

Attachment H
Final Engineering Flexibility Correspondence

From: [Jim Royle](#)
To: [Smith, Ashley](#)
Subject: Final Engineering Flexibility
Date: Friday, March 12, 2021 3:53:28 PM
Attachments: [Final Engineering Flexibility Public Notice.pdf](#)

Hi, Ashley.

It looks like the Postal Service decided to skip my house today so, to be sure you have this before the comment deadline, here's a scan of the SDCAS letter. With any luck, the hard copy will show up at your office Monday.

Regards,
Jim Royle



San Diego County Archaeological Society, Inc.

Environmental Review Committee

12 March 2021

To: Ms. Ashley Smith
Department of Planning and Development Services
County of San Diego
5510 Overland Avenue, Suite 310
San Diego, California 92123

Subject: Public Disclosure Notice
Final Engineering Flexibility

Dear Ms. Smith:

The subject Notice was distributed last month and I would like to submit a few comments and questions on its application.

The text of the Notice states that the intent is "to allow project changes required to comply with changes in State or Federal regulatory requirements, without requiring a modification or revised map if specific findings are made." The use of the word "required" implies that no changes would be permitted if the State or Federal requirements were *less severe*. The redlined text for the changes to the three ordinances, however, makes no distinction between requirements that are more severe or less severe. If nothing *requires* a project change but merely would otherwise permit one, to maintain the project characteristics and/or mitigation promised to the public in the project environmental documents, that change should not be permitted. That needs to find its way into the proposed ordinance revision.

The Notice and the proposed changes appear to be silent on several timing matters:

1. What is the key time (let's call it "Time T") in the timeline for a project, after which the process allowed by this proposed ordinance change would be allowed to be applied?
2. What is the corresponding point in the Federal or State regulatory process timeline? It seems it should only be for projects for which not even effective regulatory dates had been established at Time T, or cases where the Federal or State changed already-existing effective dates after Time T to make them take effect sooner.

It would seem essential for clarification of the intent to be incorporated somehow, to eliminate any future ambiguities when a potential case for application of the new provision comes along.

Thank you for making this proposed change available for public input to the County.

Sincerely,

A handwritten signature in black ink, appearing to read "James W. Royle, Jr.", written in a cursive style.

James W. Royle, Jr., Chairperson
Environmental Review Committee

cc: SDCAS President
File

Hi Ashley,

Proposed looks good with the following comments for consideration:

1. Consider replacing the language the proposed language for the Zoning and Subdivision Ordinance so the 3 items are prefaced with “considered”, not “met”, see below:

In determining whether the parcel map complies with the approved tentative parcel map, project change(s) required to comply with changes in State or Federal regulatory requirements shall not be required to be considered if all of the following are met: ~~met:~~ considered

- (a) It shall be determined that the project change(s) do not result in a new or substantially increased significant impact in accordance with the California Environmental Quality Act (CEQA).
- (b) It shall be determined that that the project change(s) do not result in the creation of a situation that would be detrimental to the health, safety, or welfare of the public.
- (c) It shall be determined that the project change(s) do not result in the elimination of project features required to meet other County of San Diego code requirements, including, but not limited to the following:

2. In the proposed changed in the Grading Ordinance, also consider the change of “met” to “consider”, for both locations. See above for location of work change.
3. In order to streamline the approval process of changes to approved grading plans, I think it’s important to provide guidance to new plan checker to determine what “substantially complies”. Attached is a previous Substantial Conformance list that was provided to plan checker in DPW, to assist in determining Substantial Conformance, which was provided to industry so submittals were streamlined for approval. Consider implementation of Policy in order to support substantial conformance determination with GP and IP submitted after approval of the TPM or TM.

Thank you for the opportunity to provide feedback to the proposed changes.

Annie Sibug Aguilar, PE
President | Principal Engineer

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Guidelines for GRADING Substantial Conformance

ATTACHMENT H 08
7/12/08
9/2009

These Guidelines are for use in determining when actual ground grading is to be considered **NOT** in substantial conformance with an approved Grading Plan. These Guidelines are meant to help define the expectations for how final ground grading will occur. DPW reserves the right to hold specific areas within the graded area to higher tolerances than those listed below if circumstances warrant such action. Any changes that exceed any of these tolerances will require the Permittee to process a Plan Change prior to proceeding with the work. Should DPW Inspection Staff visually detect grading which appears to exceed these tolerances, the Permittee and/or the Supervising Engineer will be requested to verify the actual ground conditions, a Notice of Violation will be issued for grading outside the tolerances and may result in a Notice to Stop Work until a Plan Change is processed.

GRADING CHANGES THAT REQUIRE A PLAN CHANGE

1. The grading footprint of the disturbed area measured in square feet exceeds that shown on the approved plans by more than 5% or 300 square feet (which ever is greater).
2. Actual grading quantities exceed those shown on the approved plans by more than 10% or 300 cubic yards (which ever is greater).
3. Internal slope heights/pad grades (cut or fill) differ from those shown on the approved plans by more than 2 feet (vertically).
4. Slope heights/pad grades (cut or fill) along the property line differ from those shown on the approved plans by more than 1 foot (vertically).
5. Any grading into stream or drainage thread, not shown on approved plan.
6. Any grading into any existing or proposed Open Space (including recreational), not shown on approved plan.
7. Any grading into Coastal Sage Scrub or within 250 feet of County mapped Coastal Sage Scrub, not shown on approved plan.
8. Installation of non-standard slope protection and/or planting for erosion control.
9. Significant new evidence has been discovered, such as sensitive habitat, vernal pools, unstable soils, etc., that restricts construction per the approved plans.
10. Lot grading that will require a lot line adjustment by more than 2 feet horizontally.
11. New or revised retaining structures or drainage facilities not as shown on approved plans.
12. Any grading offsite or into an existing easement not shown on approved plan.
13. Graded location of road has changed by more than 5 feet horizontally.
14. Graded elevation for road improvements has changed by more than 2 feet vertically.
15. Addition of new grading to support improvements or pads not shown on approved plans.
16. Changes that will cause significant changes in the grading operations, lot lines, or road easements.
17. Installation of utilities in roadways not shown on approved plans.
18. Any grading that will result in requiring a change to a final map.
19. Any addition or deletion of work that is subject to a condition of approval.