

# **ATTACHMENT A**

## **TITLE 21 – PLANNING COMMISSION RECORD**

Planning Commission Letter  
Draft Planning Commission Minutes  
Planning Commission Staff Report



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DEPARTMENT OF PLANNING AND BUILDING

**TO:** BOARD OF SUPERVISORS  
**FROM:** NICK FORESTER, PLANNER  
**DATE:** MARCH 13, 2012  
**SUBJECT:** PLANNING COMMISSION ACTION ON THE TITLE 21 REAL PROPERTY DIVISION ORDINANCE AMENDMENTS – SECTIONS 21.02.090 and 21.06.010(c) (LRP 2010-00008)

The Planning Commission of the County of San Luis Obispo held a public hearing on February 23, 2012 to consider proposed amendments to the Real Property Division Ordinance modify the ordinance so that at the discretion of the Planning Director, any application for a project that may generate substantial public controversy or involve significant land use policy issues and for which review authority is granted to the Subdivision Review Board pursuant to the provisions of Titles 21, 22, and/or 23, may be referred to the Planning Commission for review and decision. In addition, the amendments also change the number of years a time extension can be granted from five years to six years.

After holding a public hearing, the San Luis Obispo County Planning Commission recommends to the Board of Supervisors of the County of San Luis Obispo, State of California, approval of proposed General Plan Amendment LRP 2010-00008.

On the motion of Commissioner Irving, seconded by Commissioner Christianson, and on the following roll call vote, to wit:

**AYES:** Commissioners Irving, Christianson, Topping and Murphy and Chairperson O'Grady

**NOES:** None

**ABSENT:** None

**EXHIBIT B**  
**LRP 2010-00008**

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING TITLE 21 OF THE SAN LUIS OBISPO COUNTY  
CODE, THE REAL PROPERTY DIVISION ORDINANCE, SECTION 21.02.090  
RELATING TO DUTIES OF THE PLANNING COMMISSION AND SUBDIVISION  
REVIEW BOARD AS THE ADVISORY AGENCY AND SECTION 21.06.010  
RELATING TO DISCRETIONARY TIME EXTENSIONS

The Board of Supervisors of the County of San Luis Obispo ordains as follows:

SECTION 1: Section 21.02.090 of the Real Property Division Ordinance, Title 21 of the San Luis Obispo County Code, is hereby amended as follows:

21.02.090 - Duties of the planning commission and subdivision review board as the advisory agency.

- (a) The planning commission is designated the advisory agency authorized to approve, conditionally approve, or disapprove tentative tract maps. In addition, the planning commission is authorized to make decisions on adjustment requests for tentative tract maps filed under Section 21.03.020, time extension requests for tentative tract maps filed under Section 21.06.010, and modification requests for recorded final tract maps filed under Section 21.06.060.
- (b) The subdivision review board is designated the advisory agency authorized to approve, conditionally approve, or disapprove tentative parcel maps, requests for the waiver of the filing of a parcel map as defined in Section 21.02.010(e), lot line adjustments as defined in Section 21.02.030, conditional certificates of compliance as defined in Section 21.02.020, and notices of violation as defined in Section 21.07.020. In addition, the subdivision review board is authorized to make decisions on adjustment requests for tentative parcel maps filed under Section 21.03.020, time extension requests for tentative parcel maps filed under Section 21.06.010, and modification requests for recorded parcel maps filed under Section 21.06.060.
- (c) The subdivision review board, as the Review Authority, is authorized to approve, conditionally approve, or disapprove certain land use permit applications that are submitted and filed in conjunction with tentative parcel map applications pursuant to the provisions of Title 22 or Title 23 of this code.
- (d) **At the discretion of the Planning Director, any application for a project that may generate substantial public controversy or involve significant land use policy issues and for which review authority is granted to the subdivision review board pursuant to the provisions of Title 22 or Title 23 of this code, or this Title, may be referred to the planning commission for review and decision in the same manner as a tentative tract map without the applicant being charged an additional application fee.**

SECTION 2: Section 21.06.010(c) of the Real Property Division Ordinance, Title 21 of the San Luis Obispo County Code, is hereby amended to read as follows:

- (c) Upon application of the divider filed with the planning department prior to the expiration of the approved or conditionally approved tentative parcel map or tentative tract map, the advisory agency (the subdivision review board or planning commission) may extend or conditionally extend the time at which such map expires for a period or periods not exceeding a total of ~~five years~~ six years. The planning department shall make a written recommendation in its staff report to the advisory agency concerning the extension request. The decision of the advisory agency shall be final unless appealed to the board of supervisors within fifteen (15) days after the date of the decision.

SECTION 3: This project is covered by the general rule that the California Environmental Quality Act (CEQA) applies only to projects which have the potential for causing a significant effect on the environment (Cal. Code Regs., tit. 14, § 15061(b)(3)). It can be seen with certainty that there is no possibility that this project may have a significant effect on the environment because no new development is authorized, no increase in density will occur, no change in allowed uses is proposed or authorized and no physical change to the environment will occur. Therefore the activity is not subject to CEQA.

SECTION 4: If any section, subsection, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of a court of competent jurisdiction, such decision shall not affect the validity or constitutionality of the remaining portion of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and each section, subsection, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

SECTION 5: This ordinance shall take effect and be in full force on and after 30 days from the date of its passage hereof. Before the expiration of 15 days after the adoption of this ordinance, by the San Luis Obispo County Board of Supervisors, it shall be published once in a newspaper of general circulation published in the County of San Luis Obispo, State of California, together with the names of the members of the Board of Supervisors voting for and against the ordinance.

INTRODUCED at a regular meeting of the Board of Supervisors held on the \_\_\_\_ day of \_\_\_\_\_, 2012, and PASSED AND ADOPTED by the Board of Supervisors of the County of San Luis Obispo, State of California, on the \_\_\_\_\_ day of \_\_\_\_\_, 2012, by the following roll call vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAINING:

\_\_\_\_\_  
Chairperson of the Board of Supervisors,  
County of San Luis Obispo,  
State of California

ATTEST:

\_\_\_\_\_  
County Clerk and Ex-Officio Clerk  
of the Board of Supervisors  
County of San Luis Obispo, State of California

[SEAL]

ORDINANCE CODE PROVISIONS APPROVED  
AS TO FORM AND CODIFICATION:

WARREN R. JENSEN  
County Counsel

By: \_\_\_\_\_  
Deputy County Counsel

Date: \_\_\_\_\_

THURSDAY, FEBRUARY 23, 2012

The following action minutes are listed as they were acted upon by the Planning Commission and as listed on the agenda for the Regular Meeting of February 23, 2012 together with the maps and staff reports attached thereto and incorporated therein by reference.

HEARINGS ARE ADVERTISED FOR 9:00 A.M. HEARINGS GENERALLY PROCEED IN THE ORDER LISTED, UNLESS CHANGED BY THE PLANNING COMMISSION AT THE MEETING. (9:13 AM)

DRAFT DRAFT DRAFT DRAFT DRAFT DRAFT DRAFT DRAFT DRAFT

ROLL CALL (9:14 AM)

PRESENT: Commissioner(s) Jim Irving, Tim Murphy, Ken Topping, Dan O'Grady, and Carlyn Christianson.

ABSENT: None

2. Hearing to consider a request by the COUNTY OF SAN LUIS OBISPO to amend Section 21.02.090 of the Real Property Division Ordinance (Title 21 of the San Luis Obispo County Code). The proposed amendment would modify the ordinance so that at the discretion of the Planning Director, any application for a project that may generate substantial public controversy or involve significant land use policy issues and for which review authority is granted to the Subdivision Review Board pursuant to the provisions of Titles 21, 22, and / or 23, may be referred to the Planning Commission for review and decision. This project is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. It can be seen with certainty that there is no possibility that this project may have a significant effect on the environment; therefore, the activity is not subject to CEQA. [Reference: State CEQA Guidelines sec. 15061(b)(3), General Rule Exemption].  
County File Number: LRP2010-00008 Assessor Parcel Number: N/A

Supervisorial District: All Date Authorized: December 7, 2010

Nick Forester, Program Manager Recommend: recommend to the Board of Supervisors - approval

POST HEARING DETERMINATION: APPROVED (9:30 AM)

Jim Orton, County Counsel: directs Commissioners to where changes are recommended by counsel.

Jim Irving: asks for clarification regarding the change to the map act in terms of whether it was permanent or due to a change in the economy with Mr. Orton stating this was a permanent change.

Dan O'Grady: opens Public Comment with no one coming forward.

Jim Orton, County Counsel: clarifies the county file number used is not part of the county general plan in relationship to the Long Range Planning (LRP) number used for this file.

Dan O'Grady: there being no further discussion asks for a motion.

Thereafter, on motion of Jim Irving, seconded by Carlyn Christianson, and on the following vote:

AYES: Commissioner(s) Jim Irving, Carlyn Christianson, Tim Murphy, Ken Topping, Dan O'Grady.

NOES: None.

ABSENT: None.

The Commission recommends the Board of Supervisors approve amendment LRP201-00008, Sections 21.02.090 and 21.06.010, based on the findings listed in Exhibit A, and Exhibit B.

Respectfully submitted,

Ramona Hedges, Secretary

Planning Commission



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**COUNTY OF SAN LUIS OBISPO  
DEPARTMENT OF PLANNING AND BUILDING  
STAFF REPORT**

*Promoting the wise use of land  
Helping build great communities*

**PLANNING COMMISSION**

<b>MEETING DATE</b> February 23, 2012	<b>CONTACT/PHONE</b> Nick Forester 781-1163 Nforester@co.slo.ca.us	<b>APPLICANT</b> County of San Luis Obispo	<b>FILE NO.</b> LRP2010-00008
<b>SUBJECT</b> Hearing to consider a request by the County of San Luis Obispo to amend Section 21.02.090 of the Real Property Division Ordinance (Title 21 of the San Luis Obispo County Code). The proposed amendment would modify the ordinance so that at the discretion of the Planning Director, any application for a project that may generate substantial public controversy or involve significant land use policy issues and for which review authority is granted to the Subdivision Review Board pursuant to the provisions of Titles 21, 22 or Title 23 of County Code, may be referred to the Planning Commission for review and decision.			
<b>RECOMMENDED ACTION</b> Approve Land Use Ordinance amendment LRP2010-00008 based on the findings listed in Exhibit A and forward a recommendation to the Board of Supervisors.			
<b>ENVIRONMENTAL DETERMINATION</b> This project is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. It can be seen with certainty that there is no possibility that this project may have a significant effect on the environment; therefore, the activity is not subject to CEQA. [Reference: State CEQA Guidelines sec. 15061(b)(3), General Rule Exemption]			
<b>LAND USE CATEGORY</b> N/A	<b>COMBINING DESIGNATION</b> N/A	<b>ASSESSOR PARCEL NUMBER</b> N/A	<b>SUPERVISOR DISTRICT(S)</b> All
<b>PLANNING AREA STANDARDS:</b> Not Applicable			
<b>EXISTING USES:</b> N/A			
<b>SURROUNDING LAND USE CATEGORIES AND USES:</b> N/A			
<b>OTHER AGENCY / ADVISORY GROUP INVOLVEMENT:</b> The project was referred to all Community Advisory Groups			
<b>TOPOGRAPHY:</b> N/A		<b>VEGETATION:</b> N/A	
<b>PROPOSED SERVICES:</b> N/A		<b>AUTHORIZED FOR PROCESSING DATE:</b> December 7, 2010	
<b>ADDITIONAL INFORMATION MAY BE OBTAINED BY CONTACTING THE DEPARTMENT OF PLANNING &amp; BUILDING AT: COUNTY GOVERNMENT CENTER γ SAN LUIS OBISPO γ CALIFORNIA 93408 γ (805) 781-5600 γ FAX: (805) 781-1242</b>			

**DISCUSSION:**

In 1992, the Board of Supervisors modified the Land Use, Coastal Zone Land Use and Real Property Division ordinances such that the decision-making authority for Tract Maps was transferred from the Board of Supervisors to the Planning Commission. The decision-making authority for Parcel Maps, Lot Line Adjustments and Conditional Certificates of Compliance was transferred from the Board of Supervisors to the Subdivision Review Board (SRB). In addition, in cases where a land use permit is required in conjunction with a land division (i.e. cluster divisions, condominiums) decision-making authority also moved from the Board of Supervisors to the same Review Authority that hears the subdivision. The primary reason for the change was that the more routine applications were taking too much time on the Board of Supervisor's agenda. The amendments were to provide the Board more time to focus on legislative acts, budget matters and appeals.

The San Luis Obispo County Grand Jury issued a report on June 8, 2010 based on their review of certain County Ordinances including: Title 21(The Real Property Division Ordinance). In their review the Grand Jury examined which review authority, the Subdivision Review Board or the Planning Commission, has authority to review various types of development applications.

The Grand Jury report of June 2010 made the following recommendation:

3. The Board of Supervisors grant discretion to the director of planning to elevate certain complex or controversial consolidated or high level project applications from the SRB to the planning commission. (Findings 2, 3)

Currently, the ordinance allows the Planning and Building Director to refer any Minor Use Permit application for a project that may generate substantial public controversy or involve significant land use policy decisions to the Planning Commission for review and decision without the applicant being charged an additional application fee. The Board of Supervisors on December 10, 2010 authorized an amendment that would apply the same standard to the applications that are heard by the Subdivision Review Board.

The attached ordinance amendment would allow the Planning Director, at his/her discretion, to refer to the Planning Commission any application that would otherwise be heard by the Subdivision Review Board where that application may generate substantial public controversy or involve significant land use policy decisions.

**ATTACHMENTS**

Exhibit A - Findings

Exhibit B - LRP2010-00008 - Proposed Land Use Ordinance Changes

**EXHIBIT A - FINDINGS**

- A. This project is covered by the general rule that the California Environmental Quality Act (CEQA) applies only to projects which have the potential for causing a significant effect on the environment (Government Code 15061(b)(3)). It can be seen with certainty that there is no possibility that this project may have a significant effect on the environment because no new development is authorized, no increase in density will occur, no change in allowed uses is proposed or authorized and no physical change to the environment will occur. Therefore, the activity is not subject to CEQA.
- B. The proposed amendments to Title 21 will not be detrimental to the public health, safety and welfare of county residents as these standards provide for a modified hearing process.
- C. The proposed amendments are consistent with the San Luis Obispo County General Plan.

**EXHIBIT B**  
**LRP 2010-00008**

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AMENDING TITLE 21 OF THE SAN LUIS OBISPO COUNTY CODE, THE  
REAL PROPERTY DIVISION ORDINANCE, SECTION 21.02.090 RELATING TO DUTIES OF  
THE PLANNING COMMISSION AND SUBDIVISION REVIEW BOARD**

The Board of Supervisors of the County of San Luis Obispo ordains as follows:

SECTION 1: Section 21.01.090 of the Real Property Division Ordinance, Title 21 of the San Luis Obispo County Code, is hereby amended as follows:

21.02.090 - Duties of the planning commission and subdivision review board as the advisory agency.

- (a) The planning commission is designated the advisory agency authorized to approve, conditionally approve, or disapprove tentative tract maps. In addition, the planning commission is authorized to make decisions on adjustment requests for tentative tract maps filed under Section 21.03.020, time extension requests for tentative tract maps filed under Section 21.06.010, and modification requests for recorded final tract maps filed under Section 21.06.060.
- (b) The subdivision review board is designated the advisory agency authorized to approve, conditionally approve, or disapprove tentative parcel maps, requests for the waiver of the filing of a parcel map as defined in Section 21.02.010(e), lot line adjustments as defined in Section 21.02.030, conditional certificates of compliance as defined in Section 21.02.020, and notices of violation as defined in Section 21.07.020. In addition, the subdivision review board is authorized to make decisions on adjustment requests for tentative parcel maps filed under Section 21.03.020, time extension requests for tentative parcel maps filed under Section 21.06.010, and modification requests for recorded parcel maps filed under Section 21.06.060. [Amended 1993, Ord. 2602]
- (c) The subdivision review board, as the Review Authority, is authorized to approve, conditionally approve, or disapprove certain land use permit applications that are submitted and filed in conjunction with tentative parcel map applications pursuant to the provisions of Title 22 or Title 23 of this code.
- (d) At the discretion of the Planning Director, any application for a project that may generate substantial public controversy or involve significant land use policy issues and for which review authority is granted to the Subdivision Review Board pursuant to the provisions of Title 22 or Title 23 of County Code, or this Title, may be referred to the Planning Commission for review and decision in the same manner as a Tentative Tract Map without the applicant being charged an additional application fee.

SECTION 2. This project is covered by the general rule that the California Environmental Quality Act (CEQA) applies only to projects which have the potential for causing a significant effect on the environment (Government Code 15061(b)(3). It can be seen with certainty that there is no possibility that this project may have a significant effect on the environment because no new development is authorized, no increase in density will occur, no change in allowed uses is proposed or authorized and no physical change to the environment will occur. Therefore the activity is not subject to CEQA.

SECTION 3. If any section, subsection, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of a court of competent jurisdiction, such decision shall not affect the validity or constitutionality of the remaining portion of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and each section, subsection, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

SECTION 4: Before the expiration of 15 days after the adoption of this ordinance by the San Luis Obispo County Board of Supervisors, it shall be published once in a newspaper of general circulation published in the County of San Luis Obispo, State of California, together with the names of the members of the Board of Supervisors voting for and against the ordinance.

PASSED AND ADOPTED by the Board of Supervisors of the County of San Luis Obispo, State of California, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, by the following roll call vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAINING:

Chairman of the Board of Supervisors,  
County of San Luis Obispo,  
State of California

ATTEST:

County Clerk and Ex-Officio Clerk  
of the Board of Supervisors  
County of San Luis Obispo, State of California

[SEAL]

ORDINANCE CODE PROVISIONS APPROVED  
AS TO FORM AND CODIFICATION:

WARREN R. JENSEN  
County Counsel

By: Deputy County Counsel

Date: \_\_\_\_\_

**EXHIBIT B**  
**LRP 2010-00008**

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING TITLE 21 OF THE SAN LUIS OBISPO COUNTY  
CODE, THE REAL PROPERTY DIVISION ORDINANCE, SECTION 21.02.090  
RELATING TO DUTIES OF THE PLANNING COMMISSION AND SUBDIVISION  
REVIEW BOARD AS THE ADVISORY AGENCY AND SECTION 21.06.010  
RELATING TO DISCRETIONARY TIME EXTENSIONS

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- (b) The subdivision review board is designated the advisory agency authorized to approve, conditionally approve, or disapprove tentative parcel maps, requests for the waiver of the filing of a parcel map as defined in Section 21.02.010(e), lot line adjustments as defined in Section 21.02.030, conditional certificates of compliance as defined in Section 21.02.020, and notices of violation as defined in Section 21.07.020. In addition, the subdivision review board is authorized to make decisions on adjustment requests for tentative parcel maps filed under Section 21.03.020, time extension requests for tentative parcel maps filed under Section 21.06.010, and modification requests for recorded parcel maps filed under Section 21.06.060.
- (c) The subdivision review board, as the Review Authority, is authorized to approve, conditionally approve, or disapprove certain land use permit applications that are submitted and filed in conjunction with tentative parcel map applications pursuant to the provisions of Title 22 or Title 23 of this code.
- (d) At the discretion of the Planning Director, any application for a project that may generate substantial public controversy or involve significant land use policy issues and for which review authority is granted to the subdivision review board pursuant to the provisions of Title 22 or Title 23 of this code, or this Title, may be referred to the planning commission for review and decision in the same manner as a tentative tract map without the applicant being charged an additional application fee.

SECTION 2: Section 21.06.010(c) of the Real Property Division Ordinance, Title 21 of the San Luis Obispo County Code, is hereby amended to read as follows:

- (c) Upon application of the divider filed with the planning department prior to the expiration of the approved or conditionally approved tentative parcel map or tentative tract map, the advisory agency (the subdivision review board or planning commission) may extend or conditionally extend the time at which such map expires for a period or periods not exceeding a total of ~~five years~~ six years. The planning department shall make a written recommendation in its staff report to the advisory agency concerning the extension request. The decision of the advisory agency shall be final unless appealed to the board of supervisors within fifteen (15) days after the date of the decision.

SECTION 3: This project is covered by the general rule that the California Environmental Quality Act (CEQA) applies only to projects which have the potential for causing a significant effect on the environment (Cal. Code Regs., tit. 14, § 15061(b)(3)). It can be seen with certainty that there is no possibility that this project may have a significant effect on the environment because no new development is authorized, no increase in density will occur, no change in allowed uses is proposed or authorized and no physical change to the environment will occur. Therefore the activity is not subject to CEQA.

SECTION 4: If any section, subsection, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of a court of competent jurisdiction, such decision shall not affect the validity or constitutionality of the remaining portion of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and each section, subsection, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

SECTION 5: This ordinance shall take effect and be in full force on and after 30 days from the date of its passage hereof. Before the expiration of 15 days after the adoption of this ordinance, by the San Luis Obispo County Board of Supervisors, it shall be published once in a newspaper of general circulation published in the County of San Luis Obispo, State of California, together with the names of the members of the Board of Supervisors voting for and against the ordinance.

INTRODUCED at a regular meeting of the Board of Supervisors held on the \_\_\_\_ day of \_\_\_\_\_, 2012, and PASSED AND ADOPTED by the Board of Supervisors of the County of San Luis Obispo, State of California, on the \_\_\_\_\_ day of \_\_\_\_\_, 2012, by the following roll call vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAINING:

\_\_\_\_\_  
Chairperson of the Board of Supervisors,  
County of San Luis Obispo,  
State of California

ATTEST:

\_\_\_\_\_  
County Clerk and Ex-Officio Clerk  
of the Board of Supervisors  
County of San Luis Obispo, State of California

[SEAL]

ORDINANCE CODE PROVISIONS APPROVED  
AS TO FORM AND CODIFICATION:

WARREN R. JENSEN  
County Counsel

By: \_\_\_\_\_  
Deputy County Counsel

Date: \_\_\_\_\_