus ADUs are built (6 bonus ADUs), the cycle begins again. **Affected Code:** §141.0302(c)(2)(H), §141.0302(c)(2)(I), Table 141—03A	ADU
18	**Unlimited Non-Habitable Space Converted to ADUs**	Strike §141.0302(c)(2)(C)(iii). This will still allow two ADUs to be added to these multi-dwelling unit premises. Additional ADUs will continue to be permitted according to the bonus ADU regulations, §141.0302(c)(2)(H). **Affected Code:** Relocate §141.0302(c)(2)(C)(iii)	ADU

Item	Title	Summary of Proposed LDC Amendment	Topic
19	**Distribute Short Term Rentals by Community Planning Area**	Limit the number of STRs within each Community Planning Area to no more than 1% of the housing units located in each Community Planning Area. **Affected Code:** §510.0104(d)(4), §510.0104(d)(5)	STR
20	**STR Host Must be on Parcel's Deed for Tier 3 or Tier 4 License**	Add a requirement that hosts for a Tier 3 or Tier 4 permit must be a record owner, per definition 113.0103. **Affected Code:** §113.0103, §510.0104(d), §510.0104(e), §510.0102	STR
21	**Limit Number of Dwelling Units per Parcel That May Be STRs**	Add a requirement that on a parcel that has 5 or fewer dwelling units, only one dwelling unit may have an STR license. On a parcel with 6 or more dwelling units, only 2 or 20% of the dwelling units may have STR licenses, whichever is greater. **Affected Code:** §510.0104(d), §510.0104(e)	STR
22	**JADU Owner Occupancy Affidavit**	The San Diego Junior ADU Affidavit should eliminate all references to an "assignee" making it clear that the "property owner" is required to live on site when a JADU is built on the premises. All JADU agreements with the "assignee" language should be replaced with the corrected JADU agreements and re-recorded so "assignees" are not allowed to replace property owners. **Affected Code:** Form ds-202a JADU Agreement	JADU
23	**Change SDA from RTP to RTIP**	Amend the San Diego's Municipal Code to base the Sustainable Development Area (SDA) on the major transit stops in the Regional Transportation Improvement Program (RTIP) instead of the Regional Transportation Plan (RTP). **Affected Code:** §113.0103	SDA
24	**Change SDA Walking Distance**	Amend the San Diego Municipal Code to base the Sustainable Development Area (SDA) on one-half mile walking distance instead of the current one mile walking distance. Because the SDA is only applied to local programs, it is within the jurisdiction of the city to make this change. As justification for matching the area of the TPA, it was asserted that reducing the footprint of bonus incentives would be considered a reduction in zoning; however, because it only affects bonus incentives and not underlying zoning, this concern is unfounded. **Affected Code:** §113.0103	SDA

Item	Title	Summary of Proposed LDC Amendment	Topic
25	**TPA Based on RTIP**	Amend the San Diego Municipal Code to explicitly state which transportation plan should be used as the basis for the TPA. Given that the TPA is being used to impose requirements on developments based on presumed proximity to effective transit, it makes the most sense to use the Regional Transportation Improvement Program (RTIP) instead of the Regional Transportation Plan (RTP), which includes transit stops that may not exist for decades into the future, if ever. **Affected Code:** §113.0103	TPA
26	**TPA Based on Walking Distance**	Amend the San Diego Municipal Code to explicitly state that the method for measuring distance "within one-half mile of a major transit stop" is walking distance. **Affected Code:** §113.0103	TPA

Item 1: Complete Communities Off-site Affordable Housing Units

Summary/Solution: Amend the Municipal Code to prohibit the use of public funding for CCHS affordable units and require the off-site affordable housing units to be new units, not rehabbed existing residential units. Re-use of existing commercial and industrial buildings (i.e., non-residential buildings) is permitted.

Type of Amendment: Regulatory Reform

Background: The Complete Communities Housing Solutions (CCHS) program was changed to allow the required affordable housing units to be provided off-site in last year's Housing Action Package 2.0 (approved in January 2024). When CCHS was originally approved in 2020 the affordable units were required to be built on-site by the developer as part of the project in exchange for a significant increase in density.

The recent change to the Municipal Code allows off-site affordable units which: 1) can be funded with public subsidy money, and 2) can use existing off-site units to meet the affordable housing requirements if they are not currently restricted or have not received a loan or project-based vouchers from the San Diego Housing Commission. (See Complete Communities Off-Site Requirements, DS-450, August 2024).

Issue: When the CCHS program was approved, it was touted as providing affordable housing on-site as part of the new projects ("New deed-restricted units must be provided on-site" - From City's CCHS website). The incentive for building the affordable units on-site was the significant density bonus allowed by the program. Presumably on-site affordable units would not have used public funding to be built, the lower income people living in the units would have access to the same amenities as the other residents, and projects would be providing mixed-income housing and helping to create economically balanced communities.

The off-site amendments and §143.1015(b) allow Complete Communities developers to rehab existing NOAH units for the deed-restricted affordable units instead of building new affordable housing.

- If Naturally Occurring Affordable Housing (NOAH) is rehabilitated, it is possible there will be no net increase or even a unit-for-unit decrease in San Diego's affordable housing inventory.
- Complete Communities developers should not be allowed to use existing NOAH units for their off-site affordable housing. They should be required to add to the City's affordable housing stock in return for the very generous (up to 1100%) density/FAR bonuses the City is giving them.

With respect to the funding issue, we agree with the statement of the IBA analyst at the November 13, 2023 City Council hearing:

> "It is critical to ensure the offsite option produces at least the same number of affordable units as would have been required onsite **without other public subsidies**... To the extent that an offsite development is awarded public subsidies that would have otherwise gone to other affordable housing projects, the program may not produce additional affordable housing beyond what would have otherwise been produced."

While the use of affordable housing subsidies makes sense for 100% affordable housing projects taking advantage of CCHS, using those subsidies for affordable units located off-site from market-rate developments does not. These subsidies are limited and will come at the expense of other competing affordable housing projects, thereby potentially causing a net decrease in affordable housing stock in San Diego.

Objective: This amendment proposes changes to the CCHS off-site alternative:

1) To help preserve the City's Naturally Occurring Affordable Housing (NOAH) stock, developers seeking to build required affordable housing off-site shall not be allowed to rehabilitate existing residential units.

2) Developers shall pay the total cost of providing the required affordable and replacement units with no public subsidy money. This will maximize the use of competitive public funds by developers who build 100 percent affordable housing projects.

Affected Code: §143.1015(a)(7)

Recommended Code Amendment: Proposed Code Amendments for CCHS Off-Site Affordable Housing Units:

Add:

§143.1015(a)(7)(F) Existing residential *dwelling units* shall not be used to meet the affordable rental *dwelling units* requirement.

Revise:

§143.1015(b) ~~N~~othing in this Division shall preclude an applicant from using affordable dwelling units constructed by another applicant to satisfy the requirements of this Division, including contracting with an affordable housing developer with experience obtaining tax-exempt bonds, low income housing tax credits, and other competitive sources of financing, upon approval by the San Diego Housing Commission. However, all costs for the affordable dwelling units required by the development shall be paid for by the applicant without other federal, state, or local public subsidies (including but not limited to: tax-exempt bonds, low income housing tax credits, and other competitive sources of financing).

Item 2: Complete Communities Housing Solutions Threshold Changes

Summary/Solution: Change the dwelling units per acre threshold for allowing Complete Communities development from a flat 20 dwelling units per acre to a graduated threshold from 44 to 290 dwelling units per acre depending on the assigned CCHS FAR tier as shown in the table provided with the recommended code. This will increase the percentage of deeded affordable units to a level commensurate to what would be required by the Inclusionary Affordable Housing Ordinance. Complete Communities and its incentives shouldn't be used to bypass San Diego's affordable housing goals.

CCHS FAR TIER	FAR ALLOWANCE	UNDERLYING DENSITY THRESHOLD
Tier 1	No limit	290
Tier 2	8.0	145
Tier 3	6.5	109
Tier 4	4.0	73
Coastal Zone	2.5	44

Type of Amendment: Regulatory Reform

Background: The Complete Communities Housing Solutions program allows for significant deviations from current land development code regulations regarding FAR, height, and density. In return for these incentives, the stated goal of CCHS is to promote construction of more housing, especially more deeded-restricted affordable housing, through a requirement for a percentage of the base density to be deeded as affordable units. With a stated purpose of furthering transit adoption and reducing greenhouse gas emissions, this program is only applicable to parcels within one mile walking distance of transit.

Issue: As currently written, the Complete Communities Housing Solutions program offers its greatest returns on those parcels with the lowest existing base zoning at or above 20 dwelling units per acre. Low existing zoning minimizes the required number of deeded affordable units to the point that the real percentage of required affordable housing is significantly lower than what is required by the Inclusive Housing Ordinance (10% of units deeded affordable at 60% AMI or lower). Additionally, parcels with the lowest zoning are typically found furthest from transit corridors, so in many cases, Complete Communities projects can contribute towards auto-centered sprawl development.

Objective: Reform Complete Communities so that development is focused on parcels that will require more affordable housing than currently, and which have the greatest chance of transit adoption by the residents.

Affected Code: §143.1001(b), §143.1002(a)

Recommended Code Amendment:

§143.1001 Purpose, Intent, and Definitions

(b) Definitions. For purposes of this Division, the following definitions shall apply:

(1) through (5) No change

(6) FAR Tier Density Threshold is the minimum allowed density for eligibility of a premises for Complete Communities Housing Solutions for the designated FAR Tier of the premises.

§143.1002 Application of Complete Communities Housing Solutions Regulations

(a) At the request of the *applicant,* except as otherwise provided in Section 143.1030, the regulations in this Division shall apply to any *development* within a *Sustainable Development Area* where any portion of the *premises* contains zoning that is commercial, residential, or mixed-use and the *premises* is zoned to allow the FAR Tier Density Threshold or greater or has a *land use plan* designation that allows for the FAR Tier Density Threshold or greater and is within one quarter mile of a rail station, not including additional *dwelling units* permitted under this Division, if all of the following requirements are met:

(1) through (3) No change

(4) The premises meets or exceeds the FAR Tier Density Threshold.

(A) Within FAR Tier 1, the FAR Tier Density Threshold is 290 dwelling units per acre.

(B) Within FAR Tier 2, FAR Tier Density Threshold is 145 dwelling units per acre.

(C) Within FAR Tier 3, FAR Tier Density Threshold is 109 dwelling units per acre.

(D) Within FAR Tier 4, the FAR Tier Density Threshold is 73 dwelling units per acre.

(E) Within the Coastal Overlay Zone and the Coastal Height Limit Overlay Zone as shown on Map No. C-380, filed in the office of the City Clerk as Document No. 743737, the FAR Tier Density Threshold is 44 dwelling units per acre.

Item 3: Complete Communities Housing Solutions Moderate Income Household Replacement Units

Summary/Solution: Include moderate income households in the calculation of the number of replacement units.

Type of Amendment: Regulatory Reform

Background: This is a recommended change to how San Diego determines the number of and affordability levels of replacement units for Complete Communities Housing Solutions (CCHS) developments.

Issue: §143.1005 [Required Replacement of Existing Affordable Units] does not account for naturally occurring affordable housing (NOAH), and therefore likely undercounts moderate income residents. This undercount is particularly relevant because HAP 2.0 introduced a 100% moderate affordable option. Accordingly, there are circumstances where CCHS projects demolish moderate or lower income housing and replace it with fewer units of affordable housing.

For example, a proposed CCHS project at 4247 Nobel Drive (La Jolla Nobel) will demolish 108 units of naturally occurring moderate income housing and only replace it with 45 units of deeded affordable housing, a net loss of 63 potentially affordable units.

Objective: To maximize replacement units in order to preserve the City's naturally occurring affordable housing, including moderate income affordable housing. As a side benefit, the proposed change would simplify compliance with CCHS replacement unit regulations.

Affected Code: §143.1005(a), §143.1005(b)

Recommended Code Amendment:

§143.1005 Required Replacement of Existing Affordable Units

(a) An *applicant* is ineligible for any incentive under this Division if the *premises* on which the *development* is proposed contains, or during the seven years preceding the application, contained, rental *dwelling units* that have had the rent restricted by law or covenant to persons and *families* of *moderate income*, *low income*, or *very low income*, or have been occupied by persons and *families* of *moderate income, low income*, or *very low income*, unless the proposed *development* replaces the affordable d*welling units*, and either:

(1) through (2) No change

(b) The number and type of required replacement affordable *dwelling units* shall be determined as follows:

(1) For *development* containing any ~~occupied affordable~~ deed-restricted *dwelling units*, whether occupied or unoccupied, the *development* must contain at least the same number of replacement affordable *dwelling units*, of equivalent size and *bedrooms*, and must be made affordable to and occupied by persons and *families* in the same or a lower income category as the ~~occupied affordable~~ deed-restricted *dwelling units*. For all remaining dwelling units ~~unoccupied affordable *dwelling units*~~ in the *development*, ~~the replacement affordable *dwelling units* shall be made affordable to and occupied by persons and *families* in the same or lower income category as the last household in occupancy. If the income category of the last household is unknown~~, it is rebuttably presumed that the ~~affordable~~ *dwelling units* were occupied by moderate or lower income renter households in the same proportion of moderate or lower income renter households to all renter households within the City of San Diego, as determined by the most recently available data from the United States Department of Housing and Urban Development's

Comprehensive Housing Affordability Strategy database, and replacement affordable *dwelling units* shall be provided in that same percentage.

(2) If all of the affordable *dwelling units* are vacant or have been demolished within the seven years preceding the application, the *development* must contain at least the same number of replacement affordable *dwelling units*, of equivalent size and *bedrooms*, as existed at the highpoint of those units in the seven-year period preceding the application, and must be made affordable to and occupied by persons and *families* in the same or a lower income category as those in occupancy at that same time. If the income categories are unknown for the highpoint, it is rebuttably presumed that the *dwelling units* were occupied by *very low income*, ~~and~~ *low income, and moderate income* renter households in the same proportion of *very low income,* ~~and~~ *low income, and moderate income* renter households to all renter households within the City of San Diego, as determined by the most recently available data from the United States Department of Housing and Urban Development's Comprehensive Housing Affordability Strategy database, and replacement *dwelling units* shall be provided in that same percentage.

(3) through (5) No change

(6) The *applicant* agrees to provide relocation benefits to the occupants of those affordable residential *dwelling units*, and the right of first refusal for a comparable *dwelling unit* available in the new housing *development* at a rent affordable to *very low income*, ~~or~~ *low income,* or *moderate income* households.

(A) through (B) no change

(7) No change

Item 4: CCHS Consistency with Inclusionary Housing Ordinance

Summary/Solution: Amend the CCHS regulations in the 143.1015 Municipal Code to require a minimum of 10% of the total dwelling units be made affordable at 50% and 60% AMI (split evenly with 5% each) to provide consistency with the City's Inclusionary Affordable Housing Regulations (Chapter 14, Article 2, Division 13). Retain the CCHS moderate income affordable housing requirement (15% of base dwelling units at 120% AMI). Delete 143.1010 (j) that states compliance with CCHS regulations satisfies compliance with the City's Inclusionary Affordable Housing Regulations (Chapter 14, Article 2, Division 13).

Type of Amendment: Regulatory Reform

Background: The City of San Diego's Inclusionary Affordable Housing Regulations (Chapter 14, Article 2, Division 13) (IH) applies to 10 or more dwelling units outside the Coastal Overlay Zone, and 5 or more dwelling units within the Coastal Overlay Zone. Unless, in lieu fees are paid, inclusionary housing regulations require at least 10% of the total dwelling units in a residential development to be made available for rent by very low or low income households at a cost, including an allowance for utilities, that does not exceed 30% of 60% of median income — 10% of units affordable at 60% AMI (Area Median Income).

Complete Communities Housing Solutions (CCHS) (Chapter 14, Article 2, Division 10) has different requirements for affordable dwelling units (143.1015) and states that compliance with its regulations satisfies compliance with the City's IH regulations. In spite of the significant density bonuses allowed by the CCHS regulations, CCHS projects require a significantly lower number/percentage of affordable dwelling units than the City's IH regulations.

Issue: The City is not permitting the amount of very low, low, and moderate income housing required by the Regional Housing Needs Assessment (RHNA) targets (see recent 2024 Annual Report on Homes). The City has an obligation per California Housing Element law and its 2021-29 Housing Element to Affirmatively Further Fair Housing (AFFH) by addressing the housing needs of very low, low, and moderate income households.

To address this obligation and increase the number of permits for affordable housing, the City should be taking stronger actions to address the housing needs of its lower and moderate income households.

A real-world project example is the 4249 Nobel Drive project in the University Community. The CCHS regulations only require 3.4% or 45 units of the total 1,315 unit project to be affordable to very low, low, and moderate income households; and only 2.1% or 28 units to be affordable to very low and low income households. If the IH regulations were applied, 132 units would have to be made affordable to households making 60% AMI or less, i.e. 10% of the total 1,315 dwelling units.

Objective: Require CCHS projects to meet San Diego's Inclusionary Affordable Housing Regulations to help address our shortfall in permitting very low and low income dwelling units and our obligation to Affirmatively Further Fair Housing (AFFH).

Affected Code: §143.1010 (j), §143.1015 (4)

Recommended Code Amendment: Amend §143.1010 (j) and §143.1015 (4), as follows:
Delete:

> §143.1010 (j): ~~Compliance with the regulations in this Division shall satisfy compliance with the City's Inclusionary Affordable Housing Regulations in Chapter 14, Article 2, Division 13, and the *applicant's* affordable housing obligations.~~

Amend:

> §143.1015 (4) (current 4 becomes 5 etc.): Provides at least 10 percent (split evenly with 5% each) of the total number of rental *dwelling units* in the *development* for rent by *very low* and *low income* households, including an allowance for utilities, that does not exceed 30 percent of 50 percent area *median income* (5 percent) and 30 percent of 60 percent area *median income* (5 percent), as adjusted for household size.

Item 5: Suspension of CCHS following a CPU

Summary/Solution: The CPU process is presumed to provide sufficient capacity to meet the foreseeable housing needs of the community. Further, the CPU process explicitly identifies where added density provides the greatest benefit to the community in terms of creating walkable community cores and encouraging use of transit. CCHS contravenes the CPU process because it targets the least dense areas of the community where the CPU intended to create transition zones between high density mixed use and lower density residential. To give community plan updates a chance to succeed, CCHS should be suspended in a community for a period of nine years, which is roughly equal to one RHNA housing cycle.

Type of Amendment: Regulatory Reform

Background: Complete Communities Housing Solutions (CCHS) allows additional development based on broadly assigned Floor Area Ratio (FAR) tiers that override and ignore underlying zoned densities. The justification given for Complete Communities when it was adopted was to provide capacity for new development until community plans could be updated.

Accordingly, this amendment proposes to suspend the use of CCHS in a community for a period of time following the adoption of a community plan update (CPU).

Issue: CCHS confounds community planning because it incentivizes developers to locate projects where planned density is the lowest (above a too low threshold of 20 dwelling units per acre). This upends CPUs because upzoning in the CPU chases CCHS away to lower density transition areas where developers can minimize affordable housing requirements.

This dispersing of development undermines the transit adoption, walkability, and economic development goals of the CPU.

Objective: Give communities a chance to evolve as intended in their community plan updates.

Affected Code: §143.1030

Recommended Code Amendment: The proposed amendment would consist of amending §143.1030, as follows:

> **§143.1030 Division Inapplicability**
> This Division shall be applicable and effective for all eligible *premises* located in all community planning areas, except for those community planning areas that have adopted a community plan update, in accordance with the Land Use and Community Planning Element of the General Plan, within the previous nine years, or in those community planning areas that contain any portion of a Community of Concern, the Division shall only be applicable and effective until the community planning areas have reached 80 percent of the housing capacity identified for the community planning area in the City's Adequate Sites Inventory in the General Plan Housing Element, as determined by the Planning Director, or nine years from the effective date, whichever is later, unless an extension is approved by the City Council.

Item 6: Complete Communities Housing Solutions Replacement Units - Additive

Summary/Solution: Amend the Municipal Code to mandate that replacement units required by 143.1005 be added to the CCHS deed-restricted affordable housing units required by 143.1015.

Type of Amendment: Regulatory Reform

Background: Complete Communities Housing Solutions (CCHS) includes requirements for replacement of existing affordable units (143.1005 Required Replacement of Existing Affordable Units) that are demolished as part of a project. If replacement units are determined to be required based on the Municipal Code, these units are not included in the project unless they exceed the affordable housing units required in 143.1015 as noted below.

The Municipal Code (143.1005 (a) (1) requires a proposed development to replace "the affordable dwelling units" by providing "affordable dwelling units at the percentages set forth in Section 143.1015 (inclusive of the replacement dwelling units)."

"Inclusive of the replacement units" means the replacement units are only required if they exceed the number of affordable units required in 143.1015. They are credited against, not added to the required affordable units. The result is that CCHS's net production of affordable housing is even less than the units required by 143.1015, because of the units demolished and removed from San Diego's affordable housing inventory.

Replacement units should be additive i.e. replacement units should be added to the affordable housing unit requirements, not be credited against them.

Issue: The replacement unit requirements (143.1005) have not resulted in any additional affordable units beyond those required in 143.1015. This fact is based on an analysis prepared by Neighbors For A Better San Diego (NFABSD) of the 16 CCHS project applications made between program inception and 2/23/24 that required demolition and replacement of units housing low/very low income tenants. The 16 projects include demolition of 90 existing units requiring replacement. Information about these CCHS projects was provided by the San Diego Housing Commission. (NFABSD analysis is available on request.)

Objective: The objective of the proposed amendment is to maximize the replacement of the affordable housing units being demolished, and the production of new deed-restricted housing required under CCHS Municipal Code 143.1015 in order to mitigate and address the loss of the City's naturally occurring affordable housing stock.

Affected Code: §143.1005(a)(1)

Recommended Code Amendment: Amend §143.1005, as follows:

§143.1005 Required Replacement of Existing Affordable Units

(a) An *applicant* is ineligible for any incentive under this Division if the *premises* on which the *development* is proposed contains, or during the seven years preceding the application, contained, rental *dwelling units* that have had the rent restricted by law or covenant to persons and *families* of *low income*, or *very low income*, or have been occupied by persons and *families* of *low income*, or *very low income*, unless the proposed *development* replaces the affordable d*welling units*, and either:

(1) Provides affordable *dwelling units* at the percentages set forth in Section 143.1015 (~~inclusive of the replacement dwelling units~~ in addition to the replacement *dwelling units specified in §143.1005(b)*), or

(2) Provides all of the *dwelling units* in the *development* as affordable to *low income* or *very low income* households, excluding any manager's unit(s).

Item 7: Complete Communities Housing solutions FAR when off-siting units

Summary/Solution: Clarify that the portion of the FAR contained by the off-sited affordable housing cannot be reused for market-rate units. Add a Section §143.1015(a)(7)(F) that would require the FAR of the units relocated to a receiving site to be deducted from the original project's allowable FAR.

Type of Amendment: Clarification

Background: In HAP 2.0, the City Council allowed for the off-siting of affordable units required by a Complete Communities Housing Solutions project.

Issue: The Code fails to make clear that the FAR allowance still applies to the entire project and that moving affordable units offsite does not allow for additional market rate units to be built onsite. If DSD were to allow developers to reuse the off-sited affordable housing FAR for market-rate units, this would provide an additional incentive to segregate affordable units into their own building or project, which directly contravenes the goal of affirmatively furthering fair housing (AFFH).

Objective: Ensure that DSD doesn't allow double counting of FAR by requiring that the FAR consumed by affordable units relocated to a receiving site be deducted from the original project site's allowable FAR under Complete Communities, thus avoiding an economic incentive to segregate housing and contravene AFFH.

Affected Code: §143.1015(a)

Recommended Code Amendment: Add §143.1015(a)(7), as follows:

> §143.1015(a)(7)(F) The maximum floor area ratio allowed for the development by Section §143.1010(a) shall apply to the total of onsite and offsite development.

Item 8: Complete Communities Housing Solutions Regulations Map Correction

Summary/Solution: Reissue the Complete Communities FAR Tier map with a map that identifies Mission Valley (and other employment areas) as an area within FAR Tier 2 with a Complete Communities Housing Solutions FAR of 8.0. Check all other portions of the CCHS Map to ensure alignment with CCHS Code.

Type of Amendment: Other

Background: §143.1001(b)(2) Complete Communities Housing Solutions defines FAR Tier 2 as "FAR Tier 2 means any premises where any portion of the premises is located in a regional or subregional employment area, as identified in the General Plan Economic Prosperity Element…"

Issue: The published Complete Communities Map does not align with the Complete Communities regulations which identify FAR Tier 2 (8.0 FAR) as applying to regional and subregional employment areas. As an example, Mission Valley is a "regional or subregional employment center" that is in Mobility Zone 2 (not Mobility Zone 4, so not FAR Tier 4). CCHS FAR Tier 8.0 applies in this employment area. Other regional employment areas may also be affected.

Objective: Align the Complete Communities FAR Tier Map with the existing Complete Communities Code.

Affected Code: CCHS Map

Recommended Code Amendment: Corrections should be applied to the City of San Diego CCHS Map**.**

References:

1. https://www.arcgis.com/apps/instant/sidebar/index.html?appid=bf63882149d048a4ab34d8093b116f41 (Access current CCHS Map here)
2. For reference: §143.1001 (b) (2)
3. For reference: Figure EP-2 General Plan Prosperity Element https://www.sandiego.gov/sites/default/files/2024-07/general-plan_05_economic-prosperity_july-2024.pdf

Item 9: Removal of CCHS FAR Tier 2 Campus/Medical Center Allowance

Summary/Solution: Amend the code to eliminate the FAR Tier 2 designation for a "university campus that includes a medical center."

Type of Amendment: Regulatory Reform

Background: Complete Communities Housing Solutions (CCHS) allows additional development over underlying zoning based on varying Floor Area Ratio (FAR) tiers. FAR Tier 2 is defined as:

§143.1001(b)(2) FAR Tier 2 means any premises where any portion of the premises is located in a regional or subregional employment area, as identified in the General Plan Economic Prosperity Element, or within a one-mile radius of any university campus that includes a medical center and is within a Sustainable Development Area that is located in a community planning area within Mobility Zone 3 as defined in Section 143.1103(a)(3).

The proposed amendment addresses "within a one-mile radius of any university campus that includes a medical center." As currently implemented, this code only applies to the UCSD campus and Medical Center.

Issue: There are several problems with "within a one-mile radius of any university campus that includes a medical center":

First, the definition of a "university campus that includes a medical center" is unclear. Municipal Code Section §113.0103 (Definitions) does not include a definition for "university campus that includes a medical center", "university campus", or "medical center". Further, FAR Tier 2 is not being mapped in San Diego's CCHS maps according to any common understanding of these terms. For example, the shopping center at 3202 Governor Drive is included in FAR Tier 2 because the site is 1 mile across Rose Canyon (as the crow flies) to a UCSD-owned apartment complex (La Jolla Del Sol) that is neither an educational nor a medical facility. The actual UCSD campus is 3 miles away from this site. Conversely, there are many locations that are operated by UC Health that are not designated as FAR Tier 2, including the recently acquired Alvarado Hospital.

Second, the use of radial distance doesn't make sense in this, or any other, context related to pedestrian or transit proximity to a given location.

Third, the justification given for Complete Communities when it was adopted was to provide capacity for new development until community plans could be updated. The only "university campus that includes a medical center" in San Diego is UCSD, and the code is currently being interpreted to only apply to the University and Uptown communities. Both of these communities have recently adopted community plan updates, which explicitly consider the needs of the UCSD campus and Medical Center, thereby rendering the CCHS carveout moot.

Objective: To eliminate the special accommodation for "university campus that includes a medical center" now that the community plans have been updated for the communities (University and Uptown) to which this condition is being applied. Removal of this code would also avoid legal action due to the lack of a clear definition in the code of what it means to be a "university campus that includes a medical center."

Affected Code: §143.1001(b)(2)

Recommended Code Amendment: The proposed amendment would consist of amending §143.1001(b)(2), as follows:

> §143.1001(b)(2) FAR Tier 2 means any *premises* where any portion of the *premises* is located in a regional or subregional employment area, as identified in the General Plan Economic Prosperity Element~~, or within a one-mile radius of any university campus that includes a medical center and is within a *Sustainable Development Area* that is located in a community planning area within Mobility Zone 3 as defined in Section 143.1103(a)(3)~~.

Item 10: Ready Public Access to Brush/Fire/ESL Reports and Permits

Summary/Solution: Make all permits and reports associated with building projects (including but not limited to Fire Chief and Fire Marshal reports and permits, Neighborhood Development Permits, Site Development Permits, etc.) accessible to the public via Accela or whatever public project/permit access system the City is using at the time, concurrently to when they become available to DSD.

Background: Much of San Diego's high density building is being done in Very High Fire Hazard Severity Zones (VHFHSZs) and on or adjacent to environmentally sensitive lands (ESLs) and steep hillsides. To date, 40% of all Bonus ADU Projects have been permitted on VHFHSZs. As such, these areas require special inspections and reports from the Fire Marshal's office. For example, Government Code Section 51182 requires lands located on or adjacent to designated Very High Fire Severity Zone areas to provide 100 feet of defensible space. Likewise, the City requires 100 feet of brush management zone width. (SDMC §142.0412, Table 142-04H.)

Issue: Often, developers request "alternative compliance" to skirt these requirements.

Per SDMC section §142.0412(i), an applicant may only request approval of alternative compliance for brush management if a list of conditions is met. City Municipal Code requires approval of alternative compliance by the Fire Chief before construction. The public deserves ready access to such approval, denial and/or comments and the report by the Fire Chief/Marshal, but this currently requires a public records request.

Under SDMC Section 143.0110, the City's *environmentally sensitive lands* regulations apply when "any portion of the premises" contains "sensitive biological resources."

When ESL exists on a portion of the premises, a *Neighborhood Development Permit* or *Site Development Permit* is required for all types of development proposals listed, in accordance with the indicated decision process." (SDMC §143.0110(b)(1).) The public does not have ready access to these permits, but should.

Objective: To ensure that the public has easy computer access to all reports associated with project building permits without having to file public records requests.

Affected Code: Add §143.0115(c)(8), Add §142.0412(j)(1)

Recommended Code Amendment: This would be implemented by adding the following code sections:

> §143.0115(c)(8). Approved or denied project-specific *land use plans* and Site Development Permits for all proposed individual *developments* with *environmentally sensitive lands* must be timely posted on the City's current portal providing public access with the associated *development* project/permit application.

> §142.0412(j)(1) Alternative compliance brush management modifications approved by the Fire Chief shall be made available in written form if approved as part of the *development permit* or *construction permit* and must be timely posted on the City's current portal providing public access with the associated *development* project/permit application.

Item 11: Eliminate the Bonus ADU Program

Summary/Solution: Align San Diego ADU code with California's ADU code.

Type of Amendment: Regulatory Reform

Background: California ADU law allows only one accessory dwelling unit (ADU) on a single-family zoned lot. All subsequent state ADU code is being created based on this assumption, including new laws allowing ADUs to be sold as condominiums. The allowance of a single ADU is intended to encourage "gentle density" in the state's single-family neighborhoods, while providing homeowners with an alternate income source or a relatively affordable means to house their parents or children.

Contrary to the state's intention, in 2020, San Diego created its developer-focused Bonus ADU Program that allows unlimited (constrained only by the FAR) ADUs on a single-family zoned lot within the Sustainable Development Area (SDA).While the Bonus ADU program has represented only 7% of ADUs permitted in San Diego since its inception and 8% in 2023 (Source: San Diego 2024 Annual Report on Homes), the localized impact of these increasingly large projects in neighborhoods is significant. In 2023, 1909 ADUs were permitted in San Diego, but only 158 of those were part of the Bonus ADU program (8.3%). Without the Bonus ADU Program, the City would still have permitted an impressive 1751 ADUs and avoided wreaking havoc on single-family neighborhoods with projects of up to 12 units in six 2-story backyard apartment complexes behind single-family homes. Now these Bonus projects are ramping up beyond 12 units on a single lot to 17 and in one case, 37 ADUs on one single-family lot.

Issue: San Diego's unlimited Bonus ADU code does not comport with state ADU law and is taxing local infrastructure (sewer, water pressure, libraries, parks, parking, roads, police and fire services, etc.), exacerbated by not providing development impact fees to offset these increased burdens on the communities. 40% of the Bonus ADU projects are being permitted in Very High Fire Hazard Severity Zones, increasing the risks to homeowners, neighborhoods and fire personnel and compounding San Diego's insurance challenges.

Objective: To minimize the negative impacts of excessively dense ADU apartment developments on individual streets and neighborhoods, while maintaining the positive gentle density aspects of ADU development for individual homeowners.

Affected Code: §141.0302(c)(2)(H), Table 143-01A, §141.0302(c)(2)(I)

Recommended Code Amendment: Delete the following code:

~~§141.0302(c)(2)(H) *ADU* Bonus for Affordable *ADUs*. One additional *ADU* shall be permitted for every *ADU* on the *premises* that is set aside as affordable to *very low income* and *low income* households for a period of not less than 10 years, or as affordable to *moderate income* households for a period of not less than 15 years, guaranteed through a written agreement and a deed of trust securing the agreement, entered into by the *applicant* and the President and Chief Executive Officer of the San Diego Housing Commission.~~

~~(i) There is no limit on the number of bonus *ADUs* within a *Sustainable Development Area*.~~

~~(ii) One bonus *ADU* is permitted outside a *Sustainable Development Area*.~~

~~(iii) For *ADUs* to be counted as affordable and meet the requirements of this Section, the qualifying criteria in Table 141-03A shall be met.~~

~~Table 141-03A~~

~~Qualifying Criteria for Affordable *ADU* Bonus~~

	~~Rental *ADUs*~~	~~For-Sale *ADUs*[1]~~

	shall be affordable, including an allowance for utilities, at a rent that does not exceed:	shall be affordable at an affordable housing cost that does not exceed:
Very Low Income households	30 percent of 50 percent of the area median income, as adjusted for family size appropriate for the unit.	30 percent of 50 percent of the area median income, as adjusted for family size appropriate for the unit.
Low Income households	30 percent of 60 percent of the area median income, as adjusted for family size appropriate for the unit.	30 percent of 70 percent of the area median income, as adjusted for family size appropriate for the unit.
Moderate Income households	30 percent of 110 80 percent of the area median income, as adjusted for family size appropriate for the unit.	35 percent of 110 80 percent of the area median income, as adjusted for family size appropriate for the unit.

Footnotes for Table 141-03A

(1) For sale *ADUs* are subject to the requirements of Section 141.0302(c)(1)(B).

(I) *ADU* Bonus for Accessible *ADUs*. For *development* utilizing the *ADU* Bonus for Affordable *ADUs* in accordance with Section 141.0302(c)(2)(H), a maximum of one additional accessible *ADU* shall be permitted if the *development* includes:

(i) At least two *ADUs* shall be affordable to *very low income*, *low income*, or *moderate income* households; and

(ii) The accessible *ADU* shall comply with the following:

(a) Accessibility requirements in Chapter 11A of the California Building Code, including at least one accessible bathroom, one accessible *kitchen*, and one accessible *bedroom*; and

(b) The accessible *ADU* shall be located on an accessible route, as defined by the California Building Code.

Item 12: Eliminate SDAs from Bonus ADU Code

Summary/Solution: The ADU code should be limited to 2 ADUs (affordable + bonus) anywhere in the City, plus the state-required JADU. This will still exceed the state-required allowance of one ADU per parcel and will avoid creating pockets of dense development in places that may never be well served by transit and therefore will contribute to increased VMT and GHG, stymying achievement of the City's Climate Action goals.

Type of Amendment: Regulatory Reform

Background: The City's bonus ADU allowances are different depending on whether the premises is outside or within a Sustainable Development Area (previously Transit Priority Area). Specifically, one bonus ADU is allowed for every ADU that is set aside as affordable, with no limit on the number of ADUs within the SDA and one bonus ADU allowed outside the SDA. The City Council created the Sustainable Development Area (SDA) as part of its 2023 LDC Update. This concept was never subjected to an Environmental Impact Report, yet it has been applied to multiple local municipal codes, including Complete Communities Housing Solutions and the Bonus ADU program.

Issue: Within SDAs, unlimited dense development is allowed and encouraged up to a mile or more (in areas with Specific Plans) from a "major transit stop." It is not necessary for a transit stop to meet the requirements of a major transit stop at the present. For example, 37 ADUs are being permitted on a single-family parcel at 819 Jacumba Street based on a major transit stop that is not currently within the SDA because it is not within one mile of an existing major transit stop. 819 Jacumba Street is .1 to .3 miles from the #4 bus that only runs every 30 minutes during rush hour and 2.8 miles from the Orange Line Trolley, so it is not within 1 mile of any existing major transit stop. 4578 Jicarillo is another example of a project with 12 ADUs that is not currently in the SDA. It is .4 miles from the #105 bus that runs every 30 minutes during rush hour and it is 1.8 miles to the Blue Line Trolley stop. These projects work against the City's Climate Action goals because cars remain the only viable transport for the residents of these dense housing projects.

Objective: To actually reduce VMT and achieve our Climate Action goals, the City should remove SDAs from the ADU code to avoid encouraging dense development up to a mile or more (in the case of specific plans) from transit that may never be built.

Affected Code: §141.0302(c)(2)(H) , §141.0302(c)(2)(i) and (ii)

Recommended Code Amendment: The proposed amendments would consist of striking §141.0302(c)(2)(H)(i) and removing the reference to the SDA in §141.0302(c)(2)(H)(ii), as follows:

§141.0302(c)(2)(H)

~~*(i)* There is no limit on the number of bonus *ADUs* within a *Sustainable Development Area.*~~

~~*(ii)*~~ One bonus *ADU* is permitted. ~~outside a *Sustainable Development Area.*~~

Item 13: "Allowed Developable Area" for Bonus ADU Program

Summary/Solution: Change the ADU Bonus Program Code 141.0302 and Section 131.0446(a)(2) to reflect that premises in OR Zones or that contain environmentally sensitive lands, floor area ratios (FARs) will be adjusted based on "allowed developable area," the same as the tree adjustments the City adopted as part of the 2024 LDC Update.

Type of Amendment: Clarification

Background: As part of the 2024 LDC Update, the City approved limiting tree requirements for Bonus ADU projects based on "allowed developable area" in OR zones and areas with environmentally sensitive lands.

Issue: It is assumed but may not be obvious that any floor area ratio (FAR) determination for ADU development would be governed by the same "allowed developable area" in OR Zones and environmentally sensitive lands (ESL). For example, on OR-1-1 lots, only 25% of the lot would be eligible for FAR calculations.

Objective: To make the code clear, it should be revised to state that the "allowed developable area" formulas apply equally to ADU floor area ratio (FAR) calculations, consistent with the 2024 LDC update for ADU tree requirements.

Affected Code: 141.0302(c)(2)(H) and/or 141.0302(b)(2)(C); 131.0446(a)(2)

Recommended Code Amendment: Clarify the code by Inserting the following:

> §141.0302(b)(2)(I): If the *premises* is located in the OR Zone or contains *environmentally sensitive lands*, the *floor area ratio* for the *premises* shall be based on the *allowable development area* for the *premises*. If the *premises* is located in the OR Zone, the *lot* area used to determine the *floor area ratio* for the *premises* shall be the *allowable development area* as described in Section 131.0250. If the *premises* contains *environmentally sensitive lands*, the *lot* area used to determine the *floor area ratio* shall be the *allowable development area* as described in Chapter 14, Article 3, Division 1.

Item 14: Prohibit Bonus ADU Program in Very High Fire Hazard Severity Zones

Summary/Solution: Prohibit Bonus ADU Program projects in VHFHSZs. CA ADU Code Section 65852.2(a)(1)(A) allows the City the discretion to prohibit ADUs in selected areas based on public safety: "Designate areas within the jurisdiction of the local agency where accessory dwelling units may be permitted. The designation of areas may be based on the adequacy of water and sewer services and **the impact of accessory dwelling units on traffic flow and public safety.**"

While CA ADU code requires ministerial review of the state-required one ADU and one JADU, the San Diego Bonus ADU Program is not required under state law and it is therefore within the power of the City Council to prohibit building these projects in VHFHSZs based on the risks these dense developments place on public safety as noted by Chatten-Brown/CEQA.

Type of Amendment: Regulatory Reform

Background: Insurance Companies are refusing to insure properties in California and San Diego. The CA FAIR Plan has had to increase its policies dramatically and insurance costs are soaring across the state and city, with fire risks being a significant factor contributing to these problems. Building more high density housing in VHFHSZs will only add to residents' insurance challenges and costs and increase fire risks across the city.

Issue: We are seeing more and bigger Bonus ADU projects being built on canyon rims in very high fire hazard severity zones (VHFHSZs). A few recent examples include 9 ADUs at 3378 North Mountain View Drive (in the footprint of the 1985 Normal Heights Fire), 37 ADUs at 819 Jacumba Street, 17 ADUs at 4601 Almayo Avenue, and 12 units at 4578 Jicarillo Avenue.

The City and DSD are treating all of these projects as "ministerial," but this is not consistent with CEQA.

Regarding the Jicarillo project, Chatten-Brown Law Group recently noted: "Where a property is located in a VHFSZ, CEQA requires a project applicant to evaluate various impacts to wildfire safety, including impairments to emergency evacuation plans, the exacerbation of wildfire risks given unique site conditions such as slope or wind patterns, or the requirement of additional firefighting infrastructure that may impact the environment. (2024 CEQA Guidelines, Appendix G. Development on this site requires a Site Development Permit ("SDP.... SDPs for this type of development must be decided in accordance with Process Three, which the City's own website categorizes as a discretionary decision. (S.D. Muni. Code §126.0502; City of San Diego, *Decision Process*.) This Project is **not ministerial**, but discretionary, and requires further review for all impacts, including wildfire safety.

Objective: To minimize fire risks to San Diego residents and firefighters and stop exacerbating the exodus of insurance companies from the San Diego market.

Affected Code: §141.0302(c)(2)(H)

Recommended Code Amendment: The proposed fire hazard restrictions could be implemented through the following code changes:

> §141.0302(c)(2)(H)
>
> (i) There is no limit on the number of bonus *ADUs* within a *Sustainable Development Area* that is not in a *Very High Fire Hazard Severity Area*.
>
> (ii) One bonus *ADU* is permitted outside a *Sustainable Development Area* or within a *Sustainable Development Area* that is in a *Very High Fire Hazard Severity Area*.

Item 15: Affordable ADUs Income Level

Summary/Solution: Reduce the Moderate-income AMI from 110% to 80% AMI for a 15 year deed.

Type of Amendment: Regulatory Reform

Solution/Solution: Reduce the Moderate-income AMI from 110% to 80% AMI for a 15 year deed.

Background: Since the inception of the Bonus ADU Program in late 2020, not a single ADU has been deed-restricted for low or very low-income households as a result of this program.

Note that in February of 2022, the Planning Department promised to conduct an Economic Study on ADUs to address the issue of affordability levels, with results to be available to the City Council by December of 2022. That study has not been delivered.

Issue: Every deed-restricted ADU from the Bonus ADU Program has been deeded at Moderate-Income 110% AMI, which is essentially market rate, for 15 years.

Objective: To encourage the production of more truly affordable ADUs by motivating developers to deed-restrict ADUs for lower income households.

Affected Code: Table 141-03A.

Recommended Code Amendment: These affordability levels should be required in addition to the ADA compliant unit, which should not replace the deed-restriction mandate.

Table 141-03A
Qualifying Criteria for Affordable *ADU* Bonus

	Rental *ADUs*	**For-Sale *ADUs*1**
	shall be affordable, including an allowance for utilities, at a rent that does not exceed:	**shall be affordable at an affordable housing cost that does not exceed:**
***Very Low Income* households**	30 percent of 50 percent of the area median income, as adjusted for family size appropriate for the unit.	30 percent of 50 percent of the area median income, as adjusted for family size appropriate for the unit.
***Low Income* households**	30 percent of 60 percent of the area median income, as adjusted for family size appropriate for the unit.	30 percent of 70 percent of the area median income, as adjusted for family size appropriate for the unit.
***Moderate Income* households**	30 percent of ~~110~~ 80 percent of the area median income, as adjusted for family size appropriate for the unit.	35 percent of ~~110~~ 80 percent of the area median income, as adjusted for family size appropriate for the unit.

Item 16: By-Right ADU Correction

Summary/Solution: In the interests of maximizing affordable housing and respecting the existing §141.0302(c)(2)(H) code, the City Council and Planning Department should amend the code to clarify that the first ADU on a parcel can and should be deed-restricted as part of the Bonus ADU program – that there is no "by-right" or base ADU that is immune from deed-restriction when the Bonus ADU Program is applied.

Type of Amendment: Correction

Background: In 2020, San Diego adopted §141.0302 Accessory Dwelling Units and Junior Accessory Dwelling Units Code, including the Bonus ADU program as now outlined in §141.0302(c)(2)(H).

Issue: Section §141.0302(c)(2)(D) defines the right of any property owner to build an ADU of a minimum of 800 sf. DSD is interpreting this as separate and in addition to the Bonus ADU allowances in Section §141.0302(c)(2)(H). However, nowhere in §141.0302 does the code mention the "by-right" or "base" (SDHC vernacular) ADU that has been assumed by DSD. DSD should not be interpreting or expanding code; it should only be applying and enforcing code. This by-right or base unit has been associated with the ADU required to be allowed by CA ADU code and the Bonus ADU Program has been erroneously applied on top of this base unit by DSD, with no justification for doing so in the code itself. Doing so actually results in fewer deed-restricted ADUs, which the City should not be encouraging. Note the examples below.

As it stands, DSD applies the code as follows for a parcel with 5 ADUs:

1. By-right – market rate granted by the state
2. Deed-restricted
3. Bonus – market rate
4. Deed-restricted
5. Bonus

Result – 3 market rate ADUs, 2 deed-restricted

Without DSD's invented "by-right" ADU, the deed-restriction applies to the first ADU as follows:

1. Deed-restricted
2. Bonus – market rate
3. Deed-restricted
4. Bonus – market rate
5. Deed-restricted

Result – 3 deed-restricted ADUs, 2 market rate

When the Bonus ADU code was adopted in October 2020, the presentation of the Planning Department did not provide any examples of what would be allowed. In particular, there was not a statement, example, or suggestion that the first ADU was exempted from the Bonus ADU program.

Objective: To maximize deed-restricted ADUs by eliminating DSD s presumption of an initial by-right" ADU that cannot be deed-restricted. There is no justification in the code for the existence of a by-right" ADU that cannot be deed-restricted as part of the Bonus ADU program.

List of Code Sections Affected by Your Proposal: §141.0302(c)(2)(H)

Recommended Code Amendment: This proposal could be implemented through the insertion of the following code:

> §141.0302(c)(2)(H)(iv) For *development* utilizing the *ADU* Bonus for Affordable *ADUs* in accordance with this section, the number of ADUs set aside as affordable must be at least one-half of the total number of ADUs on the premises.

Item 17: Graduated Affordable ADU Income Levels

Summary/Solution: The first pair of Bonus ADUs will allow a moderate-income ADU (110% AMI) or a low- (60% AMI) or very low-income (50% AMI) ADU; the second pair of Bonus ADUs will require a low- (60% AMI) or very low-income (50% AMI) ADU, and the third pair of Bonus ADUs will require a very low-income (50% AMI) ADU. If more than three sets of Bonus ADUs are built (6 bonus ADUs), the cycle begins again.

Type of Amendment: Regulatory Reform

Background: Since the inception of the Bonus ADU Program in late 2020, not a single ADU has been deed-restricted for low or very low-income households as a result of this program.

Note that in February of 2022, the Planning Department promised to conduct an Economic Study on ADUs to address the issue of affordability levels, with results to be available to the City Council by December of 2022. That study has not been delivered.

Issue: Every deed-restricted ADU from the Bonus ADU Program has been deeded at Moderate-Income 110% AMI (essentially market rate) for 15 years. However, the greatest affordable housing shortage in San Diego is for units for low and very low-income households. (We are not referring to underperformance on RHNA goals, but rather to the shortage of needed affordable housing units per the San Diego Housing Commission https://sdhc.org/wp-content/uploads/2020/05/Affordable-Housing-Preservation-Study.pdf)

Objective: To encourage the production of more truly affordable ADUs by motivating developers to deed-restrict ADUs for low (60% AMI) and very low-income (50% AMI) households as well as moderate-income (110% AMI) households.

Affected Code: §141.0302(c)(2)(H) These affordability levels should be required in addition to the ADA compliant unit, which should not replace the deed-restriction mandate.

Recommended Code Amendment: Amend §141.0302(c)(2)(H), as follows:

§141.0302(c)(2)(H) *ADU* Bonus for Affordable *ADUs*. One additional *ADU* shall be permitted for every *ADU* on the *premises* that is set aside as affordable to *very low income* and *low income* households for a period of not less than 10 years, or as affordable to *moderate income* households for a period of not less than 15 years, guaranteed through a written agreement and a deed of trust securing the agreement, entered into by the *applicant* and the President and Chief Executive Officer of the San Diego Housing Commission.

(i) through (iii) No change

(iv) The first deed-restricted *ADU* on a parcel must be restricted for very low-, low-, or moderate income as outlined in Table 141-03A.

(v) The second deed-restricted *ADU* on the same parcel must be restricted for very low- or low-income as outlined in Table 141-03A.

(vi) The third deed-restricted *ADU* on the same parcel must be restricted for very low-income as outlined in Table 141-03A.

(vii) Additional deed-restricted *ADUs* on the same parcel in excess of three will begin again at (iv) and continue through (vi) up to the maximum number of *ADUs* allowed for the premises.

Item 18: Unlimited Non-Habitable Space Converted to ADUs

Summary/Solution: Strike §141.0302(c)(2)(C)(iii). This will still allow two ADUs to be added to these multi-dwelling unit premises. Additional ADUs will continue to be permitted according to the bonus ADU regulations, §141.0302(c)(2)(H).

Type of Amendment: Regulatory Reform

Background: §141.0302(c)(2)(C) defines regulations for adding ADUs to "... *premises* located in a Single Dwelling Unit Zone with an existing *multiple dwelling unit*, or a *premises* located in a Multiple Dwelling Unit Zone with an existing or proposed *dwelling unit...".* §141.0302(c)(2)(C)(iii) allows unlimited ADUs "within the portions of existing *dwelling unit structures* and *accessory structures* that are not used as livable space, including storage rooms, boiler rooms, passageways, attics, basements, or garages, if each *ADU* complies with state building standards for *dwelling units*."

Issue: The allowance of unlimited ADUs in §141.0302(c)(2)(C)(iii) conflicts with the bonus ADU regulations defined in §141.0302(c)(2)(H). This invites manipulation of proposed development plans to first create "unlivable" space that can later be turned into market rate ADUs, thereby avoiding the requirement to set aside half of the units as affordable per §141.0302(c)(2)(H). Further, the allowance of unlimited ADUs in §141.0302(c)(2)(C)(iii) is not restricted to *Sustainable Development Areas (SDAs)* or with any proximity to transit. As such, they are inconsistent with the City's Climate Action Plan because they encourage dense development without regard to transit availability and generation of greenhouse gas production or vehicle miles traveled.

Objective: To create clear and consistent regulations for multiple ADU developments.

Affected Code: §141.0302(c)(2)(C)(iii)

Recommended Code Amendment: The proposed change can be implemented by striking 141.0302(c)(2)(C)(iii), as follows:

> §141.0302(c)(2)(C) On a *premises* located in a Single Dwelling Unit Zone with an existing *multiple dwelling unit*, or a *premises* located in a Multiple Dwelling Unit Zone with an existing or proposed *dwelling unit*, *ADUs* shall be permitted as follows:
> (i) Two *ADUs* that are attached to and/or detached from an existing or proposed *structure* are permitted; and
> (ii) The number of *ADUs* permitted within the habitable area of an existing *dwelling unit structure* is limited to 25 percent of the total number of existing *dwelling units* in the *structure*, but in no case shall it be less than one *ADU*; and
> ~~(iii) There is no limit on the number of *ADUs* permitted within the portions of existing *dwelling unit structures* and *accessory structures* that are not used as livable space, including storage rooms, boiler rooms, passageways, attics, basements, or garages, if each *ADU* complies with state building standards for *dwelling units*.~~

Item 19: Distribute Short Term Rentals by Community Planning Area

Summary/Solution: Limit the number of STRs within each Community Planning Area to no more than 1% of the housing units located in each Community Planning Area.

Type of Amendment: Regulatory Reform

Background: The 2021 Short Term Rental (STR) Ordinance created a licensing framework for STR listings in San Diego, with the intent of "balancing the need to preserve neighborhood quality of life with the protection of private property rights" (in quotes is from SDMC 510.0101). Unfortunately, the implementation of the code is not fulfilling this intent since the STR licenses are being concentrated in a few communities resulting in negative impacts to those communities/neighborhoods where STRs are removing naturally occurring housing stock and resulting in long-term renters in those communities being forced out because rental prices in those neighborhoods are being driven higher since the naturally occurring affordable housing stock is being converted to STRs.

Issue: Short term rentals are being over-concentrated in a few communities this is adversely impacting the communities as the over-concentration is causing the loss of naturally occurring affordable housing in those communities and is forcing long term renters out of their communities.

Objective: More evenly distribute short term rentals throughout the City so that downside of STRs do not over-impact a few neighborhoods.

Affected Code: §510.0104(d)(4) , §510.0104(d)(5)

Recommended Code Amendment: Change the text of §510.0104(d)(4) and §510.0104(d)(5) as noted below. These amendments may be combined with the recommendations in Items 20 and 21.

> §510.0104(d)
> (4) The total number of Tier Three Licenses issued shall not exceed 1 percent of the total housing units in <u>each Community Planning Area</u> ~~the City of San Diego~~, excluding the total housing units within the Mission Beach Community Planning Area, based on the most recent Demographic and Socioeconomic Housing estimates issued by the San Diego Association of Governments (SANDAG), rounded up to the next whole number. The total number of available Tier Three Licenses shall be updated once every two years based on the formula in this section 510.0104(d)(4). ~~The total number of Tier Three Licenses shall not be reduced below the total number of Tier Three Licenses available in the prior two-year period.~~
>
> ~~(5) Tier Three Licenses issued on a lottery basis shall be issued to each Community Planning Area in proportion to the Community Planning Area's percentage of the overall Tier Three License applicant pool~~

Item 20: STR Host Must be on Parcel's Deed for Tier 3 or Tier 4 License

Summary/Solution: Add a requirement that hosts for a Tier 3 or Tier 4 permit must be a record owner, per definition 113.0103.

Type of Amendment: Regulatory Reform

Background: The 2021 Short Term Rental (STR) Ordinance created a licensing framework for STR listings in San Diego, to create a fair structure for STR license distribution. Unfortunately, the implementation of the code is not fulfilling this intent since the STR licenses are being concentrated within the hands of a few, with one STR property owner sequestering over 100 Tier 3 licenses by using proxies to apply for the license.

Issue: Multi-dwelling unit owners and are gaming the system by using proxies ("hosts") to apply for Tier 3 and Tier 4 licenses. Entire apartment and beach bungalow complexes (100% of all dwelling units in some complexes) are being rented as short term rentals (<30 days), which is turning them effectively into motels/hotels and is removing a significant amount of Naturally Occurring Affordable Housing in some neighborhoods. Allowing this gaming of the system means that the Code is not working as intended when it was implemented.

Objective: Remove a loophole in the code that allows property owners to game the system by allowing proxies/"hosts" to apply for Tier 3 and Tier 4 permits.

Affected Code: §113.0103, §510.0104(d), §510.0104(e), §510.0102

Recommended Code Amendment: Add the requirement that a host must be a record owner (per definition in SDMC 113.0103) to 510.0104(d) and 510.0104(e) Add record owner definition to 510.0102. These amendments may be combined with the recommendations in Item 19 and 21.

Add:

§510.0102
Record owner has the same meaning as in Municipal Code section 113.0103

Amend:

§510.0104(d) (no change)
(1) to (5) no change
(6) A *host* must be a *record owner* for the *dwelling unit.*

§510.0104(e) (no change)
(1) to (4) no change
(5) A *host* must be a *record owner* for the *dwelling unit.*

Item 21: Limit Number of Dwelling Units per Parcel That May Be STRs

Summary/Solution: Add a requirement that on a parcel that has 5 or fewer dwelling units, only one dwelling unit may have an STR license. On a parcel with 6 or more dwelling units, only 2 or 20% of the dwelling units may have STR licenses, whichever is greater.

Type of Amendment: Regulatory Reform

Background: The 2021 Short Term Rental (STR) Ordinance created a licensing framework for STR listings in San Diego, to create a fair structure for STR license distribution. Unfortunately, the implementation of the code is not fulfilling this intent since the STR licenses are being concentrated within the hands of a few and full apartment and beach bungalow complexes are being converted from naturally occurring affordable housing to STRs.

Issue: Entire apartment and beach bungalow complexes (100% of all dwelling units) are being rented as short-term rentals (<30 days) turning them effectively into motels/hotels. This is removing a significant amount of Naturally Occurring Affordable Housing in the coastal areas and is forcing long-term renters out of their homes either by their apartments being converted to STRs or by increased rents due to the reduction in available housing.

Objective: Entire apartment and beach bungalow complexes (100% of all dwelling units) are being rented as short-term rentals (<30 days) turning them effectively into motels/hotels. This is removing a significant amount of Naturally Occurring Affordable Housing in the coastal areas and is forcing long-term renters out of their homes either by their apartments being converted to STRs or by increased rents due to the reduction in available housing.

Affected Code: §510.0104(d), §510.0104(e)

Recommended Code Amendment: Add additional requirements to 510.0104(d) and 510.0104(e). These amendments may be combined with the recommendations in Items 19 and 20.

510.0104(d) (no change)
(1) to (5) no change
(6) A parcel that has 5 or fewer dwelling units, only one dwelling unit may have an STR license. On a parcel with 6 or more dwelling units, only 2 dwelling units or 20% of the dwelling units may have STR licenses, whichever is greater.

510.0104(e) (no change)
(1) to (4) no change
(5) A parcel that has 5 or fewer dwelling units, only one dwelling unit may have an STR license. On a parcel with 6 or more dwelling units, only 2 dwelling units or 20% of the dwelling units may have STR licenses, whichever is greater.

Item 22: JADU Owner Occupancy Affidavit

Summary: The San Diego Junior ADU Affidavit should eliminate all references to an "assignee" making it clear that the "property owner" is required to live on site when a JADU is built on the premises. All JADU agreements with the "assignee" language should be replaced with the corrected JADU agreements and rerecorded so "assignees" are not allowed to replace property owners.

Type of Amendment: Compliance with State Law

Background: The city's current JADU agreement is not consistent with San Diego or CA JADU law. It says "2. Property Owner or Property Owner's successor or assignee shall reside on the premises."

Issue: San Diego and CA JADU code do not allow the owner to have an "assignee" reside on the property in her or her stead. San Diego §141.0302(d)(1)(C) states:

> (C) Before a Building Permit may be issued for a *JADU*, the *record owner* shall enter into an agreement with the City in a form that is approved by the City Attorney. The agreement shall include the following provisions: the *JADU* may not be sold or conveyed separately from the primary *dwelling unit*; the agreement may be enforced against future purchasers; and the *record owner* shall reside on the *premises*.
>
> The record owner means the owner of real property as shown in the latest equalized property tax assessment rolls of the San Diego County Assessor.

CA JADU law Section 65852.22(a)(2) states

> Require owner-occupancy in the single-family residence in which the junior accessory dwelling unit will be permitted. The owner may reside in either the remaining portion of the structure or the newly created junior accessory dwelling unit. Owner -occupancy shall not be required if the owner is another governmental agency, land trust, or housing organization.

Neither San Diego nor CA JADU code allows the record owner to select an "assignee" to fulfill the legal requirement for the record holder to reside on the premises when a JADU is built.

Objective: The San Diego Junior ADU Affidavit should eliminate all references to an "assignee" making it clear that the "property owner" is required to live on site when a JADU is built on the premises. All JADU agreements with the "assignee" language should be replaced with the corrected JADU agreements and rerecorded so "assignees" are not allowed to replace property owners.

Affected Code: Form ds-202a JADU Agreement

Recommended Code Amendment: The code is correct. It is the JADU Agreement ds-202a that must be corrected, as noted on the facsimile of the form below.

THE CITY OF SAN DIEGO

RECORDING REQUESTED BY:
THE CITY OF SAN DIEGO
AND WHEN RECORDED MAIL TO:

_____

_____

_____

(THIS SPACE IS FOR RECORDER'S USE ONLY)

JUNIOR UNIT AGREEMENT

APPROVAL NUMBER: _____ PROJECT NUMBER: _____

In accordance with the provisions of the City of San Diego Municipal Code, Chapter 13, Article 1, Division 4, and Chapter 14, Article 1, Division 3, this agreement is made by and between the City of San Diego, a Municipal Corporation [City] and the owner [Property Owner] of real property located at:

_____
PROPERTY ADDRESS

and more particularly described as _____
LEGAL DESCRIPTION

in the City of San Diego, County of San Diego, State of California.

In consideration of the granting of a Building Permit for construction of a Junior Unit, as shown on the plans on file with the City of San Diego and referenced by the project number above, Property Owner covenants and agrees with the City of San Diego as follows:

1. Property Owner or Property Owner's successor or assignee may not sell separately or convey separately either the primary dwelling unit or the Junior unit.
2. Property Owner or Property Owner's successor or assignee shall reside on the premises.
3. This Agreement shall run with the land for the protection and benefit of all Parties concerned. If fee title to the Property or any partial interest therein is conveyed to any other person, firm, or corporation, the conveying instrument shall contain a restriction referencing this Agreement or restrictive language consistent with this Agreement.

Executed by the City of San Diego and by Property Owner in San Diego, California.

THE CITY OF SAN DIEGO

APPROVED:

By: _____
PRINT NAME

_____
SIGNATURE

_____
TITLE

I HEREBY CERTIFY I am the record owner of the Property and that I have read all of this Agreement, this

_____ day of _____, _____.
DAY MONTH YEAR

By: _____
PRINT NAME

_____
OWNER'S SIGNATURE

NOTE: ALL SIGNATURES MUST INCLUDE NOTARY ACKNOWLEDGMENTS PER CIVIL CODE SEC. 1180 ET.SEQ.

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Upon request, this information is available in alternative formats for persons with disabilities.

DS-202A (9-17)

Reset Button

Item 23: Change SDA from RTP to RTIP

Summary/Solution: Amend the San Diego's Municipal Code to base the Sustainable Development Area (SDA) on the major transit stops in the Regional Transportation Improvement Program (RTIP) instead of the Regional Transportation Plan (RTP).

Type of Amendment: Regulatory Reform

Background: NFABSD recommends basing the Sustainable Development Area (SDA) on the major transit stops in the Regional Transportation Improvement Program (RTIP) instead of the Regional Transportation Plan (RTP).

Issue: The RTP includes transit projects that may be decades in the future or may be cancelled in a future planning cycle. Because the SDA is based on the RTP, this means that projects, especially bonus Accessory Dwelling Unit (ADU) and Complete Community Housing Solutions (CCHS) developments, are being allowed significant additional density in areas that won't have adequate transit services within a reasonable near term planning horizon. This is particularly unacceptable in the case of bonus ADUs because the affordability deeds for these developments is only 10-15 years and will expire just as the 2035 RTP projects come online, if in fact those projects are delivered as proposed in the 2035 plan. This is contrary to the principles of affirmatively furthering fair housing (AFFH).

Secondly, basing the SDA on distant future transit plans means that SANDAG's regional transit planning processes equate to allowing a body outside of San Diego to effect land use changes in San Diego that are many times more significant than community plan updates. San Diego's government shouldn't accept this loss of autonomy over it land use decisions.

Objective: Further San Diego's climate action, transit adoption, and equity goals by restricting SDAs to existing and near term transit access.

Affected Code: §113.0103

Recommended Code Amendment: The proposed amendment would consist of amending the definition of Sustainable Development Area in §113.0103, as follows:

> **§113.0103 Definitions**
> *Sustainable Development Area* means the area within a defined walking distance along a pedestrian path of travel from a *major transit stop* that is existing or planned, if the planned *major transit stop* is included in a transportation improvement program ~~or applicable regional transportation plan~~, as follows:
>
> [No change to the rest of the definition]

Item 24: Change SDA Walking Distance

Summary/Solution: Amend the San Diego Municipal Code to base the Sustainable Development Area (SDA) on one-half mile walking distance instead of the current one mile walking distance. Because the SDA is only applied to local programs, it is within the jurisdiction of the city to make this change. As justification for matching the area of the TPA, it was asserted that reducing the footprint of bonus incentives would be considered a reduction in zoning; however, because it only affects bonus incentives and not underlying zoning, this concern is unfounded.

Type of Amendment: Regulatory Reform

Background: NFABSD recommends changing the Sustainable Development Area (SDA) from one-mile walking distance to a major transit stop to one-half mile walking distance. The SDA is used to allow considerable additional density through local development incentives, such as bonus Accessory Dwelling Units (ADUs) and Complete Communities Housing Solutions, based on presumed proximity to transit.

Issue: When the SDA was adopted as part of the 2022 Land Development Code update, the determination of a one-mile walking distance measurement from major transit stops was based solely on maintaining or even increasing the total area covered by the Transit Priority Area (TPA). There was no supporting evidence in the staff presentations or reports that residents living a mile (or more in the case of Specific Plans) away from a transit stop would be disposed to use transit over other modes of transportation. In fact, SANDAG's own surveys, which were presented by Neighbors For A Better San Diego during public testimony, clearly indicate that transit adoption drops off sharply beyond one-half mile. This particularly affects the bonus ADU program because 60% of the single-family zoned parcels in the SDA are more than one-half mile from the nearest qualifying transit stop.

As a result, the SDA reinforces San Diego's automobile dependence, contrary to the goals of the Climate Action Plan.

Objective: The objective of the proposed amendment is to further San Diego's climate action, transit adoption, and equity goals by restricting SDAs to areas that have realistic walkable access to transit. An additional benefit of the proposed amendment is that it would simplify the code and remove complex external dependencies such as the (CTCAC) Opportunity Area map, which can and does change annually.

Affected Code: §113.0103

Recommended Code Amendment: The proposed amendment would consist of amending the definition of Sustainable Development Area in §113.0103, as follows:

> **§113.0103 Definitions**
> *Sustainable Development Area* means the area within a defined walking distance <u>of 0.5 mile</u> along a pedestrian path of travel from a *major transit stop* that is existing or planned, if the planned *major transit stop* is included in a transportation improvement program or applicable regional transportation plan<u>.</u>~~, as follows:~~
> ~~(a) Within Mobility Zones 1 and 3, as defined in Section 143.1103, the defined walking distance is 1.0 mile.~~
> ~~(b) Within Mobility Zone 4, as defined in Section 143.1103, the defined walking distance is .75 mile.~~
> ~~(c) For *parcels* located in Mobility Zone 4, in an area identified as a High or Highest Resource California Tax Credit Allocation Committee (CTCAC) Opportunity Area, the defined walking distance is 1.0 mile.~~
> In addition, an adopted specific plan prepared in accordance with section 122.0107(a), shall be within the *Sustainable Development Area* if the *Sustainable Development Area* is within a portion of the adopted specific plan.

Item 25: TPA Based on RTIP

Summary/Solution: Amend the San Diego Municipal Code to explicitly state which transportation plan should be used as the basis for the TPA. Given that the TPA is being used to impose requirements on developments based on presumed proximity to effective transit, it makes the most sense to use the Regional Transportation Improvement Program (RTIP) instead of the Regional Transportation Plan (RTP), which includes transit stops that may not exist for decades into the future, if ever.

Type of Amendment: Clarification

Background:

NFABSD recommends clarifying which transportation plan is being used as the source of major transit stops for the Transit Priority Area (TPA) map. NFABSD further recommends stipulating that the TPA be based on the major transit stops in the Regional Transportation Improvement Program (RTIP) instead of the Regional Transportation Plan (RTP) as currently assumed according to internal decisions of the Planning Department rather than explicit direction from the City Council, as appropriate.

Issue: The definition of Transit Priority Area (TPA) is unclear.

According to SDMC Section 113.0103:

> *Transit priority area* means the area defined in California Public Resources Code Section 21099, as may be amended, or an area within one-half mile of a *major transit stop* that is existing or planned, if the planned *major transit stop* is scheduled to be completed within the planning horizon included in a Transportation Improvement Program.

Public Resources Code Section 21099 itself defines the TPA as:

> 'Transit priority area' means an area within one-half mile of a major transit stop that is existing or planned, if the planned stop is scheduled to be completed within the planning horizon included in a Transportation Improvement Program or applicable regional transportation plan.

Different plan horizons may remove transit stops that are added by other plans or that exist today. This suggests that 21099 should be read as presenting a range of options for which plan to use, leaving it up to the local jurisdiction to choose a specific "applicable regional transportation plan." In this reading, the Municipal Code would be interpreted as selecting the Transportation Improvement Program as the source of major transit stops. The TPA map would need to be redrawn to conform with this interpretation.

Objective: The objective of the amendment Is to give a clear reading to the definition of the Transit Priority Area.

Affected Code: §113.0103

Recommended Code Amendment: The proposed amendment would consist of amending the definition of Transit Priority Area in §113.0103, as follows:

> **§113.0103 Definitions**
>
> In conformance with California Public Resources Code Section 21099, as may be amended, *Transit priority area* means the area ~~defined in California Public Resources Code Section 21099, as may be amended, or an area~~ within one-half mile of a *major transit stop* that is existing or planned, if the planned *major transit stop* is scheduled to be completed within the planning horizon included in a Transportation Improvement Program.

Item 26: TPA Based on Walking Distance

Summary/Solution: Amend the San Diego Municipal Code to explicitly state that the method for measuring distance "within one-half mile of a major transit stop" is walking distance.

Type of Amendment: Clarification

Background: NFABSD recommends clarifying the method of measuring distance for the Transit Priority Area.

Issue: The definition of Transit Priority Area (TPA) is unclear. According to Section 113.0103: "Transit priority area means the area defined in California Public Resources Code Section 21099, as may be amended, or an area within one-half mile of a major transit stop that is existing or planned, if the planned major transit stop is scheduled to be completed within the planning horizon included in a Transportation Improvement Program." An isolated reading of the TPA definition "within one-half mile" is at best ambiguous as to the method of measurement. Looking at the wider context of the Public Resources Code, the current assumption that it should be radial ("crow flies") distance is not supported by an explicit reference to radial/straight-line distance in 21099, SB 743, or any other code implementing the TPA or defining major transit stops. Conversely, SB 743, which created the TPA, clearly references walking distance in stating that: "It is the intent of the Legislature to balance the need for level of service standards for traffic with the need to build infill housing and mixed use commercial developments within walking distance of mass transit facilities, downtowns, and town centers and to provide greater flexibility to local governments to balance these sometimes competing needs." It is therefore the more reasonable and only supported conclusion that "within one-half mile" means that the half-mile should be measured by walking distance.

Objective: The objective of the amendment is to give a clear reading to the definition of the Transit Priority Area.

Affected Code: §113.0103
Recommended Code Amendment: The proposed amendment would consist of amending the definition of Transit Priority Area in §113.0103, as follows:

> **§113.0103 Definitions**
>
> In conformance with California Public Resources Code Section 21099, as may be amended, *Transit priority area* means the area ~~defined in California Public Resources Code Section 21099, as may be amended, or an area~~ within ~~one-half mile of~~ a defined walking distance of 0.5 mile along a pedestrian path of travel from a *major transit stop* that is existing or planned, if the planned *major transit stop* is scheduled to be completed within the planning horizon included in a Transportation Improvement Program.