

**COUNTY OF SAN DIEGO
BOARD OF SUPERVISORS - LAND USE
WEDNESDAY, SEPTEMBER 01, 2021**

MINUTE ORDER NO. 5

**SUBJECT: ADMINISTRATIVE ITEM:
SECOND CONSIDERATION AND ADOPTION OF ORDINANCES: PROPOSED
ORDINANCE CHANGES TO PROVIDE FINAL ENGINEERING FLEXIBILITY
(08/18/2021 - 1ST READING; 09/01/2021 - 2ND READING) (DISTRICTS: ALL)**

OVERVIEW

On August 18, 2021 (02), the Board of Supervisors took action to further consider and adopt the Ordinances on September 1, 2021.

On February 12, 2020, (6), the Board of Supervisors (Board) directed staff in the Department of Planning & Development Services (PDS,) to reduce time and costs of discretionary permit processing across seven categories and return to the Board with recommendations for review and direction. The discretionary permitting process requires various technical studies and analyses, multiple stages of evaluation, and the determination of compliance with policies and regulations, all of which can be a costly and lengthy process. PDS staff has prepared options to increase discretionary permit processing efficiencies that reduce time and costs for customers, as well as make the process more predictable and transparent. All seven categories are described in the background section of the Board Letter. One of the categories is the subject of this Board Letter, as described below.

The Board directed staff to return with the Proposed Ordinance Changes to Provide Final Engineering Flexibility (Final Engineering Flexibility) by February 2023. This effort will not reduce the quality of PDS review of permit applications or create shortcuts or loopholes in the permitting process that would impact public safety, quality of life, environmental protection, or limit intended public participation. Instead, the effort allows applicants some flexibility when responding to outside agency conditions, without having to necessarily go through new permitting with the County as currently required.

The discretionary permit process applies to projects that are subject to CEQA and require the exercise of judgement on the part of decision makers. Examples of discretionary projects are Tentative Maps, Major Use Permits, Minor Use Permits, and Site Plans. Examples of projects that are exempt from CEQA are building permits, which are approved if the project complies with all applicable regulations. These are called ministerial permits. Final engineering plans, such as grading and improvement plan permits, further refine the design of a project while building plans develop this information to the level of detail needed for construction.

After a discretionary permit (e.g., a subdivision or a use permit) is approved, if changes are made to a project or there are changes to law after a project is approved, a subsequent discretionary permitting process is required. In the case of subdivision maps to divide one property into separate individual lots, a revised map may be required. In the case of use permits, a minor deviation allowing up to a 10 percent change to an approved permit may be allowed. If the proposed change exceeds 10 percent, a modification may be required. Proposed project changes can be the result of updated State or federal regulatory requirements such as stormwater law changes, fire or building code changes, and biological

resource law changes. By providing final engineering flexibility, the County can allow certain project changes required to comply with changes in State or federal regulatory requirements, without requiring a modification to a use permit or a revised map if specific findings are made, as listed below.

Proposed changes as a result of State or federal regulatory changes would be provided an additional 10 percent change allowance, if the following findings are met: 1) the change does not result in a new or substantially increased significant impact in accordance with CEQA; 2) the change does not result in a situation that would be detrimental to the health, safety, or welfare of the public; and 3) the change does not result in the elimination of project features required to meet the County code requirements.

Examples of project features required to meet the County code requirements that cannot be eliminated include: trails that provide connection through the project that are needed for regional connectivity; reduction in the overall amount of parkland approved with the original project; elimination of roads that are needed for emergency access, travel time, or to handle the traffic generated by the project; and elimination of space needed for required water supply wells or onsite wastewater treatment systems (septic). To implement Final Engineering Flexibility, changes will be made to the County Zoning Ordinance, Subdivision Ordinance, and Grading Ordinance.

RECOMMENDATION(S) PLANNING COMMISSION

On April 16, 2021, Planning Commission considered staff's recommendation of the Proposed Ordinance Changes to Provide Final Engineering Flexibility and recommended approval of staff's recommendation to the Board.

DEPARTMENT OF PLANNING & DEVELOPMENT SERVICES

Adopt the following Ordinances:

1. Consider and adopt the Ordinance Amending Section 7609 of the County of San Diego Zoning Ordinance Relating to Minor Deviation of Plan (second reading).
2. Consider and adopt the Ordinance Amending Sections 81.501 and 81.801 of the County of San Diego Subdivision Ordinance Relating to Maps and Parcel Maps to Conform to Requirements (second reading).
3. Consider and adopt the Ordinance Amending Sections 87.203 and 87.207 of the County of San Diego Grading Ordinance Relating to Issuance of Grading Permits and Grading Plans or Improvement Plans for Projects with Previous Discretionary Land Use Approval (second reading).

EQUITY IMPACT STATEMENT

No disadvantaged communities or Live Well Communities will be negatively impacted by the proposed efforts. The Proposed Ordinance Changes to Provide Final Engineering Flexibility (Final Engineering Flexibility) will provide greater flexibility to applicants between the early design and final engineering of a project without creating shortcuts or loopholes in the permitting process that would otherwise impact public safety, quality of life, environmental protection, or limit intended public participation. Final Engineering Flexibility requires findings to ensure adverse impacts will not occur to parks, trails, emergency access or travel time, traffic, water wells, or septic systems in any communities. Final engineering flexibility would also provide options that are low cost and equitable for all permit applicants to more easily navigate through the permitting process.

The effort is not focused on a specific neighborhood but is applied throughout the unincorporated county. Because the effort provides options to reduce the time and cost spent on permit processing, the efforts would be more equitable to all permit applicants than current permitting process options.

The effort would not adversely affect equity or result in unintended consequences to public health, housing, food, access and affordability, or jobs. For information on the outreach conducted as part as this effort, please see the Public Input section of this Board Letter.

FISCAL IMPACT

There is no fiscal impact associated with these recommendations. There will be no change in net General Fund costs and no additional staff years. The Proposed Ordinance Changes to Provide Final Engineering Flexibility will be implemented through publicly or privately initiated projects which are publicly or privately funded. Private development costs will be paid for by the private sector through the entitlement and permit processes. Public project costs will be identified during project development and funded in future Operational Plans.

BUSINESS IMPACT STATEMENT

The Proposed Ordinance Changes to Provide Final Engineering Flexibility (Final Engineering Flexibility) would reduce the time and cost of permit processing for applicants. This effort would reduce review time by up to 11½ months and reduce costs to applicants by up to \$30,000.

ACTION:

ON MOTION of Supervisor Fletcher, seconded by Supervisor Vargas, the Board of Supervisors took action as recommended, adopting the following:

Ordinance No. 10743 (N.S.), entitled: AN ORDINANCE AMENDING SECTION 7609 OF THE COUNTY OF SAN DIEGO ZONING ORDINANCE RELATING TO MINOR DEVIATION OF PLAN;

Ordinance No: 10744 (N.S.), entitled: AN ORDINANCE AMENDING SECTIONS 81.501 AND 81.801 OF THE COUNTY OF SAN DIEGO SUBDIVISION ORDINANCE RELATING TO MAPS AND PARCEL MAPS TO CONFORM TO REQUIREMENTS; and,

Ordinance No. 10745 (N.S.), entitled: AN ORDINANCE AMENDING SECTIONS 87.203 AND 87.207 OF THE COUNTY OF SAN DIEGO GRADING ORDINANCE RELATING TO ISSUANCE OF GRADING PERMITS AND GRADING PLANS OR IMPROVEMENT PLANS FOR PROJECTS WITH PREVIOUS DISCRETIONARY LAND USE APPROVAL.

AYES: Vargas, Anderson, Lawson-Remer, Fletcher, Desmond

State of California)
County of San Diego) §

I hereby certify that the foregoing is a full, true and correct copy of the Original entered in the Minutes of the Board of Supervisors.

ANDREW POTTER
Clerk of the Board of Supervisors



Signed
by Andrew Potter



SEPTEMBER 01, 2021