



BOARD OF SUPERVISORS
AGENDA LETTER

Agenda Number:

Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Department Name: Public Works and
Planning &
Development
Department No.: 054, 053
For Agenda Of: July 7, 2015
Placement: Departmental
Estimated Time: 15 Minutes
Continued Item: No
If Yes, date from:
Vote Required: Majority

TO: Board of Supervisors
FROM: Department Directors: Scott D. McGolpin, Public Works Director, 568-3010
Glenn Russell, Ph.D., Planning and Development Director, 568-2085
Contact Info: Aleksandar Jevremovic, County Surveyor, 568-3020
Dianne Black, Planning and Development Assistant Director,
568-2086
SUBJECT: Amending County Code Chapter 21- Notices of Violation under the Subdivision Map Act

County Counsel Concurrence

As to form: Yes

Other Concurrence: N/A

As to form: N/A

Auditor-Controller Concurrence

As to form: N/A

Recommended Actions:

That the Board of Supervisors:

- A. Introduce (first reading) an Ordinance amending Chapter 21, Land Division, of the County Code, to add procedures for issuing notices of violations under the Subdivision Map Act (Attachment B);
- B. Continue to the administrative agenda on August 25, 2015 to:
 1. Consider the adoption (second reading) an Ordinance amending Santa Barbara County Code Chapter 21(Attachment B); and
 2. Read the title of the Ordinance and waive the reading of the Ordinance in full; and
 3. Find that the proposed actions do not constitute a "Project" within the meaning of California Environmental Quality Act (CEQA), pursuant to 14 CCR 15378(b)(2), consisting of "general policy and procedure making" and approve and direct staff to file a Notice of Exemption on that basis (Attachment C).

Summary Text:

The Subdivision Map Act requires the local agency to record a notice of violation in cases where it has knowledge that a parcel of land was created illegally. This proposed amendment of Chapter 21 would provide a clear process for County staff and the general public to follow that addresses such cases of the Subdivision Map Act violations. In cases where a parcel was illegally created, the notice of violation would inform a potential buyer by having a constructive notice recorded against the property.

The purpose of the proposed amendment is to streamline the process by having notices of violation issued by the County Surveyor. Currently notices of violation are issued after a hearing by the Board of Supervisors. The proposed amendment would have notices of violation issued by the County Surveyor and the decision would be appealable to the Board of Supervisors. Chapter 21 does not currently include procedures for issuing of Notices of Violation.

The proposed amendment would:

- Define Notice of Violation in Chapter 21 as a constructive notice to the current property owner and all successors in interest, pursuant California Government Code Section 66499.36;
- Designate the County Surveyor as being responsible for issuing an intent to file notice of violation and for filing a notice of violation;
- Establish a clear process for agency and property owners to follow by adding Division 14 in Chapter 21;
- Establish the process to appeal the County Surveyor's decision to file a notice of violation to the Board of Supervisors.

Notice of Violation process

1. **Preliminary determination.** The County Surveyor will initiate the processing of a notice of violation in instances where a preliminary determination made by the County Surveyor reveals that the property has been divided in violation of the State Subdivision Map Act or local ordinances. Examples of such instances include:
 - a. The review of an application for an unconditional certificate of compliance application reveals an illegal division and the owner does not apply for a conditional certificate of compliance to remedy the illegal division;
 - b. A County agency or an officer of the County becomes aware of an apparent violation and informs the County Surveyor of it;
 - c. A member of the public makes a complaint to the County Surveyor and a preliminary determination supports such complaint.
2. **Notice of intention to record a notice of violation.** Following the County Surveyor's preliminary determination that a violation has occurred, the County Surveyor then mails a certified letter of intention to record a notice of violation to the owner containing a detailed description of the property, the nature of violation, the name of the owner(s), and a statement that the owner will be given an opportunity to present evidence why the notice shouldn't be recorded. The notice shall specify the date, time and place where owner might present such evidence.

The meeting shall take place no sooner than 30 days and no later than 60 days from the date of mailing the certified letter of intention to record the notice of violation. If within 15 days

of receipt of the certified letter the owner fails to inform the County Surveyor of her or his objection to recording a notice of violation, then the County Surveyor shall record the notice of violation. If, however, the owner does object to recording the notice of violation and during the meeting presents evidence that there is no violation, then the County Surveyor shall mail a clearance letter to the owner.

3. **Notice of Violation.** If after the owner presents their evidence County Surveyor determines that the property was in fact illegally divided, then the County Surveyor shall record a notice of violation, provided an appeal of determination has not been filed.
4. **Appeal to the Board of Supervisors.** Should the owner disagree with the determination of the County Surveyor, the owner may file an appeal within fifteen days of the County Surveyor's written determination to the Board of Supervisors pursuant to Section 21-71.4.2 of Chapter 21. The Board, as part of a noticed public hearing, may then affirm or reverse the decision of the County Surveyor.

If adopted by the Board of Supervisors, this ordinance will take effect thirty days from the date of its passage.

Background:

The County of Santa Barbara has been reviewing parcel validity at the request of the owners or potential buyers of property and issuing certificates of compliance since 1973. The current process for recording certificates of compliance review is defined in Division 13 of Chapter 21. If during the review a parcel is found to have been created in violation of the Subdivision Map Act or local ordinances at the time of its creation, the property owner would receive a notice informing them that they are required to apply for a conditional certificate of compliance with the Planning and Development Department. Only in cases where the property owner does not follow up with the conditional certificate of compliance, would a notice of violation be recorded. Currently only your Board may issue a Notice of Violation following a public hearing. This amendment will allow the County Surveyor to perform this function which will save your Board the time required to hold a hearing on each case, unless the determination of the County Surveyor is appealed.

Special Instructions:

The Clerk of the Board shall send a copy of the signed and numbered ordinance and minute order to the County Surveyor, attention Aleksandar Jevremovic, and the Planning and Development Department, attention Noel Langle.

Attachments:

- A. Ordinance Amendment (showing proposed revisions)
- B. Ordinance Amendment (clean copy)
- C. CEQA Notice of Exemption

Authored by:

Aleksandar Jevremovic, County Surveyor (805-568-3012), Noel Langle, Planner (805-568-2067)