



## Agenda Item

**DATE:** AUGUST 18, 2022

**TO:** PLANNING COMMISSION

**FROM:** CARMELA CAMPBELL, ECONOMIC, AND COMMUNITY DEVELOPMENT DIRECTOR

**SUBJECT:** AMENDMENTS TO TITLE 18, ZONING, OF THE UNION CITY MUNICIPAL CODE TO UPDATE CHAPTERS 18.24, 18.31, 18.32, 18.34, AND 18.72 (AT-22-01)

**APPLICANT:** THE CITY OF UNION CITY

**REQUEST:** The City of Union City is proposing to amend Chapter 18.24 Bulk Regulations, Chapter 18.31 SB 9 Housing Developments, Chapter 18.32 Residential Zoning Districts, 18.34 Accessory Dwelling Units, and 18.72 Administrative Site Development Review of Title 18, Zoning, of the Union City Municipal Code

**LOCATION:** Citywide

**ENVIRONMENTAL ASSESSMENT:**

The project is categorically exempt per Section 15061(b)(3), the general exemption for projects with no potential for significant effect on the environment, of the California Environmental Quality Act (CEQA) Guidelines.

**SUMMARY:**

The City of Union City is proposing to amend Chapter 18.24 Bulk Regulations, Chapter 18.31 SB 9 Housing Developments, Chapter 18.32 Residential Zoning Districts, 18.34 Accessory Dwelling Units, and 18.72 Administrative Site Development Review of Title 18, Zoning, of the Union City Municipal Code. These amendments will add objective design standards for single-family residences and accessory dwelling units, update and streamline review processes for various types of development projects, clarify terms and

updates to reflect current practices, and add objective design standards for SB 9 housing developments. See Exhibit A (clean version) and B (red-lined version).

## **I. BACKGROUND**

### **Chapter 18.31 – SB 9 Subdivisions and Development Projects**

To address the State’s ongoing housing crisis, Governor Newsom signed Senate Bill (SB) 9 (Chapter 162, Statutes of 2021) into law, which became effective on January 1, 2022. SB 9 requires cities to ministerially approve a lot split for properties that are zoned single-family residential and to approve up to two residential units on each lot ministerially. This would essentially allow up to four units on what is now a single-family lot without any discretionary review process or review under the California Environmental Quality Act (CEQA). State law establishes a minimum lot size for the newly created lots of 1,200 square feet, which is well below the 4,500 – 6,000 square feet currently required in the City’s various single-family residential zoning districts. On November 23, 2021, the City adopted an urgency ordinance (Ordinance 892-21), which ensured there were minimum standards in place for when the bill became effective and added Chapter 18.31 to the Municipal Code. On December 14, 2021, the City adopted Ordinance 893-21, extending the urgency ordinance to provide staff additional time to develop more detailed requirements including objective design standards, which are included with the proposed amendments.

### **Chapter 18.32 - Residential Updates**

As part of the larger ongoing effort to modify and streamline the City’s design guidelines and standards for residential units, staff is proposing to align the objective design standards for SB 9 developments, ADUs, and single-family residential developments. The updates to the design criteria for single-family residential projects are intended to provide greater clarity for both staff and applicants in evaluating design features. Other design criteria included in the chapter, including those related to manufactured homes, are also proposed to be consolidated with the new objective standards. Additional updates are proposed to Chapter 18.32, Residential Districts, to provide further clarity on requirements for accessory structures, retaining walls, home occupations, fencing and parking. In addition, some minor updates to address formatting are proposed to this chapter. A minor update is also proposed to Chapter 18.24, Bulk Regulations, in conjunction with the updates to Chapter 18.32.

### **Chapter 18.34 - Accessory Dwelling Units (ADUs)**

Following the ADU updates reviewed by the Planning Commission and adopted by the City Council in 2021, staff received feedback from the California Department of Housing and Community Development (HCD). This feedback provided direction on additional modifications that are needed in order to be consistent with State law. These modifications are incorporated into the proposed amendments. Following up on the discussion above, the chapter was also updated to add objective design standards for consistency with Chapters 18.31 and 18.32.

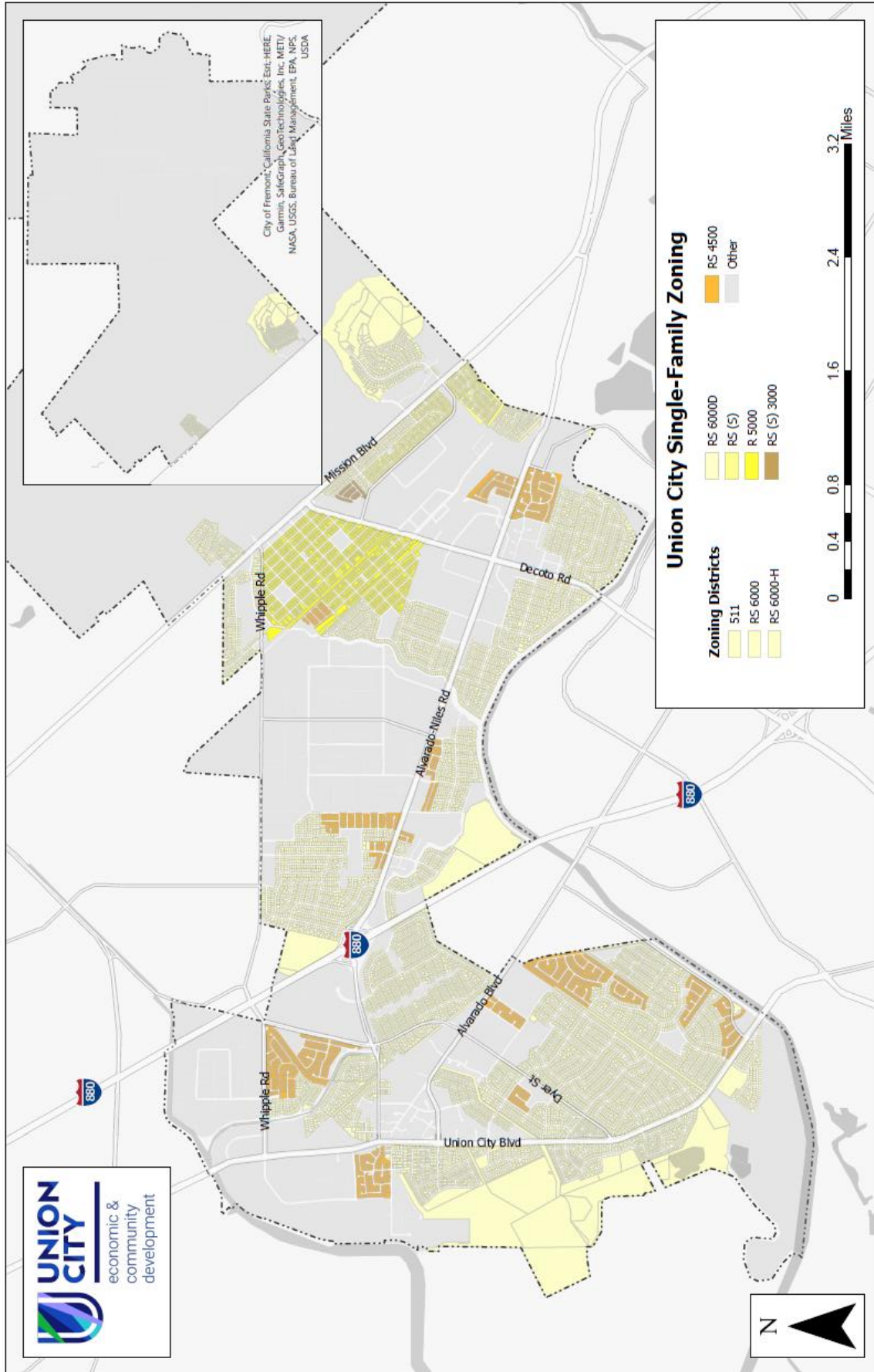
## **II. DISCUSSION**

### **A. Chapter 18.31 - SB 9 Subdivisions and Development Projects**

Senate Bill (SB) 9 (Chapter 162, Statutes of 2021) requires ministerial approval of a housing development with no more than two primary units in a single-family zone, the subdivision of a parcel in a single-family zone into two parcels, or both. SB 9 facilitates the creation of up to four housing units in the lot area typically used for one single-family home. SB 9 contains eligibility criteria, which has been included in the proposed Zoning text amendments which limits the applicability in certain instances. These criteria address sites with environmental site constraints (e.g., wetlands, wildfire risk, etc.), buildings that are considered a historic resource, and also restricts demolition of units, which accommodate renters and low-income households.

SB 9 projects can only be accommodated in single-family residential zones. Parcels located in multifamily residential, commercial, industrial agricultural, or mixed-use zones are not subject to SB 9 mandates even if they allow single-family residential uses as a permitted use. For Union City, the affected Zoning Districts are R-5000, RS-6000, RS-6000-H, RS-6000D, RS (S), RS (s) 3000, RS 4500, and 511, which are mapped in Figure 1 below.

### Figure 1: Union City Single-Family Zoning Districts



The City may apply objective development standards (e.g., front setbacks, heights, etc.), objective subdivision standards (e.g., minimum lot depths, etc.), and objective design standards (e.g., roof pitch, eave projections, façade materials, etc.) as long as the standards would not physically preclude either of the following:

**Up to Two Primary Units.** The City must allow up to two primary units on the subject parcel or, in the case of a lot split, up to two primary units on each of the resulting parcels.

**Units at least 800 square feet in size.** The City must allow each primary unit to be at least 800 square feet in size.

The terms “objective development standards,” “objective subdivision standards,” and “objective design standards” mean standards that involve no personal or subjective judgment by city staff. Any objective standard that would physically preclude either or both of the two objectives noted above must be modified or waived by the local agency in order to facilitate the development of the project, with the following two exceptions:

**Setbacks for Existing Structures.** The local agency may not require a setback for an existing structure or for a structure constructed in the same location and to the same dimensions as an existing structure (i.e., a building reconstructed on the same footprint).

**Four-Foot Side and Rear Setbacks.** SB 9 establishes an across-the-board maximum four-foot side and rear setbacks. Additionally, the four-foot side and rear setback standards are not subject to being waived.

The proposed updates to Chapter 18.31 include objective development standards, objective subdivision standards, and objective design standards. A high-level summary of these sections are included below. For a more detailed review, see attached Exhibit A (clean) and Exhibit B (redlined version).

***18.31.090 Objective Development Standards***

- Allows at least 800 square feet per SB 9 unit
- Separate utility connections required.
- Must allow for separate conveyance; therefore, the units must be designed to allow for separate sale or establishment as condominium units.
- Setbacks - Established by the zoning district.

- Except must allow 4-foot interior side and rear setbacks.
- Height - Established by the zoning district.
  - Except for portions of units located within required yards, building heights are limited to 16 feet.
- Lot Coverage – Established by the zoning district
  - Except must allow at least an 800 square foot unit.
- Building Separations – Minimum five (5) feet unless,
  - Conflict with unit size or setbacks; and
  - Building and Fire code requirements are met; and
  - The building meets the required four (4) foot side or rear setbacks.
- Parking – One (1) off-street, covered and enclosed parking space shall be provided per SB 9 unit, except if the parcel is located
  - within one-half mile walking distance of either a high-quality transit corridor<sup>1</sup> or a major transit stop<sup>2</sup> or
  - within one block of a car share vehicle<sup>3</sup>.
- Planned Unit Developments (PUD) / Specific Plan Requirements- Standards set forth in a PUD<sup>4</sup> or Specific Plan shall apply.

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<sup>1</sup> Per Section 21155 of the California Public Resources Code., a “high-quality transit corridor” is defined as a corridor with fixed route bus service with service intervals no longer than 15 minutes during peak commute hour.

<sup>2</sup> Per Section 21064.3 of the California Public Resources Code, a “major transit stop” is defined as **(a)** an existing rail or bus rapid transit station, **(b)** a ferry terminal served by either a bus or rail transit service, or **(c)** the intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods.

<sup>3</sup> Staff is not aware of any car share vehicles within Union City.

<sup>4</sup> For more information regarding PUDs, see Chapter 18.44, Planned Unit Development, of the Municipal Code, which can be accessed online at ([https://library.qcode.us/lib/union\\_city\\_ca/pub/municipal\\_code/item/title\\_18-chapter\\_18\\_44?view=all](https://library.qcode.us/lib/union_city_ca/pub/municipal_code/item/title_18-chapter_18_44?view=all))

- Except if conflicts with SB 9 standards included in Chapter or precludes an SB 9 Housing Development
- Occupancy requirements
  - For projects that do include an urban lot split, the property owner must live onsite for a minimum of 3 years, except in the case of a community land trust or nonprofit.
- Ability to Rent Unit – Units cannot be rented for less than 30 days (i.e., cannot be used as a short-term rental).

***18.31.100 Objective Subdivision Standards***

- SB Lot split – No more than two parcels
- Cannot exceed a 60/40 split (the second parcel cannot be smaller than 40 percent of the original parcel)
- Parcel Standards
  - Minimum of 1,200 square feet, and
  - Minimum 30 feet of frontage (except flag lots) and lot depth shall not exceed two times the lot width.
- Flag lots – Only allowed if a conventional lot does not allow a parcel of at least 1,200 square feet or a unit of at least 800 square feet.
- Driveway Standards – 12 feet paved, except where greater width is required for Fire Department access.
- Public Utility Easements must be provided when needed.

***18.31.110 Objective Design Standards***

- Roof Form and Detailing
  - Minimum Pitch
  - Match existing structure (if attached)
  - Match predominant roof material throughout the surrounding homes
  - Consistent material and color throughout roof
  - Minimum twelve inch (12”) overhang eaves
  - Garages shall match room form and materials of primary unit
- Building Facades and Materials

- Changes in wall plane
- Minimum 3 color façade (Can be color and/or material)
- Second Story
  - Inset from front wall plane
  - Inset from side or rear wall plane
- Chimney extensions shall match existing
- Windows and Glazing
  - Trim around windows, or
  - Windows recessed from the wall plane
  - Upper story windows shall;
    - Have a sill height of at least 60 inches above the finished floor, or
    - Be offset from the centerline of any windows on an adjacent property, or
    - Provide obscure glazing on window.
- Principal entrances
  - Front entrances shall be oriented towards the street
  - Front entrances shall be emphasized by either providing a projection, recess, or deck/stoop
- Balconies and upper-story decks – Not allowed
- Exterior Stairways – Not allowed
- Walls, fences and hedges – Established by 18.32.040
- Mechanical and utility equipment- Must be concealed from view
- Storage of waste containers - Must be concealed from view
- Landscaping – Established by 18.112
- Garages
  - Meet requirements in 18.32.020(I) and 18.32.160(C)
  - Attached Garage -Setback 4 feet behind front wall plane
  - Garage door
    - Stucco – door shall be recessed
    - Wood clad/Siding or Masonry – door shall be surrounded by trim

As part of these updates the City is able to charge appropriate fees for the processing and review of SB 9 applications. Staff recommend the following fees for these applications



Planning Division - SB 9 Ministerial Review \$3,946 per unit and \$3,946 for Urban Lot Splits

Public Works Department – SB 9 Urban Lot Split \$6,807

The Planning Division fee is based on the fee for projects containing a new single-family residence. The division is expecting the work for SB 9 Projects to be equivalent to that for a new single-family residence.

The Public Works Department fee is based on the fee for Final Parcel Maps. The department is expecting the work for SB 9 Urban Lot splits to be equivalent to that for Final Parcel Maps.

## **B. Chapter 18.32 - Residential Districts / Chapter 18.24 – Bulk Regulations**

Staff is proposing updates to Chapter 18.32 to add objective design standards, clarify language, and address some other miscellaneous items. See below for a high-level summary of the proposed updates. A minor update is also proposed to Chapter 18.24 for consistency with updates to this chapter.

### ***18.32.020 Permitted uses***

- Manufactured home design criteria
  - o Section removed from Permitted Uses and added to Section 18.32.125: Design Criteria
- Microenterprise Home Kitchen Operation (MEHKO)
  - o Allowed per state law, incorporated as an allowed home occupation
- Accessory Structures
  - o Reformat accessory structure requirements for clarity

### ***18.32.040 Walls Fences and Hedges***

- Retaining walls – Added requirements for retaining walls

### ***18.32.045 Decks and Balconies***

- Clarify requirements for decks and balconies to address privacy concerns

### ***18.32.125 Design Criteria***

- Manufactured home design criteria
  - o Language moved from Section 18.32.020

- Objective Design Standards
  - Building facades and materials
    - Changes in wall plane
    - Minimum 3-color façade (Can be color and/or material)
    - Second Story Facades
      - Inset from front wall plane
      - Inset from side or rear wall plane
    - Chimney extensions shall match existing
  - Windows and Glazing
    - Trim around windows, or
    - Windows recessed from the sounding wall plane
    - Upper-story windows shall:
      - Have a sill height of at least 60 inches above the finished floor, or
      - Be offset from the centerline of any windows on an adjacent property, or
      - Provide obscure glazing on window
  - Roof form and detailing
    - Minimum Pitch
    - Match existing structure if attached
    - Match predominant roof material throughout the surrounding homes
    - Consistent material and color throughout roof
    - Minimum twelve-inch (12") overhang eaves
    - Garages shall match room form and materials
  - Principal entrance
    - Front entrances shall be oriented towards the street
    - Front entrances shall be emphasized by providing a projection, recess, or deck/stoop

**18.32.160 Off-street parking**

- Tandem spots – Added size requirements

- Clarified required unobstructed dimensions for parking spaces

**18.24.050 *Permitted obstructions in all yards***

- Removed “trellis and arbors” from list of items so they will be subject to setbacks included in Chapter 18.32 for accessory structures.

**C. Chapter 18.34 - Accessory Dwelling Units**

Staff is proposing updates to Chapter 18.34 to clarify wording, add objective design standards, and in response to feedback received from the State Housing and Community Development Department. See below for a high-level summary of the proposed updates.

- Add reference to Chapter 18.31
  - o ADUs are in some cases limited on properties developed under SB 9
- Clarify what is included in the size of an ADU
  - o Enclosed patios or non-conditioned space (i.e., storage rooms) directly accessible or solely attached to the ADU shall be included in the ADU square footage.
- Second-Story ADUs
  - o Language added to reflect that the City must allow ADUs converted from existing space anywhere within a residential unit including area on the second story.
- Addressing
  - o Address to be visible from the front of the lot and address also required to be displayed at the primary entrance to the unit.
- Objective Design Standards
  - o Align standards with those applied to SB 9 Units

**D. Chapter 18.72 - Administrative Site Development (ASD) Review**

Staff is proposing updates to Chapter 18.72 to update applicability and criteria (see below) and additional miscellaneous edits for consistency or to clarify procedures/submittal requirements included in Sections 18.72.050, 18.72.080, 18.72.100.

**18.72.030 *Applicability***

- Updated for consistency with updates to Chapter 18.32 regarding decks and balconies

- Increased minimum size of accessory structures subject to ASD review from 120 sq. ft. to 450 sq. ft. to streamline review process for small structures
- Included reference to address where ASD review is required in other portions of the Code

#### **18.72.040 Limitations**

- Added language for projects which must be referred up to Planning Commission for review and approval, which reflect current practices

#### **E. Chapter 18.100 – 511 Area District**

Staff is proposing minor updates to the references in this Chapter to ensure that they point to the updated permitted uses in Section 18.32.020

#### **F. Public Outreach**

A newspaper notice for the zoning text amendments was published in the Tri-City Voice as required by State Law.

#### **G. Study Session and City Attorney Review**

The Planning Commission reviewed and provided feedback on the proposed amendments during a Study Session at its July 21, 2022, regular Planning Commission meeting. The Commission provided feedback on the proposed amendments, which included minor corrections to the language and clarifications on proposed amendments, requirements, and compliance with State law. For a full discussion see Draft Study Session Minutes (Attachment 1).

Following the Study Session, staff received additional feedback from the City Attorney's office. This feedback included necessary edits to ensure that the proposed provisions, where applicable, included standards that were fully objective, and confirmed that the provisions were in compliance with State law.

### **III. REQUIRED FINDINGS**

Section 18.64.060 requires that, when considering Zoning Text Amendments, the Planning Commission shall provide a recommendation to the City Council on the following:

1. Recommendation whether or not the application should be granted or denied, including the reasons for the recommendation;

2. The relationship of the application or proposal to the general plan and any applicable specific plans; and
3. Whether the change is necessary or desirable to achieve the purposes of Title 18.

#### **IV. ALTERNATIVES**

1. Recommend approval of the proposed Zoning Text Amendments to the City Council as proposed;
2. Recommend approval of the proposed Zoning Text Amendments to the City Council with stated modifications;
3. Recommend denial of the proposed Zoning Text Amendments to the City Council, stating reasons for denial;
4. Continue the matter for further consideration.

#### **V. RECOMMENDATION**

Staff recommends that the Planning Commission recommend approval of Zoning Text Amendment (AT-22-001) to the City Council based on the following specific findings:

1. That the Zoning Text Amendment is categorically exempt per Section 15061(b)(3), the general exemption for projects with no potential for significant effect on the environment, of the California Environmental Quality Act (CEQA) Guidelines; and
2. That the proposed Zoning Text Amendments are consistent with the following General Plan policies. There are no Specific Plans that apply to the site.
  - Policy CD-1.5 *Clear Development Regulations*, seeks to ensure the City promotes design excellence by having clear development regulations that reinforce quality design. The proposed amendments establish clear and concise development regulations that have been which have been implemented successful and have enhanced the design of residential projects throughout the city.
  - Policy CD-1.14 *Protect Neighborhood Character*, seeks to protect character-defining features of the neighborhoods. The proposed amendments help to reinforce the design requirements and ensure that developments are of a quality design and incorporate appropriate design features and massing.

3. That the proposed Zoning Text Amendments are necessary and desirable to achieve the purposes of Title 18, which seek to protect the character and maintain the stability of residential areas and conserve the taxable value of land and buildings throughout the City. These amendments will add objective design standards for single-family residences and accessory dwelling units, update and streamline review processes for various types of development projects, clarify terms and updates to reflect current practices, and add objective design standards for SB 9 housing developments, to support the development of new housing units which are of a quality design.

It is further recommended that the Planning Commission adopt the attached Resolution confirming this action.

**Prepared by**

Brandon H DeLucas, Associate Planner

**Attachments**

- |               |   |
|---------------|---|
| Exhibit A:    | Draft Amendments (Clean)                  |
| Exhibit B:    | Draft Amendments (Red-Lined)              |
| Attachment 1: | Draft July 21, 2022 Study Session Minutes |