



County of San Diego, Planning & Development Services
**NOTICE: AN ASSESSOR'S PARCEL MAY
NOT BE A LEGAL LOT**
ZONING DIVISION

NOTICE

From the Office of the Assessor
and Planning & Development Services
**An Assessor's Parcel
may not be a Legal Lot**

Please be aware of the legal status of property prior to purchase or sale. Not all Assessor's Parcels are eligible to be separately sold or developed.

This guide will explain how lots were created, what a legal lot is, what an Assessor's Parcel Number is, and what steps you hopefully can take to resolve any legal discrepancies regarding your lot.

BACKGROUND:

Up until Feb. 1, 1972, anyone wishing to divide a property into four or fewer parcels could simply deed that portion to the buyer. As soon as a new deed was recorded, that portion forever became a separate legal lot of record. It could be used or developed the same as any other lot with similar zoning. A person could create up to four parcels in this manner; assuming they complied with the minimum lot size requirements as they were conveyed.

In 1972, however, this situation changed with adoption of the State Map Act, which went into effect on February 1, 1972, and from that date forward the only way to create new lots was through approval of a subdivision map. While many lots divided by deed prior to that time were (and are) recognized as legal lots, properties could no longer be divided by deed. Properties anyone wishing to split a lot or sell off a portion of property, would then be required to go through a formal subdivision process or boundary adjustment process.

The subdivision process ensured that there were adequate public services and infrastructure, such as roads, water, fire protection, and septic capability, for the health and safety of residents of the new lots, and that the new lots were consistent with the County's general plan and zoning. Despite the new law, many property owners and realtors are sometimes unaware of it, continue to sell portions of property by deed to unsuspecting buyers, with the result that there may now be several hundreds of these "illegal" lots in the County of San Diego, many with limited or inadequate services and access. Because these properties cannot be considered legal lots, state law prohibits PDS from issuing any development permits for them.

Legal lot status is required before any permits for development can be issued.



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LEGAL LOT:

A "Legal Lot" is an area of land that was created as a separate lot in a manner consistent with the requirements of the California Subdivision Map Act (SMA) and the County Subdivision Ordinance. Such lots are generally eligible to be separately sold and developed. The most common method, by which a legal lot may be created, is through the subdivision process. It may also be possible to demonstrate that a Legal Lot was created by a conveyance which split it off from a parent parcel, prior to the time when an approved subdivision map was required by the SMA and/or the Subdivision Ordinance. It must also be shown that once created, "Legal Lot" status was not lost due to merger, boundary adjustment, or other process. This may be established by obtaining a Certificate of Compliance from Planning & Development Services.

ASSESSOR'S PARCEL:

You could be misled by the fact that your property may be shown as a separate assessor's parcel with an individual assessor's parcel number (APN). An assessor's parcel is an area of land delineated on a map by the County for the sole purpose of collecting taxes on property. Each assessor's parcel is assigned a number (the assessor's parcel number or APN) that corresponds to a location on a page in a book of maps maintained by the Assessor's office. An assessor's parcel may or may not constitute a legally separate lot (a "legal lot") authorized for separate sale or development. Assessor's parcels, however, are intended for tax assessment purposes only, and while the parcel numbers are used as a convenience, they may have little or no relationship to the legal status of your property. A single legal lot may be comprised of several assessor's parcels.

DEEDS:

When PDS staff is reviewing your building plans and notices something about the legal status of your lot, they are not permitted to issue the building permit until the situation is clarified. They may ask you to provide a copy of a grant deed, recorded prior to Feb. 1, 1972, or prior to Dec.31, 1969, if your lot doesn't comply with the minimum lot size requirements.

Deeds recorded prior to 1972 can only be obtained at the Assessor's Office, located at 1600 Pacific Highway, San Diego, CA 92101. The deed must provide a description that includes your property, independent of any other contiguous properties, and was recorded prior to Feb. 1, 1972.

However, if the deed that created your property is either:

- 1) Recorded anytime on or after Feb. 1, 1972;
- 2) Contains descriptions of other adjacent property;
- 3) Doesn't comply with the minimum lot size requirements;
- 3) Appears to be part of a division of five or more lots prior to 1972 that was not correctly recorded, your lot may not be considered legal.

Some deeds may describe property on one deed as different "lots" or "tracts". These types of descriptions do not necessarily mean that these "lots" or "tracts" are actually separate legal lots of record. Again, just because a piece of property has a separate assessor's parcel number, it does not mean that the lot is legal. A lot is created by conveyance only when the conveyance operates to split the lot off from a parent parcel. A single deed that describes the property being conveyed as two or more separate lots or parcels but does not divide them as to ownership, does not create separate legal lots.



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WHAT CAN I DO?

The first step in this process is to find how and when the property was created. The historic deeds for the property have to be researched to establish this. Sometimes, a property has to be traced back over 100 years to when it was originally given to a private party by the federal government. While anyone is welcome to do this research themselves in the County Recorder's office, the process to verify if a lot was created in compliance with the State Map Act can sometimes be very technical and require highly specialized review to understand and resolve, and many people find that it is easier to hire a professional, such as a title company.

Before permits for development can be approved, a deed describing the property, and no other contiguous properties, and recorded prior to February 1, 1972, would need to be submitted. If a deed cannot be found that shows that the lot was legally created, then it is not considered a legal lot of record and no development permit can be issued at this time.

Grant deeds will be reviewed by the Land Surveyors within the Land Development Division. Customers will submit the Bonafide Conveyance document/s for review along with completed forms [PDS-126](#) and [PDS-903](#). Additionally, a \$500 deposit into the trust account created is required to begin the review process. The Land Surveyors will review and determine if the submitted description matches the subject parcel, and the applicant will be appropriately notified. An additional deposit may be required, depending on the complexity of the review, and any remaining funds left after review will be returned to the applicant.

If you are unable to find a deed pre-72 for your property, or if your deed does not conclusively demonstrate that your lot is legal, you could do the following:

- 1) You could request approval of a Certificate of Compliance (legal lot of exclusion) if all the surrounding lots are legal. But it would always require approval of a Certificate of Compliance (CC).
- 2) The same would apply if we issued a building permit for structural development for a parcel (such as a building permit for a dwelling unit, or a permit for a new garage addition, or a permit for an addition to the existing dwelling), you could request approval of a Certificate of Compliance.

Pursuant to the Subdivision Map Act, Section 66499.35.c, a Certificate of Compliance shall be issued for any real property that has been approved for development pursuant to Section 66499.34.

- 3) If everything fails, you may have to process a subdivision, assuming the lot is consistent with the County's general plan and zoning.

We know that the process to verify if a lot was created in compliance with the State Map Act can sometimes be very technical and require highly specialized review to understand and resolve. Title companies specialize in these matters. When a deed, pre-72 that has the description of the subject property and identical to the current deed is found, you should also apply for a Certificate of Compliance at this time, so future owners will not have to go through this process again.

Or, if you have a deed pre-72 identical to the current deed and would like a written verification prior to submitting building plans, you have to apply for a Certificate of Compliance.

5510 OVERLAND AVE, SUITE 110, SAN DIEGO, CA 92123

For any questions, please email us at: PDSZoningPermitCounter@sdcounty.ca.gov
<http://www.sdcounty.ca.gov/pds>



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The complete Certificate of Compliance application can be found at the following link:
https://www.sandiegocounty.gov/content/dam/sdc/pds/zoning/formfields/PDS-PLN-ESUB_CC_without_BA.pdf

If you desire, PDS staff will be pleased to explain this process in greater detail if necessary.