

COUNTY OF SAN DIEGO, CALIFORNIA
BOARD OF SUPERVISORS POLICY

Subject

Prohibition of Grading Until Annexation or Other Discretionary Actions Are Completed

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Purpose

To establish a policy to require that all discretionary actions, relating to Subdivision Maps and/or use permits be identified, processed, and approved prior to issuance of grading permits.

Background

Some land proposals require multiple discretionary approvals from the County; some also require annexation or other discretionary action from other districts or governmental agencies. Some proposals for grading show grading or drainage work to be done on off-site property which is not included in the proposed development. These may be located on open space or other easements requiring special conditions or discretionary approvals in addition to the owner's consent to the work.

Intent

It is the intent of the Board of Supervisors that a permit for grading or drainage work shall be withheld until the applicant has furnished affidavits showing the ownership of all land on which work is to be done; together with documentation of the owners consent to the proposed work.

It is the intent of the Board that all requirements for County discretionary permits or approvals be identified, where possible, by Planning & Development Services (PDS) during its initial review after receiving application, and that the applicant be encouraged to seek related County discretionary approvals by concurrent processing of appropriate applications.

It is the intent of the Board that issuance of further ministerial permits shall be withheld if at any time it is found that the applicant lacks any discretionary permit or approval required for the project.

Policy

It is the policy of the Board of Supervisors that:

Discretionary and Ministerial

1. A grading permit for any project requiring discretionary approvals shall not be issued until all discretionary permits or approvals that can be determined as necessary in light of the project detail shown on the plan or permit application or known or reasonably inferred by the County Official, including those by other governmental

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agencies, such as Special Districts, or the Coastal Commission have been obtained. Where the Board of Supervisors, the Planning Commission, Director of PDS or Zoning Administrator has issued a conditional approval, on discretionary actions by other governmental agencies, the resolution should note which actions, if any, are prerequisite to the issuance of a grading permit.

2. PDS will inform the applicant after an initial review of a project application, of all County discretionary permits or approvals which will be necessary for the project and will ensure that the requirement for obtaining such permits or approvals is incorporated in any associated conditional approval. The applicant should be encouraged to seek relating County discretionary approvals by concurrent processing of appropriate applications.
3. Whenever it is discovered that a necessary discretionary approval for a project is lacking, no further ministerial permits shall be issued until required approval has been obtained.
4. If a subsequent need for discretionary approval is discovered which is consistent with earlier Director of PDS, Planning Commission, or Board of Supervisors approved discretionary permits, the Director of PDS is authorized to issue such supplemental discretionary permits. However, if the Director of PDS has any doubt about the intention of the decision-making body to approve the grading that would be the subject of subsequent discretionary permit, the Director of PDS will instruct the applicant to initiate the subsequent permit application.

Proof of Ownership

1. Tentative Map(s) for major subdivisions and Tentative Parcel Map(s) for minor subdivisions shall be conditioned to require the applicant to provide, with the applicant's grading plan, prior to the issuance of a grading permit, proof of ownership and owner approval of any grading to be performed on their property, or approval of drainage improvements to be constructed, placed, or allowed to flow on their property. This proof of ownership and approval shall be provided for areas which are off-site as well as on-site, and shall be in a form satisfactory to County Counsel.

The applicant shall also be required to identify on the grading plan any areas on which special conditions exist, such as an open space easement (off-site or on-site), along with a copy of the open space dedication certification.

At the option of the County Official issuing the grading permit, the proof of ownership, ownership permission to grade, and clearance of any burden on the property restricting grading may be in the form of a statement on the grading plans

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that would attest to the fact that the applicant and an engineer have determined that all required permits and approvals prerequisite to the issuance of the grading permit have been obtained, and that all easements and property ownerships on- and off-site are shown and are true and correct, and that written permission has been obtained from the owners for all grading and other work to occur both on- and off-site. This statement would be signed by both the applicant and the engineer.

2. Where drainage is proposed to be handled totally within the limits of a Tentative Map or Tentative Parcel Map, the department issuing the grading permit shall not issue that permit until the permittee has provided the department with an affidavit, under penalty of perjury, which affidavit indicates that the permittee owns the property and agrees to the grading shown on the permit. In the event the property is not owned by the permittee, the permit shall not be issued until the owner provides an affidavit, under penalty of perjury, that he or she is the owner and consents to the grading shown on the proposed grading plan.
3. Where the grading plan requires off-site easements in order to bring the drainage into an approved, publicly maintained drainage way, a current certificate of title shall be produced for the off-site area identifying the owners and an affidavit provided by the owners identified on the certificate indicating that they consent to the work or drainage flow being shown or placed on their property which is off-site to the grading permit area. In the absence of such proof, no permit shall be issued.

Procedure

1. PDS shall list, in the recommendations to the Planning Commission or Zoning Administrator, those conditions of approval of the Tentative Map or use permit necessary to be met before a grading permit may be issued. For Tentative Parcel Maps, the Director of PDS shall determine the conditions necessary to be met prior to issuing a grading permit. Should it be discovered that additional discretionary permission, which is consistent with a previously approved discretionary permission, is required prior to issuance of the grading permit, the Director of PDS may issue such discretionary permission. But if the Director of PDS believes that there is any doubt that the previously approved discretionary permission was intended to authorize the grading that would be the subject of the additional discretionary permission, the Director of PDS shall instruct the applicant to initiate action to obtain the additional discretionary permission.
2. The Director of PDS shall issue the grading permit in instances of major and minor grading after determining:

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- a. That all the necessary conditions noted in the resolution of conditional approval have been met; and
- b. That all on-site and off-site owners have agreed to the grading or drainage work or flows shown are acceptable; and
- c. That the grading permit application is correct and all other requirements of the Grading Ordinance have been met.

Exceptions

This policy will not be applied to the following actions:

1. Annexation to a street lighting district.
2. Annexation to a County Service Area, unless open space maintenance or road maintenance is to be provided by the service area.

Responsibility

It is the responsibility of the Director of PDS to identify all necessary County permits early in the permit process and to process the discretionary permits simultaneously at the beginning of the process. When the need for a discretionary permission is discovered during the processing of a ministerial permit, it is the responsibility of PDS, the Department of Public Works and any other department involved in ministerial permit issuance to withhold such permit release until the impacting discretionary permits have been processed and issued.

Sunset Date

This policy will be reviewed for continuance by 12-31-26.

Board Action

12-23-75 (17)
2-13-79 (3)
12-15-82 (42), operative 3-1-83
8-22-89 (47)
5-15-96 (11)
8-7-2002 (5)
12-09-08 (33)
10-31-12 (4)

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11-20-19 (10)

CAO Reference

1. Department of Planning & Development Services
2. Department of Public Works