

SANTA BARBARA COUNTY BOARD AGENDA LETTER



Clerk of the Board of Supervisors
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Santa Barbara, CA 93101
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TO: Board of Supervisors

FROM: Valentin Alexeeff, Director
Planning & Development

STAFF CONTACT: Noel Langle, Management Specialist
934-6264

SUBJECT: Consideration of an amendment to the text of the County's Subdivision Regulations, Chapter 21 of the County Code (Case No. 03ORD-00000-00006) to modify Division 3.2 of Article I to allow for modifications of conditions that regulate the development of lots created by unrecorded lot splits approved by the County pursuant to Ordinance No. 791 (as amended).

Recommendation:

That the Board of Supervisors:

- A. Approve the Final Negative Declaration (03-ND-024) included as Attachment A of this report;
- B. Adopt the CEQA findings included as Attachment B of this report;
- C. Approve Case No. 03ORD-00000-00006 (First Reading) amending the text of the Subdivision Regulations, Chapter 21 of the County Code (see Attachment C); and
- D. Set the Second Reading for February 10, 2003.

Alignment with Board Strategic Plan:

The recommendation is primarily aligned with Goal No. 1, *An Efficient Government Able to Respond Effectively to the Needs of the Community*, and is required by law or routine business necessity.

Executive Summary and Discussion:

1. Background

On November 20, 2001 your Board adopted Ordinance No. 4436 (Case No. 01-OA-008) that made various revisions to the County's Subdivision Regulations. One of these revisions would have created a process to allow the County Zoning Administrator to approve modifications to conditions that regulate the development of lots that were created by unrecorded maps (i.e., lot splits approved prior to February 16, 1966) and lot line adjustments.

Prior to November 2001 there was already a process in place that allowed for modifications to conditions of recorded maps. However, there was not comparable process to allow for modifications to unrecorded maps (also known as lot splits) and lot line adjustments. Previously, conditions were modified through the approval of a "one-lot" subdivision, however, the County had discontinued this practice based on advice from the County Counsel. After receiving this advice from County Counsel the Board of Supervisors directed Planning & Development to process an amendment to Chapter 21 to include a modification process for lot splits and lot line adjustments.

Under the existing provisions of Chapter 21, a modification to recorded map can only be approved if all the following findings are made:

- (1) There are changes in circumstances that make any or all of the conditions of a recorded map no longer appropriate or necessary;
- (2) The modification does not impose any additional burden on the present fee owner(s) of the property;
- (3) The modification does not alter any right, interest or title reflected by the recorded map;
- (4) The recorded map as modified conforms to the provisions of Section 66474 of the California Government Code.
- (5) The recorded map as modified is consistent with the applicable zoning ordinance;
- (6) The property for which the modification is sought is in compliance with all laws, rules and regulations pertaining to zoning uses, subdivisions, height and setbacks, and any other provisions applicable to the property for which the modification is sought, and there are not outstanding enforcement fees;
- (7) The recorded map as modified does not result in an increased number of dwelling units or a greater density than the recorded final or parcel map or lot line adjustment.

Government Code Section 66474, referenced in finding 4 above, requires that a subdivision map shall be denied if any of the following findings are made:

- (a) That the proposed map is not consistent with applicable general and specific plans.
- (b) That the design or improvement of the proposed subdivision is not consistent with applicable general and specific plans.
- (c) That the site is not physically suitable for the type of development.
- (d) That the site is not physically suitable for the proposed density of development.

- (e) That the design of the subdivision or the proposed improvements is likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.
- (f) That the design of the subdivision or type of improvements is likely to cause serious public health problems.
- (g) That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision.

As amended by Ordinance No. 4436, in order to approve a modification to a lot split, the Zoning Administrator would have to make all of the same findings as required for a recorded map, except for number 7. Thus, a modification to a lot split could be approved even though it resulted in an increased number of dwelling units or a greater density than shown on the original lot split map, provided that the modification was determined to be consistent with the County's Comprehensive or Coastal Plan and applicable zoning ordinance. However, this portion of Ordinance No. 4436 was successfully challenged in court on the basis of inadequate CEQA review with the result that the lot split modification process was invalidated.

Thus, at this point in time, Chapter 21 still does not provide a process that allows for such modifications.

2. Current Proposal

The recommendation is that your Board approve and amendment to Chapter 21 (Attachment B) that would create a process to allow for County modifications to conditions that regulate the development of lots that were created by unrecorded lot splits. The process is the same as was adopted by your Board in 2001, that is, the modification would be under the jurisdiction of the Zoning Administrator, and in order to approve a modification the Zoning Administrator would have to find the findings listed as (1) through (6) on the previous page. Therefore, in order for a modification to a lot split to be approved, it must be found to be consistent with County adopted plans and zoning ordinances, such that the County retains adequate discretionary control and protections in the review and approval of such modifications.

3. Environmental Review

A Negative Declaration (03-ND-024, Attachment A) has been prepared to address the potential for environmental impacts to occur as a result of adoption of the proposed ordinance amendment. The public comment on the ND closed on December 12, 2003. No public comment was received.

The potential for environmental impact resulting from the adoption of the proposed amendment is directly related to the additional number of building sites that could be allowed if modifications to the conditions of approval of unrecorded lot splits approved between 1955 and 1966 were granted. That is, how many existing lots that are not allowed to be building sites could become building sites if the conditions of the applicable lot split were modified. To determine this potential, 20 percent of the 2,195 lot splits approved by the County, or 439, were surveyed to determine approximately how many lots created by these lot splits might be so encumbered.

Attachment B of Attachment A contains further information regarding the methodology and results of this survey.

Of the 439 surveyed lot split records, only four indicated that a lot was not to be considered as a separate building site, but was to be added to an adjacent lot. It is clear from the records that each of these cases represented the adjustment of boundaries between existing lots and not the creation of new lots, and that the restricted lot was smaller in size than required by the applicable zoning district. One other lot split (No. 2165) did contain an indication on the lot split exhibit that one of the lots shown on the map was to be added to an adjacent lot and not considered as a separate building site. However, the lot was large enough to qualify as a building site under the existing zoning at the time. Also, the lot split approval was conditioned to require that if the lot was not added to the adjacent lot that an access easement to the lot had to be provided. In summary, the survey revealed only five lots to have a “not a building site” restriction.

There is one other known instance where an approved lot split appears to create a lot that was not considered to be a building site. The exhibit map for Lot Split No. 1467, approved by the Santa Barbara Lot Split Committee on January 20, 1961, contains the following language pertaining to Parcel A (now known as Assessor’s Parcel No. 007-050-015) of that lot split: “Note: Parcel A is not to be used as a separate building site, but is to be added to adjacent Schutte property.” The approved lot split was conditioned by the County to only require that a provision be made to locate a riding and hiking trail on the property. There is no other condition language prohibiting development or otherwise confirming the notation on the lot split exhibit map. There is no indication in the lot split record, except for the note on the exhibit map, that the intent of the application was to adjust the boundary line between the two adjacent lots. Parcel A is approximately 0.77 acres in size; at the time the lot was created the applicable zone district required that the lot be one acre in size to be considered a building site. The lot was sold to the Schutte’s in January, 1962, but was never formally merged. In November, 1989, a Certificate of Compliance establishing the validity of the lot as a separate legal lot was recorded by the County of Santa Barbara. The current zoning normally requires that a lot be two acres in size to be considered a building site. However, the zoning also provides that a dwelling may be located on a smaller lot if such lot was legally created and is not a fraction lot. The subject lot was legally created and is not a fraction lot. Therefore, absent the restriction noted on the lot split plat exhibit, the lot would be considered a potential building site.

In conclusion, because the sampling disclosed very few lots that potentially could become building sites as a result of this amendment, it appears that the potential for environmental impacts related to this amendment is insignificant. Modifications to conditions on lot splits would be a discretionary action subject to environmental review and mitigation, if necessary, to reduce potentially significant impacts. Therefore, this amendment is not expected to result in significant environmental impacts.

4. Summary

Chapter 21 already provides a similar process that allows for the approval of modifications to conditions that regulate the development of lots created by recorded maps and lot line adjustments. Under the proposed language, unlike modifications to recorded maps or lot line adjustments, a modification to a lot split could be approved even though the modification may

result in an increased number of dwelling units or greater densities than originally approved. The proposed amendment would not, however, allow for the creation of a greater number of lots than originally approved.

The County retains complete, discretionary control and protection in the review and approval of such modifications. A modification could not be approved if it were inconsistent with the County's Comprehensive (General) Plan, including density standards, and the applicable zoning ordinance.

If the proposed amendment is approved, an owner of a lot created by a unrecorded map will be able to apply for a modification to conditions resulting from the map approval that restrict the development of the property, including a modification that may result in an increased number of dwelling units or a greater density than shown on the map as originally approved.

Mandates and Service Levels:

Amending the Chapter 21 County Subdivision Ordinance is a legislative act under the jurisdiction of the Board of Supervisors.

Fiscal and Facilities Impacts:

The work effort associated this ordinance amendment is accounted for in Planning & Development's budget for fiscal year 2003 – 2004 in the Development Review North subdivision on page D-290. There are no facilities impacts.

Special Instructions:

- Clerk of the Board will forward a copy of the Minute Order together with all pertinent documents (i.e., signed ordinance) to Planning & Development, attention Noel Langle.
- Planning & Development will prepare all final action letters and otherwise notify concerned parties of the Board of Supervisors' final action.
- Planning & Development will complete all noticing for this ordinance amendment.

Concurrence:

County Counsel

Attachments:

- A. Final Negative Declaration 03-ND-024
- B. CEQA Findings for approval
- C. Chapter 21 Ordinance Amendment 03ORD-00000-00006