



Meeting Date: 1/8/08

ACTION	TYPE OF ITEM
<input type="checkbox"/> Approved Recommendation	<input type="checkbox"/> Info/Consent
<input type="checkbox"/> Res. No(s).	<input type="checkbox"/> Report
<input checked="" type="checkbox"/> Ord. No(s).	<input checked="" type="checkbox"/> Public Hearing
<input type="checkbox"/> Other	<input type="checkbox"/> Other: Study Session

Prepared By: Stephanie Diaz ^{SLD}

Agenda Item No. L-1

Reviewed By: City Manager

City Attorney

Finance

City Clerk

DATE: December 20, 2007

TO: City Council

FROM: James Rupp, City Attorney
Susan L. Martin, AICP, Planning and Environmental Services Manager

SUBJECT: City Code Amendment Regarding Regulations for Vesting Tentative Maps.

RECOMMENDATION

That the City Council approve the first reading by title only and subsequent adoption of an ordinance amending regulations for vesting tentative maps.

DISCUSSION

Introduction: Developers recently have expressed intentions to file vested tentative maps for both commercial and residential development. Under Sate law, a developer has a right to file a vested tentative map for commercial, industrial or residential development. The City's ordinance on this subject, which lists infrastructure plans that must accompany a vesting tentative map, only addresses residential development. Under the City ordinance and State law, a developer possibly could file a vesting tentative map for a commercial project without providing infrastructure plans. The proposed ordinance amendment makes the City's requirements apply to commercial and industrial tentative maps. It also provides for development fees to be increased according to a definite formula after the map is filed, rather than frozen as they otherwise would be.

Background: Approval of a final map or parcel map does not in itself confer a vested right to develop. Zoning can still be changed or other ordinances can be adopted even after the approval of a final map. As part of a typical tentative map process, there is no vested right to develop until building permits have been issued and substantial work has been done.

In 1984, the legislature adopted the Vesting Tentative Map statute (Government Code Sec. 66498.1). Approval of a vesting tentative map by a local agency confers a vested right to proceed with a development in substantial compliance with the ordinances, policies and standards in

effect at the time the application for approval of a vesting tentative map is deemed complete. This is different than the standards for a typical tentative map request. The vesting map statute was originally applicable only to residential subdivisions. However, later the vesting map statute became applicable to all subdivisions, including commercial and industrial subdivisions.

State Law: A subdivider is permitted to file a vesting tentative map whenever a tentative map is required. The vesting tentative map process starts when a subdivider files a tentative or parcel map with the words “vesting tentative map” printed conspicuously on the face of the map. When the prerequisites are met, the City must process the vesting tentative map and cannot deny it solely because it is an application for a vesting map. A vesting map does not provide protection from future discretionary approvals that may become necessary to carry out the subdivision. If a subdivider needs a special use permit after the vesting tentative map application has been found to be complete, there is no guarantee of approval. However, the City is governed by the ordinances, policies and standards in effect at the time the vesting tentative map application was complete.

City Code Amendment: The City’s subdivision ordinance contains provisions for vesting tentative subdivision maps (see City Code section 15-19), including a requirement that complete preliminary plans for infrastructure accompany the map, and not commercial and industrial vesting maps. This section, however, does not fully implement State law as it applies only to residential vesting maps and not commercial and industrial vesting maps. An amendment is proposed at this time to make the requirements that apply to residential vesting maps apply to all vesting maps, including commercial and industrial maps, per State law. The amendment also clarifies and strengthens the requirements.

Under existing State law, a commercial or industrial development could, as of right, file a vesting tentative map without providing the infrastructure plans required of a residential subdivision. Under the proposed amendment, an applicant must supply complete improvement plans for sewer, water, drainage, street, grading and appurtenant improvements as part of the application.

Finally, the proposed amendment will set forth a formula to increase processing fees and capital improvement fees consistent with the decision of the Court of Appeal in Kaufman & Broad Central Valley, Inc. v. City of Modesto.

Environmental Review:

The California Environmental Quality Act (CEQA) section 15378 contains provisions for “non-projects” which are governmental activities that are not subject to CEQA because they do not fall within the meaning of the term “project.” As adopting this ordinance will not result in a direct or indirect physical change in the environment, it is not a project and therefore, CEQA does not apply.

FINANCIAL IMPACT

There is no financial impact associated with the approval of the ordinance. Costs associated with processing vesting tentative maps for commercial and industrial projects through the City's permit process will be covered by application fees.

Attachment 1 - Draft Ordinance

ORDINANCE OF THE CITY OF OXNARD

ORDINANCE NO. __

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OXNARD AMENDING
SUBPARTS (A), (B) AND (C)(2) OF SECTION 15-19 OF THE CITY CODE AND
ADDING SUBPART (H) TO SECTION 15-19 OF THE CITY CODE
(Regulations for Vesting Tentative Maps)

The City Council of the City of Oxnard does ordain as follows:

Part 1. Subparts (A) and (B) of Section 15-19 of the City Code are hereby amended to read as follows:

“(A) A ‘vesting tentative map’ shall mean a ‘tentative map’ for a subdivision that shall have printed conspicuously on its face the words “Vesting Tentative Map” at the time such map is filed in accordance with this chapter. The purpose of a vesting tentative map is to confer certain development rights not applicable to a tentative map.

“(B) Whenever an application for a tentative subdivision map or tentative parcel map is required to be filed for a development, an application for a vesting tentative map may instead be filed in accordance with the provisions herein.”

Part 2. Subpart (C)(2) of Section 15-19 of the City Code is hereby amended to read as follows:

“(2) At the time an application for a vesting tentative map is filed, a subdivider shall also supply complete improvement plans for sewer, water, drainage, street, grading and appurtenant improvements along with supporting calculations in accordance with public works department standards and criteria. The development services department will review and approve the improvement plans to verify they are in accordance with city standards before the “Vesting Tentative Map” is heard by the commission. The application shall not be complete until such review and approval has been made by the development services department.”

Part 3. Subpart (H) is hereby added to Section 15-19 of the City Code to read as follows:

“(H) Any fees associated with a vesting tentative map that would be subject to the fee limitations set forth in Kaufman & Broad Central Valley, Inc. v. City of Modesto, 25 Cal. App.4th 1577, shall be calculated as follows:

“(1) Capital improvement fees shall include those fees set forth in Article VI of Chapter 15 of the City Code at the time the application is deemed complete. Any such fee shall be adjusted by multiplying the fee in effect at the time of application by the Engineering News Record Construction Cost Index for Los Angeles at the time of payment of the fee in question and dividing such product by the Engineering News

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Record Construction Cost Index for Los Angeles at the time the application was deemed complete. However, if the resulting quotient is greater than the actual fee applicable at that time to subdivisions that are proceeding without a vested tentative map, the actual fee will be used.”

“(2) All other fees charged by the City at the time the application is deemed complete shall be adjusted by multiplying the fee in effect at the time of application by the Consumer Price Index for the Los Angeles-Anaheim-Riverside Area at the time of payment of the fee in question and dividing such product by the Consumer Priced Index for the Los Angeles-Anaheim-Riverside Area at the time the application was deemed complete. However, if the resulting quotient is greater than the actual fee applicable at that time to subdivisions that are proceeding without a vested tentative map, the actual fee will be used.”

Part 4. Within 15 days after passage, the City Clerk shall cause this ordinance to be published one time in a newspaper of general circulation within the city. Ordinance No. ____ was first read on _____, 20__ and finally adopted on _____, 20__ to become effective thirty days thereafter.

AYES:

NOES:

ABSENT:

Dr. Thomas E. Holden, Mayor

ATTEST:

Daniel Martinez, City Clerk

APPROVED AS TO FORM:



Gary L. Gillig, City Attorney

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