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CHOLLAS VALLEY COMMUNITY
PLANNING GROUP

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Clerk of the Superior Court
By J. Walters , Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO – CENTRAL DIVISION

CHOLLAS VALLEY COMMUNITY
PLANNING GROUP, a Community
Planning Group,

Plaintiff and Petitioner,

v.

CITY OF SAN DIEGO, TODD GLORIA, in
his official capacity as the Mayor of the City
of San Diego; ELYSE LOWE, in her official
capacity as the Director of the City of San
Diego Development Services Department,
and DOES ONE through FIFTY, inclusive,

Defendants and Respondents.

Case No.: 25CU024427C

**VERIFIED PETITION AND
COMPLAINT FOR:**

- 1. Writ of Mandate Pursuant to Code of Civil
Procedure § 1085**
- 2. Declaratory and Injunctive Relief**
- 3. Violation of the Americans With
Disabilities Act**
- 4. Violation of the California Fair Employment
and Housing**
- 5. Violation of the California Affirmatively
Furthering Fair Housing Law**
- 6. Declaratory and Injunctive Relief**

I.

INTRODUCTION

1. Petitioner and Plaintiff Chollas Valley Community Planning Group (“CVCPG”) brings this action to challenge the pattern and practice of defendants and respondents City of San Diego, Todd Gloria (“Mayor Gloria”), in his role as Mayor of the City of San Diego, and by Elyse Lowe (“Director Lowe”), as the director of the City of San Diego’s Development Services Department (“DSD”)¹, of

¹ Defendants and Respondents City of San Diego, mayor Gloria, and director Lowe are hereafter collectively referred to as “City” or “Respondents.”

1 approving projects under City’s Accessory Dwelling Unit Bonus program (“ADU Bonus Program”)
2 despite the absence of required pedestrian path of travel infrastructure required for certain approvals
3 within a Sustainable Development Area (“SDA”), and which is also a violation of the Americans with
4 Disabilities Act (“ADA”), the California Fair Employment and Housing Act (“FEHA”), and the
5 California Affirmatively Furthering Fair Housing Law (“FFHL”).

6 2. CVCPG seeks: (1) a writ of mandate compelling Respondents to cease approving and
7 processing projects under the ADU Bonus Program that rely on being located within an SDA for
8 unlimited density *where there is no pedestrian path of travel*, (2) declaratory relief to enjoin City from
9 misinterpreting or ignoring laws that require a pedestrian path of travel for ADU Bonus Program
10 projects that rely on being located within an SDA for approval, (3) declaratory and injunctive relief
11 under the ADA to prevent future approvals that fail to ensure accessibility for persons with disabilities
12 under the ADU Bonus Program, (4) declaratory and injunctive relief under FEHA to prevent
13 discrimination against persons with disabilities, (5) a writ of mandate and declaratory and injunctive
14 relief under the FFHL to compel Respondents to remove barriers to access and further fair housing, and
15 (6) enjoin City from further discriminatory practices, as required by Government Code section 8899.50.

16 II.

17 GENERAL ALLEGATIONS

18 3. Petitioner and Plaintiff Chollas Valley Community Planning Group (“CVCPG”) is an
19 independent voluntary organization created and operated by community members as an official
20 recognized entity as a community planning group according to City Council Policy 600-24. CVCPG
21 represents the Encanto Neighborhoods Planning Area (“ENPA”), including the Emerald Hills, Chollas
22 View, Lincoln Park, Valencia Park, Alta Vista, O’Farrell, Broadway Heights and Encanto
23 neighborhoods. CVCPG is charged with advising the City on land use-based community goals and
24 development proposals and to provide important feedback to the City about future growth and
25 community needs, including, but not limited to, monitoring and ensuring that laws that impact the
26 residents within the ENPA are fully and faithfully complied with during the planning, approval, and
27 implementation of programs such as the ADU Bonus Program.

1 4. CVCPG has standing to enforce the laws alleged herein that are designed to provide for
2 correct and legally sound planning, zoning, and other development controls that protect, do not degrade
3 or irreparably destroy environmental and land use compatibility, including the application and
4 processing of projects under the ADU Bonus Program. The decisions of Respondents to incorrectly
5 process and approve certain projects under the ADU Bonus Program that lack a pedestrian path of
6 travel, as defined in SDMC Section 113.0103, will have detrimental impacts on CVCPG, its members,
7 and the citywide general public, and those who reside in and around the sites of such projects.

8 5. CVCPG further has standing to seek a declaration that Respondents are misinterpreting
9 and misapplying its laws as a “beneficially interested” party pursuant to Code of Civil Procedure section
10 1086 that provides “Where the question is one of public right and the object of the mandamus is to
11 procure the enforcement of a public duty.” CVCPG is not required to show any legal or special interest
12 in the result, since it is sufficient that it is made up of citizens who are interested in having the laws
13 executed and Respondents’ duties enforced.

14 6. Additionally, CVCPG has standing to bring claims under Title II of the ADA because it
15 represents a community with residents affected by the City’s systemic failure to ensure accessible
16 pedestrian infrastructure under the ADU Bonus Program. As an organizational plaintiff, CVCPG seeks
17 to eliminate barriers to access within public rights-of-way, as part of its overall mission for community
18 growth and needs, a core concern of Title II, and to ensure that the City meets its legal obligations in
19 programmatic implementation of land use and housing policies. The City’s conduct has frustrated
20 CVCPG’s mission by forcing it to divert resources to address adverse consequences of inaccessible
21 development approvals, thereby establishing direct organizational injury sufficient to confer standing
22 under the ADA.

23 7. CVCPG also has standing to enforce California's Fair Employment and Housing Act,
24 Government Code section 12955 et seq., because Respondents’ actions in administering and approving
25 ADU Bonus Projects have a discriminatory effect on individuals with disabilities within the ENPA.
26 CVCPG represents and advocates on behalf of these individuals in matters of land use, accessibility, and
27 development, and thus has organizational standing under California law to assert violations of FEHA.

1 8. CVCPG further has standing to enforce Government Code section 8899.50, also known
2 as the California Affirmatively Furthering Fair Housing Law, because it is a public interest organization
3 whose members and constituents are affected by the City’s pattern and practice of approving projects
4 that perpetuate segregated development and maintain barriers that restrict access to opportunity for
5 people with disabilities, a protected class under the statute. CVCPG’s mission includes ensuring that
6 City policies do not reinforce exclusionary housing patterns or erect barriers that restrict access to
7 affordable housing opportunities for individuals with disabilities.

8 9. Defendant and respondent City of San Diego (“City”) is a charter city form of a local
9 public government agency and subdivision of the State of California that is charged with complying
10 with applicable provisions of state law, the general laws of this State, the California Constitution, and
11 the city charter, municipal code, and other regulations of the City of San Diego.

12 10. Defendant and Respondent Todd Gloria is sued herein in his official capacity as the
13 Mayor of San Diego (“Mayor Gloria”). Pursuant to City Charter Article XV, Section 265, and Article
14 V, section 28, Mayor Gloria, as the City’s chief executive officer, holds ultimate executive authority
15 over all City departments, including City’s DSD, and is therefore responsible for its policies, practices,
16 and decisions. Because DSD is an administrative department under Mayor Gloria’s authority and
17 control, the Mayor is responsible for its implementation of programs such as the ADU Bonus Program.
18 Mayor Gloria is accountable for DSD’s unlawful interpretation of the requirement for pedestrian paths
19 of travel for the approval of projects under the ADU Bonus Program that rely on the SDA, and may or
20 may not violate the ADA.

21 11. Defendant and Respondent Elyse Lowe is sued herein in her official capacity as the
22 Director of the DSD. The DSD is ministerially processing and approving ADU Bonus Program projects
23 that rely on the SDA for increased units based on an unlawful interpretation of the requirement for
24 pedestrian paths of travel pursuant to SDMC section 113.0103.

25 12. CVCPG is ignorant of the true names and capacities of the defendants and respondents
26 sued herein as DOES ONE through FIFTY, inclusive, and therefore sues these defendants and
27

respondents by such fictitious names and CVCPG will amend this Complaint to allege their true names and capacities is and when ascertained.

13. This Court has jurisdiction under Code of Civil Procedure §§ 1085 and 1060, and venue is proper in San Diego County because the events and omissions giving rise to the claims occurred within the County of San Diego where City is located and Mayor Gloria, and Director Lowe operate.

14. This Court has concurrent jurisdiction of claims arising under Title II of the ADA (42 U.S.C. § 12131 et seq.). Therefore, this Court has jurisdiction to hear and decide CVCPG's ADA claims.

III.

ESSENTIAL FACTUAL ALLEGATIONS

15. On or about 2020, the San Diego City Council enacted the ADU Bonus Program through SDMC §141.0302(c)(2)(H), allowing for "bonus" ADUs in addition to ADUs permitted under state law. Under the ordinance, one additional ADU shall be permitted for every ADU on the premises that is set aside as affordable and deed restricted under the conditions of the ordinance.

16. Eligibility for bonus ADUs depends on the number of units proposed. One bonus ADU is allowed citywide when matched by a deed-restricted affordable unit. However, City purports to allow an unlimited number of bonus ADUs to be located on parcels within an SDA, subject to a requirement that the location of an applicant under the ADU Bonus Program has a pedestrian path of travel to a major transit stop pursuant to SDMC §113.0103.

17. Despite an apparent consistent, and long-held interpretation by City, path of travel requires sidewalks for pedestrians to reach major transit stops. This interpretation was reaffirmed by City Planning Director Heidi Vonblum in a memorandum dated February 28, 2025, which states: "Properties that lack sidewalks between a major transit stop and a project site are not eligible for the ADU Bonus Program." A copy of the February 28, 2025 Memorandum is attached hereto as Exhibit A. Ms. Vonblum verbally reiterated this requirement during testimony to the City Council on March 4, 2025. This was confirmed again in City Planning Department's April 24, 2025, Report to the Planning Commission (Report No. PC-25-016), which explains: "The City Planning Department's interpretation

1 of a pedestrian path of travel includes safe areas for pedestrians to walk, separated from vehicular travel,
2 indicated by the presence of sidewalks.” A copy of the April 24, 2025 Report No. PC-25-016 is
3 attached hereto as Exhibit B.

4 18. Notwithstanding what should be a consistent and unambiguous interpretation of the
5 requirement for sidewalks and a pedestrian path of travel – as a requirement for approval of more than
6 one bonus ADU under the ADU Bonus Program – Respondents have and continuously processed and
7 approved multiple Bonus ADU projects that have more than one bonus ADU that lack a pedestrian path
8 of travel from the project site to a major transit stop.

9 19. Additionally, within the ENPA, Respondent’s actions to process and approve these
10 unlawful projects are in historically discriminated and underinvested neighborhoods that lack sidewalks,
11 thereby further discriminating and violating the City’s own interpretation of the requirements for
12 unlimited bonus ADUs, and disproportionately excluding individuals with disabilities from access to the
13 transit-oriented housing benefits that City intends to provide through its ADU Bonus Program and SDA.

14 20. CVCPG has currently identified fifteen (15) projects (“ADU Bonus Projects”) within the
15 ENPA that Respondents have and continue to process and/or approve that CVCPG is informed and
16 believes, and thereon alleges, lack sidewalks and a pedestrian path of travel between the project site and
17 a major transit stop:

18 PRJ-1126312, 6845 Broadway (RS-1-2): 44 ADUs

19 PRJ-1127220, 1348 Tarbox (RS-1-2): 43 ADUs

20 PRJ-1129702, 731 Stork (RX-1-1): 30 ADUs

21 PRJ-1128374, 1450 1/3 Hilger (RS-1-2): 23 ADUs

22 PRJ-1130479, 1426 Hilger (RS-1-2): 22 ADUs

23 PRJ-1106540, 5662/5664 Cervantes (RS-1-4): 11 ADUs

24 PRJ-1125787, 543 61st Street (RX-1-1): 8 ADUs

25 PRJ-1099232, 608 Stork (RX-1-1): 7 ADUs

26 PRJ-1128125, 704 Selma Pl (RS-1-6): 6 ADUs

27 PRJ-1073142, 6466/6426 Madrone Ave (RS-1-7): 5 ADUs

1 PRJ-1125286, 6475/6426 Scimitar (RS-1-2): 4 ADUs

2 PRJ-1117829, 470/471 66th Street (RS-1-7): 4 ADUs

3 PRJ-1110620, 6822 Brooklyn (RS-1-6): 16 ADUs

4 PRJ-1123939, 1405 Mariposa(RS-1-7): 22 ADUs

5 PRJ-1095516, 5129/5131 Coban (RS-1-7): 5 ADUs

6 21. Related to the above-named projects, this action only seeks relief directed at
7 Respondents' policies, procedures, and implementation of the ADU Bonus Program. CVCPG does not
8 challenge any individual ADU Bonus Project approval as a standalone action. Rather, the identified
9 projects are cited solely as representative examples of Respondents' broader pattern and practice of
10 unlawfully approving ADU Bonus Projects that do not meet the mandatory requirements for ADU
11 Bonus Program.

12 22. CVCPG has provided multiple written notices to Respondents objecting to and raising the
13 issue of unlawful approval of these ADU Bonus Projects, including on February 9, 2025. Most recently
14 on March 24, 2025, CVCPG made a written demand for corrective action, specifically identified each of
15 the fifteen ADU Bonus Projects and specifically raised the issue of Respondents' continued unlawful
16 approval of the ADU Bonus Projects and conflict with the ADA. A copy of CVCPG's March 24, 2025
17 demand letter is attached hereto as Exhibit C.

18 23. Notwithstanding CVCPG's multiple written demands, Respondents have failed to advise,
19 acknowledge, or suspend take corrective action and continues to approve and process projects like the
20 ADU Bonus Projects in violation of the requirements of the ADU Bonus Program, the San Diego
21 Municipal Code, and the ADA, as alleged herein .

22 **IV.**

23 **FIRST CAUSE OF ACTION – WRIT OF MANDATE**

24 **(Code of Civ Proc. Section 1085)**

25 24. CVCPG realleges and incorporates by reference all paragraphs above and below as if set
26 forth fully herein.

27 25. City, through the Mayor's office, DSD, and any other applicable City departments, is the

body charged with the approval of development and building permits within the City of San Diego, including the processing and approval of ADU Bonus Projects.

26. Respondents have a mandatory, ministerial duty to apply the requirements of SDMC §113.0103 and §141.0302(c)(2)(H) when determining eligibility and approval of projects under the ADU Bonus Program. For projects with more than one “bonus” ADU, there must be a pedestrian path of travel to a major transit stop within an SDA in order for a project to qualify under the program. Respondents must determine whether a project is located within an SDA and whether a pedestrian path of travel exists to a major transit stop when reviewing any ADU Bonus Project proposing more than one bonus unit. This requirement is mandatory and not subject to discretion.

27. CVCPG has a clear, present, and beneficial right to the proper performance by Respondents of their duties and compliance with the laws and legal principles as set forth herein.

28. CVCPG has no plain, speedy, or adequate remedy in the ordinary course of the law other than the relief herein sought.

29. The current dispute is ripe because Respondents are currently ministerially processing and approving projects such as the Bonus ADU Projects in an unlawful manner and in an incorrect procedure.

30. CVCPG is not required to exhaust administrative remedies because City has not provided any opportunity for public comment or administrative appeal for the processing and approvals of these types of projects. Despite the lack of any exhaustion requirement, CVCPG has raised and demanded compliance.

31. CVCPG requests that this Court issue one or more writs of mandate ordering Respondents to cease the processing and approval of projects that fail the requirement under the ADU Bonus Program to have a pedestrian path of travel to a major transit stop pursuant to Code of Civil Procedure section 1085, on the grounds that Respondents are failing to perform a clear, ministerial duty imposed by law.

V.

SECOND CAUSE OF ACTION – DECLARATORY AND INJUNCTIVE RELIEF

(Code of Civil Procedure Section 1060)

32. CVCPG realleges and incorporates by reference all paragraphs above and below as if set forth fully herein.

33. CVCPG is beneficially interested in the issuance of a declaration of law and injunction by virtue of the proposition of facts and law set forth herein.

34. CVCPG has a clear, present, and beneficial right to the proper performance by Respondents of their duties and compliance with the laws and legal principles as set forth herein.

35. CVCPG has no plain, speedy or adequate remedy in the ordinary course of the law other than the relief herein sought.

36. The declaratory relief requested herein is proper to delineate and clarify the parties' rights and liabilities and resolve, quiet, or stabilize an uncertain or disputed jural relation. Without the grant of declaratory relief, the granting of an injunction, and/or the issuance of a writ of mandate, Respondents will continue to proceed in a manner not allowed by law and will continue to take action outside of its authority resulting in harm to CVCPG and the citizenry of San Diego for whom this public interest litigation is brought.

37. Respondents refuse to comply with City's rules of laws under SDMC §113.0103 and is requirement for the ADU Bonus Program to ensure a pedestrian path of travel to a major transit stop – whereby there is consistent sidewalk access between a project site and transit stop. As such, CVCPG is informed and believes, and thereon alleges, that Respondents have a pattern and practice of approving and processing applications under its ADU Bonus Program that lack sidewalks and do not provide a lawful pedestrian path of travel.

38. As part of its pattern and practice, Respondents have consistently refused and ignored demands by CVCPG that Respondents take corrective action and stop approving and processing ADU Bonus Projects that lack a lawful pedestrian path of travel as alleged herein.

39. CVCPG requests a declaratory judgment that the pattern and practice of Respondents in the manner and conduct it approves and processes projects under its Bonus ADU Program is unlawful.

40. CVCPG also requests an appropriate remedial order and/or permanent injunction enjoining and ordering Respondents to comply with City's requirement that projects approved for more than one bonus ADU under the Bonus ADU Program must have sidewalks as a pedestrian path of travel between the project site and a major transit stop.

VI.

THIRD CAUSE OF ACTION – DECLARATORY AND INJUNCTIVE RELIEF

Violation of Title II of the Americans with Disabilities Act of 1990

(42 U.S.C. § 12131, *et seq.*)

41. CVCPG realleges and incorporates by reference all paragraphs above and below as if set forth fully herein.

42. Title II of the Americans with Disabilities Act of 1990 ("ADA"), 42 U.S.C. § 12132, provides that no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.

43. Respondents, including the City of San Diego, are public entities within the meaning of Title II of the ADA and are subject to its requirements and implementing regulations set forth in 28 C.F.R. part 35.

44. The ADU Bonus Program and the designation and use of the SDA are programs, services, or activities subject to the non-discrimination requirements of Title II.

45. Individuals with disabilities affected by Respondents' actions are qualified individuals with disabilities as defined in 42 U.S.C. § 12102(1)(A) and 28 C.F.R. §§ 35.104 and 35.108. These individuals have mental or physical impairments, including mobility-related conditions, that substantially limit major life activities such as walking and navigating pedestrian paths of travel. They are eligible to reside in units developed under the ADU Bonus Program and to use related pedestrian and transit infrastructure.

1 46. Respondents have approved and continue to approve Bonus ADU Projects in areas that
2 lack accessible pedestrian paths of travel to major transit stops, including areas without sidewalks, curb
3 ramps, or other features required to ensure program accessibility.

4 47. As a result, qualified individuals with disabilities are denied meaningful access to
5 affordable housing units, pedestrian routes, and transit services central to the ADU Bonus Program and
6 the SDAs, in violation of Title II of the ADA and 28 C.F.R. §§ 35.130 and 35.150.

7 48. Specifically, Respondents have failed to operate the ADU Bonus Program and SDA in a
8 manner that that, when viewed in its entirety, it is readily accessible to and usable by individuals with
9 disabilities, in violation of 28 C.F.R. § 35.150, subdivision (a).

10 49. Respondents have also failed to make reasonable modifications to policies, practices, or
11 procedures to avoid discrimination on the basis of disability, in violation of 28 C.F.R. § 35.130,
12 subdivision (b)(7).

13 50. A present and actual controversy exists between CVCPG and Respondents concerning
14 compliance with the ADA. CVCPG is informed and believes, and thereon alleges, that Respondents'
15 conduct constitutes an ongoing violation of the ADA.

16 51. CVCPG has organizational standing to pursue this action as a recognized community
17 planning group that is directly concerned with land use, accessibility, growth and development in the
18 EPNA. Respondents' ADA violations frustrate CVCPG's mission to ensure lawful, inclusive, and
19 community-oriented planning in its jurisdiction. In responding to Respondents' conduct, CVCPG has
20 diverted resources, expended time, and undertaken efforts to monitor, review, and oppose unlawful
21 project approvals, thereby establishing a concrete and particularized interest in the ADA claim at issue
22 in this petition.

23 52. CVCPG has no plain, speedy, or adequate remedy at law and will suffer irreparable harm
24 in the absence of declaratory and injunctive relief. The relief sought is necessary to prevent ongoing
25 violations of law and to protect the rights of individuals with disabilities under federal law.

26 53. CVCPG seeks a declaration of law from this Court that Respondents are in violation of
27 Title II of the ADA, including its implementing regulations.

54. CVCPG additionally seeks an appropriate remedial order and/or permanent injunction enjoining and ordering Respondents to comply with Title II of the ADA, including its implementing regulations, and provide qualified disabled persons equal access to affordable units under the ADU Bonus Program, use of pedestrian paths of travel, and to transit services under the ADU Bonus Program and SDA.

55. CVCPG further seeks a determination of prevailing party status, and on that basis an award of reasonable attorneys' fees and litigation expenses pursuant to 42 U.S.C. § 12205.

VII.

FOURTH CAUSE OF ACTION – DECLARATORY AND INJUNCTIVE RELIEF

Violation of California Fair Employment and Housing Act

(Gov. Code §§ 12955 subd. (1); 12989.1)

56. CVC PG realleges and incorporates by reference all paragraphs above as though fully set forth herein.

57. Government Code section 12955, subdivision (l) makes it unlawful for any entity to discriminate in land use practices, including decisions related to the approval of housing developments, on the basis of disability.

58. Respondents' actions, policies, and practices in approving ADU Bonus Projects in areas that lack accessible pedestrian paths of travel have the effect of disproportionately excluding individuals with disabilities from affordable housing opportunities.

60. The failure to ensure sidewalks and accessible pedestrian infrastructure in areas eligible for unlimited ADU density within the SDA constitutes a discriminatory land use practice under FEHA because it denies disabled individuals' equal access to affordable housing by erecting a barrier to housing for such individuals. Without sidewalks and a pedestrian path of travel, disabled individuals cannot access the transit services that are required under ADU Bonus Project units and that allow development of unlimited ADU density.

61. CVC PG, as an organizational plaintiff, represents the interests of affected residents in the ENPA and has been forced to divert resources and attention to address Respondents' discriminatory

1 conduct.

2 62. CVCPG brings this action pursuant to Government Code section 12989.1 for
3 Respondents continued and ongoing action and conduct.

4 63. As a result, CVCPG seeks declaratory and injunctive relief to prevent Respondents from
5 further violating Government Code section 12955, subdivision (l), and to require the City to implement
6 measures that ensure ADU Bonus Projects do not continue to erect barriers to affordable housing for
7 individuals with disabilities.

8 **VIII.**

9 **FIFTH CAUSE OF ACTION – WRIT OF MANDATE**

10 **Violation of California Affirmatively Furthering Fair Housing Law**

11 (Gov. Code § 8899.50)

12 64. CVCPG realleges and incorporates by reference all paragraphs above and below as if set
13 forth fully herein.

14 65. Respondents City of San Diego, through its Mayor's Office, DSD, and other applicable
15 City departments, are public agencies charged with the administration and implementation of housing
16 and community development programs, including the ADU Bonus Program.

17 66. Government Code section 8899.50, subdivision (a)(1) imposes a mandatory, ministerial
18 duty on all applicable public agencies in California to administer programs and activities related to
19 housing and community development in a manner that affirmatively furthers fair housing.

20 67. Government Code section 8899.50 subdivision (a)(2) defines "affirmatively furthering
21 fair housing" as taking meaningful actions to overcome patterns of segregation and foster inclusive
22 communities free from barriers that restrict access to opportunity based on protected characteristics,
23 including disability.

24 68. Respondents have a ministerial duty under Government Code section 8899.50 to
25 affirmatively further fair housing in all aspects of the implementation and administration of the ADU
26 Bonus Program, including by ensuring that their policies, practices, and approvals do not perpetuate
27 exclusion or erect barriers that restrict access to affordable housing opportunity for individuals with

1 disabilities.

2 69. Respondents are presently administering and approving ADU Bonus Projects in areas
3 lacking a pedestrian path of travel within historically underserved and segregated neighborhoods,
4 despite such infrastructure being critical to access the transit services required for unlimited ADU
5 density under the SDA. This conduct perpetuates segregation and maintains barriers that restrict access
6 to opportunity, thereby violating Respondents' duties under Government Code section 8899.50.

7 70. CVCPG has a clear, present, and beneficial interest in Respondents' lawful
8 administration of housing programs, and it has standing to seek a writ of mandate to compel
9 enforcement of the duties set forth in Government Code section 8899.50.

10 71. CVCPG has no plain, speedy, or adequate remedy in the ordinary course of law other
11 than the relief sought herein.

12 72. The dispute is ripe for adjudication because Respondents are actively and unlawfully
13 processing and approving projects under the ADU Bonus Program in a manner that fails to comply with
14 their mandatory obligations under state law to affirmatively further fair housing free from barriers that
15 restrict access to opportunity based on protected characteristics.

16 73. CVCPG is not required to exhaust administrative remedies because the City has not
17 provided any meaningful opportunity for public participation or administrative appeal related to the
18 processing and approval of the ADU Bonus Projects. Nevertheless, CVCPG has submitted written
19 objections and demanded corrective action from Respondents.

20 74. CVCPG requests that this Court issue one or more writs of mandate under Code of Civil
21 Procedure section 1085 ordering Respondents to cease the processing and approval of ADU Bonus
22 Projects that violate Government Code section 8899.50, and to administer all housing-related programs
23 in a manner that affirmatively furthers fair housing for persons with disabilities free from barriers that
24 restrict access to opportunity based on protected characteristics.

25
26 / /

27 / /

1 IX.

2 **SIXTH CAUSE OF ACTION – DECLARATORY AND INJUNCTIVE RELIEF**

3 Pattern and Practice Violating California Affirmatively Furthering Fair Housing Law

4 (Gov. Code § 8899.50)

5 75. CVCPG is beneficially interested in the issuance of a declaration of law and injunction by
6 virtue of the proposition of facts and law set forth herein.

7 76. CVCPG has a clear, present, and beneficial right to the proper performance by
8 Respondents of their duties and compliance with the laws and legal principles as set forth herein,
9 including the obligations imposed by Government Code section 8899.50.

10 77. CVCPG has no plain, speedy, or adequate remedy at law and will suffer irreparable harm
11 in the absence of declaratory and injunctive relief.

12 78. The declaratory relief requested herein is proper to delineate and clarify the parties' rights
13 and obligations under California law, and to resolve, quiet, or stabilize an uncertain or disputed jural
14 relation concerning Respondents' administration of the ADU Bonus Program. Without the grant of
15 declaratory relief, the issuance of an injunction, and/or other appropriate remedial relief, Respondents
16 will continue to take actions that violate state law, cause harm to CVCPG and its constituents, and
17 perpetuate patterns of barriers and exclusion harmful to individuals with disabilities.

18 79. CVCPG is informed and believes, and thereon alleges, that Respondents have a pattern
19 and practice of processing and approving ADU Bonus Projects without ensuring a pedestrian path of
20 travel in areas designated as being within the SDA, despite the fact that such infrastructure is essential
21 for individuals with disabilities to access the affordable housing benefits related to unlimited ADU
22 density under the program.

23 80. Respondents' ongoing pattern and practice violates Government Code section 8899.50,
24 subdivision (a)(1), which imposes a mandatory duty on public agencies to affirmatively further fair
25 housing, and subdivision (a)(2), which requires meaningful actions to overcome patterns of segregation
26 and foster inclusive communities free from barriers that restrict access to opportunity based on protected
27 characteristics, including disability.

81. As part of their pattern and practice, Respondents have failed and refused to take corrective action or respond to multiple written demands by CVCPG to suspend or deny ADU Bonus Project approvals that fail to meet fair housing obligations under state law.

82. CVC PG requests a declaratory judgment that Respondents' pattern and practice in administering and approving ADU Bonus Projects without a pedestrian path of travel violates Government Code section 8899.50.

83. CVCPG also requests a permanent injunction and/or appropriate remedial order enjoining and ordering Respondents to comply with the affirmative duties set forth in Government Code section 8899.50, and to refrain from approving or processing ADU Bonus Projects in a manner that perpetuates segregation or maintains barriers to housing opportunity for persons with disabilities.

X.

PRAYER FOR RELIEF

WHEREFORE, plaintiff and petitioner Chollas Valley Community Planning Group (“CVCPG”) prays for judgment against defendants and respondents City of San Diego, Todd Gloria, in his role as Mayor of the City of San Diego, and Elyse Lowe, in her official capacity as the Department Director of the San Diego Development Services Department (collectively “Respondents”) as follows:

1. One or more writs of mandate compelling Respondents to cease the ministerial approval and processing of Bonus ADU Projects that do not comply with San Diego Municipal Code sections 113.0103 and 141.0302(c)(2)(H), including where no pedestrian path of travel exists to a major transit stop as required for qualification under the ADU Bonus Program;

2. A declaration of law that Respondents have a pattern and practice of misapplying, disregarding, or failing to enforce mandatory provisions of the San Diego Municipal Code in the processing and approval of Bonus ADU Projects under the requirements of SDMC sections 113.0103 and 141.0302(c)(2)(H) and that Respondents' actions constitute ongoing violations of the same;

3. Interim, preliminary, and permanent injunctive relief ordering Respondents to comply with the requirements of SDMC sections 113.0103 and 141.0302(c)(2)(H) and cease the processing and approval of ADU Bonus Projects that do not meet said requirements;

1 4. A declaration of law that Respondents' actions and approvals of such Bonus ADU
2 Projects constitute an ongoing violation of Title II of the Americans with Disabilities Act of 1990 (42
3 U.S.C. § 12131 et seq.) and its implementing regulations, including but not limited to 28 C.F.R. §§
4 35.130 and 35.150;

5 5. Interim, preliminary, and permanent injunctive relief ordering Respondents to comply
6 with Title II of the ADA and its implementing regulations, by requiring Respondents to provide
7 accessible pedestrian paths of travel to major transit stops for ADU Bonus Projects and requiring that
8 future applications comply with ADA requirements;

9 6. One or more writs of mandate compelling Respondents to cease the ministerial approval
10 and processing of Bonus ADU Projects that do not comply with Government Code section 8899.50 and
11 for Respondents to take meaningful actions to affirmatively further fair housing in a manner that does
12 not erect or maintain barriers that restrict access to opportunity based on protected characteristics;

13 7. A declaration of law that Respondents have engaged in a pattern and practice of
14 discriminatory land use practices in violation of Government Code section 12955, subdivision (l), by
15 approving ADU Bonus Projects in locations lacking a pedestrian path of travel and and that
16 Respondents' actions constitute ongoing violations of the same;

17 8. Interim, preliminary, and permanent injunctive relief ordering Respondents to comply
18 with the requirements of of Government Code section 12955, subdivision (l) and cease the processing
19 and approval of ADU Bonus Projects in a discriminatory manner;

20 9. For determination of prevailing party status and an award of reasonable attorneys' fees
21 and litigation expenses pursuant to Code of Civil Procedure section 1021.5;

22 10. For determination of prevailing party status and an award of reasonable attorneys' fees,
23 costs, and expert witness fees pursuant to Government Code section 12989.2.

24 11. For determination of prevailing party status and an award of reasonable attorneys' fees
25 and litigation expenses pursuant to 42 U.S.C. § 12205;

26 12. For costs of suit;
27

1 13. For such other and further relief as this Court deems just and proper, or otherwise is
2 appropriate and necessary by law or equity for full, partial, or interim relief.

3 Dated: May 12, 2025

CRAIG A. SHERMAN,
A PROFESSIONAL LAW CORP.

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7 _____
8 CRAIG A. SHERMAN
9 Attorney for Plaintiff and Petitioner
10 CHOLLAS VALLEY COMMUNITY
11 PLANNING GROUP
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XI.

VERIFICATION

I, Robert Cambell, as the chairperson of the Plaintiff and Petitioner planning group CHOLLAS VALLEY COMMUNITY PLANNING GROUP, hereby verify this *PETITION FOR WRIT OF MANDATE AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF* pursuant to Civil Procedure Section 446. The facts herein alleged are true of my own knowledge, except as to the matters which are based on information and belief, which I believe to be true. I declare under the penalty of perjury under the laws of California that the above foregoing is true and correct and that this verification was executed on the below stated date in San Diego County, California.

Dated: May 12, 2025

By: _____

ROBERT CAMPBELL

Authorized Chair/Member

CHOLLAS VALLEY COMMUNITY PLANNING GROUP



THE CITY OF SAN DIEGO

M E M O R A N D U M

DATE: February 28, 2025

TO: Honorable Council President and Members of the City Council

FROM: Heidi Vonblum, City Planning Director

SUBJECT: Accessory Dwelling Unit (ADU) Home Density Bonus Program

The purpose of this memorandum is to provide an update to the City Council on the City Planning Department's efforts related to the City's Accessory Dwelling Unit (ADU) Home Density Bonus Program (ADU Bonus Program). Based on ongoing public feedback, the City Planning Department's regular monitoring of the Land Development Code, as well as recent Council office input, this memorandum outlines an approach to include reforms to the ADU Bonus Program as part of the 2025 Land Development Code Update, with opportunities for ongoing community and Council engagement.

Background

State law includes various requirements that cities and counties must comply with regarding the permitting of ADU homes. State law generally requires that up to 3 ADU homes be permitted ministerially in single-family zones and potentially up to 8 ADU homes in multifamily zones. Government Code § 66323(a)(1), (a)(2)(B), (a)(4)(A)). State law also requires cities and counties as part of their state required General Plan Housing Element to develop a program that incentivizes and promotes the creation of ADU homes offered at affordable rent for very low-, low- or moderate-income households. Government Code § 65583(c)(7).

State law also applies additional requirements related to ADU homes. A summary of state law requirements related to ADU homes compared to City of San Diego regulations is provided as Attachment 1 to this memorandum for the Council's information.

Existing ADU Bonus Program Requirements

In 2020, the San Diego City Council adopted the "Housing Legislative Package," which included, among other things, the addition of San Diego Municipal Code section [141.0302\(c\)\(2\)\(H\)](#), which includes the ADU Bonus Program. The ADU Bonus Program generally allows additional ADU homes to be built in both single-family and multi-family zones in the Sustainable Development Area where, for every additional ADU home built, another one is built that is deed restricted for a period of 10 years (at very low- and low-

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Honorable Council President and Members of the City Council

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income levels) or 15 years (at moderate-income levels), subject to certain limitations discussed below.

Pedestrian Path of Travel

The ADU Bonus Program applies in the City's Sustainable Development Area, meaning that there must be a pedestrian path of travel from a major transit stop to the project site to qualify. See San Diego Municipal Code section 113.0103. This means that under *existing* regulations, properties that lack sidewalks between a major transit stop and a project site are not eligible for the ADU Bonus Program.

Height and Floor Area Ratio

Under the ADU Bonus Program, the total development on a project site with an ADU home development must still comply with the base zone height and floor area ratio requirements. For a typical 5,000 square foot lot zoned RS-1-7, this means the entire ADU development and primary home could not exceed 30 feet in height or the 3,000 square foot maximum allowed floor area due to the 30-foot height limit and 0.6 floor area ratio¹ limit for the RS-1-7 zone. San Diego Municipal Code § 131.0446(a).

Development Impact Fees

Under the City's current development regulations, the first two ADU homes on any lot are exempt from the payment of Development Impact Fees (DIF), and under state law, the City may not impose any DIF on any ADU homes that are less than 750 square feet.

Existing ADU Bonus Program Data

The 2024 Annual Report on Homes contains the most recently verifiable data on the ADU Bonus Program, which shows that the City has permitted 239 ADU homes, of which 109 homes have been deed restricted at the moderate-income level, 3 homes at the low-income level, and 3 homes at the very low-income level. These developments have been permitted across the City, with the greatest amounts permitted in the College Area, Clairemont, North Park, Uptown, Otay Mesa-Nestor, and Southeastern San Diego community planning areas. The City Planning Department anticipates these numbers to be higher for 2024 but is currently reviewing and verifying the 2024 permitting data. In the coming weeks, we will be able to complete our review of all relevant 2024 data and provide a more comprehensive review and analysis of the ADU Bonus Program based on that data, including information such as whether DIF was paid, the scale of the developments, and where the ADU homes are located.

Recent Council Actions

On January 29, 2025, the City Council heard [Item 331](#) for the removal of footnote 7 from Table 131-04D in the Land Development Code related to allowed regulations in the single-family RS-1-2 zone in the Encanto Neighborhoods and Southeastern San Diego community planning areas. Although that item did not involve any regulations related to ADU development, the City Council also voted to request that staff bring an item to the City Council to repeal the ADU Home Density Bonus Program within 60 days. A law firm subsequently notified the City that it alleged that the Council's motion violated the Brown Act. The item related to the removal of footnote 7 will be reheard by the City Council on March 4, 2025 including the rescission of the Council's January 29, 2025 actions.

¹ Floor area ratio means the numerical value obtained by dividing the gross floor area of all buildings on a premises by the total area of the premises on which the buildings are located. San Diego Municipal Code § 113.0103.

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Additionally, Council District 4 has placed an additional item on the March 4, 2025 Council agenda proposing to “request City Staff to return to City Council within 60 days with an action item to repeal the ADU Bonus Program from the San Diego Municipal Code, conforming the local ADU Bonus Program to state mandated ADU regulations for single-family zoned parcels.”

Housing Element Certification

A wholesale repeal of the ADU Bonus Program would violate State housing laws in the absence of corresponding replacement regulations that incentivize and promote the creation of affordable ADU homes. A violation of State housing laws could result in the decertification of the City’s adopted Housing Element by the Department of Housing and Community Development. Without a certified Housing Element, the City would be ineligible for State housing and homelessness [funding](#) opportunities and would be unable to deny certain development projects. Specifically, without a compliant Housing Element, the City would be ineligible for Permanent Local Housing Allocation (PLHA), Affordable Housing Sustainable Communities (AHSC), SB1 Planning grants, CalHOME funding, Infill Infrastructure Grants (IIG), Local Housing Trust Fund (LHTF), and Regional Transportation Funding. Additionally, the City’s Prohousing Designation may be reconsidered by the state, which may carry funding eligibility consequences. Lastly, a Housing Element that is out of compliance may subject the city to Builder’s Remedy laws.

Current City Planning Department Efforts

Prior to the January 29, 2025 Council hearing, based on our Department’s ongoing monitoring of the City’s Land Development Code, as well as feedback we have heard from the Council and members of the public, we had already identified potential reforms to the ADU Bonus Program, and had already intended to address these through the 2025 Land Development Code Update. We recently heard additional feedback from the Council offices, which have been very helpful in further developing a concept for reforms, which will be brought forward as part of the 2025 Land Development Code Update process. We welcome your ongoing feedback on these potential reforms, as well as on ongoing discussion on how we can best achieve other needed reforms, while still ensuring that the parts of the program that have been successful remain available and successful. The purpose of these reforms is to ensure that the ADU Bonus Program continues to incentivize affordable ADU homes while ensuring that it at the same time results in development that is compatible with the surrounding community and addresses project impacts. The following reforms are currently proposed:

- **Opt-in Fee:** Work with the City Attorney’s Office to identify options to impose an opt-in fee for ADU homes under 750 square feet for projects that choose to enter the ADU Bonus Program in lieu of DIF payments which are limited by state law. This would allow the City to collect an opt-in fee from the ADU bonus homes that are less than 750 square feet to fund needed infrastructure. This would also help to support the production of homes for families by removing an incentive to only build smaller units.

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- Development Scale: Continue to limit the applicability of the ADU Bonus Program using the base zone height and floor area ratio requirements, and require the floor area ratio to be calculated based only on the land that is allowed to be developed outside of environmentally sensitive lands or other preserved open space and canyon lands. Additionally, reduce the ADU Bonus Program applicability in very low-density residential zones, such as RS-1-1, RS-1-2, RS-1-3, RS-1-8, RS-1-9 and RS-1-10 since such zones have not been comprehensively planned for increases in density and have typically been zoned for low density due to the constrained developability of the land in those instances.
- Parking: Apply multifamily parking requirements to ADU Bonus Program development outside of the Transit Priority Area. State law prevents the City from requiring parking inside the Transit Priority Area.
- Compliance: Increase the fines for violations of the deed restriction for affordable homes developed through the ADU Bonus Program. Currently, the San Diego Housing Commission can recover the amount charged above the affordable rent each month with 10 percent interest. This proposal would increase the penalty to a higher amount to further ensure that affordable homes built under the ADU Bonus Program are available for qualifying households.
- Adequate Evacuation Routes: Eliminate the ADU Bonus Program's applicability in High and Very High Fire Hazard Severity Zones unless adequate standards for fire prevention and fire rescue (ingress and egress) exist and unless the entirety of the evacuation route meets City streets standards and/or have sufficient emergency access.
- Fire Code: Apply fire code requirements for multi-family buildings to ADU Bonus Program developments. This would require fire sprinklers like multi-family buildings.
- Setbacks: Align all ADU setbacks to be consistent with fire code regulations related to brush management. This would provide greater clarity between the Land Development Code regulations and the Fire Code regulations regarding brush management and clear spaces.

Conclusion

As part of the 2025 Land Development Code Update process, we plan to share information on our webpage, hold public workshops, receive input, and then bring the item forward for a recommendation from the Community Planners Committee and Planning Commission, prior to presenting the item to Land Use and Housing Committee, and then the City Council. We estimate that this process will allow us to begin the hearing process this Summer. This process also includes having the State Department of Housing and Community Development review the proposed changes to the ADU Bonus Program.

The City Planning Department remains committed to working with the Council to bring forward reforms to the ADU Bonus Program that address community concerns related to infrastructure, scale, emergency and fire safety, and other areas of concern identified by the Council. While the ADU Bonus Program has seen great success in increasing new home

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opportunities, especially at the moderate-income level, it is always important to monitor the entirety of the implementation of a program to ensure that its outcomes best serve our City while still helping to meet our state mandated housing goals and affirm our commitment as a prohousing City.

We value the Council's feedback so we can work together to ensure continued opportunities for much needed affordable housing across our City, while also ensuring that the ADU Bonus Program results in development that is compatible with the surrounding community, ensures public safety and results in revenue to invest in necessary infrastructure in our communities. Along with this discussion, we look forward to ongoing discussions with the City Council on other ways to increase opportunities for much needed housing – particularly affordable housing in high resource areas.

As announced in the Mayor's State of the City address, the City Planning Department will be developing a new program to further the City's commitment to addressing the housing crisis and affirmatively furthering fair housing, specifically by proposing new Citywide zones that allow for more small-scale neighborhood home infill development in a manner that enhances the surrounding community.

If you have any questions, please let us know, and if you have any specific feedback, please continue to share that feedback as we bring the 2025 Land Development Code Update forward for Council consideration. As always, we welcome your ongoing feedback and input throughout the process.



Heidi Vonblum
City Planning Director

Attachment 1: Summary of ADU Regulations

cc: Honorable Mayor Todd Gloria
Honorable City Attorney Heather Ferbert
Paola Avila, Chief of Staff, Office of the Mayor
Nick Serrano, Deputy Chief of Staff, Office of the Mayor
Charles Modica, Independent Budget Analyst
Casey Smith, Deputy Chief Operating Officer
Matt Yagyagan, Director of Policy, Office of the Mayor
Christopher Ackerman-Avila, Senior Policy Advisor, Office of the Mayor
Kohta Zaiser, City Council Affairs Advisor, Office of the Mayor
Elyse Lowe, Director, Development Services Department
Chief Deputy City Attorney Corrine Neuffer
Deputy City Attorney Lauren Hendrickson
Tait Galloway, Deputy Director, City Planning Department
Seth Litchney, Program Manager, City Planning Department



THE CITY OF SAN DIEGO

Report to the Planning Commission

DATE ISSUED: April 24, 2025 REPORT NO. PC-25-016

HEARING DATE: May 1, 2025

SUBJECT: Accessory Dwelling Unit (ADU) and Junior Accessory Dwelling Unit (JADU) Regulation Amendments to the San Diego Municipal Code and Local Coastal Program Amendment; Process 5

SUMMARY

Issue: Should the Planning Commission recommend City Council approve the adoption of the Accessory Dwelling Unit (ADU) and Junior Accessory Dwelling Unit (JADU) Regulation Amendments to the San Diego Municipal Code (SDMC) and Local Coastal Program?

Proposed Action: Recommend that the City Council adopt an ordinance amending the ADU and JADU Regulations, including amendments to the ADU Home Density Bonus Program.

Fiscal Considerations: None

Housing Impact Statement: The proposed modification to remove eligibility for the ADU Home Density Bonus Program in the RS-1-1, RS-1-2, RS-1-3, RS-1-4, RS-1-8, RS-1-9, RS-1-10 and RS-1-11 base zones would remove approximately 25,689 acres from program eligibility. Additionally, 82,970 acres would remain eligible, with 38,583 acres located within the Sustainable Development Area (SDA) and 44,387 acres located outside the SDA. Other proposed amendments to the ADU Home Density Bonus Program include requirements related to evacuation route access, automatic fire sprinkler installation, parking requirements for developments located outside of a Transit Priority Area, increased penalties for violations, and the introduction of new community enhancement fees. These amendments may further affect the number of ADU homes that can be developed on eligible properties.

The proposed amendments to align the ADU and JADU regulations with state law would clarify that on lots developed with a single-family home, up to three units may be permitted, which include one detached ADU home, one converted ADU home (from existing space), and a JADU home. These three ADU homes that state law requires the City to permit are collectively referred to as state required ADU homes. Additionally, on lots with an existing multi-family residential structure, up to eight detached ADU homes may be permitted by right.

Community Planners Committee Recommendation: The Community Planners Committee (CPC) placed an item on the agenda for its March 25, 2025, meeting to consider recommendations regarding the ADU Home Density Bonus Program. In response, Planning Director Heidi Vonblum sent a letter dated March 21, 2025, providing an update on the program and welcoming the CPC's feedback (Attachment 1). Following this correspondence, the CPC established an Ad Hoc ADU Bonus Program Committee, which convened on April 2, 2025, to review the City's proposed revisions and develop possible alternatives. The Ad Hoc Committee presented its recommendations to the full CPC on April 22, 2025, and the CPC approved two motions:

- 1) Approve changes to all RS zones in their RS Zones Matrix. Motion approved: 21-2-0.
- 2) Approve their Proposal #3 for RM zones: Allow 2 City Bonus Affordable ADUs on every RM lot if allowed by the FAR. Excluded from the City Bonus Affordable ADU program would be lots which have maxed out, or even over-built their unit density allowance. These lots, along with all others will still allow State ADUs, up to 8. Approval included recommendations in their RM matrix. Motion approved: 21-0-2.

Environmental Impact: The Environmental Policy Section of the City Planning Department has reviewed the Code Amendment and determined that the adoption of the proposed amendments revising the ADU Regulations and the City's ADU Home Density Bonus program is statutorily exempt from CEQA pursuant to CEQA Guidelines Section 15282(h) which exempts the adoption of an ordinance regarding second units in a single-family or multifamily residential zone by a city or county to implement the provisions of Sections 66314 and 66333 of the Government Code as set forth in Section 21080.17 of the Public Resources Code. The adoption of the proposed amendments is also categorically exempt from CEQA pursuant to CEQA Guidelines Section 15332 (In-fill Development Projects), as ADU and JADU projects meet the conditions of the Class 32 exemption. Adoption of the proposed amendments will remove zones from eligibility for the ADU Home Density Bonus program and limit the number of dwelling units that can be developed in eligible zones per the proposed amendments to the City's ADU Regulations and ADU Home Density Bonus program. These proposed amendments will decrease allowable ADU development in comparison to the existing regulations, which would decrease the potential for any physical effects on the environment.

Furthermore, the Environmental Policy Section of the City Planning Department has reviewed the Code Amendment and determined that the adoption of the proposed amendments revising the ADU Regulations and the City's ADU Home Density Bonus program is consistent with the Final Addendum to the General Plan Program Environmental Impact Report (PEIR) for the General Plan Housing Element Update 2021-2029 (Project No. 104495/SCH No. 2006091032), which was adopted by the San Diego City Council on June 18, 2020 (Resolution R-313099). Therefore, the proposed action is a subsequent discretionary action and is not considered to be a separate project for the purposes of CEQA review pursuant to State CEQA Guidelines Sections 15378(c) and 15060(c)(3). Pursuant to CEQA Statute Section 21166 and CEQA Guidelines Section 15162, there is no change in circumstance, additional information, or project changes to warrant additional environmental review for this action.

BACKGROUND

The City has undertaken several legislative actions to align local regulations with evolving state laws aimed at increasing the production of homes through the development of ADU homes and JADU homes. These efforts reflect an ongoing commitment to addressing the City's housing crisis by expanding opportunities for homes on residentially zoned properties, streamlining permitting processes, and reducing regulatory barriers.

The City amended the Companion Unit and Junior Unit regulations in 2017 to align with state law requirements for ADU homes. The regulations have been updated as part of subsequent amendments to the Land Development Code. The following summarizes the legislative packages that have incorporated new state requirements and local policy priorities, such as affordability, accessibility, sustainability, and neighborhood compatibility, to ensure that ADU regulations effectively support the City's broader housing needs.

[Companion Unit/Junior Unit Regulations \(2017\)](#)

On September 12, 2017, the City Council adopted the Companion Units and Junior Units Regulations, which implemented Senate Bill 1069 (Wieckowski, 2016), Assembly Bill 2299 (Bloom, 2016), and Assembly Bill 2406 (Thurmond, 2016). These regulations streamlined the construction of companion and junior units on residential properties with reduced requirements for parking, zoning setbacks, fire sprinklers, public utilities and fees.

[Housing Legislation Code Update \(2020\)](#)

On October 27, 2020, the City Council adopted the Housing Legislation Code Update, replacing the Companion Unit and Junior Unit regulations with new ADU and JADU regulations. This update implemented Assembly Bill 68 (Ting, 2019), Assembly Bill 587 (Gabriel, 2019), Assembly Bill 881 (Bloom, 2019), and Senate Bill 13 (Wieckowski, 2019). Key amendments included expanded allowances for ADU homes in multi-unit developments, prohibiting replacement parking for garages or carports converted to ADUs or JADUs, and ensuring that at least one ADU home is permitted per premises, regardless of maximum lot coverage, floor area ratio, or minimum open space requirements. In addition, as part of the Housing Legislation Code Update, parking requirements for the state required ADUs and JADUs were eliminated.

This package also implemented Assembly Bill 671 (Friedman, 2019), which required local jurisdictions to incentivize the construction of deed restricted affordable ADU homes. This led to the creation of the now-existing ADU Bonus Program, an affordable housing incentive that allowed for the construction of one additional ADU home for every deed restricted affordable ADU home designated for very low-, low-, or moderate-income households for a period of at least 15 years. Outside of a Transit Priority Area (TPA), only one bonus ADU home was permitted, whereas within a TPA, the number of bonus ADU homes allowed was limited by the height, lot coverage, and floor area ratio of the base zone. The bonus ADU homes were limited to the same total size that a single-family home would otherwise be allowed to be developed on a property.

[Housing Action Package 1.0 \(2022\)](#)

The City Council adopted Housing Action Package 1.0 on March 1, 2022. As part of this package, amendments were made to the ADU regulations to align with Senate Bill 9 (Atkins, 2021) and to respond to community concerns regarding privacy, the loss of mature landscaping, and the need for supportive infrastructure. These amendments included new setback requirements, updated

landscaping, street tree standards to support the urban tree canopy, and a scaled Development Impact Fee applicable to each ADU beyond the second that is also greater than 750 square feet, to address infrastructure needs. State law prohibits the City from collecting development impact fees for any ADU home that is less than 750 square feet.

[Housing Action Package 1.0 – ADU Bonus Program Amendment \(2022\)](#)

On May 24, 2022, the City Council adopted the Housing Action Package ADU Bonus Program Amendment. This amendment resulted from a request made at the February 8, 2022, City Council hearing to modify the ADU Density Bonus Program, specifically the deed restriction term for very low and low-income ADU homes. The action reduced the deed restriction period for ADU homes reserved for very low- and low-income households from 15 years to no less than 10 years. The deed restriction for moderate-income affordable ADU homes was not modified as part of this amendment.

[2022 Land Development Code Update \(2023\)](#)

The 2022 Land Development Code Update, adopted by the City Council on March 7, 2023, introduced the Sustainable Development Area (SDA), a geographic designation aimed at focusing the City's housing incentive programs in areas with convenient access to high-quality transit, and safe, enjoyable options for walking, rolling, and biking. The ADU Home Density Bonus program was also modified to require that eligible developments be located within an SDA, rather than a TPA. This change expanded the program's reach by approximately 4,612 additional developable acres. The SDA eliminated areas that were located outside of certain walking distances due to geographic or other physical barriers and instead utilized a distance measured by a pedestrian path of travel.

[Housing Action Package 2.0 \(2024\)](#)

The City Council adopted Housing Action Package 2.0 on January 4, 2024. This package modified the ADU Home Density Bonus program by creating the Accessible ADU Home Incentive, which encourages the development of ADU homes that meet the accessibility requirements of the California Building Code. Under this amendment, one additional accessible ADU home is allowed if a residential development includes at least two deed restricted affordable ADU homes. This action clarified that JADU homes may only be constructed within an existing single-family home.

[2024 Land Development Code Update \(2024\)](#)

The City Council adopted the 2024 Land Development Code Update on July 22, 2024. This update included minor modifications to clarify the street tree requirements for ADU homes and to align the regulations with state law regarding setbacks for ADU homes and kitchen requirements for JADU homes.

[Accessory Dwelling Unit Bonus Program \(2025\)](#)

On March 4, 2025, the City Council approved an action item requesting that staff return with amendments to the ADU Bonus Program. The City Council voted (6-3-0) to approve the following motion:

- 1) Request City staff to return to City Council within 90 days with an action item to remove the applicability of the ADU Bonus Program from the San Diego Municipal Code conforming the local ADU Bonus Program to state-mandated ADU regulations for single family zoned parcels in RS-1-1, RS-1-2, RS-1-3, RS-1-4, RS-1-8, RS-1-9, RS-1-10, and RS-1-11 zoned parcels; and

- 2) Request the City Planning Department to bring forward revisions to the ADU Density Bonus program including, but not limited to, those provided in the February 28, 2025, memorandum to the Land Use and Housing Committee for consideration (Attachment 2).

DISCUSSION

On March 4, 2025, the City Council requested that the City Planning Department return to Council within 90 days with an ordinance to remove the applicability of RS-1-1, RS-1-2, RS-1-3, RS-1-4, RS-1-8, RS-1-9, RS-1-10, and RS-1-11 base zones from the ADU Density Bonus Program. The City Council also directed the City Planning Department to bring forward additional revisions to the ADU Home Density Bonus Program, as outlined in the City Planning Department's February 28, 2025, memorandum to the Land Use and Housing Committee. In response to the City Council's discussion urging expeditious action and the need to consider all amendments to the ADU Home Density Bonus Program comprehensively to address community and City Council concerns, the City Planning Department is proposing an ordinance to amend the ADU Home Density Bonus Program and make other revisions necessary to comply with state laws related to ADU homes.

The City received comments from the California Department of Housing and Community Development (HCD) on October 30, 2024, which identified differences and inconsistencies between the City's current ADU regulations and state law and requested that the regulations be brought into compliance (Attachment 3). To address HCD's comments, the proposed action includes amendments to the citywide ADU and JADU regulations to ensure consistency with state law with respect to state-required ADU and JADU homes. This will also help to avoid delays in bringing this proposal to City Council since the City is required to submit all proposed amendments to the ADU and JADU regulations to HCD following City Council adoption.

Considering the ADU Home Density Bonus Program more comprehensively allows for a robust discussion on how the proposed amendments can simultaneously address issues related to public safety, development scale, and neighborhood enhancement funding. The proposal also allows the City Planning Department to efficiently coordinate with HCD to ensure that these reforms can go into effect in line with the Council's desire for quick action. The single proposed action ensures certainty that these changes will be enacted simultaneously, rather than in phases. Adopting these proposed amendments together ensures the City Council and the public understand where and how many ADU homes are allowed throughout the City.

Additionally, the City Planning Department will be engaging with the public and interested stakeholders to assist in developing the Neighborhood Homes for All of Us initiative later this year. Neighborhood homes are townhomes, rowhomes, and small-scale multiple-home buildings that are built to the same scale as surrounding traditional single homes, which can provide home options for first-time homebuyers, families with children, and middle-income households. Neighborhood Homes for All of Us will include home design guidelines to provide sample plans, layouts, designs, financing strategies and regulations to allow for the development of these homes in more areas in the City to enhance the City's neighborhoods.

A summary of the 24 proposed amendments is provided below, and a detailed description is included in the ADU and JADU Regulation Amendments list (Attachment 4) and the draft Strikeout/Underline Ordinance (Attachment 5).

Analysis

Between 2021 and 2024, the City permitted 4,388 projects, resulting in a total of 5,720 ADU homes, as shown in Table 1. Approximately 98 percent of these projects (4,308) resulted in the development of 1 to 3 ADU homes, accounting for 5,182 permitted ADU homes. Additionally, 51 projects, totaling 223 ADU homes, included 4 to 6 ADU homes, while 29 projects, totaling 315 ADU homes, included 7 or more ADU homes.

Table 1: Permitted ADU Homes 2021-2024				
	Permitted ADU Home Project Size			Total
	1 to 3 ADU Homes	4 to 6 ADU Homes	7+ ADU Homes	
Total ADU Home Projects	4,308	51	29	4,388
Total ADUs Homes Permitted	5,182	223	315	5,720

The ADU Home Density Bonus Program currently applies to 108,668 acres within the City. The proposed removal of the RS-1-1, RS-1-2, RS-1-3, RS-1-4, RS-1-8, RS-1-9, RS-1-10 and RS-1-11 base zones would result in approximately 25,698 fewer acres eligible for the program, which would account for a reduction of 24 percent of the current applicable acreage as shown in Table 2. Of this total, 3,374 acres are located within the SDA. In comparison, the remaining 22,324 acres are located outside the SDA (where a maximum of 1 bonus ADU home and 1 affordable ADU home are allowed). With this proposed amendment, 82,970 acres would remain eligible for the ADU Home Density Bonus program, including 38,583 acres within the SDA and 44,387 acres outside the SDA.

Table 2: Current ADU Home Density Bonus Program Applicability			
Zones	Within the SDA (Acres)	Outside of the SDA (Acres)	Total (Acres)
RS-1-1, RS-1-2, RS-1-3, RS-1-4, RS-1-8, RS-1-9, RS-1-10 & RS-1-11 Zones	3,374	22,324	25,698
All Other Eligible Zones	38,583	44,387	82,970
Total	41,957	66,711	108,668

Between 2021 and 2024, the ADU Home Density Bonus Program facilitated the permitting of 348 projects, resulting in 368 affordable ADU homes and 507 market-rate ADU homes, for a total of 875 permitted ADU homes, as shown in Table 3. The ADU Home Density Bonus Program represents approximately 8 percent of the total 4,388 ADU projects and 14 percent of the total 5,720 ADU homes permitted.

Table 3: ADU Homes Permitted through the ADU Home Density Bonus Program 2021-2024				
	Number of Projects	Affordable ADU Homes	Market Rate ADU Homes	Total ADU Homes
ADU Home Density Bonus Program	348	368	507	875
Percent of Total ADU Home Development	8%	100%	9%	14%

In the RS (Residential-Single Unit) base zones, the City permitted 410 ADU homes through 70 ADU Home Density Bonus Program projects between 2021 and 2024, as shown in Table 3. Of these, 2 projects in the RS-1-1 base zone permitted 6 ADUs; 2 projects in the RS-1-6 base zone permitted 13 ADU homes; 2 projects in the RS-1-14 base zone permitted 8 ADU homes; and 64 projects in the RS-1-7 base zone permitted 383 ADU homes.

Table 4: ADU Homes Permitted through the ADU Home Density Bonus Program in RS Zones 2021-2024				
RS Zone	ADU Home Density Bonus Program			
	Number of Projects	Percent of Projects in RS Zones	Number of ADU Homes	Percent of ADU Homes in RS Zones
RS-1-1	2	3%	6	1%
RS-1-6	2	3%	13	3%
RS-1-7	64	91%	383	93%
RS-1-14	2	3%	8	2%
Total	70	100%	410	100%

Between 2021 and 2024, the City permitted 3,009 state-required ADU homes within the City's RS base zones as shown in Table 5. The City permitted 2,529 state-required ADU homes within the RS-1-7 base zone, representing 84 percent of the total state-required ADU homes, while covering 42 percent of the total acreage within RS base zones. The City permitted 308 state-required ADU homes within the RS-1-14 base zone, accounting for 10 percent of the total state-required ADU homes and covering 21 percent of the RS base zone acreage. The City permitted 58 ADU state-required homes (2 percent) within the RS-1-4 base zone and 42 state-required ADU homes (1 percent) within the RS-1-6 zone. The City permitted between 3 and 27 state-required ADU homes within the RS-1-1, RS-1-2 and RS-1-3 base zones despite representing varying proportions of the RS base zone acreage. The City permitted 4 state-required ADU homes within the RS-1-8 base zone, which covers 22 percent of the RS base zone acreage.

Table 5: State-Required ADU Homes Permitted in the RS Zones 2021-2024			
Zone	Number of ADU Homes	Percent of ADU Homes in RS Zones	Percent of RS Zones Acreage
RS-1-1	14	0.5%	3.3%
RS-1-2	27	0.9%	2.8%
RS-1-3	3	0.1%	0.4%
RS-1-4	58	1.9%	2.8%
RS-1-5	12	0.4%	0.6%
RS-1-6	42	1.4%	1.2%
RS-1-7	2,529	84.0%	42.0%
RS-1-8	4	0.1%	22.2%
RS-1-9	1	0.0%	0.7%
RS-1-10	0	0.0%	0.0%
RS-1-11	1	0.0%	0.5%
RS-1-12	1	0.0%	0.6%
RS-1-13	9	0.3%	2.0%
RS-1-14	308	10.2%	21.0%
Total	3,009	100.0%	100.0%

A total of 2,514 projects were approved in the RS-1-7 base zone, resulting in the permitting of 2,912 ADU homes between 2021 and 2024, as shown in Table 6. Almost all the projects, representing approximately 99 percent (2,501 projects), included 1 to 3 ADU homes, producing 2,809 ADU homes. In the RS-1-7 base zone, 9 projects were comprised of 4 to 6 ADU homes, resulting in 43 ADU homes, while 4 projects resulted in 7 or more ADU homes, totaling 60 ADU homes.

Table 6: ADU Home Projects and Permitted ADU Homes in the RS-17 Zones 2021-2024				
	1 to 3 ADUs	4 to 6 ADUs	7+ ADUs	Total
Number of ADU Home Projects	2,501	9	4	2,514
ADU Homes Permitted	2,809	43	60	2,912

General ADU and JADU Regulation Amendments (13 Items)

Thirteen proposed amendments would update the ADU and JADU regulations to align with state law. Each proposed amendment has a corresponding item number in the ADU and JADU Regulation Amendments list (Attachment 4).

ADU Home Minimum and Maximum Size (Item 1)

The definition of an ADU in the Land Development Code and the related regulations are not currently aligned with state law. Specifically, the Land Development Code defines an ADU as a dwelling unit that is 1,200 square feet in size or less. However, the California Department of Housing and Community Development has interpreted Government Code Section 66321(b)(1) to mean that ADUs created through the conversion of existing space,

regardless of whether they are within a single dwelling unit or multiple dwelling unit structure, are not subject to a maximum size limit.

This proposed amendment would remove the 1,200 square feet from the definition of an ADU home and clarify in the regulations that only attached and detached ADU homes are subject to the 1,200 square feet maximum. ADU homes constructed entirely within an existing single dwelling unit or accessory structure are not subject to a maximum gross floor area, and they may also include up to 150 square feet of additional floor area for ingress and egress only, consistent with state law. Additionally, ADU homes within an existing multi-dwelling unit structure are not subject to a maximum gross floor area.

ADU and JADU Zoning (Item 2)

Government Code Section 66323(a)(1) allows for the development of an ADU home on a lot with a proposed or existing single dwelling unit. Additionally, Government Code Section 66333(a) permits one JADU home on lots zoned for single-family residential use. This proposed amendment updates the Use Table for Agricultural Zones to permit ADU and JADU homes, subject to the applicable separately regulated use regulations, in the Agricultural-General Zones, where single dwelling units are already a permitted use. This change ensures consistency with state law and clarifies that residential accessory uses such as ADU and JADU homes are allowed in these zones.

Fire Sprinkler Requirements (Item 3)

Government Code Sections 66314(d)(12) and 66323(d) prohibit a local agency from requiring the installation of fire sprinklers in the existing primary dwelling unit or existing multiple dwelling units solely as a result of constructing ADU homes. This proposed amendment clarifies that the construction of an ADU home shall not trigger a requirement to install fire sprinklers in the existing primary dwelling unit or multiple dwelling unit, unless such installation is otherwise required under the California Building Standards Code, ensuring consistency with state law.

Converted ADU and JADU Homes within the Coastal Overlay Zone (Item 4)

ADU and JADU homes converted from an existing dwelling unit or accessory structure located outside of the Coastal Overlay Zone must be approved through a ministerial process per state law. This proposed amendment clarifies that the following development regulations apply only within the Coastal Overlay Zone: An existing structure may not be converted or reconstructed into an ADU or JADU home if it does not conform to the wetlands regulations in Section 143.0141(b), sensitive coastal bluff regulations in Section 143.0143, coastal beach regulations in Section 143.0144, and the Supplemental Regulations of the Coastal Overlay Zone in Section 132.0403.

JADU Home Rental Terms (Item 5)

Government Code Section 63315 permits local agencies to enact a minimum stay requirement for ADU homes. However, the City's current regulations impose a minimum rental period of 31 consecutive days for both ADUs and JADUs homes. This proposed amendment removes the minimum rental term requirement for JADU homes to ensure alignment with state law.

Number of Permitted ADU and JADU Homes with an Existing or Proposed Single Dwelling Unit (Item 6)

HCD interprets Government Code Section 66323(a) to require local agencies to permit one JADU home, one converted ADU home within a single-family home or accessory structure (i.e., converting an existing detached garage into an ADU), and one detached ADU home on a lot with an existing or proposed single dwelling unit. This proposed amendment clarifies that, on a lot with an existing or proposed single dwelling unit, one JADU home, one converted ADU home, and one detached ADU home may be permitted.

Tree Requirements (Item 7)

HCD has determined that Government Code Section 66323 prohibits a local agency from requiring any development or design standard for ADU or JADU homes that are not mandated by state law. This proposed amendment removes the ADU and JADU landscaping requirements for trees, since HCD has determined that the City may not impose these requirements. The City Planning Department will consider other options for increasing tree requirements in other housing programs where not otherwise prohibited by state law.

Number of Permitted ADU Homes with an Existing or Proposed Multiple Dwelling Unit Structure (Item 8)

Government Code Section 66323 allows the development of up to two detached ADU homes on a lot with a proposed multiple dwelling unit structure and permits the construction of up to eight detached ADU homes on a lot with an existing multiple dwelling unit structure. Additionally, it allows the creation of ADU homes within non-livable spaces of the existing structure, up to 25 percent of the total number of existing dwelling units, with a minimum of one ADU home. This proposed amendment aligns the City's regulations with state law by implementing the following:

- On lots with a proposed multiple dwelling unit structure:
 - Allows the development of up to two detached ADU homes.
- On lots with an existing multiple dwelling unit structure:
 - Allows the development of up to eight detached ADU homes;
 - Permits the creation of ADU homes within non-livable spaces (e.g., storage rooms, garages), with the number of ADU homes not exceeding 25 percent of the total number of existing units, and a minimum of one ADU home required; and
 - Ensures that the combined total of detached ADU homes and ADU homes within non-livable space does not exceed the number of existing multiple dwelling units in the structure.

Floor Area Ratio Maximums (Item 9)

HCD has determined that ADUs and JADUs allowed under Government Code Section 66323 are not subject to the floor area ratio (FAR) maximums of the underlying base zone. The proposed amendment specifies that ADU and JADU homes permitted under state law are not subject to the FAR requirements of the underlying base zone. However, these ADU and JADU homes remain subject to applicable setback and height limits, which continue to regulate the allowable development area. In addition, if a development utilizes the ADU Home Density Bonus Program, the state required ADU homes will count toward the

overall FAR requirements of the underlying base zone.

Side Yard Setbacks for ADU Structures (Item 10)

HCD has interpreted state law to require a minimum setback for all side yards, including street side yards for ADU homes. This proposed amendment specifies that ADU structures are allowed a street side yard setback of four feet or the base zone street side yard setback, whichever is less, to be consistent with state law.

Fire Safety Setbacks (Item 11)

The California Building Standards Code (Title 24) authorizes local agencies to enforce fire and life safety requirements where necessary to protect public health and safety. These standards include requirements related to fire separation, defensible space, and structure placement, particularly in areas with elevated wildfire risk. This proposed amendment requires ADU homes located within High or Very High Fire Hazard Severity Zones to maintain a minimum five-foot interior side and rear yard setback to provide adequate defensible space between all structures on the premises and adjacent native or naturalized vegetation. Additionally, the amendment further ensures authority for the Fire Code Official to require greater interior side or rear yard setbacks when necessary to ensure compliance with the California Fire Code and to address specific site conditions related to fire safety.

Replacement Parking (Item 12)

Government Code Section 66314(d)(11) prohibits local agencies from requiring off-street replacement parking when an uncovered parking space is demolished or converted for the construction of an ADU home. This proposed amendment adds uncovered parking spaces to the list of parking types that do not require replacement when removed to accommodate an ADU home. However, consistent with existing local regulations, replacement parking for the removal of uncovered spaces will still be required for properties located within the Beach Impact Area of the Parking Impact Overlay Zone and outside of a Transit Priority Area, where parking demand is of particular concern.

JADU Home Owner Occupancy Requirement Exemption (Item 13)

Government Code Section 66333(b) exempts governmental agencies, land trusts, and housing organizations from the owner-occupancy requirement for JADU homes. This proposed amendment updates the City's JADU regulations to exempt governmental agencies, land trusts, and housing organizations from the owner-occupancy requirement, ensuring consistency with state law and facilitating affordable housing development.

ADU Home Separate Sale or Conveyance (Item 23)

Government Code Sections 66340-66342 authorize cities to adopt an ordinance permitting the conversion of ADU homes into separate condominium units, allowing them to be sold independently from the primary residence. This proposed amendment implements AB 1033 by establishing local regulations that allow for the subdivision of eligible ADU homes into individual condominium units, enabling them to be sold separately from the main dwelling, subject to applicable mapping, building, and ownership requirements. ADU homes that have received financing or other forms of assistance from the San Diego Housing Commission, as well as other deed restricted ADU

homes, cannot be converted into condominiums or sold separately from the primary residence for the duration of the deed restriction agreement. By allowing existing or proposed ADU homes to be sold independently, this proposed amendment expands opportunities for homeownership in the City.

ADU Home Density Bonus Program Amendments (10 Items)

Ten proposed amendments affect the ADU Home Density Bonus Program. Since the program is an opt-in program that allows for the development of more ADU homes than state law requires, the City may apply additional regulations for these developments. Each proposed amendment is referenced by its corresponding item number in the ADU and JADU Regulation Amendments list (Attachment 4).

ADU Home Density Bonus - Applicability (Item 14)

The ADU Home Density Bonus Program currently applies in all zones that allow residential uses. This can result in ADU developments in residential zones that allow very low-density development, resulting in ADU homes that can be out of scale with the surrounding neighborhood context. The proposed amendment would prohibit the application of the ADU Home Density Bonus Program in the following very low-density residential zones: RS-1-1, RS-1-2, RS-1-3, RS-1-4, RS-1-8, RS-1-9, RS-1-10, and RS-1-11. Each of these zones has minimum lot sizes of 10,000 square feet or greater. As discussed above, prohibiting these zones would remove 25,689 acres from the opt-in program.

ADU Home Density Bonus - Evacuation Routes (Item 15)

The ADU Home Density Bonus Program does not include specific regulations that address evacuation routes. This proposed amendment would apply specific evacuation route requirements. Specifically, it would require lots otherwise eligible for the ADU Home Density Bonus Program in High or Very High Fire Hazard Severity Zones to be on an improved public street with at least two evacuation routes. The proposed amendment also prohibits the program on lots in High and Very High Fire Hazard Severity Zones that front a cul-de-sac or have only one point of ingress or egress. These changes are intended to improve emergency access and evacuation safety for ADU homes permitted under the program.

ADU Home Density Bonus - Development Scale (Item 16)

The development scale of projects utilizing the ADU Home Density Bonus Program is intended to be appropriately scaled to the surrounding area. There are instances where unusually large lots or lots that contain undevelopable environmentally sensitive lands can lead to outlier results under the existing program. This proposed amendment would require ADU Home Density Bonus Program projects on lots that only permit single family homes and exceed the minimum base zone lot size to have their floor area ratio (FAR) capped at 10,000 square feet. In addition, if the lot contains environmentally sensitive lands, the FAR would be calculated using only the portion of the lot that does not contain environmentally sensitive lands, using a maximum lot area of 10,000 square feet. For the RS-1-5, RS-1-6, and RS-1-7 base zones, which use a scaled system to determine the FAR, the FAR would be calculated using the adjusted lot area. On lots that allow for the development of multiple units, family homes, and contain environmentally sensitive lands, the FAR would be calculated using only the portion of the lot that does not contain

environmentally sensitive land. This proposed change is intended to address concerns raised by the Council as well as community groups and community members about projects located primarily in the RS-1-7 base zone (5,000 square foot minimum lot size) that have resulted in larger floor building sizes because the lots have contained environmentally sensitive lands or are located on unusually large lots.

- As an example, under this proposed amendment, a 10,000 square foot premises within the RS-1-7 base zone that contains 5,000 square feet of environmentally sensitive lands would have a 0.60 floor area ratio calculated based on 5,000 square feet, resulting in a maximum allowable floor area of 3,000 square feet. Where an existing 1,500 square foot primary dwelling currently exists, this would leave 1,500 square feet remaining for the development of ADU homes on that property, inclusive of the state required ADU homes.
- As another example, a 30,000 square foot premises within the RS-1-7 base zone that contains no environmentally sensitive lands would have a 0.55 floor area ratio calculated based on 10,000 square feet, resulting in a maximum allowable floor area of 5,500 square feet. Where an existing 1,500 square foot primary dwelling currently exists, this would leave 4,000 square feet remaining for development of ADU homes, inclusive of the state required ADU homes.

ADU Home Density Bonus - Required Automatic Fire Sprinkler System (Item 17)

The ADU Home Density Bonus Program allows for the development of additional ADU homes beyond what state law allows. Therefore, this proposed amendment would clearly require fire sprinklers to enhance public safety and mitigate fire risks. Specifically, all detached affordable ADU homes and bonus ADU homes permitted under the ADU Home Density Bonus Program would be required to include an automatic fire sprinkler system, consistent with the requirements for multiple dwelling unit buildings.

ADU Home Density Bonus - Parking (Item 18)

The ADU Home Density Bonus Program currently does not require parking. However, the development of multiple ADU homes on a lot may increase demand for on-street parking. This proposed amendment would require one off-street parking space for each affordable ADU home and bonus ADU home located outside of a Transit Priority Area. In accordance with state law, the City cannot require parking for ADU homes located within a Transit Priority Area.

ADU Home Density Bonus - Deed Restriction Agreement for Affordable ADU Homes (Item 19)

The ADU Home Density Bonus Program requires a written agreement and a deed of trust, executed by the applicant and the President and Chief Executive Officer of the San Diego Housing Commission, for each permitted affordable ADU home. However, clarification is needed regarding the timeline for completing the agreement. This proposed amendment specifies that the written agreement and deed of trust must be executed prior to the issuance of the first building permit for either an affordable ADU home or bonus ADU home, whichever occurs first.

ADU Home Density Bonus - Affordable ADU Home and Accessible ADU Home Requirements (Item 20)

The ADU Home Density Bonus Program does not address the required size or bedroom mix for affordable or accessible ADU homes. This proposed amendment clarifies that affordable ADU homes and accessible ADU homes constructed through the program must be comparable in size and include at least the same number of bedrooms as the bonus ADU homes.

ADU Home Density Bonus - Compliance (Item 21)

Landowners who rent affordable ADU homes built under the ADU Home Density Bonus Program in violation of the deed restriction to rent the ADU home to qualified households are currently subject to penalties based on the amount overcharged, plus 10 percent interest. Increasing the penalty could further deter violations and strengthen enforcement. This proposed amendment increases the penalty for violations of the deed restriction on affordable ADU homes permitted under the ADU Home Density Bonus Program. Specifically, if the terms of the deed restriction agreement to rent or sell the ADU home to a qualified household are violated, the applicant or record owner shall be liable for a minimum penalty of \$10,000 per ADU home per month, in addition to any other fines outlined in the deed restriction agreement. By increasing the penalty, this proposed amendment aims to ensure that affordable ADU homes remain available to qualifying households, aligning with the program's intent of increasing affordable housing opportunities.

ADU Home Density Bonus - Community Enhancement Fee (Item 22)

California Government Code Section 66324(c)(1) prohibits local agencies from imposing Development Impact Fees on ADU homes that are under 750 square feet. However, homes developed through the ADU Home Density Bonus Program can increase the demand on neighborhood-serving infrastructure. This proposed amendment requires applicants opting into the ADU Home Density Bonus Program to pay an ADU Home Density Bonus Program Community Enhancement Fee for all affordable and bonus ADU homes under 750 square feet permitted through the program. This will ensure that all ADU Homes permitted through the ADU Home Density Bonus Program are subject to either Citywide Development Impact Fees or the ADU Home Density Bonus Program Community Enhancement Fee.

The City would calculate the fee based on the square footage of each affordable and bonus ADU home under 750 square feet. This would mirror the Citywide Development Impact Fee typically applied to multifamily dwelling units, as outlined in the Citywide Mobility DIF (Resolution R-314273), Citywide Library DIF (Resolution R-314272), and Citywide Fire DIF (Resolution R-314271). The City would use the fee to fund neighborhood-enhancing infrastructure, including active transportation projects, fire facilities, libraries, and parks and recreation improvements. The draft ADU Home Density Bonus Program Community Enhancement Fee Resolution is included as Attachment 6. The funds would be available to be expended on needed infrastructure and would be prioritized in accordance with Council Policy 800-14, Prioritizing Capital Improvement Program Projects.

Sustainable Development Area (SDA) – Definition Clarification (Item 24)

The ADU Home Density Bonus allows for additional ADU homes within the SDA. The Municipal Code defines the SDA based on a defined walking distance along a pedestrian path of travel to a major transit stop. The City Planning Department's interpretation of a pedestrian path of travel includes safe areas for pedestrians to walk, separated from vehicular travel, indicated by the presence of sidewalks. This proposed amendment clarifies the City Planning Department's interpretation that the pedestrian path of travel must include a sidewalk to be considered a pedestrian path of travel, as defined in the City's Street Design Manual.

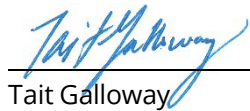
OUTREACH

Due to the 90-day timeline for bringing this proposal to City Council, the City Planning Department could not conduct dedicated outreach meetings specific to the proposed amendments to the ADU and JADU regulations and the ADU Home Density Bonus Program. However, information was shared in a memorandum from the City Planning Department to the Community Planners Committee on March 21, 2025 (Attachment 1), to facilitate discussions related to a recommendation from the Committee. Additionally, the City Planning Department continues to welcome feedback from community members and stakeholders through the hearing process, including hearings at the Planning Commission, Land Use & Housing Committee, and the City Council.

CONCLUSION

The City Planning Department recommends approval of the proposed amendments to the ADU and JADU regulations and the ADU Home Density Bonus Program. The proposed amendments to the Municipal Code will bring the City's ADU regulations into alignment with state law and provide greater clarity. The proposed reforms to the ADU Home Density Bonus Program will also encourage continued development while enhancing public safety and ensuring the ADU homes are consistent with the surrounding neighborhoods. Therefore, staff recommends that the Planning Commission forward a recommendation to the City Council to approve the proposed amendments to the ADU and JADU regulations in the San Diego Municipal Code and Local Coastal Program.

Respectfully submitted,



Tait Galloway
Deputy Director
City Planning Department



Liz Saidkhanian
Principal Planner
City Planning Department

Attachments:

1. Memorandum to the Community Planners Committee from March 21, 2025
2. Memorandum to the Land Use and Housing Committee from February 28, 2025
3. Correspondence from the Department of Housing and Community Development from October 30, 2024
4. ADU and JADU Regulation Amendments List
5. Draft Strikeout/Underline Ordinance
6. Draft ADU Home Density Bonus Program Community Enhancement Fee Resolution



March 24, 2025

Via Email

Honorable Mayor Todd Gloria
202 C Street, 11th Floor
San Diego, CA 92101

Via Email

Honorable Council President Joe LaCava, District 1
Honorable Councilmember Dr. Jennifer Campbell, District 2
Honorable Councilmember Stephen Whitburn, District 3
Honorable Councilmember Henry Foster III, District 4
Honorable Councilmember Marni von Wilpert, District 5
Honorable Councilmember Kent Lee, District 6
Honorable Councilmember Raul Campillo, District 7
Honorable Councilmember Vivian Moreno, District 8
Honorable Councilmember Sean Elo-Rivera, District 9
202 C Street, 10th Floor
San Diego, CA 92101

Honorable Governor Gavin Newsom
c/o Honorable State Senator Dr. Akilah Weber Pierson
Governor, State of California
State Capitol
Sacramento, CA 95814

**RE: SAN DIEGO BONUS ADU COMPLIANCE WITH AFFIRMATIVELY
FURTHERING FAIR HOUSING, THE AMERICANS WITH DISABILITIES ACT,
AND SAN DIEGO MUNICIPAL CODE SECTION §113.0103**

On February 9, 2025, the Chollas Valley Community Planning Group (CVCPG) submitted a detailed letter outlining serious concerns regarding the San Diego Bonus ADU program. To date, we have not received any official written response from the City. This continued silence is deeply concerning to communities like ours that have historically experienced systemic neglect. If the City is truly committed to Affirmatively Furthering Fair Housing (AFFH), we believe it must demonstrate that commitment through transparency, trust-building, and respectful

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engagement. Unfortunately, the burden of communication has fallen solely on CVCPG, reinforcing the impression that the voices and perspectives of our community are not being afforded due consideration.

We have observed that Bonus ADU projects lacking required pedestrian pathways have been submitted—and in some cases, approved—by the Development Services Department. Such approvals may be inconsistent with the San Diego Municipal Code and appear to contradict statements made by the City’s Planning Director to the City Council, both in writing and during public testimony. If developers are being allowed to proceed without adhering to basic safety and accessibility requirements, this may undermine the goals of equity and fair housing. These actions may reflect a troubling pattern of prioritizing developer interests over resident well-being.

We urge in the strongest terms that the City undertake immediate action to evaluate compliance and transparency and recommit to the principles underlying its own housing and planning regulations. The following projects are of particular concern:

- PRJ-1126312, 6845 Broadway (RS-1-2): 44 ADUs
- PRJ-1127220, 1348 Tarbox (RS-1-2): 43 ADUs
- PRJ-1129702, 731 Stork (RX-1-1): 30 ADUs
- PRJ-1128374, 1450 1/3 Hilger (RS-1-2): 23 ADUs
- PRJ-1130479, 1426 Hilger (RS-1-2): 22 ADUs
- PRJ-1106540, 5662/5664 Cervantes (RS-1-4): 11 ADUs
- PRJ-1125787, 543 61st Street (RX-1-1): 8 ADUs
- PRJ-1099232, 608 Stork (RX-1-1): 7 ADUs
- PRJ-1128125, 704 Selma Pl (RS-1-6): 6 ADUs
- PRJ-1073142, 6466/6426 Madrone Ave (RS-1-7): 5 ADUs
- PRJ-1125286, 6475/6426 Scimitar (RS-1-2): 4 ADUs
- PRJ-1117829, 470/471 66th Street (RS-1-7): 4 ADUs
- PRJ-1110620, 6822 Brooklyn (RS-1-6): 16 ADUs
- PRJ-1123939, 1405 Mariposa (RS-1-7): 22 ADUs
- PRJ-1095516, 5129/5131 Coban (RS-1-7): 5 ADUs

The requirement for pedestrian pathways is clearly stated in San Diego Municipal Code section §113.0103, and reaffirmed in the February 28, 2025 memorandum from Planning Director Heidi Vonblum. This requirement was also verbally reiterated by Ms. Vonblum during testimony to the City Council on March 4, 2025.

In light of the apparent absence of compliant pedestrian pathways at the projects listed above, we urge in the strongest terms that the City issue a temporary halt on Bonus ADU construction at these sites, pending a thorough evaluation of their compliance with applicable municipal code provisions.

Should this review confirm instances of non-compliance, we respectfully request a written response outlining the basis for these project approvals, especially where fundamental requirements may not have been met. Approving such projects without verifying key elements like pedestrian access may undermine public trust and raise legitimate questions about the City’s

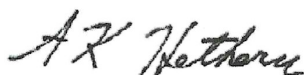
commitment to fair housing and regulatory integrity—especially in historically underserved communities like ours.

We further reiterate our concern that the City may be out of compliance with the Americans with Disabilities Act (ADA) by not requiring ADA-compliant pedestrian pathways for Bonus ADU projects. As stated in our February 9, 2025 letter, we renew our request that the City Attorney conduct a formal review of the City's obligations under federal ADA law to ensure full compliance.

For ease of reference, we have attached our February 9th letter to this correspondence.

Thank you for your attention to this urgent matter. We look forward to your timely response and to a corrective course of action that restores community trust and upholds the integrity of the City's housing policies.

Andrea Hetheru, Chair
Chollas Valley Community Planning Group

A handwritten signature in black ink, appearing to read "A Hetheru".

Vinetia Jones, Corresponding Secretary
Chollas Valley Community Planning Group

A handwritten signature in blue ink, appearing to read "Vinetia Jones".

Enclosure: February 9, 2025 letter from CVCPG