

ORDINANCE NO. 9675 (N.S.)

AN ORDINANCE AMENDING THE SAN DIEGO COUNTY CODE,
TO REASSIGN JURISDICTION FOR CERTAIN LAND USE
PERMITS FROM THE PLANNING AND ENVIRONMENTAL REVIEW
BOARD TO THE PLANNING COMMISSION

The Board of Supervisors of the County of San Diego ordains as follows:

Section 1. The purpose of this ordinance is to implement the ordinance entitled "An Ordinance Amending the San Diego County Administrative Code, to Disestablish the Planning and Environmental Review Board, and Make Corresponding Procedural Changes", adopted the same date as this ordinance, by reassigning jurisdiction for certain types of land use permits and approvals from the Planning and Environmental Review Board, to the San Diego County Planning Commission, and to make corresponding changes in related regulations.

Section 2. Section 23.102 of the San Diego County Code is hereby amended, to read as follows:

SEC. 23.102. REGISTRATION.

(a) Except as provided in Section 23.103, any person who, on behalf of any corporation, firm, organization, or person other than himself attempts to influence any County decision by contacting, personally or by telephone any of the following County officers or employees shall prior to such contact, or within 5 calendar days thereafter, register as a County legislative advocate:

- (1) Members of the Board of Supervisors
- (2) Members of Planning Commission
- (3) Members of Assessment Appeals Board
- (4) Members of Civil Service Commission
- (5) Members of San Diego County Air Pollution Control District Hearing Board
- (6) Confidential Investigators of the Board of Supervisors
- (7) Board Representatives of the Board of Supervisors
- (8) County Assessor
- (9) Chief Deputy County Assessor
- (10) District Attorney
- (11) Assistant District Attorney
- (12) Sheriff
- (13) Undersheriff
- (14) County Treasurer
- (15) Chief Deputy County Treasurer
- (16) Director of Planning and Land Use

- (17) Director of General Services
 - (18) Chief Administrative Officer
 - (19) Assistant Chief Administrative Officer
 - (20) Members of San Diego County Capital Asset Leasing Corporation (SANCAL) Board of Directors
 - (21) Director of Purchasing and Contracting
- (b) A person representing a firm of which he is a member shall be deemed to be representing a person other than himself.
- (c) The registration requirement imposed by this section shall apply to all natural persons conducting the activities described in subdivision (a). A corporation, firm, or organization employing persons engaged in lobbying activities may not elect to register in its own name.

Section 3. Section 81.102.1.2 of the San Diego County Code is hereby amended, to read as follows:

SEC. 81.102.1.2. [ADVISORY AGENCY.]

"ADVISORY AGENCY" shall have the meaning specified in Section 66415 of the Subdivision Map Act and is designated and empowered as follows:

- (a) Major Subdivisions. The Planning Commission is hereby designated as the advisory agency for major subdivisions.
- (b) Minor Subdivisions. The Director is hereby designated as the advisory agency for minor subdivisions.
- (c) The advisory agency shall have the authority to perform the functions set forth in this Division and to prescribe such rules and regulations as it deems advisable respecting the form and content of maps and matters under its jurisdiction and the information to be filed therewith.

Section 4. Section 81.102.1.8 of the San Diego County Code is hereby repealed.

Section 5. Section 81.304 of the San Diego County Code is hereby amended, to read as follows:

SEC. 81.304. PLANNING COMMISSION DUTIES.

The Planning Commission, as an advisory agency, is authorized and directed to carry out the following actions:

- (a) Provide notice as follows:
 - (1) Public notice of the time and place of any public hearing once, in a newspaper of general circulation published and circulated within the County of San Diego, at least 10 days before said hearing;
 - (2) Notify by mail the owners of property within a radius of three hundred (300) feet of the exterior boundaries of the property covered by any tentative map that the Advisory Agency will be considering the tentative map; the names and addresses of such owners shall be determined according to Section

65905 of the Government Code, and the notices shall be deposited in the United States mails with the postage prepaid not less than five (5) days prior to the date of such consideration.

Provided, however, notice in the case an application for an extension of time for filing a final map or a modification to a previously approved resolution of conditional approval shall be provided pursuant to the provisions of Section 81.312.

(b) Investigate each tentative map filed with it pursuant to this chapter or the Subdivision Map Act and the improvements proposed to be constructed and installed in or to serve the subdivision and make its report with respect to design and improvements of the subdivision and the kind, nature, and extent of the proposed improvements.

(c) Obtain the recommendations of (1) the Director of Planning and Land Use, Director of the Department of Environmental Health and Director of Public Works, or their authorized representatives with respect to the design of the proposed subdivision and the kind, nature and extent of the proposed improvements, including but not limited to sewer, water and school services, and (2) the chief of the local fire district, or if there is no local fire district, the County Fire Marshal, with respect to fire hydrants and connections to be installed, wherever such installations are proposed.

(d) Take action on tentative maps as follows:

(1) For a tentative map filed for concurrent processing with a General Plan Amendment or a Specific Plan which must be approved before the tentative map can legally be approved (for general plan conformity or other reasons), and for a tentative map which proposes connection to the Rancho San Diego interceptor sewer line for the provision of sewer service and is not within the Current Urban Development Area as shown by the Regional Land Use Element of the County of San Diego, the Planning Commission is the advisory agency, but is not authorized to approve, conditionally approve or disapprove such map and shall consider it and make a report thereon to the Board of Supervisors pursuant to Section 66452.1(a) of the Subdivision Map Act.

(2) For all other tentative maps, the Planning Commission is the advisory agency and is authorized to approve, conditionally approve or disapprove such map as specified in Section 66452.1(b) of the Subdivision Map Act.

(e) Where the Advisory Agency approves or conditionally approves a tentative map it shall prescribe, pursuant to the provisions of this division the kind, nature and extent of the improvements including, but not limited to sewers, water, fire protection or school facilities, to be constructed or installed in or funded to serve the subdivision for which such tentative map is filed, provided, however, where the Advisory Agency does not prescribe the kind, nature or extent of the improvements to be constructed or installed, improvements shall be constructed and installed in accordance with the San Diego County Standards.

(f) Except when a tentative map is one as to which final approval can be given only by the Board of Supervisors as hereinbefore provided, or when an appeal is taken as hereinafter provided, the actions of the Advisory Agency specified in this section shall fulfill the requirements for approval of tentative maps by the Board of Supervisors pursuant to the provisions of Section 66426 and 66428 of the Subdivision Map Act; provided, however, no final map shall be filed in the office of the County Recorder until such map has been approved by the Board of Supervisors.

Section 6. Section 81.310 of the San Diego County Code is hereby amended, to read as follows:

SEC. 81.310. REVISED TENTATIVE MAP.

Where a subdivider desires to revise or alter a proposed subdivision for which a tentative map has been approved, the subdivider may file a revised tentative map on payment of the fees prescribed in Chapter 2 of this division.

(a) A revised tentative map shall conform to the following requirements:

(1) The proposed subdivision shown on such map shall generally conform to the street and lot pattern shown on the approved tentative map.

(2) The proposed subdivision shown on such map shall include only one contiguous area consisting of all or a portion of the subdivision shown on the approved tentative map together with such additional land, if any, as the subdivider desires to include.

(3) The map shall contain all of the information required on tentative maps and shall be accompanied by such data as is required to be filed with tentative maps.

(b) A revised tentative map may be filed within 36 months after the approval of the tentative map, or, if an extension of time is granted, within the period specified.

(c) Upon the filing of a revised tentative map and payment of the prescribed fee, such revised tentative map shall be processed in accordance with the procedures specified in Section 81.313.

The subdivider shall have 36 months from the approval or conditional approval of the original tentative map within which to record a final map, which 36 months period may be extended in accordance with the procedure and upon the terms prescribed in Section 81.308(b).

(d) Nothing in this section shall be construed as a limitation on the power of the Board of Supervisors or Planning Commission to approve alterations of a tentative map approved by such Board or Commission or to modify conditions imposed as a part of the approval of a tentative map.

Section 7. Section 81.311 of the San Diego County Code is hereby amended, to read as follows:

SEC. 81.311. REPLACEMENT TENTATIVE MAP.

A replacement tentative map may be submitted at any time prior to tentative map approval. A replacement tentative map shall be submitted when the Planning Commission or the Board of Supervisors finds that the number or nature of the changes necessary for conditional approval are such that they can be shown more clearly and simply by such a map. Any person filing a replacement tentative map shall pay a deposit to the Department of Public Works in an amount sufficient to cover the actual costs. The amount of said deposit shall be prescribed by the Board of Supervisors.

Section 8. Section 81.403 of the San Diego County Code is hereby amended, to read as follows:

SEC. 81.403. REQUIRED IMPROVEMENTS.

- (a) The subdivider shall be required to perform or agree to perform the following before approval of any final or parcel map of a major subdivision:
- (1) Grade and improve all land dedicated or to be dedicated for roads or easements, bicycle routes, and all private roads and private easements laid out on a final map or parcel map, in such manner and with such improvements as are necessary for the use of the lot owners in the subdivision, local neighborhood traffic, and drainage needs in accordance with County Standards.
 - (2) Install all on-site and off-site drainage and flood control facilities required by the Director of Public Works in conformance with County Standards. When, it is determined that construction of off-site facilities to the ultimate County Standards is unreasonable, staged construction may be permitted when the Board of Supervisors has determined there is a substantial public benefit, and:
 - (i) Drainage and flood control facilities required pursuant to this ordinance, which are outside the boundaries of the subdivision, may be constructed in stages in conformance with County Standards and shall provide for no increase in existing or potential flood hazards to downstream properties. Staged facilities shall provide for increases in flood flows attributable to a proposed development, and the cumulative effect of future developments in the watershed pursuant to current County policy regarding staged construction.
 - (ii) Design of staged facilities shall include provisions for minimum maintenance requirements including, but not limited to, vehicular access, erosion and sedimentation control, structural low flow channels, and service roads, plus landscaping and irrigation where appropriate.
 - (3) Provide proof satisfactory to the Director of Planning and Land Use that the serving water district has certified that adequate potable public water supply is available to each lot or parcel or to the Director of the Department of Environmental Health that there exists an adequate potable well water supply available to each lot or parcel. The subdivider shall install minimum water supply

pipe as determined by the Director of Public Works and recommended by the water district serving the proposed subdivision.

(4) Install fire hydrants and connections as approved by the chief of the local fire district or the County Fire Marshal.

(5) Install a public system for sewers or sewage disposal serving all proposed lots or parcels as a condition precedent to the approval of any parcel map or final map where it is determined that such system is required to preserve the public health due to the size and shape of the proposed lots, the terrain and soil condition of the land to be subdivided, and the existing development in the vicinity of the proposed subdivision. Such public system shall be approved by the serving district according to their standards and policies.

(6) Underground all new and existing utility distribution facilities, including cable television lines, within the boundaries of any new subdivision or within any half road abutting a new subdivision. The subdivider is responsible for complying with the requirements of this Subsection and he shall make the necessary arrangements with each of the serving utilities, including licensed cable television operators for the installation of such facilities. Transformers, terminal boxes, meter cabinets, pedestals, concealed ducts, and other facilities necessarily appurtenant to such underground utilities and street lighting systems may be placed above ground. The provisions of this Subsection shall not apply to the installation and maintenance of overhead electric transmission lines in excess of 34,500 volts and long distance and trunk communication facilities. When the installation of cable television lines is required, the subdivider shall provide the Director of Public Works with either documentation from a licensed cable television operator stating arrangements for the underground installation of cable television lines have been made; or documentation that the Cable Television Review Commission has reported that no licensed cable television operator is willing and able to install cable television lines in the subdivision. Any modification or waiver of the requirements of this Subsection shall be reviewed in accordance with the Board of Supervisors Policy "Undergrounding of Utilities."

(7) Construct a street lighting system as required by the Director of Public Works in conformance with County Standards.

(b) Where each parcel on a parcel map for a major subdivision contains a gross area of 20 acres or more, the subdivider shall be required to:

(1) Grade and improve private roads to grades and widths required in accordance with County Standards for Private Roads;

(2) Install all drainage structures and facilities required by the Director of Public Works in conformance with County Standards; and

(3) Install water supply pipelines, fire hydrants and connections as may be required by the Planning Commission or Board of Supervisors.

(c) All drainage and flood control improvements shall conform to applicable floodplain overlay zoning and drainage and flood control policies of the County General Plan.

Section 9. Section 81.407 of the San Diego County Code is hereby amended, to read as follows:

SEC. 81.407. AGRICULTURAL SUBDIVISIONS.

When the land to be subdivided is located within the boundaries of an Agricultural Preserve established by the Board of Supervisors and the owner thereof has entered into a Land Conservation Contract with the County, a tentative map may be filed proposing lots no smaller than specified in said contract. Other provisions of this division to the contrary notwithstanding, the dedication and improvement requirements for an agricultural subdivision shall be as follows:

(a) Dedication

(1) The road or roads providing access to an agricultural subdivision shall meet the same standards of easement width and improvements as required for access to a minor subdivision pursuant to Section 81.703(b).

(2) Except as required by paragraph (a)(1) above, agricultural subdivisions shall not be subject to the dedication requirements set forth in Sections 81.402(a), (b), (f), (g), (h) and (m) of this division.

(b) Required Improvements

(1) The subdivider shall be required to:

(i) Grade and improve roads in accordance with County Standards for Private Roads.

(ii) Install all drainage and erosion control structures, surfacing and facilities required by the Director of Public Works and in accordance with County Standards.

(iii) Install water supply pipelines, fire hydrants and connections as may be required by the Planning Commission or Board of Supervisors.

(2) Where a major subdivision is an agricultural subdivision as defined in Section 81.102.1.5 and each parcel shown on such parcel map contains a gross area of 20 acres or more, the subdivider shall meet all improvement requirements as specified in Section 81.407(b)(1) above.

(3) Except as required by Section 81.407(b) and (1) and (2) above, agricultural subdivisions shall not be subject to the improvement requirements set forth in Section 81.403(a)(6), (a)(7), and (b) of this division.

Section 10. Section 81.505 of the San Diego County Code is hereby amended, to read as follows:

SEC. 81.505. TYPE OF MAP REQUIRED.

(a) Final Map. Unless otherwise provided in this division a final subdivision map shall be prepared and filed pursuant to an approved tentative map for every major subdivision.

(b) Parcel Map. In lieu of filing a final map, unless otherwise required by the Subdivision Map Act, a parcel map may be filed pursuant to an approved tentative map when any of the following conditions prevail:

(1) The land before division contains less than five acres, each parcel created by the division abuts upon a maintained public street or highway and no dedications or improvements are required.

(2) Each parcel created by this division has a gross area of 20 acres or more and has an approved access to a maintained public street or highway and no dedication is required.

(3) The land consists of a parcel or parcels of land having approved access to a public street or highway which comprises part of a tract of land zoned for industrial or commercial development and which has the approval of the Planning Commission or the Board of Supervisors as to street alignments and widths and no dedication is required.

(4) Each parcel created by the division has a gross area of forty (40) acres or more or each of which is a quarter-quarter section or larger.

The form and content of any parcel map of a major subdivision filed pursuant to this section shall be in accordance with the requirements of Chapter 8 of this division.

Section 11 Section 81.614 of the San Diego County Code is hereby amended, to read as follows:

SEC. 81.614. MODIFICATION OF REGULATIONS.

Whenever the Advisory Agency, Appeal Board or Board of Supervisors, finds with respect to a tentative parcel map that the land to be divided is of such size or shape or is subject to such title limitations of record or is affected by such topographical conditions, or is in such location, or is to be devoted to such usage that it is impossible or impractical in the particular case for the subdivider to conform fully to the requirements of this division, the Director, or on appeal the Planning Environmental Review Board or Board of Supervisors, may waive or modify such requirements as deemed reasonably necessary; provided, however, any such waiver or modification shall be in conformity with the spirit and purpose of this division.

Section 12. Section 81.614.1 of the San Diego County Code is hereby amended, to read as follows:

SEC. 81.614.1. HEARING PROCEDURE FOR MODIFICATIONS OR WAIVERS DUE TO CHANGE IN REQUIREMENTS.

Whenever the Board of Supervisors changes a requirement for approval of tentative parcel maps subject to the provisions of this division, the Director, or on appeal the Planning Commission or the Board of Supervisors may modify or waive such requirement imposed upon tentative parcel maps approved prior to the

effective date of the change. The Director may authorize the Director of Public Works to act on requests for specified classes of modifications or waivers due to changes in requirements provided the duties of the Director are carried out by said Director of Public Works. The matter on appeal will be noticed, heard and decided using the procedure prescribed in Sections 81.612 through 81.615.

Section 13. Section 81.615 of the San Diego County Code is hereby amended, to read as follows:

SEC. 81.615. APPEAL TO PLANNING COMMISSION AND BOARD OF SUPERVISORS.

(a) The Planning Commission is hereby designated as the appeal board referred to in Section 66452.5 of the Government Code. Where the subdivider is dissatisfied with any action of the Director with respect to a tentative parcel map or adjustment plat he may appeal to the Planning Commission and the subdivider or the Director may appeal to the Board of Supervisors from any action of the Planning Commission as provided in Section 66452.5 of the Government Code.

(b) Any interested person may appeal to the Planning Commission and Board of Supervisors from any decision of the Director made relative to the responsibilities assigned to him in Section 81.610. Any such appellant shall be entitled to the same notice and rights regarding testimony as apply to the subdivider under Section 66452.5 of the Government Code.

(c) If during the course of appeal to the Board of Supervisors of the number or nature of the changes necessary for conditional approval are such that a replacement tentative parcel map is submitted, the appeal shall be dismissed and the matter resubmitted to the Planning Commission for its consideration. After consideration by the Planning Commission, its action may be appealed to the Board of Supervisors.

Section 14. Section 81.616 of the San Diego County Code is hereby amended, to read as follows:

SEC. 81.616. WAIVER OF PARCEL MAP.

Other provisions of this division to the contrary notwithstanding, the requirement that a parcel map be prepared, filed with the Director of Public Works and recorded may be waived provided a finding is made by the Director, or on appeal by the Planning Commission or the Board of Supervisors, that the proposed subdivision complies with the requirements as to area, improvement and design, flood and water drainage control, appropriate improved public roads, sanitary disposal facilities, water supply availability, environmental protection, and other requirements of this division and the Subdivision Map Act.

An applicant for a subdivision pursuant to this section shall pay the fee prescribed by Section 81.207 for tentative parcel maps and shall file an application and request for parcel map waiver which shall contain sufficient information in the

opinion of the Director to enable the Director, or on appeal the Planning Commission or the Board of Supervisors, to make the findings required by this section. The following types of subdivision are hereby deemed to comply with the findings required by this section for waiver of the parcel map unless a showing is made in individual cases, upon substantial evidence, that public policy necessitates such a parcel map:

(a) A minor subdivision wherein each resulting lot or parcel contains a gross area of forty (40) acres or more, or each of which is a quarter-quarter section or larger; provided, however, that the requirement that each resulting lot or parcel contain a gross area of 40 acres or more or be a quarter-quarter section or larger may be modified pursuant to Section 81.614 of this chapter to the extent that no such lot or parcel is smaller than 20 acres in gross area and the average gross area of all resulting lots or parcels equals 40 acres or more;

(b) A minor subdivision only for the purpose of leasing the lots resulting from such subdivision;

(c) A major subdivision as specified in Section 81.505 of this division.

(d) An environmental subdivision, as specified in Section 81.1400 of this division.

Minor subdivisions wherein dedications or improvements are required by the Director, or on appeal the Planning Commission or the Board of Supervisors, as a condition of approval are hereby deemed not to comply with the findings required by this section for waiver of the parcel map.

The processing of any application pursuant to this section shall be subject to the same time requirements and appeal procedures as are provided in this division for tentative parcel maps. In any case where waiver of the parcel map is granted by the Director, or on appeal by the Planning Commission or Board of Supervisors, the Director shall cause to be filed for record with the County Recorder a certificate of compliance pursuant to Chapter 11 of this division.

Section 15. Section 81.905 of the San Diego County Code is hereby amended, to read as follows:

SEC. 81.905. APPEAL.

Any person dissatisfied with any action of the Director pursuant to this chapter may appeal to the Planning Commission and any person may appeal to the Board of Supervisors from any action of the Planning Commission. Upon filing an appeal pursuant to this section a fee shall be paid to the Department for each application. The amount of said fee shall be determined no less than annually by the Board of Supervisors in an adopted resolution. The adopted resolution shall carry the full weight and force of this ordinance. Any appeal filed pursuant to this section shall be filed with the Clerk of the respective appeal body within 10 days after the action which is being appealed is taken.

Section 16. Section 81.1106 of the San Diego County Code is hereby amended, to read as follows:

SEC. 81.1106. APPEAL.

Any person dissatisfied with any action of the Director pursuant to this chapter may appeal to the Planning Commission and any person may appeal to the Board of Supervisors from any action of the Planning Commission. Upon filing any appeal pursuant to this section a fee shall be paid to the Department for each application. The appeal fee shall be determined no less than annually by the Board of Supervisors in an adopted resolution. The adopted resolution shall carry the full weight and force of this ordinance. Any appeal filed pursuant to this section shall be filed with the clerk of the respective body within 10 days after the action which is being appealed is taken.

Section 17. Section 82.202 of the San Diego County Code is hereby amended, to read as follows:

SEC. 82.202. DECISION-MAKING BODY.

"Decision-making body" means the Board of Supervisors, Planning Commission, the Zoning Administrator, or the Director of Planning and Land Use.

Section 18. This ordinance shall take effect and be in force thirty days after its passage, and before the expiration of fifteen days after its passage, a summary hereof shall be published once with the names of the members of this Board voting for and against it in a newspaper of general circulation published in the County of San Diego.

PASSED, APPROVED, AND ADOPTED THIS 22nd day of September, 2004.