

APPENDIX H

SUBSTANTIAL CONFORMITY DETERMINATION GUIDELINES

On occasion, an applicant requests slight deviations from an approved action in order to carry out a project. The County Development Code allows certain types of alterations from an approved project, following a determination of substantial conformity.

Procedure:

1. Applicant obtains an application for a Substantial Conformity Determination at the Department and pays applicable fees which may vary depending on the complexity of the request.
2. The Department reviews the project description that was considered at the time of project approval.
3. The Department considers key issues:
 - a. Has the project been the subject of substantial public controversy, or is there reason to believe the change is likely to create substantial public controversy?
 - b. Will the deviation result in a change to the project that would alter the scope and intent of the project the review authority acted on?
 - c. Would the deviation alter the public's perception of the project?
 - d. Would the deviation result in environmental effects not analyzed or discussed at the time of project approval and/or result in the need for additional mitigation measures?

If the answer to any of these basic questions is "yes", the Director cannot make a determination of substantial conformity.
4. The Department compares the request with established criteria. Listed below are criteria developed to assist in determining whether proposed changes to approved projects are in substantial conformity with the approved plans.
 - a. Does not conflict with project conditions of approval and/or recorded map conditions.
 - b. Does not result in health or safety impacts.
 - c. That the project facilities, operating procedures, environmental impacts, safety impacts, and the project's compliance with policies are substantially the same as those considered in the previous permit issued by the Director.
 - d. That the changes proposed can be effectuated through existing permit conditions.
 - e. That the impacts and changes do not alter the findings that the benefits of the project outweigh the significant unavoidable environmental effects made in connection with the original approval.
 - f. Does not result in an increase of 1,000 sq. ft. or more than 10 percent of building coverage of new structures over total project approvals, whichever is less.
 - g. Is clearly exempt from environmental review or was evaluated in the environmental review document prepared for the project and there are no new significant impacts related to the project change.
 - h. Does not require the removal of specimen trees or impact areas defined in the project environmental

- document as sensitive or designated as areas prohibiting structures.
- i. Is consistent with Comprehensive and/or Coastal plan policies and Development Code requirements.
 - j. Does not result in more than 1500 cubic yards of net cut and/or fill outside of the Coastal Zone, or 50 cubic yards within the Coastal Zone, and avoids slopes of 30% or greater, unless these impacts were addressed in the environmental assessment for the project and mitigation measures were imposed to mitigate said impacts and the proposal would not compromise the mitigation measures imposed or result in additional environmental impacts.
 - k. Is located within the same general location as, and is topographically similar to, approved plans. The location shall not be moved more than 10 percent closer to a property line than the originally approved development.
 - l. Does not result in an overall height which is greater than 10 percent above the approved height. The project must remain consistent with height requirements of the zone.
 - m. Receives Design Review approval for landscaping and structures, if necessary.
 - n. Does not result in intensification of use; e.g., no new employees, no increases in traffic, if these were important to the previous environmental/policy analysis.
 - o. Does not affect easements for trails, public access, or open space.
5. Depending on the degree of complexity for a substantial conformity determination request, the project manager takes action as follows:
- a. If a Substantial Conformity Determination request is minor, (e.g., no additional conditions are required, is not controversial, does not alter the intent of the decision-makers action, with approval from their supervisor), the Director issues the appropriate permit (Coastal Development Permit or Land Use Permit).
 - b. The Department prepares a letter outlining the changes to be made and why they are being approved. The letter must be reviewed and signed Director.
6. If a Substantial Conformity Determination cannot be made regarding changes to a project, the applicant may:
- a. Withdraw the request and continue with the project as approved; or
 - b. Submit an application for a Substantial Conformity Determination to the review authority for the original permit to which the Substantial Conformity Determination is requested, or apply for Amendment or Revision of the original permit.
7. Substantial Conformity Determinations are made by the review authority for the original permit if the conditions of approval of that permit so require.