



The County of San Diego

Planning Commission Hearing Report

Date:	January 21, 2022	Project:	Ordinance Amendments to Establish Procedures for the Closing of Inactive Permit Applications
Place:	No in Person Attendance Allowed – Teleconference Only - County Conference Center 5520 Overland Avenue San Diego, CA 92123	Case/File No.:	PDS2020-POD-20-013
Time:	9:00 a.m.	Location:	Districts – All
Agenda Item:	#3	General Plan:	Various
Appeal Status:	Not applicable; Approval by the Board of Supervisors	Zoning:	Various
Applicant/Owner:	County of San Diego	Communities:	All unincorporated communities
Environmental:	Notice of Exemption; CEQA 15378(b)(5) and 15060(c)(3)	APNs:	Various

A. OVERVIEW

The purpose of this staff report is to provide the Planning Commission with the information necessary to make a recommendation to the Board of Supervisors (Board) to approve, approve with modifications, or deny the proposed Ordinance Amendments to Establish Procedures for the Closing of Inactive Permit Applications (Project). This Project proposes to amend the County Zoning Ordinance and County Subdivision Ordinance to regulate how discretionary permits are handled if there is no activity being made by the applicant to complete processing the permit, by mandating they be automatically withdrawn from consideration after two consecutive years of inactivity. Discretionary permits are projects which are reviewed under the California Environmental Quality Act (CEQA) and require consideration by a decision maker. These projects often require multiple cycles of design and review. During this process a project can often become inactive, where no progress is being made to finalize and complete the project. Examples of discretionary projects that may become inactive include, but are not limited to, Tentative Maps, Major Use Permits, Minor Use Permits and Site Plans.

B. RECOMMENDATIONS

This is a request for the Planning Commission to consider the proposed Ordinance Amendments to Establish Procedures for the Closing of Inactive Permit Applications (Ordinance Amendments) and make

recommendations to the Board of Supervisors. Planning & Development Services (PDS) recommends that the Planning Commission take the following actions:

1. Find that the Ordinance Amendments to Establish Procedures for the Closing of Inactive Permit Applications (Ordinance Amendments) comply with the California Environmental Quality Act (CEQA) and State CEQA Guidelines because the Ordinance Amendments is not a project as defined in the Public Resources Code Section 21065 and CEQA Guidelines Section 15378(b)(5), and therefore is not subject to CEQA pursuant to CEQA Guidelines Section 15060(c) (Attachment C).
2. Recommend that the Board of Supervisors adopt the Ordinance:

AN ORDINANCE AMENDING THE SUBDIVISION ORDINANCE, TITLE 8, DIVISION 1, OF THE SAN DIEGO COUNTY CODE TO ADD A PROCEDURE FOR THE CLOSING OF INACTIVE PERMIT APPLICATIONS (Attachment A).

3. Recommend that the Board of Supervisors adopt the Ordinance:

AN ORDINANCE AMENDING THE SAN DIEGO COUNTY ZONING ORDINANCE TO ADD DEFINITIONS AND PROCEDURES FOR THE CLOSING OF INACTIVE PERMIT APPLICATIONS (Attachment B).

C. BACKGROUND

In October of 2009, the Board enacted Board Policy I-137 titled "Processing Inactive Projects." This policy directs PDS to place projects with a history of inactivity into idle status where they are put on an administrative hold. In November 2019, as part of the County's Sunset Review Process, where Board Policies that are due to expire are reviewed to see how they can be improved, the Board directed PDS to draft amendments to the County Zoning Ordinance and County Subdivision Ordinance to outline a new process for handling inactive projects. The proposed amendments would replace Board Policy I-137, which is set to expire in April of 2022.

Under Board Policy I-137, projects can be placed in idle status when the County has not received the documentation or information necessary to continue processing a project for 12 months. When a project is placed in idle status, the application is put on an administrative hold, the PDS Project Manager is removed from the project and the project files are retained in an idle status library. After a project is in idle status for two years, it can be sent to the appropriate decision maker for denial.

At the November 2019 Board meeting, the Board directed staff to review the 123 projects in idle status at the time, and to notify the applicants of their option to withdraw or reactivate their projects within 60 days. After the November Board meeting, PDS mailed notices to applicants, project contacts, and owners informing them of their options. As a result of those efforts, 77 projects were formally withdrawn, 18 projects requested to remain in idle and 15 projects requested to be reactivated. Despite multiple attempts to contact the project applicants, 13 of the project applicants did not respond.

On August 5, 2020, the Board directed staff to begin forwarding projects which had made inadequate progress, as defined by Policy I-137, to the appropriate decision maker for denial and to finalize amendments to the Zoning Ordinance and Subdivision Ordinance, to establish a procedure for closure of inactive permit applications based on criteria selected by the Board.

On January 22, 2021, the Director of PDS (Director) denied four of the idle projects. The remaining nine idle projects, consisting of 11 discretionary permit applications, required Planning Commission action for denial. On April 16, 2021, the Planning Commission denied the remaining nine idle projects due to their inactive or “idle status” of more than two years.

Policy I-137 is scheduled to be deleted on April 30, 2022 and PDS is before the Planning Commission today to present the ordinance revisions to modify the County Regulatory Code to establish a new process for handling inactive projects. Under the proposed Ordinance revisions, inactive permit applications will be withdrawn after two consecutive years of inactivity. The permit applicant may also request two-year extensions of an inactive permit application twice, not to exceed a cumulative total of six years in inactive status (two years inactive plus four years of extensions as described below).

D. PROPOSAL

In November 2019, the Board directed staff to draft amendments to the County Zoning Ordinance and County Subdivision Ordinance (Ordinance Amendments) to outline a new process for inactive projects. These amendments will replace Board Policy I-137, which is set to be deleted in April of 2022.

The proposed Ordinance Amendments will define a project as “inactive” if the project applicant has not submitted requested documents, information, and/or funds necessary to continue processing the project within one year of the request by PDS.

Once the project is placed in inactive status, the project applicant then has two years to provide the requested items to remove the project from inactive status. At the end of this two year period, the applicant must either apply for a two-year extension of inactive status or the project would automatically be withdrawn.

After the first two-year extension, the applicant may apply for a second two-year extension if there are “extenuating circumstances” applicable to the project. Extenuating circumstances include events or requirements that are out of the control of the applicant, including mandated requirements or review from other government agencies, the need to complete studies that include surveys or other associated requirements, the discovery of new environmental issues affecting the project and/or financial hardship. If the applicant does not apply for this second extension, the project would be automatically withdrawn. After the end of this second two-year extension the project would be automatically withdrawn if the requested items are not submitted.

Staff received feedback from stakeholders during outreach stating that the cumulative time period a project may be in inactive status, six years, is too long and should be reduced. The Planning Commission could recommend a shorter timeframe to the Board and reduce the six-year cumulative time extension period to four years as could the Board when they consider the ordinance amendments.

Current Status of Idle Projects

In response to the Board’s direction to close out projects currently in idle status, PDS staff reached out to the project applicants, as well as the property owners of the project sites, to determine whether the applicant would like to withdraw the project, stay in idle status, or reactivate the project. Of the 123 projects that were in idle status, 77 were formally withdrawn. During this outreach effort, there were 18 projects who requested to remain in idle status and were given a two-year extension to reactivate or withdraw their project and 15 projects were requested to be taken out of inactive status and reactivated. Staff has continued outreach efforts with these applicants, but no further activity has occurred. The two-

year time extension will expire on April 30, 2022 and if there is no request submitted to reactivate or withdraw these projects, they will be moved forward for denial by the appropriate decision maker.

Table 1: Current Status of Idle Projects

<i>Project Status</i>	<i>Count</i>
<i>Requested to Reactivate</i>	15
<i>Denied</i>	13
<i>Requested to Remain in Idle</i>	18
<i>Requested to Withdraw</i>	77
<i>Grand Total</i>	123

Of the 15 projects that requested to be reactivated, three have formally submitted an Initial Consultation to reactivate their project to continue processing and the remaining 12 have not submitted any information or reactivated their project by submitting an Initial Consultation.

Of the 18 projects that requested remain in idle, three have requested to withdraw their project. Two additional projects have been in discussions with staff to determine whether to withdraw or reactivate their project. The remaining 13 have not submitted a request to reactivate or withdraw the project.

As an ongoing effort, PDS will be conducting another round of outreach to the applicants with projects that are still in idle status, which include:

- Projects that requested an extension of idle status; and
- Project where the applicant requested to reactivate the application but did not submit the required materials.

E. ENVIRONMENTAL ANALYSIS

California Environmental Quality Act (CEQA) Compliance

The adoption of the proposed ordinances is not a “project” as defined in Public Resources Code Section 21065 and CEQA Guidelines Sections 15378(b)(5) and 15060(c)(3) and is therefore not subject to CEQA. A project as defined by CEQA, is the whole of the action that has the potential to result in either a direct physical change or a reasonably foreseeable indirect physical change to the environment. An action that revises how inactive development projects are processed is not a project under CEQA because it is an administrative function and has no potential to cause a physical change in the environment. Furthermore, any development project being processed by the County will be reviewed for compliance with CEQA.

F. PUBLIC INPUT

The proposed Ordinance Amendments to Establish Procedures for the Closing of Inactive Permit Applications, included an extensive public outreach process that involved ongoing coordination with internal specialists, other County Departments, Community Planning/Sponsor Groups, Design Review Boards and other external stakeholders. Two public community meetings were held at the Community Planning/Sponsor Group and Design Review Board meetings from September 2021 to November 2021 to provide presentations and gather public input on the County’s Inactive Permit Ordinance Amendments efforts. Six additional stakeholder outreach meetings were held between September 2021 to November 2021 including the Quarterly Community Planning/Sponsor Group/Design Review Board Chairs meeting,

the Land Development Technical Working Group, the Building Industry Association, the Environmental Groups and other various environmental groups.

The Ordinance Amendments were advertised for a 32-day public disclosure period from September 30, 2021 to October 25, 2021. Over 600 consultant firms, agencies, and jurisdictions were noticed as part of this effort. Two public comment letters were received requesting for the time extension options to be reduced and were concerned with the Ordinance Amendments' allowance of applications to be extended for up to seven years. The Planning Commission may make a recommendation to the Board of Supervisors to address these public comments and reduce the number of years an inactive project can request for a time extension. These public comments are included in Attachment E.

Report Prepared By:

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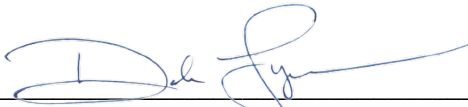
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AUTHORIZED REPRESENTATIVE:



DAHVIA LYNCH, DIRECTOR

ATTACHMENTS:

- Attachment A – AN ORDINANCE AMENDING THE SUBDIVISION ORDINANCE, TITLE 8, DIVISION 1, OF THE SAN DIEGO COUNTY CODE TO ADD A PROCEDURE FOR THE CLOSING OF INACTIVE PERMIT APPLICATIONS
- Attachment B – AN ORDINANCE AMENDING THE SAN DIEGO COUNTY ZONING ORDINANCE TO ADD DEFINITIONS AND PROCEDURES FOR THE CLOSING OF INACTIVE PERMIT APPLICATIONS
- Attachment C – Ordinance Amendments to Establish Procedures for the Closing of Inactive Permit Applications Notice of Exemption
- Attachment D – Correspondence for Inactive Permit Applications
- Attachment E – An Ordinance Amending The Subdivision Ordinance, Title 8, Division 1, Of The San Diego County Code To Add A Procedure For The Closing Of Inactive Permit Applications (Strike-Out)
- Attachment F – An Ordinance Amending The San Diego County Zoning Ordinance To Add Definitions And Procedures For The Closing Of Inactive Permit Applications (Strike-Out)

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Attachment A

**AN ORDINANCE AMENDING THE SUBDIVISION
ORDINANCE, TITLE 8, DIVISION 1, OF THE SAN
DIEGO COUNTY CODE TO ADD A PROCEDURE
FOR THE CLOSING OF
INACTIVE PERMIT APPLICATIONS**

ORDINANCE NO. _____ (NEW SERIES)

**AN ORDINANCE AMENDING THE SUBDIVISION ORDINANCE, TITLE 8, DIVISION 1,
OF THE SAN DIEGO COUNTY CODE TO ADD A PROCEDURE FOR THE CLOSING OF
INACTIVE PERMIT APPLICATIONS**

The Board of Supervisors of the County of San Diego, State of California, ordains as follows:

Section 1. The Board of Supervisors intends by this ordinance to codify an administrative process for the closing of inactive permit applications.

Section 2. Section 81.102 DEFINITIONS of the San Diego County Code is hereby amended to add new defined terms to read as follows:

SEC. 81.102. DEFINITIONS.

Terms used in this division that are defined in the SMA but not defined in this division shall have the same meaning as in the SMA. The following definitions shall apply to this division:

(a) "Access restriction easement" means a permanent easement a property owner dedicates to the County that prohibits any person from obtaining access to a road or right-of-way adjacent to the property.

(b) "Adjustment plat" means a drawing filed with the Director as part of the application process for a lot line adjustment adjusting the boundaries between two to four adjoining parcels, where land taken from one parcel is added to an adjoining parcel, but does not create any additional parcels.

(c) "Average daily trips, ADT" means the average total number of motor vehicle trips per day to and from a location.

(d) "Basis of bearings" means the source of uniform orientation of all measured bearings shown on a map using the California Coordinate System of 1983, Zone 6, established by Public Resources Code sections 8801 et seq.

(e) "Bicycle route" means a facility where the main form of travel is by bicycle.

(f) "Cable lines" means electronic cable, conduit and their appurtenances which distribute television signals or telephone or internet connections.

(g) "CEQA" means the California Environmental Quality Act, Public Resources Code sections 21000 et seq.

(h) "Certificate of compliance" means a document the County issues pursuant to Government Code section 66499.35 identifying real property and signifying that the division of the real property complies with applicable provisions of the SMA and this division.

(i) "Conservation subdivision" means a residential subdivision design that improves preservation of environmental resources in a balance with planned densities and community character subject to applicable Community Plans, the Zoning Ordinance, Subdivision Ordinance, Resource Protection Ordinance and Groundwater Ordinance.

(j) "County fire official" means a person designated by the Director of Public Safety to implement and enforce the County Fire Code.

(k) [Reserved.]

(l) "Designated remainder parcel" means a unit of land a subdivider designates pursuant to Government Code section 66424.6 which is not divided for the purpose of sale, lease or financing and is designated on a tentative map or tentative parcel map at the time the subdivider files the map.

(m) "Director" means the Director of Planning & Development Services or a person the Director designates to implement or enforce this division.

(n) "Director DEHQ" means the Director of the Department of Environmental Health and Quality or a person the Director DEHQ designates to implement or enforce this division.

(o) "Director DPW" means the Director of Public Works or a person the Director designates to implement or enforce this division.

(p) "Director DPR" means the Director of Parks and Recreation or a person the Director DPR designates to implement or enforce this division.

(q) "PDS" means the Department of Planning and Development Services.

(r) "DPR" means the Department of Parks and Recreation.

(s) "DPW" means the Department of Public Works.

(t) "Environmental resource" means natural habitats, sensitive species, sensitive habitat lands, wetlands, floodplains, significant prehistoric/historic sites, and/or agricultural lands.

(u) "Extenuating Circumstances" means events or requirements that are out of the control of the applicant, including but not limited to the following: mandated requirements or review from other government agencies (e.g., United States [U.S.] Army Corp of Engineers, U.S. Fish and Wildlife Service, California Department of Fish and Wildlife, or San Diego Regional Water Quality Control Board permit requirements); the need to complete studies that include surveys or other associated requirements that are outside the applicant's control (e.g. seasonal surveys, traffic counts during school year, etc.); the discovery of new environmental issues affecting the project; and/or financial hardship (e.g., loss of financing, change in circumstances affecting a loan, unanticipated and/or extraordinary costs).

(v) "Feasible" has the same meaning as the term "feasible" in Government Code section 66473.1(e).

(w) "Inactive Permit Application" means the condition which occurs when requested materials, funds, and/or other information necessary to proceed with processing a discretionary permit application (e.g., a Tentative Map, Tentative Parcel Map, or other discretionary permit) have not been submitted within 12 months of the last written request by PDS.

(x) "Inactive Permit Application Holder" means the applicant or owner of an Inactive Permit Application.

(y) "Lease" means an agreement for the use of real property that creates a landlord-tenant relationship between the parties to the lease and includes a written or oral agreement. In addition to an agreement that creates a tenancy for a specific term, a lease also includes an agreement that creates a tenancy at will or a month-to-month tenancy.

(z) "Lot" means a unit of land and may also be referred to in this division as a "parcel."

(aa) "Lot area" means the same as the term "Lot Area, Net" as defined in the County Zoning Ordinance.

(bb) "Major subdivision" means a subdivision creating five or more lots or units not counting a "designated remainder parcel," as defined in this chapter, as one of the five or more lots.

(cc) "Major transmission facilities, mains and lines" means electrical transmission lines with 64,000 volts capacity or more, gasoline or oil transmission lines six inches or more in diameter, natural gas mains six inches or larger in diameter, sewer outfall or transmission mains thirteen inches or larger in diameter, water transmission mains fourteen inches or larger or telephone long distance and trunk communication facilities.

(dd) "Minor subdivision" means a subdivision creating four or fewer lots or units not counting a "designated remainder parcel," as defined in this chapter as one of the four or fewer lots.

(ee) "Parcel map" means a map required by Government Code sections 66426(f) or 66428 prepared in compliance with Government Code sections 66444 et seq.

(ff) "Road" has the same meaning as the term "street" as defined in this chapter.

(gg) "San Diego County Standards" refers to those standards and specifications on file in the Office of the Clerk of the Board of Supervisors (Clerk) as Attachment C with Resolution No. 99-186 (6-30-99 (8)) (San Diego County Standards for Private Roads) and Document Number 0775217 (5-1-12 (13, CR29)) (Public Roads Standards); provided, however, that with respect to development within the "Country Town" area of the Borrego Springs Planning Area, the standards and specifications contained in the "Community Right-of-Way Development Standards - Country Town Area of the Borrego Springs Planning Area" on file with the Office of the Clerk as Document Number 740149 (4-10-91 (6)), and with respect to development within the San Dieguito Planning Area, the standards and specifications contained in the "Community Right-of-Way Development Standards - Country Town Sphere of the San Dieguito Planning Area" on file with the Office of the

Clerk as Document Number 750029(a) (6-6-92 (9)), and with respect to development within the Fallbrook Community Development Area, the standards and specifications contained within the "Fallbrook Community Right-of-Way Development Standards for Public Roads" on file with the Office of the Clerk as Document Number 761748 (12-14-94 (1)), and with respect to development within the Julian Community Planning Area, the standards and specifications contained in the "Community Right-of-Way Development Standards: Julian Historic District and Julian Community Planning Area" on file with the Office of the Clerk as Document Number 0768777 (3-6-02 (17)), and with respect to development within the Valley Center Community Planning Area, the standards and specifications contained within the "Valley Center Community Right-of-Way Development Standards" on file with the Office of the Clerk as Document Number N/A shall also apply and shall supersede the aforementioned documents to the extent of any conflict between them.

(hh) "SMA" means the Subdivision Map Act of the State of California contained in Government Code sections 66410 et seq.

(ii) "Street" means a County highway, State highway, other public road or alley, or a private thoroughfare at least ten feet wide that connects with a County highway, State highway, other public road, private road or an alley which affords primary access to an abutting lot.

(jj) "Subdivision" means the division by any subdivider of any unit or units of improved or unimproved land, or any portion thereof, shown on the latest equalized County assessment roll as a unit or as contiguous units, for the purpose of sale, lease or financing or any purpose, whether immediate or future, except for leases of agricultural land for agricultural purposes. Property shall be considered as contiguous units, even if it is separated by roads, streets, utility easement or railroad rights-of-way, but a freeway, as defined in Streets and Highways Code section 23.5 shall not be considered a road or street for the purpose of interpreting this section. "Subdivision" includes a condominium project, as defined in Civil Code section 1351(f), a community apartment project, as defined in Civil Code section 1351(d) or the conversion of five or more existing dwelling units to a stock cooperative, as defined in Civil Code section 1351(m).

(kk) "Tentative map" means a map prepared for the purpose of showing the design and improvement of a proposed major subdivision and the existing conditions in and around it.

(ll) "Tentative parcel map" means a map prepared for the purpose of showing the design and improvement of a proposed minor subdivision and the existing conditions in and around it.

(mm) "Through lot" means a lot having frontage on two parallel streets or a lot that is not a corner lot that has frontage on two streets, each of which may provide access to the lot.

Section 3. Section 81.112 of the San Diego County Code is hereby added to read as follows:

SEC. 81.112. CLOSING OF INACTIVE PERMIT APPLICATIONS.

(a) Inactive Permit Applications. Permit applications require the payment of fees and deposits for permit processing, and submittal of application materials as specified in SECS. 81.201-207, 81.301-305, 81.604, 81.903, 81.1002, 81.1103, 81.1203, 81.1302, and adopted Schedule of Filing Fees and Deposits. A permit application shall be deemed inactive as specified in the definition of “Inactive Permit Application”, Section 81.102.

(b) Application Withdrawal or Extension of Time. Once a permit application is deemed Inactive, the Director, or their designee, shall provide written notification to the Inactive Permit Application Holder that certain materials, funds, and/or other information are needed in order to continue processing the permit application or that the applicant may request an extension in accordance with subparagraph “2” below. The applicant shall have 60 days from the date of the written notification to submit the requested materials, funds, and/or other information or to request an extension.

(1) If the materials, funds, and/or other information, or a written request for an extension, is not submitted within 60 days of the written notification to the Inactive Permit Application Holder, the Director shall deem the permit application withdrawn and close the application in accordance with subparagraph “d” of this section.

(2) If the Director finds that unusual circumstances have delayed such completion, creating a substantial hardship on the applicant, an extension may be granted. The applicant shall then have two years to submit the required materials, funds, and/or other information. No later than 60 days before the expiration of the two-year extension, the Director shall provide written notification to the permit holder that the two-year extension is expiring, that certain materials, funds, and/or other information are needed in order to continue processing the permit application, or that the applicant may request an additional extension in accordance with subparagraph “4” below.

(3) If the materials, funds, and/or other information, or a written request for an extension, is not submitted within 60 days of the written notification to the Inactive Permit Application Holder, the Director shall deem the permit application withdrawn and close it in accordance with subparagraph “d” of this section.

(4) If the Director finds that unusual circumstances have delayed such completion, creating a substantial hardship on the applicant, an extension may be granted. The applicant shall then have an additional two years to submit the requested materials, funds and/or other information. No later than 60 days before the expiration of the two-year extension, the Director shall

provide written notification to the permit holder that the two-year extension is expiring, that certain materials, funds, and/or other information are needed in order to continue processing the permit application.

(5) If the requested materials, funds, and/or other information, or a written request for an extension, is not submitted within 60 days of the written notification to the Inactive Permit Application Holder, the Director shall deem the permit application withdrawn and close it in accordance with subparagraph “d” of this section, unless the project applicant requests another two-year extension due to extenuating circumstances in accordance with subparagraph “c” of this section.

(c) **Extenuating Circumstances.** The applicant may request an additional extension of the Inactive Permit Application for two years due to extenuating circumstances, as specified in the definition of “Extenuating Circumstances”, Section 81.102, in accordance with the following:

(1) The applicant shall submit a written request for an extension 60 days prior to the expiration of the permit application describing the extenuating circumstances applicable to the project.

(2) If the Director finds that there are extenuating circumstances applicable to the project, the Director may approve an additional extension of the Inactive Permit Application for up to two years.

(3) No later than 60 days before the expiration of the two-year extension for extenuating circumstances, the Director shall provide written notification to the permit holder that the final two-year extension is expiring, that certain materials, funds, and/or other information are needed in order to continue processing the permit application. If the materials, funds, and/or other information are not received within the 60 days, the project application will be deemed withdrawn and closed in accordance with subparagraph “d” of this section.

(d) **Project Closure.** Upon deeming an inactive project application withdrawn, the Director shall notify the applicant in writing that the project application has been deemed withdrawn and is closed. Projects which require a deposit account shall be charged for the project closure, and any unused funds will be refunded pursuant to Section 81.207.

(e) **Reapplication.** Once closed, a permit application cannot be reopened. To reapply, the applicant shall submit a new development permit application with required submittal materials and shall be subject to all applicable fees and regulations in effect on the date the new application is deemed complete.

(f) **Decisions by the Director under this section may be appealed by the permit applicant in accordance with Section 7200 through 7206 of the Zoning Ordinance.**

Section 4. The San Diego County Code Section 81.207 is hereby amended to read as follows:

SEC. 81.207. REFUND PROCEDURE.

An applicant is entitled to a refund of unused deposits after: (a) the approval process is completed or an application is denied or, withdrawn, or closed, (b) each County department determines that it has been paid in full for all costs and fees it is due and (c) the Director of DPW or Director of PDS determines no further action will be required by any County department. A project is completed when the County accepts or approves or where appropriate, accepts and approves all engineering, improvements, plans, maps, documents and reports and when required by this division, all recording of documents has occurred.

Section 5. This ordinance shall take effect thirty (30) days after its passage, and before the expiration of fifteen (15) days after its passage a summary shall be published, with the names of the members voting for and against the same, once in a local newspaper of general circulation in the County of San Diego, State of California.

PASSED, APPROVED AND ADOPTED by the Board of Supervisors of the County of San Diego this ____th day of ____, 2021.

Approved as to form and legality

By: _____, Senior Deputy County Counsel

Attachment B

**AN ORDINANCE AMENDING THE SAN DIEGO
COUNTY ZONING ORDINANCE TO
ADD DEFINITIONS AND PROCEDURES FOR
THE CLOSING OF INACTIVE
PERMIT APPLICATIONS**

ORDINANCE NO. _____ (NEW SERIES)

**AN ORDINANCE AMENDING THE SAN DIEGO COUNTY ZONING ORDINANCE TO
ADD DEFINITIONS AND PROCEDURES FOR THE CLOSING OF INACTIVE PERMIT
APPLICATIONS**

The Board of Supervisors of the County of San Diego, State of California, ordains as follows:

Section 1. The Board of Supervisors intends by this ordinance to codify an administrative process for the closing of inactive permit applications.

Section 2. Section 1110 DEFINITIONS (E) of the Zoning Ordinance is hereby amended to add the term “Extenuating Circumstance”, inserted into the appropriate alphabetical location to read as follows:

Extenuating Circumstances: Events or requirements that are out of the control of the applicant, including but not limited to the following: mandated requirements or review from other government agencies (e.g., United States [U.S.] Army Corp of Engineers, U.S. Fish and Wildlife Service, California Department of Fish and Wildlife, or San Diego Regional Water Quality Control Board permit requirements); the need to complete studies that include surveys or other associated requirements that are outside the applicant’s control (e.g. seasonal surveys, traffic counts during school year, etc.); the discovery of new environmental issues affecting the project; and/or financial hardship (e.g., loss of financing, change in circumstances affecting a loan, unanticipated and/or extraordinary costs).

Section 3. Section 1110 DEFINITIONS (I) of the Zoning Ordinance is hereby amended to add the terms “Inactive Permit Application” and “Inactive Permit Application Holder”, inserted into the appropriate alphabetical locations to read as follows:

Inactive Permit Application: The condition which occurs when requested materials, funds, and/or other information necessary to proceed with processing a discretionary permit application (e.g., a Use Permit, Administrative Permit, Site Plan, Variance, or other discretionary permit) have not been submitted within 12 months of the last written request by the Department.

Inactive Permit Application Holder: The applicant or owner of record of an Inactive Permit Application.

Section 4. Section 7018 of the Zoning Ordinance is hereby added to read as follows:

7018 CLOSING OF INACTIVE PERMIT APPLICATIONS.

The time parameters for processing discretionary permit applications are established by numerous state and local laws, ordinances, and policies. Timely permit processing

increases efficiency and decreases costs for the Department and for applicants. The purpose of this section is to establish a procedure for closing Inactive Permit Applications.

- a. Inactive Permit Applications. A permit application shall be deemed inactive as specified in the definition of “Inactive Permit Application”, Section 1110 (I).

Application Withdrawal or Extension of Time. Once a permit application is deemed Inactive, the Director, or their designee, shall provide written notification to the Inactive Permit Application Holder that certain materials, funds, and/or other information are needed in order to continue processing the permit application or that the applicant may request an extension in accordance with subparagraph “2” below. The applicant shall have 60 days from the date of the written notification to submit the requested materials, funds, and/or other information or to request an extension.

1. If the materials, funds, and/or other information, or a written request for an extension, is not submitted within 60 days of the written notification to the Inactive Permit Application Holder, the Director shall deem the permit application withdrawn and close it in accordance with subparagraph “c” of this section.
2. If the Director finds that unusual circumstances have delayed such completion, creating a substantial hardship on the applicant, an extension may be granted. The applicant shall then have two years to submit the required materials, funds, and/or other information. No later than 60 days before the expiration of the two-year extension, the Director shall provide written notification to the permit holder that the two-year extension is expiring, that certain materials, funds, and/or other information are needed in order to continue processing the permit application, or that the applicant may request an additional extension in accordance with subparagraph “4” below.
3. If the materials, funds, and/or other information, or a written request for an extension, is not submitted within 60 days of the written notification to the Inactive Permit Application Holder, the Director shall deem the permit application withdrawn and close it in accordance with subparagraph “c” of this section.
4. If the Director finds that unusual circumstances have delayed such completion, creating a substantial hardship on the applicant, an extension may be granted. The applicant shall have an additional two years to submit the required materials, funds, and/or other information. No later than 60 days before the expiration of the two-year extension, the Director shall provide written notification to the permit holder that the two-year extension is expiring, that certain materials, funds, and/or other information are needed in order to continue processing the permit application.

5. If the requested materials, funds, and/or other information, or a written request for an extension, is not submitted within 60 days of the written notification to the Inactive Permit Application Holder, the Director shall deem the permit application withdrawn and close it in accordance with subparagraph “c” of this section, unless the project applicant requests another two-year extension due to extenuating circumstances in accordance with subparagraph “b” of this section.
- b. **Extenuating Circumstances.** The applicant may request an additional extension of the Inactive Permit Application for two years (for a total of 6 years since the permit application was deemed inactive) due to extenuating circumstances, as specified in the definition of “Extenuating Circumstances”, Section 1110 (E), in accordance with the following:
 1. The applicant shall submit a written request for an extension 60 days prior to the expiration of the permit application describing the extenuating circumstances applicable to the project.
 2. If the Director finds that there are extenuating circumstances applicable to the project, the Director may approve an additional extension of the Inactive Permit Application for up to two years.
 3. No later than 60 days before the expiration of the two-year extension for extenuating circumstances, the Director shall provide written notification to the permit holder that the final two-year extension is expiring, that certain materials, funds, and/or other information are needed in order to continue processing the permit application. If the material, funds, and/or other information are not received within the 60 days, the project application will be deemed withdrawn and closed in accordance with subparagraph “c” of this section.
- c. **Project Closure.** Upon deeming an inactive project application withdrawn, the Director shall notify the applicant in writing that the project application has been deemed withdrawn and is closed. Projects which require a deposit account shall be charged for the project closure. Any unused deposit account funds after project closure will be refunded.
- d. **Reapplication.** Once closed, a permit application cannot be reopened; however, the applicant can reapply. To reapply, the applicant shall submit a new permit application with required submittal materials and shall be subject to all applicable fees and regulations in effect on the date the new application is deemed complete.
- e. **Decisions by the Director under this section may be appealed by the permit applicant in accordance with Section 7200 through 7206 of the Zoning Ordinance.**

Section 5. This ordinance shall take effect thirty (30) days after its passage, and before the expiration of fifteen (15) days after its passage a summary shall be published, with the names of the members voting for and against the same, once in a local newspaper of general circulation in the County of San Diego, State of California.

PASSED, APPROVED AND ADOPTED by the Board of Supervisors of the County of San Diego this ____th day of ____, 2021.

Approved as to form and legality

By: _____, Senior Deputy County Counsel

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Attachment C

**Ordinance Amendments to Establish Procedures
for the Closing of Inactive Permit Applications
Notice of Exemption**

3-23 NOTICE OF EXEMPTION

TO: Recorder/County Clerk
Attn: James Scott
1600 Pacific Highway, M.S. A33
San Diego, CA 92101

FROM: County of San Diego
Planning & Development Services, M.S. O650
Attn: Project Planning Division Section Secretary

SUBJECT: **FILING OF NOTICE OF EXEMPTION IN COMPLIANCE WITH PUBLIC RESOURCES CODE SECTION 21108 OR 21152**

Project Name: Ordinance Amendments to Establish Procedures for the Closing of Inactive Permit Applications;
PDS2020-POD-20-013

Project Location: The Guidelines would be applicable throughout the unincorporated County of San Diego

Project Applicant: County of San Diego, Planning and Development Services
Address: 5510 Overland Avenue, Suite 310, San Diego, CA 92123

Project Description: The Ordinance Amendments do not propose any development. The purpose of the Ordinance Amendments is to amend the County Zoning Ordinance and County Subdivision Ordinance to regulate how discretionary permits are handled if there is no activity being made by the applicant to complete processing the permit, by mandating they be automatically withdrawn from consideration after two consecutive years of inactivity. Discretionary permits are projects which are reviewed under the California Environmental Quality Act (CEQA) and require consideration by a decision maker. These projects often require multiple cycles of design and review. During this process a project can often become inactive, where no progress is being made to finalize and complete the project. Examples of discretionary projects that may become inactive include, but are not limited to, Tentative Maps, Major Use Permits, Minor Use Permits and Site Plans.

Agency Approving Project: County of San Diego

County Contact Person: Bronwyn Brown, Telephone Number: (858) 495-5516

Date Form Completed: January 6, 2022

This is to advise that the County of San Diego Board of Supervisors has approved the above-described project on August 18, 2021 (item #2) and found the project to be exempt from the CEQA under the following criteria:

1. Exempt status and applicable section of the CEQA ("C") and/or State CEQA Guidelines ("G"): (check only one)
 - ☐ Declared Emergency [C 21080(b)(3); G 15269(a)]
 - ☐ Emergency Project [C 21080(b)(4); G 15269(b)(c)]
 - ☐ Statutory Exemption. C Section:
 - ☒ Categorical Exemption. G Section: 15308
 - ☒ G 15061(b)(3) - It can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment and the activity is not subject to the CEQA.
 - ☐ G 15182 – Residential Projects Pursuant to a Specific Plan
 - ☐ G 15183 – Projects Consistent with a Community Plan, General Plan, or Zoning
 - ☒ Activity is exempt from the CEQA because it is not a project as defined in Section 15378.
2. Mitigation measures ☐ were ☒ were not made a condition of the approval of the project.
3. A Mitigation reporting or monitoring plan ☐ was ☒ was not adopted for this project.

Statement of reasons why project is exempt: The proposed action complies with CEQA because it is: (1) not a project as defined in Public Resources Code, Section 21065, and CEQA Guidelines Section 15378, and is therefore not subject to CEQA pursuant to CEQA Guidelines Section 15060(c); and (2) categorically exempt as it is an action to enhance and protect the environment (Section 15308 of the CEQA Guidelines); and (3) subject to the common sense exemption, because the update to the Guidelines implement existing law and therefore it can be seen with certainty that there is no possibility that it may have a significant effect on the environment (Section 15061(b)(3) of the CEQA Guidelines). In addition, see Exhibit A of Attachment A of the Resolution of the County of San Diego Board of Supervisors Adopting the Guidelines, Dated August 18, 2021, attached to this form.

The following is to be filled in only upon formal project approval by the appropriate County of San Diego decision-making body.

Signature: _____ Telephone: (858) 495-5516

Name (Print): Bronwyn Brown Title: Planning Manager, Planning and Development Services

This Notice of Exemption has been signed and filed by the County of San Diego.

This notice must be filed with the Recorder/County Clerk as soon as possible after project approval by the decision-making body. The Recorder/County Clerk must post this notice within 24 hours of receipt and for a period of not less than 30 days. At the termination of the posting period, the Recorder/County Clerk must return this notice to the Department address listed above along with evidence of the posting period. The originating Department must then retain the returned notice for a period of not less than twelve months. Reference: CEQA Guidelines Section 15062.

EXHIBIT A

The proposed update to the Ordinances complies with the CEQA and State and County CEQA Guidelines because it is: (1) not a project as defined in the Public Resources Code section 210065 and CEQA Guidelines section 15378, and is therefore not subject to CEQA pursuant to CEQA Guidelines Section 15060 (c); (2) separately and independently, is categorically exempt pursuant to section 15308 of the CEQA Guidelines because this action will enhance and protect the environment; and (3) subject to the common sense exemption, CEQA Guidelines section 15061(b)(3), because it can be seen with certainty that there is no possibility that it may have a significant effect on the environment. No exception to these exemptions pursuant to CEQA Guidelines section 15300.2 apply.

The adoption of the Guidelines is not a "project" as defined in Public Resources Code section 21065 and CEQA Guidelines sections 15378 and 15060(c)(3) and is therefore not subject to CEQA. A project as defined by CEQA, is the whole of the action that has the potential to result in either a direct or physical change or reasonably foreseeable indirect physical change to the environment. Adoption of the Guidelines is consistent with the requirements of the CEQA Guidelines Appendix G and does not authorize or ban any development, open any new areas to development, or exempt any project from CEQA review and therefore has no potential to cause a physical change in the environment. An action that restates or codifies existing law is not a project under CEQA because it has no potential to cause a physical change in the environment.

CEQA Guidelines section 15378(b)(5) states that a project does not include "organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment." The proposal is to update the County's Zoning and Subdivision Ordinances to regulate how discretionary permits are handled if there is no activity being made by the applicant to complete processing the permit, by mandating they be automatically withdrawn from consideration after two consecutive years of inactivity. These options will not reduce the quality of Planning and Development Services review or create shortcuts or loopholes in the permitting process that would impact public safety, quality of life, environmental protection, or limit intended public participation. Therefore, as the proposed Guidelines would update the County's existing Guidelines which implements CEQA, the action is not a project under CEQA.

Separately and independently, even if the action constitutes a project under CEQA, it would be categorically exempt pursuant to section 15308 of the CEQA Guidelines. This categorical exemption consists of actions taken by agencies as authorized by state or local ordinance to assure the enhancement or protection of the environment where the regulatory process involves procedures for the protection of the environment.

Finally, even if the action constitutes a project under CEQA, it can be seen with certainty that there is no possibility that it may have a significant effect on the environment, and therefore is subject to the common sense exemption, CEQA Guidelines section 15061(b)(3). The proposed updated Ordinance Amendments are consistent with CEQA Guidelines Appendix G and provide guidance for CEQA analysis and mitigation for all projects in the County of San Diego. An action that restates or codifies existing law is not a project under CEQA because it has no potential to cause a physical change in the environment. None of the exceptions to the exemptions apply (Section 15300.2 of the CEQA Guidelines) because the Guidelines does not authorize, ban or exempt any development and therefore will not cause impacts to scenic highways, hazardous waste sites or historical resource.

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Attachment D
Correspondence for Inactive Permit Applications

From: [Laura Hunter](#)
To: [Brown, Bronwyn](#); [Smith, Ashley](#)
Subject: [External] Hunter Comments on Inactive File Rule
Date: Wednesday, October 6, 2021 4:04:00 PM

Comments on Inactive File Rule

Dear Ms. Brown,

Thank you for the information about the Inactive Project rule the County is currently updating. I have some thoughts I hope you will consider as you develop this rule.

First, I see staff time, energy, attention, and hard work as one of the most precious County public human resources. There are so many things that County staff does for the community and I am very sensitive that (like our natural resources) staff time and energy is a limited resource.

I do not support inactive projects going on for up to six years without progress. I have been a staffer of sorts in my career and I know that any file or project that remains open take time, energy, tracking, considering, researching, etc...

Time spent on these inactive projects is time and brain-power lost to other more deserving tasks.

If I understand correctly, if a project application is making no progress for two years (even that is a long time to make no progress), then they can ask for another two-year extension.

My recommendation is that the second extension option be removed and the threshold assessment (e.g. Proof of substantial evidence of overriding condition etc...) be made when a project developer seeks a second two year extension. If they can't make progress in four years, that is enough and the project should be withdrawn.

If the proponent wants to appeal any extension denial, I believe they already have that ability.

The proponents can always withdraw and re-file when they are ready.

Having a reasonable (4 year max) would also help keep proponents from timing markets etc... if that happens.

My concern is that keeping a project that isn't making progress 'live' for up to six years is a drain on staff resources and has a cost to making progress elsewhere that may or may not be quantified but is a real 'cost' nonetheless.

Thank you for considering my comments. Please feel free to contact me with any questions at 619-997-9983.

Laura Hunter

Rincon Band of Luiseño Indians

CULTURAL RESOURCES DEPARTMENT

One Government Center Lane | Valley Center | CA 92082
(760) 749-1092 | Fax: (760) 749-8901 | rincon-nsn.gov



November 19, 2021

Sent via email: Sandra.Pentney@sdcounty.ca.gov

County of San Diego
Planning & Development Services
Sandra Pentney
5510 Overland Avenue, Suite 310
San Diego, CA 92123

Re: County of San Diego Zoning Ordinance and Subdivision Amendments to Establish Procedures for the closing of Inactive Permit Applications: PDS2020-POD-20-013

Dear Ms. Pentney,

This letter is written on behalf of the Rincon Band of Luiseño Indians (“Rincon Band” or “Tribe”), a federally recognized Indian Tribe and sovereign government. Thank you for consulting with the Tribe on the County of San Diego Zoning Ordinance and Subdivision Amendments to Establish Procedures for the closing of Inactive Permit Applications.

The Rincon Tribal Historic Preservation Office (THPO) has reviewed the provided documents and we are very concerned about the potential that applications will be allowed to be extended for up to 7 years. This time period is too long as any legislation, rules and guidelines that will be implemented during this time will not apply to this particular project. Any environmental laws and cultural resources protection laws will be circumvented by such procedures. Additionally, we believe accommodating applicants to such degree is very problematic as it requires county’s staff resources, and would slow down processes for applicants that provide requested documents in a timely manner. We ask that for the Zoning Ordinance Amendment and the Subdivision Ordinance Amendment only ONE (1) extension will be allowed. No subsequent extensions should be issued.

The Rincon Band reserves its right to continue to fully participate in the public review process and submit additional information during the public review process. If you have additional questions or concerns, please do not hesitate to contact our office at your convenience at (760) 749 1092 or via electronic mail at cmadrigal@rincon-nsn.gov. We look forward to working together to protect and preserve our cultural assets.

Sincerely,

Cheryl Madrigal
Tribal Historic Preservation Officer
Cultural Resources Manager

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Attachment E

**An Ordinance Amending The Subdivision
Ordinance, Title 8, Division 1, Of The San Diego
County
Code To Add A Procedure For The Closing Of In
active Permit Applications (Strike-Out)**

DRAFT September 17, 2021
Information Copy

POD -20-013

(Underline indicates addition)

(~~Strikeout~~ indicates deletion)

ORDINANCE NO. _____ (NEW SERIES)

AN ORDINANCE AMENDING THE SUBDIVISION ORDINANCE, TITLE 8, DIVISION 1, OF THE SAN DIEGO COUNTY CODE TO ADD A PROCEDURE FOR THE CLOSING OF INACTIVE PERMIT APPLICATIONS

The Board of Supervisors of the County of San Diego, State of California, ordains as follows:

Section 1. The Board of Supervisors intends by this ordinance to codify an administrative process for the closing of inactive permit applications.

Section 2. Section 81.102 DEFINITIONS of the San Diego County Code is hereby amended to add new defined terms to read as follows:

SEC. 81.102. DEFINITIONS.

(a) - (t) [no changes].

(u) [add new terms alphabetically and renumber from “u” forward]

“Extenuating Circumstances” means events or requirements that are out of the control of the applicant, including but not limited to the following: mandated requirements or review from other government agencies (e.g., United States [U.S.] Army Corp of Engineers, U.S. Fish and Wildlife Service, California Department of Fish and Wildlife, or San Diego Regional Water Quality Control Board permit requirements); the need to complete studies that include surveys or other associated requirements that are outside the applicant’s control (e.g. seasonal surveys, traffic counts during school year, etc.); the discovery of new environmental issues affecting the project; and/or financial hardship (e.g., loss of financing, change in circumstances affecting a loan, unanticipated and/or extraordinary costs).

“Inactive Permit Application” means the condition which occurs when requested materials, funds, and/or other information necessary to proceed with processing a discretionary permit application (e.g., a Tentative Map, Tentative Parcel Map, or other discretionary permit) have not been submitted within 12 months of the last written request by PDS.

“Inactive Permit Application Holder” means the applicant or owner of an Inactive Permit Application.

Section 3. Section 81.112 of the San Diego County Code is hereby added to read as follows:

SEC. 81.112. CLOSING OF INACTIVE PERMIT APPLICATIONS.

(a) Inactive Permit Applications. Permit applications require the payment of fees and deposits for permit processing, and submittal of application materials as specified in SECS. 81.201-207, 81.301-305, 81.604, 81.903, 81.1002, 81.1103, 81.1203, 81.1302, and adopted Schedule of Filing Fees and Deposits. A permit application shall be deemed inactive as specified in the definition of "Inactive Permit Application", Section 81.102.

(b) Application Withdrawal or Extension of Time. Once a permit application is deemed Inactive, the Director, or their designee, shall provide written notification to the Inactive Permit Application Holder that certain materials, funds, and/or other information are needed in order to continue processing the permit application or that the applicant may request an extension in accordance with subparagraph "2" below. The applicant shall have 60 days from the date of the written notification to submit the requested materials, funds, and/or other information or to request an extension.

(1) If the materials, funds, and/or other information, or a written request for an extension, is not submitted within 60 days of the written notification to the Inactive Permit Application Holder, the Director shall deem the permit application withdrawn and close the application in accordance with subparagraph "d" of this section.

(2) If the Director finds that unusual circumstances have delayed such completion, creating a substantial hardship on the applicant, an extension may be granted. The applicant shall then have two years to submit the required materials, funds, and/or other information. No later than 60 days before the expiration of the two-year extension, the Director shall provide written notification to the permit holder that the two-year extension is expiring, that certain materials, funds, and/or other information are needed in order to continue processing the permit application, or that the applicant may request an additional extension in accordance with subparagraph "4" below.

(3) If the materials, funds, and/or other information, or a written request for an extension, is not submitted within 60 days of the written notification to the Inactive Permit Application Holder, the Director shall deem the permit application withdrawn and close it in accordance with subparagraph "d" of this section.

(4) If the Director finds that unusual circumstances have delayed such completion, creating a substantial hardship on the applicant, an extension may be granted. The applicant shall then have an additional two years to submit the requested materials, funds and/or other information. No later than 60 days before the expiration of the two-year extension, the Director shall

provide written notification to the permit holder that the two-year extension is expiring, that certain materials, funds, and/or other information are needed in order to continue processing the permit application.

(5) If the requested materials, funds, and/or other information, or a written request for an extension, is not submitted within 60 days of the written notification to the Inactive Permit Application Holder, the Director shall deem the permit application withdrawn and close it in accordance with subparagraph "d" of this section, unless the project applicant requests another two-year extension due to extenuating circumstances in accordance with subparagraph "c" of this section.

(c) Extenuating Circumstances. The applicant may request an additional extension of the Inactive Permit Application for two years due to extenuating circumstances, as specified in the definition of "Extenuating Circumstances", Section 81.102, in accordance with the following:

(1) The applicant shall submit a written request for an extension 60 days prior to the expiration of the permit application describing the extenuating circumstances applicable to the project.

(2) If the Director finds that there are extenuating circumstances applicable to the project, the Director may approve an additional extension of the Inactive Permit Application for up to two years.

(3) No later than 60 days before the expiration of the two-year extension for extenuating circumstances, the Director shall provide written notification to the permit holder that the final two-year extension is expiring, that certain materials, funds, and/or other information are needed in order to continue processing the permit application. If the materials, funds, and/or other information are not received within the 60 days, the project application will be deemed withdrawn and closed in accordance with subparagraph "d" of this section.

(d) Project Closure. Upon deeming an inactive project application withdrawn, the Director shall notify the applicant in writing that the project application has been deemed withdrawn and is closed. Projects which require a deposit account shall be charged for the project closure, and any unused funds will be refunded pursuant to Section 81.207.

(e) Reapplication. Once closed, a permit application cannot be reopened. To reapply, the applicant shall submit a new development permit application with required submittal materials and shall be subject to all applicable fees and regulations in effect on the date the new application is deemed complete.

(f) Decisions by the Director under this section may be appealed by the permit applicant in accordance with Section 7200 through 7206 of the Zoning Ordinance.

Section 4. The San Diego County Code Section 81.207 is hereby amended to read as follows:

SEC. 81.207. REFUND PROCEDURE.

An applicant is entitled to a refund of unused deposits after: (a) the approval process is completed or an application is denied ~~or~~ withdrawn, or closed, (b) each County department determines that it has been paid in full for all costs and fees it is due and (c) the Director of DPW or Director of PDS determines no further action will be required by any County department. A project is completed when the County accepts or approves or where appropriate, accepts and approves all engineering, improvements, plans, maps, documents and reports and when required by this division, all recording of documents has occurred.

Section 5. This ordinance shall take effect thirty (30) days after its passage, and before the expiration of fifteen (15) days after its passage a summary shall be published, with the names of the members voting for and against the same, once in a local newspaper of general circulation in the County of San Diego, State of California.

Approved as to form and legality

By: _____, Senior Deputy County Counsel

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Attachment F

**An Ordinance Amending The San Diego County
Zoning Ordinance To Add Definitions And
Procedures For The Closing Of Inactive
Permit Applications (Strike-Out)**

DRAFT September 17, 2021
Information Copy

POD -20-013

(Underline indicates addition)

(~~Strikeout~~ indicates deletion)

ORDINANCE NO. _____ (NEW SERIES)

**AN ORDINANCE AMENDING THE SAN DIEGO COUNTY ZONING ORDINANCE TO
ADD DEFINITIONS AND PROCEDURES FOR THE CLOSING OF INACTIVE PERMIT
APPLICATIONS**

The Board of Supervisors of the County of San Diego, State of California, ordains as follows:

Section 1. The Board of Supervisors intends by this ordinance to codify an administrative process for the closing of inactive permit applications.

Section 2. Section 1110 DEFINITIONS (E) of the Zoning Ordinance is hereby amended to add the term “Extenuating Circumstance”, inserted into the appropriate alphabetical location to read as follows:

Extenuating Circumstances: Events or requirements that are out of the control of the applicant, including but not limited to the following: mandated requirements or review from other government agencies (e.g., United States [U.S.] Army Corp of Engineers, U.S. Fish and Wildlife Service, California Department of Fish and Wildlife, or San Diego Regional Water Quality Control Board permit requirements); the need to complete studies that include surveys or other associated requirements that are outside the applicant’s control (e.g. seasonal surveys, traffic counts during school year, etc.); the discovery of new environmental issues affecting the project; and/or financial hardship (e.g., loss of financing, change in circumstances affecting a loan, unanticipated and/or extraordinary costs).

Section 3. Section 1110 DEFINITIONS (I) of the Zoning Ordinance is hereby amended to add the terms “Inactive Permit Application” and “Inactive Permit Application Holder”, inserted into the appropriate alphabetical locations to read as follows:

Inactive Permit Application: The condition which occurs when requested materials, funds, and/or other information necessary to proceed with processing a discretionary permit application (e.g., a Use Permit, Administrative Permit, Site Plan, Variance, or other discretionary permit) have not been submitted within 12 months of the last written request by the Department.

Inactive Permit Application Holder: The applicant or owner of record of an Inactive Permit Application.

Section 4. Section 7018 of the Zoning Ordinance is hereby added to read as follows:

7018 CLOSING OF INACTIVE PERMIT APPLICATIONS.

The time parameters for processing discretionary permit applications are established by numerous state and local laws, ordinances, and policies. Timely permit processing increases efficiency and decreases costs for the Department and for applicants. The purpose of this section is to establish a procedure for closing Inactive Permit Applications.

- a. Inactive Permit Applications. A permit application shall be deemed inactive as specified in the definition of "Inactive Permit Application", Section 1110 (I).

Application Withdrawal or Extension of Time. Once a permit application is deemed Inactive, the Director, or their designee, shall provide written notification to the Inactive Permit Application Holder that certain materials, funds, and/or other information are needed in order to continue processing the permit application or that the applicant may request an extension in accordance with subparagraph "2" below. The applicant shall have 60 days from the date of the written notification to submit the requested materials, funds, and/or other information or to request an extension.

1. If the materials, funds, and/or other information, or a written request for an extension, is not submitted within 60 days of the written notification to the Inactive Permit Application Holder, the Director shall deem the permit application withdrawn and close it in accordance with subparagraph "c" of this section.
2. If the Director finds that unusual circumstances have delayed such completion, creating a substantial hardship on the applicant, an extension may be granted. The applicant shall then have two years to submit the required materials, funds, and/or other information. No later than 60 days before the expiration of the two-year extension, the Director shall provide written notification to the permit holder that the two-year extension is expiring, that certain materials, funds, and/or other information are needed in order to continue processing the permit application, or that the applicant may request an additional extension in accordance with subparagraph "4" below.
3. If the materials, funds, and/or other information, or a written request for an extension, is not submitted within 60 days of the written notification to the Inactive Permit Application Holder, the Director shall deem the permit application withdrawn and close it in accordance with subparagraph "c" of this section.
4. If the Director finds that unusual circumstances have delayed such completion, creating a substantial hardship on the applicant, an extension may be granted. The applicant shall have an additional two years to submit the required materials, funds, and/or other information. No later than 60 days

before the expiration of the two-year extension, the Director shall provide written notification to the permit holder that the two-year extension is expiring, that certain materials, funds, and/or other information are needed in order to continue processing the permit application.

5. If the requested materials, funds, and/or other information, or a written request for an extension, is not submitted within 60 days of the written notification to the Inactive Permit Application Holder, the Director shall deem the permit application withdrawn and close it in accordance with subparagraph "c" of this section, unless the project applicant requests another two-year extension due to extenuating circumstances in accordance with subparagraph "b" of this section.
- b. Extenuating Circumstances. The applicant may request an additional extension of the Inactive Permit Application for two years (for a total of 6 years since the permit application was deemed inactive) due to extenuating circumstances, as specified in the definition of "Extenuating Circumstances", Section 1110 (E), in accordance with the following:
1. The applicant shall submit a written request for an extension 60 days prior to the expiration of the permit application describing the extenuating circumstances applicable to the project.
 2. If the Director finds that there are extenuating circumstances applicable to the project, the Director may approve an additional extension of the Inactive Permit Application for up to two years.
 3. No later than 60 days before the expiration of the two-year extension for extenuating circumstances, the Director shall provide written notification to the permit holder that the final two-year extension is expiring, that certain materials, funds, and/or other information are needed in order to continue processing the permit application. If the material, funds, and/or other information are not received within the 60 days, the project application will be deemed withdrawn and closed in accordance with subparagraph "c" of this section.
- c. Project Closure. Upon deeming an inactive project application withdrawn, the Director shall notify the applicant in writing that the project application has been deemed withdrawn and is closed. Projects which require a deposit account shall be charged for the project closure. Any unused deposit account funds after project closure will be refunded.
- d. Reapplication. Once closed, a permit application cannot be reopened; however, the applicant can reapply. To reapply, the applicant shall submit a new permit application with required submittal materials and shall be subject to all applicable fees and regulations in effect on the date the new application is deemed complete.

e. Decisions by the Director under this section may be appealed by the permit applicant in accordance with Section 7200 through 7206 of the Zoning Ordinance.

Section 5. This ordinance shall take effect thirty (30) days after its passage, and before the expiration of fifteen (15) days after its passage a summary shall be published, with the names of the members voting for and against the same, once in a local newspaper of general circulation in the County of San Diego, State of California.

Approved as to form and legality

By: _____, Senior Deputy County Counsel

DRAFT