

**CALIFORNIA COASTAL COMMISSION**

SAN DIEGO AREA

3111 CAMINO DEL RIO NORTH, SUITE 200

SAN DIEGO, CA 92108-1725

(619) 521-8036



May 25, 2000

**RECORD PACKET COPY****Tue 28a**

**TO: COMMISSIONERS AND INTERESTED PERSONS**

**FROM: PETER DOUGLAS, EXECUTIVE DIRECTOR**

**SUBJECT: CITY OF SAN DIEGO LOCAL COASTAL PROGRAM AMENDMENT  
NO. 1-2000 Emergency Shelters/Transitional Housing (De Minimis)**

**EXECUTIVE DIRECTOR'S DETERMINATION THAT THE LCP  
AMENDMENT IS DE MINIMIS - (For Commission review at its meeting  
of June 13-16, 2000)**

The Coastal Act was amended January 1, 1995 to provide for a more streamlined method to review amendments to local coastal programs. Section 30514(d) allows the Executive Director to make a determination that a proposed LCP amendment is de minimis in nature. The Executive Director must determine that the proposed amendment: 1) has no impact, either individually or cumulatively, on coastal resources; 2) is consistent with the policies of Chapter 3; and 3) does not propose any change in land use or water use or any change in the allowable use of property. Section 30514(d) requires the local government to notice the proposed de minimis LCP amendment 21 days prior to submitting it to the Executive Director either through: 1) publication in a newspaper of general circulation; 2) posting onsite and offsite the area affected by the amendment; or 3) direct mailing to owners of contiguous property. If the Executive Director makes the determination that the proposed amendment qualifies as a "de minimis" amendment and finds the public notice measures have been satisfied, such determination is then reported to the Commission for its concurrence.

**PROPOSED AMENDMENT**

The City of San Diego de minimis LCP amendment affects the City's decision process for emergency shelters and transitional housing. The amendment (1) raises the process level for the required Conditional Use Permit to make the City Council the decision-maker on any proposed facility and (2) waives the quarter-mile separation requirement between such facilities. The adopted resolution that conveys the proposed amendments is as follows: Resolution No. 18589 amends Sections 141.0313 and 141.0412 of the San Diego Municipal Code relating to homeless facilities; the resolution is attached.

The amendment was approved by the City Council on September 29, 1998. The amendment was properly noticed through newspaper publication and direct mail and there are two known interested parties who submitted public comments in letters (see attached). The amendment request was received in the Commission office on April 4, 2000.

(O-99-38)

ORDINANCE NUMBER O- 18589 (NEW SERIES)ADOPTED ON SEP 29 1998

AN ORDINANCE AMENDING CHAPTER 14, ARTICLE 1,  
DIVISIONS 3 AND 4, OF THE SAN DIEGO MUNICIPAL  
CODE BY AMENDING SECTIONS 141.0313 AND 141.0412  
RELATING TO HOMELESS FACILITIES.

WHEREAS, on March 21, 1995, The City of San Diego, in accordance with Government  
Code section 65583, adopted a Housing Element of its Progress Guide and General Plan; and

WHEREAS, the Fourth District Court of Appeal, in the case of *Hoffmaster et al. v. City  
of San Diego*, found that the City's Residential Care Facilities ordinance "substantially constrains  
siting homeless facilities for emergency shelter and meaningful transitional housing in any location  
within the City"; and

WHEREAS, on November 25, 1997, The City of San Diego amended its Housing  
Element to comply with the findings of the court; and

WHEREAS, the City has adopted a new Land Development Code to regulate all land use  
and development in the City; and

WHEREAS, the City now wishes to amend its Land Development Code to ameliorate the  
constraining effects found by the Court; NOW, THEREFORE,

BE IT ORDAINED, by the Council of The City of San Diego, as follows:

Section 1. That Chapter 14, Article 1, Divisions 3 and 4, of the San Diego Municipal  
Code are amended by amending Sections 141.0313 and 141.0412, to read as follows:

## Sec. 141.0313 Transitional Housing Facilities

Transitional housing facilities offer residential accommodations for a specified period of time, counseling services, and other support services to prepare *families* and individuals for independent living.

Transitional housing may be permitted with a Conditional Use Permit decided in accordance with Process Five, in the zones indicated with a "C" in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations. Section 112.0509(b) requiring a Planning Commission recommendation, shall not be applicable to transitional housing facilities.

(a) and (b) [No change.]

(c) [No change in text to this subdivision.]

(d) [No change in text to this subdivision.]

(e) [No change in text to this subdivision.]

(f) [No change in text to this subdivision.]

(g) [No change in text to this subdivision.]

(h) The facility shall provide at least one *off-street parking space* for each employee and one *off-street parking space* for every seven beds.

Additional parking may be required by the decision maker.

(i) [No change in text to this subdivision.]

## Sec. 141.0412 Homeless Facilities

(a) This section regulates the following homeless facilities.

(1) [No change.]

(2) Emergency shelters: Any facility that provides sleeping accommodations and restroom facilities to homeless persons on a day-to-day basis, for periods of thirty days or less.

(3) [No change.]

(b) [No change.]

(c) Emergency Shelters

Emergency shelters may be permitted with a Conditional Use Permit decided in accordance with Process Five in the zones indicated with a "C" in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations. Section 112.0509(b) requiring a Planning Commission recommendation, shall not be applicable to emergency shelters.

(1) [No change.]

(2) [No change in text to this subdivision.]

(3) [No change in text to this subdivision.]

(4) [No change in text to this subdivision.]

(5) [No change in text to this subdivision.]

(6) [No change in text to this subdivision.]

(7) [No change in text to this subdivision.]

(8) [No change in text to this subdivision.]

(9) [No change in text to this subdivision.]

Section 2. That a full reading of this ordinance is dispensed with prior to its final passage, a written or printed copy having been available to the City Council and the public a day prior to its final passage.

Section 3. That City departments are instructed not to issue any permit for development that is inconsistent with this ordinance unless application for such permit was submitted and deemed complete by the City Manager prior to the date this ordinance becomes effective.

Section 4. This ordinance shall not take effect and be in force until Ordinance No. O-18451, adopted December 9, 1997, goes into effect, or on the thirtieth day following the date the California Coastal Commission unconditionally certifies the provisions of this ordinance which are subject to California Coastal Commission jurisdiction as a local coastal program amendment, whichever is later.

APPROVED: CASEY GWINN, City Attorney

By

  
\_\_\_\_\_  
Douglas K. Humphreys  
Deputy City Attorney

DKH:lc

09/01/98

Or.Dept:Comm.&Eco.Dev.

O-99-38

Form=codeo.frm

## STRIKEOUT ORDINANCE

OLD LANGUAGE: ~~Struck Out~~

NEW LANGUAGE: Redline

(O-99-38)

ORDINANCE NUMBER O- 18589 (NEW SERIES)

ADOPTED ON SEP 29 1998

AN ORDINANCE AMENDING CHAPTER 14, ARTICLE 1,  
DIVISIONS 3 AND 4, OF THE SAN DIEGO MUNICIPAL  
CODE BY AMENDING SECTIONS 141.0313 AND 141.0412  
RELATING TO HOMELESS FACILITIES.

### Sec. 141.0313 Transitional Housing Facilities

Transitional housing facilities offer residential accommodations for a specified period of time, counseling services, and other support services to prepare *families* and individuals for independent living.

~~Transitional housing for 7 to 12 persons may be permitted with a Conditional Use Permit decided in accordance with Process Three and transitional housing for 13 or more persons may be permitted with a Conditional Use Permit decided in accordance with Process Four, in the zones indicated with a "C" in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations:~~

Transitional housing may be permitted with a Conditional Use Permit decided in accordance with Process Five, in the zones indicated with a "C" in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations. Section 112.0509(b) requiring a Planning Commission recommendation, shall not be applicable to transitional housing facilities.

(a) and (b) [No change.]

~~(c) Transitional housing is not permitted within 1/4 mile of another transitional housing facility, measured from *property line to property line* in accordance with Section 113.0225.~~

~~(d)~~(c) [No change in text to this subdivision.]

~~(e)~~(d) [No change in text to this subdivision.]

~~(f)~~(e) [No change in text to this subdivision.]

~~(g)~~(f) [No change in text to this subdivision.]

~~(h)~~(g) [No change in text to this subdivision.]

~~(i)~~(h) The ~~center facility~~ shall provide at least one *off-street parking space* for each employee and one *off-street parking space* for every seven beds. Additional parking may be required by the decision maker.

~~(j)~~(i) [No change in text to this subdivision.]

#### Sec. 141.0412 Homeless Facilities

(a) This section regulates the following homeless facilities.

(1) [No change.]

(2) Emergency shelters: Any facility that provides sleeping accommodations and restroom facilities to homeless persons for less than a 24 hour stay on a day-to-day basis, for periods of thirty days or less

(3) [No change.]

(b) [No change.]

(c) Emergency Shelters

Emergency shelters may be permitted with a Conditional Use Permit decided in accordance with Process Four Five in the zones indicated with a "C" in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations. Section 112.0509(b) requiring a Planning Commission recommendation, shall not be applicable to emergency shelters

- (1) [No change.]
- (2) Emergency shelters are not permitted within 1/4 mile of another emergency shelter or a residential care facility, measured from *property line to property line* in accordance with Section 113.0225.
- (3)(2) [No change in text to this subdivision.]
- (4)(3) [No change in text to this subdivision.]
- (5)(4) [No change in text to this subdivision.]
- (6)(5) [No change in text to this subdivision.]
- (7)(6) [No change in text to this subdivision.]
- (8)(7) [No change in text to this subdivision.]
- (9)(8) [No change in text to this subdivision.]
- (10)(9) [No change in text to this subdivision.]

DKH:lc  
08/27/98  
Or.Dept:Comm.&Eco.Dev.  
O-99-38  
Form=codeo.frm



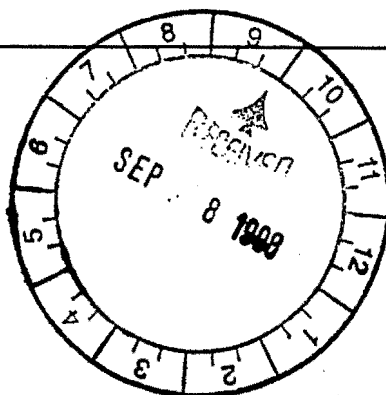
ANN T. FATHY, AICP  
ATTORNEY AT LAW

701 KETTNER BLVD. #198  
SAN DIEGO, CA 92101-5933

(619) 238-0504  
FAX: (619) 238-1918  
EMAIL: afathy@cts.com

September 8, 1998

Mayor Susan Golding  
and Councilmembers  
City of San Diego  
202 C Street  
San Diego, CA 92101



Subject: Implementation of Housing Element Regulatory Changes for Emergency Shelters and Transitional Housing; Agenda Item 333

I am writing this letter without the benefit of having received the staff report on the subject item. My assumption is the proposed changes are those which I addressed before the Planning Commission June 11, 1998.

I've addressed the Council in the past on these issues. This letter is to express once again that the proposed amendments to the Municipal Code do not go far enough to meet the requirements of the Hoffmaster decision.

The Court in the Hoffmaster v. City of San Diego decision stressed the City's responsibility to facilitate the provision of transitional housing and emergency shelters. The regulations before you today contain significant impediments to the provision of these needed facilities. The actions proposed by staff are not sufficient to remedy the problems. Two major problems are:

- Both the transitional housing regulations and the emergency shelter regulations would continue to regulate interior space (even though the State Building Code has preempted this field). The City's regulations exceed the State's, have no relation to land use issues, and are so restrictive that it would be difficult for a provider to obtain a permit to open a new facility.
- The parking requirements for both types of facilities are discriminatory and serve as a major regulatory barrier.

For the City to comply with the Hoffmaster ruling, regulations should facilitate--not impede--the provision of transitional housing and emergency shelters.

Sincerely,

Ann T. Fathy, AICP

R-290686

239  
SOUTHEAST SAN DIEGO DEVELOPMENT COMMITTEE

4941 Ocean View Blvd., San Diego, CA 92113  
619-239-0355; FAX: 619-233-8545

10 June 1998

Mr. Mark Steele, Chairman and Commission Members  
San Diego City Planning Commission  
202 C Street  
San Diego, CA 92101

Dear Mr. Steele and Commission Members,

At its 8 June 1998 meeting, the Southeast San Diego Development Committee reviewed City Report No. P98-090, *Implementation of Emergency Shelter and Transitional Housing Regulatory Changes Proposed in Housing Element* dated 28 May 1998. The report was presented by Mr. Myles Pomeroy, Senior Planner (619-235-5219).

The Committee considered the "Manager's Recommendation" which states that:

"...the Planning Commission recommend that the City Council amend the Municipal Code to make CUP applications for emergency shelters a Process Five decision with no Planning Commission recommendation and exempt these facilities from the 1/4 mile separation requirement that is normally applicable."

After considering all aspects of the matter and mindful of the need to comply with the court order of the 4th District Court of Appeal in the case of Hoffmaster et al. v. City of San Diego, the Committee voted (aye 12, nay 1, abstain 1) to strongly oppose the proposed change to the Municipal Code, including the exemption of the 1/4 mile separation requirement, and recommends that the Planning Commission not approve or endorse the Manager's Recommendation for the following reasons:

(1) The effectiveness of an emergency shelter or transitional housing programs is significantly degraded when these housing facilities are concentrated too close together. This degradation comes about because people in these facilities are encouraged by proximity to each other to continue undesirable living patterns.

(2) Over concentration of these housing facilities degrades the character and living conditions of the surrounding community.

(3) Removing the Planning Commission from the decision process will make it easier to site new emergency or transitional facilities in areas where they already exist without consideration of the need for city-wide distribution.

The Committee believes that there is ample opportunity under the present Municipal Code and using the City's resources to expedite granting CUPs when emergency situations require.

Sincerely,

ANNA MAJOR  
Chair

RECEIVED  
CITY CLERK'S OFFICE  
98 AUG 18 PM 3:19  
SAN DIEGO, CALIF.

0-18588

0-18589