Los Angeles County
Department of Regional Planning

Planning for the Challenges Ahead

Richard J. Bruckner
Director

February 28, 2012

The Honorable Board of Supervisors
County of Los Angeles
Kenneth Hahn Hall of Administration, Room 383
500 West Temple Street
Los Angeles, California 90012

Dear Supervisors:

PROJECT NO. R2011-01079-(1-5)
ADVANCE PLANNING CASE NO. 201100009
PROPOSED AMENDMENTS TO TITLE 21 AND TITLE 22
OF THE LOS ANGELES COUNTY CODE
(ALL SUPERVISORIAL DISTRICTS) (3 VOTES)

SUBJECT

To amend Title 21 (Subdivision Ordinance) and Title 22 (Zoning Ordinance) of the Los Angeles County Code to clarify ambiguous language, confusing processes and account for changes in related regulations including State law. Amendments are to the following sections: 21.08.090 (Lease project), 21.12.010 and 21.12.020 (Subdivision Committee), 21.40.040 and 21.48.040 (Information or documents required for tentative maps), 21.40.180 and 21.48.120 (Tentative map extensions), 22.08.230 (Definitions), 22.40.080 (Review of zone classification), 22.56.080 (Minor CUPs) and 22.56.085 (Grant or denial of minor CUP by Director), 22.56.1650 (Appeal from the Hearing Officer) and 22.60.190 (Administration).

IT IS RECOMMENDED THAT YOUR BOARD, AFTER THE PUBLIC HEARING:

1. Find that the proposed Code amendments are Categorically Exempt from the California Environmental Quality Act (CEQA) based on Section 15061(b) (Chapter 3, Title A. California Code of Regulations) because there is no possibility that the activity in question may have a significant effect on the environment. The proposed section that adds nonconforming apartment buildings to the uses that qualify for the minor Conditional Use Permit (CUP) process applies only to existing structures and, is therefore, exempt under CEQA Class 1, Existing Facilities.

2. Approve the recommendation of the Regional Planning Commission to make minor amendments to Title 21 (Subdivision Ordinance) and Title 22 (Zoning Ordinance) of

the Los Angeles County Code (County Code).

3. Instruct County Counsel to prepare an ordinance amending Title 21 (Subdivision Ordinance) and Title 22 (Zoning Ordinance) of the County Code, as recommended by the Regional Planning Commission.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

On September 21, 2011, the Regional Planning Commission initiated amendments to 11 sections of the Los Angeles County subdivision and zoning codes. The amendments were minor in nature and were needed to clarify ambiguous language, address confusing processes and account for changes in related regulations including State law. Amendments were to the following sections:

1. **21.08.090** -- delete reference to commercial in the definition of lease project, to be consistent with the Subdivision Map Act.
2. **21.12.010** – amend composition of Subdivision Committee (SCM) to reflect current County Department structure.
3. **21.12.020** – delete final maps from SCM consideration to reflect the current County structure.
4. **21.40.040** and **21.48.040** – amend application requirements for major and minor land division to match for consistency.
5. **21.40.180** and **21.48.120** – amend matching existing extensions granted by the Subdivision Map Act, and end appeals of time extensions at the Regional Planning Commission.
6. **22.08.230** – amend the text in the definitions section – W "Water Well, Shared" by replacing adjoining with adjacent to match changes in the Plumbing Code.
7. **22.40.080** – amend the Development Program (DP) section related to unused permits.
8. **22.56.080** – delete the section that allows a conditional use permit without a public hearing.
9. **22.56.085** –add nonconforming apartment houses in zones where the use is allowed with a conditional use permit, to the list of uses that qualify for a minor conditional use permit.
10. **22.56.1650** – amend the appeal findings for modification or elimination of conditions requests.
11. **22.60.190** – delete the requirement that notification of action taken by the hearing officer, commission, or board of supervisors be mailed by certified letter.

Implementation of Strategic Plan Goals

The amendments implement the following Countywide Strategic Plan Goals:

Goal 1: Operational Effectiveness

"Maximize the effectiveness of processes, structure, and operations to support timely delivery of customer-oriented and efficient public services."

The proposed amendments would improve the functionality of the Subdivision and Zoning Codes by updating outdated sections, simplifying language that has proven to be confusing in practice and fix processes that were unworkable because of unintended consequences.

Goal 3: Community and Municipal Services

"Enrich the lives of Los Angeles County's residents and visitors by providing access to cultural, recreational, and lifelong learning facilities programs; ensure quality regional open space, recreational and public works infrastructure services for County residents; and deliver customer-oriented municipal services to the County's diverse unincorporated communities."

The minor Code amendments improve the effectiveness and efficiency of the Subdivision and Zoning Codes and will therefore improve the County's ability to deliver customer-oriented municipal services to the unincorporated communities within its jurisdiction.

FISCAL IMPACT/FINANCING

Approval and implementation of the proposed ordinance will not result in any loss of revenue to the County or significant new costs to the Department of Regional Planning (DRP) or other County departments. Adoption of this ordinance will not result in the need for additional DRP staffing.

The proposed ordinance will not result in additional net County costs, and therefore, a request for funding is not being made at this time.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

The minor amendments are necessary to more effectively and efficiently administer the County's Subdivision and Zoning Codes. There are 11 sections in the two Codes that are affected by this amendment proposal:

1. Amendment to Section 21.08.090.A - would delete reference to commercial in the definition of a lease project, to be consistent with the language in Section 66412.1 of the Subdivision Map Act.

2. Amendment to Section 21.12.010 - would adjust the composition of the subdivision committee to reflect current County department structure. The subdivision committee membership has changed since this section of the Code was last amended. Department names have also changed or departments have been consolidated. The proposal is to amend this section to reflect the current membership.

3. Amendment to Section 21.12.020 - to delete final maps from subdivision committee consideration. The Subdivision Committee meeting no longer reviews final maps because the Department of Public Works serves as the clearinghouse for final tract and parcel map clearance.

4. Amendments to Sections 21.40.040 and 21.48.140 - that relate to application requirements. The changes proposed to these sections include updating the application requirements language of the Code to refer to separate application checklists maintained by the Director of DRP. This allows for ease in updating application requirements without amending the Code, and is consistent with Department efforts in the technical update to Title 22 (Zoning Ordinance).

5. Amendments to Sections 21.40.180 and 21.48.120 - to match existing extensions granted by the Subdivision Map Act. These two sections of the Code should contain the same time extension periods of up to six years, to be consistent with the Subdivision Map Act.

6. Amendment to Section 22.08.230 - Definition for "W - Water Well, Shared" to be consistent with the Plumbing Code, which was recently revised to allow a water line to cross more than one parcel. The Zoning Code, which was written to be consistent with the Plumbing Code, only allows a shared water well line to cross one lot line. Replacing the word adjoining with adjacent would correct the current inconsistency between the two codes.

7. Amendment to Section 22.40.080 - for Development Programs (DP) related to unused permits. The Zoning Code presently requires that the Department investigate rezoning properties where a CUP to establish the development program has not been approved, and/or the use not established within the required two-year period. In these instances, the Code requires that within 60 days, the Department conduct an investigation and potentially begin the process to change the zoning on the property. In practice, this has not been possible to implement. The proposed solution is that the 60-day period be removed and the Code language be changed from *shall* to *may*. This will allow the Department to investigate the matter in a reasonable time period and keep the existing zoning in place, if that is appropriate to do so.

8. Amendment to Section 22.56.080 - to delete provisions that allow a CUP to be approved without a public hearing. This section contradicts State law and cannot be implemented.

9. Amendment to Section 22.56.085 - to add nonconforming apartment houses in zones where the use is allowed with a CUP to the list of uses that qualify for a minor CUP. There are a number of apartment buildings in the older unincorporated neighborhoods that are legal nonconforming as a result of subsequent changes to the Zoning Code. Recognizing that a number of property owners are affected, on June 28, 2011, the Board of Supervisors directed the Department to explore options to amend the Code to allow nonconforming apartments to apply for the minor CUP process.

   Although long-range plans and existing zoning intend that no new apartments be developed in the affected zones, there is value in allowing existing apartments to remain legally, so they can be properly maintained and provide needed housing for the community. Approximately 20 years prior, between 1990 and 1992, the West Athens-Westmont Community Plan, zoning consistency study, and corresponding West Athens-Westmont Community Standards District (22.44.120) was approved by the Board of Supervisors. This project changed zones for approximately 200 properties that contained apartments to zones where use permits would be required in the future. The Zoning Code requires that properties comply with new regulations after 1) five years from the date the use becomes nonconforming, or 2) 20 years when the structure becomes nonconforming. More than 20 years has passed since properties affected by the West Athens-Westmont planning effort became nonconforming, and therefore all affected apartment buildings now require special permitting to legally remain.

   Many of the affected apartments remain viable uses and structures that can remain without detriment to the surrounding community. The present process to bring these properties into compliance with the Zoning Code would require an apartment building to obtain a CUP. In accordance with the Board of Supervisors motion of June 28, 2011, DRP staff and the RPC recommend the minor CUP process that is presently used for a select list of uses. The proposed solution is to allow apartment buildings to be added to the list of uses that qualify for a minor CUP. The benefit of making this change is:

   - Process is administrative and takes approximately 8-12 weeks.
   - Present minor CUP fee is approximately $1,400 compared to a full CUP, which is approximately $8500.

10. Amendment to Section 22.56.1650 - will correct the findings section for appeals of modification or elimination of conditions requests. As it is presently worded, the Code has the unintended consequences of rendering appeals to the RPC of

modification or elimination of conditions requests meaningless. The Code requires that the request goes before the hearing officer as a discussion item. The hearing officer must find, amongst other findings, that there has been no more than one protest to the request before the hearing officer can approve the modification. If there are two protests, the request must be denied. If the hearing officer's decision to deny is appealed to the RPC, the Code requires that the RPC make the same findings. The proposed solution is to remove the protest finding from the RPC consideration on appeals. On appeal, the RPC would then be able to decide whether to grant the modification based on the merits of the request.

11. Amendment to Section 22.60.190 - to delete a requirement that notification of action taken by the hearing officer, the RPC, or the Board of Supervisors be mailed by certified letter. The Code requires that notice of the actions be sent by registered or certified mail. This Code requirement was established at a time when the US Postal Service was the only way to deliver important correspondence. Electronic mail has made this requirement obsolete. Revisions to the appeals procedures several years ago require that we now give notice of the appeal period at the time the action is taken at a hearing. Additionally, the appeal period is posted on the Department's website. Prior to the revision, the mailed letter/notice of action was the only means to communicate the appeal period to the applicant and interested parties.

    The cost to use certified mail is approximately $6 per mailing. An additional consideration to justify removing the requirement is that email and web posting make it possible for the Department to instantly deliver the information to interested parties.

A public hearing is required pursuant to Section 22.16.200 of the County Code and Section 65856 of the Government Code. Required notice must be given to the public pursuant to the procedures set forth in Section 22.60.174 of the County Code. These procedures exceed the minimum standards of Government Code Sections 6061, 65090, and 65856 relating to notice of public hearing. Notice of hearing was published in the following newspapers: Daily News, La Opinion, The Daily Breeze, The Signal, San Gabriel Valley Tribune, and Antelope Valley Press. Notices were also mailed to all those identified on the Department's courtesy mailing lists for all zoned districts throughout the County.

ENVIRONMENTAL DOCUMENTATION

Most of the Code amendments included in this project are exempt from the CEQA based on Section 15061(b) (Chapter 3, Title A. California Code of Regulations) because there is no possibility that the activity in question may have a significant effect on the environment. The proposed section that adds nonconforming apartment buildings to

the uses that qualify for the minor CUP process applies only to existing structures and, is therefore, exempt under CEQA Class 1, Existing Facilities.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

Approval of the proposed ordinance will not significantly impact County services.

Respectfully submitted,

Richard J. Bruckner
Director

RJB:SA:mc:lm

Attachments: Draft Ordinance, Commission Resolution, Summary of Commission Proceedings, Commission Staff Report and Correspondence

c: Executive Office, Board of Supervisors
Assessor
Auditor-Controller
Chief Executive Office
County Counsel
Department of Parks and Recreation
Department of Public Health
Department of Public Works
Fire Department

BOARD LETTER COVER SHEET

Agenda Date: **February 28, 2012**

Subject: **Project No. R2011-01079-(All Districts), Advance Planning Case No. 20110009** To amend Title 21 (Subdivision Ordinance) and Title 22 (Zoning Ordinance) of the Los Angeles County Code to clarify ambiguous language, confusing processes and account for changes in related regulations including state law. Amendments are to the following sections: 21.08.090 (Lease project), 21.12.010 and 21.12.020 (Subdivision Committee), 21.40.040 and 21.48.040 (Information or documents required for tentative maps), 21.40.180 and 21.48.120 (Tentative map extensions), 22.08.230 (Definitions), 22.40.080 (Review of zone classification), 22.56.080 (Minor CUPs) and 22.56.085 (Grant or denial of minor CUP by director), 22.56.1650 (Appeal from the Hearing Officer) and 22.60.190 (Administration).

If the Board Agenda item requires clearance from County Counsel or Chief Information Officer, explain where you are in that review process. If not, please indicate that it is not required.

The Board Agenda item being scheduled for February 28, 2012, is a public hearing – after consideration by the Board, scheduling for Board consent must be cleared through County Counsel.

If there is an urgency to the Board Agenda item, explain the urgency, citing the reason for the urgency (including the drop-dead due date) and consequences if the due date is missed. If not, please indicate that there is no urgency.

The item is urgent because of the section that relates to non conforming apartments. There are a number of property owners that have business license applications pending to continue operating non conforming apartment buildings. Regional Planning cannot provide Business License with a zoning clearance until a permit application is received. In situations where landlords are accepting Section 8 funding, this funding is not available until a business license is approved. There is no drop-dead date to consider only that any delay would cause financial hardship for a number of affected property owners.

Is this a Consent Agenda item? Check the appropriate box below and explain why for either item.

☐ Consent

☒ Not Consent. Why? **The ordinance must first be considered by the Board at a public hearing, with opportunity for public testimony.**

Board Notification:

☒ Yes (see attached) PREVIOUSLY PROVIDED
☐ No (please explain why not)

Contact person for the Board Agenda item, division, phone number, and e-mail address.

Mark Child
Department of Regional Planning
Current Planning Division
213-974-6470
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AMENDED LANGUAGE FOR LOS ANGELES COUNTY
TITLE 21 –SUBDIVISIONS

21.08.090 – Lease project. A. "Lease Project" refers to a development wherein two or more residential or commercial buildings are constructed and maintained on a parcel of land, and apartments, offices, stores or similar space are leased within one or more of the buildings, overall control of the land and buildings comprising the project being retained by the lessor. The following shall not be included when computing the number of buildings within a lease project:

1. Accessory or satellite buildings;
2. Parking structures;
~~3. Commercial buildings having a floor area of less than 400 square feet.~~

...

21.12.010 – Membership. The subdivision committee created by Ordinance 3114 to act in an advisory capacity to the advisory agency, is hereby continued. It consists of the following members or their duly authorized representatives:

A. The director of planning of the regional planning commission of the county of Los Angeles;
B. The ~~county engineer~~ director of public works;
~~C. The road commissioner;~~
~~D~~C. The director of public health ~~officer~~;
~~E~~D. The director of parks and recreation;
~~F. The chief engineer of the Los Angeles County Flood Control District;~~
~~G~~E. The forester and fire warden.

21.12.020 – Timing of Meeting. The subdivision committee shall meet ~~at least once a week~~ regularly to consider tentative maps~~, final maps~~ and ~~parcel~~ exhibit maps.

21.40.040 Contents ---Information and documents required. ~~A.~~ The tentative map shall show and contain, or be accompanied by, ~~the following matters~~ as an aid to the advisory agency in its consideration of the design of the division of land, all of the information requested on the application checklist as maintained by the director, or such other information as the advisory agency may require~~:~~.

~~1. The map number;~~
~~2. Sufficient legal description of the land as to define the boundaries of the proposed division of land;~~
~~3. Name and address of subdivider and of registered civil engineer or licensed surveyor who prepared the tentative map;~~
~~4. The locations, names and existing widths of all adjoining highways, streets or ways;~~
~~5. The width and approximate grades of all highways, streets and ways within such proposed division of land;~~

6. The widths and approximate locations of all existing and proposed easements, whether public or private, including but not limited to those for roads, drainage, sewage disposal, fire fighting access and public utility purposes. The subdivider or his agent shall certify by an affidavit or by a declaration made under penalty of perjury pursuant to Section 2015.5 of the Code of Civil Procedure that all existing easements of record are shown on the tentative map;

7. Approximate radius of all curves;

8. The approximate lot layout and the approximate dimensions of each lot;

9. Approximate locations of all areas subject to inundation or stormwater overflow, and the locations, widths and directions of flow of all watercourses;

10. Source of water supply, if any;

11. Proposed method of sewage disposal. Where public sewers are not available and where private sewage disposal systems will be utilized, the results of percolation tests shall be submitted in accordance with the recommendations of the health officer. The location of any existing sewage disposal system which is proposed to remain in the division of land shall be shown on the tentative map;

12. The proposed use of the property, including the number of dwelling units contained in each of the following:

a. Detached single-family residences;

b. Attached single-family residences (townhouses), two-family residences and/or apartment houses containing fewer than five dwelling units;

c. Apartment houses containing five or more dwelling units; and

d. Mobile homes;

13. Proposed public areas, if any;

14. Approximate contours at sufficient intervals to determine existing topography and all proposed grading. Proposed grading shall be shown in a manner that clearly demonstrates compliance with Appendix Chapter 33 (of Title 26 of the Los Angeles County Code);

15. North point and scale;

16. Number for each lot;

17. Approximate location of each area covered by trees, with a statement of the nature of the cover and the kind and approximate location of all trees standing within the boundaries of the proposed public rights-of-way;

18. Approximate location and outline to scale of each building or structure which is not to be moved in the development of the division of land;

19. Each street shown by its actual street name or by temporary name or letter for purposes of identification until the proper name of such street is determined;

20. When required by the county engineer, a geological report, prepared by an engineering geologist certified by the State Board of Registration for Geologists of the State of California, which states whether or not the property to be divided is subject to an existing or potential geological hazard and which discusses how geological conditions will affect the proposed development. The report shall be submitted in hardcopy format and also in an electronic version on a compact disc in Adobe® Portable Document Format (PDF) with searchable text. The report shall include the engineering geologist's seal, signature, license number, and the date on which the engineering geologist signed and affixed his or her seal to the report;

~~21. In a division of land consisting of a condominium project as defined in Section 1350 of the Civil Code, a community apartment project as defined in Section 11004 of the Business and Professions Code, or a lease project as defined in this Title 21, a tentative map shall comply with the requirements of Section 21.16.015. In a mobile home division of land, as defined in this Title 21, a tentative map shall show the general location of all buildings, structures and mobile home spaces to be maintained or constructed, and the means of access thereto;~~

~~22. A written statement by the registered civil engineer or land surveyor as to whether or not he will set boundary monuments prior to filing with the county recorder of the final map;~~

~~23. A statement of the existing zoning and, if a zone change is proposed, the requested zoning for all real property within the division of land;~~

~~24. A vicinity map showing the location of the division in relating to the nearest existing cross streets;~~

~~25. Three prints of the most recent assessor Map Book page or pages covering the proposed division of land;~~

~~26. Such other information as the advisory agency may require.~~

~~B. If it is impossible or impracticable to place upon the tentative map any matter required by this section, such information shall be submitted with the map.~~

21.40.180 Duration of approval -- Extensions. A. The approval of a tentative map shall be effective for a period of two years.

B. The ~~advisory agency~~ hearing officer may grant one or more extensions to the terms of approval of a tentative map. Each extension shall be for no more than one year and the sum of such extensions shall not exceed ~~three~~ six years. The subdivider shall submit a written request to the ~~advisory agency~~ director for such extension before expiration of the map.

C. If the advisory agency denies the subdivider's application for an extension, the subdivider or any interested person may appeal to the legislative body within 15 days after the action of the advisory agency.

21.48.040 ~~Information required--Format.~~ ~~The tentative minor land division map shall be a reproducible print, legibly drawn to a scale of sufficient size to show full detail, including the following information:~~

~~A. North point, date and scale;~~

~~B. The map number;~~

~~C. The dimensions and record boundaries of the total ownership;~~

~~D. Sufficient dimensions and record boundaries so as to define the boundaries of the proposed minor land division;~~

~~E. The approximate boundaries, dimensions and area of each proposed parcel;~~

~~F. A number for each parcel;~~

~~G. General information as to locations, names, widths and improvements of all adjoining highways, streets or ways;~~

~~H. The widths and approximate locations of all existing and proposed easements, whether~~

~~public or private, including but not limited to those for road, drainage, sewage disposal, fire fighting access, and public utility purposes. The subdivider or his agent shall certify by an affidavit or by a declaration made under penalty of perjury pursuant to Section 2015.5 of the Code of Civil Procedure that all existing easements of record are shown on the tentative map;~~

~~I. Actual street names or an identifying letter for proposed streets;~~

~~J. Where the design of building sites, parcels, streets or easements is controlled by topography, approximate contours at sufficient intervals to determine existing topography and all proposed grading. Proposed grading shall be shown in a manner such that feasibility of compliance with Ordinance 2225, Chapter 70, can be determined. (See Title 26 of the Los Angeles County Code.);~~

~~K. The approximate location, house number (if any), and proposed disposition of existing structures or improvements within or immediately adjacent to the division. Such structures or improvements shall be shown to scale. If it is impossible or impractical to describe such structure or improvements on the tentative map, such information shall be submitted on a separate sheet;~~

~~L. The approximate location and direction of flow of all defined watercourses;~~

~~M. A vicinity map, if necessary to show the location of the division in relation to the nearest existing cross streets;~~

~~N. The general location of all buildings to be erected or maintained within a condominium project, community apartment project or lease project, and the means of access to such buildings;~~

~~O. The location of any existing sewage disposal system which is proposed to remain in the division of land.~~

Contents ---Information and documents required. The tentative minor land division map shall show and contain, or be accompanied by, as an aid to the advisory agency in its consideration of the design of the division of land, all of the information requested on the application checklist as maintained by the director, or such other information as the advisory agency may require.

21.48.120 Duration of approval -- Extensions. A. The approval of a tentative minor land division map shall be effective for a period of two years.

B. The advisory agency may grant one or more extensions to the terms of approval of a tentative map. Each extension shall be for no more than one year and the sum of said extensions shall not exceed ~~three~~ six years or in accordance with the Subdivision Map Act. The subdivider shall submit a written request to the ~~advisory agency~~ director for such extension before expiration of the map.

C. If the advisory agency denies the subdivider's application for an extension, the subdivider or any interested person may appeal to the legislative body within 15 days after the action of the advisory agency.

AMENDED LANGUAGE FOR LOS ANGELES COUNTY
TITLE 22 –PLANNING AND ZONING

22.08.230 Definitions - W

--- "Water well, shared" means a single water well, with its related tanks, pumps, and pipes, that provides potable water for up to four dwelling units, which dwelling units are located on the lot that contains the well and/or on any adjoining ~~adjacent~~ lot, in any combination.

22.40.080 Review of zone classification. A. Upon expiration of an unused conditional use permit in Zone ( )-DP, or if no application for a conditional use permit has been filed within two years following the effective date of an ordinance placing property in Zone ( )-DP, the commission ~~shall~~ may, ~~within 60 days thereafter~~, investigate the circumstances resulting in failure to apply for or use such conditional use permit.

B. In all cases the commission may extend such time for a period of not to exceed one year, provided an application requesting such extension is filed prior to such expiration date.

C. If neither the applicant, nor the person who on the latest available assessment roll appears to be the owner of the property involved, substantiates to the commission's satisfaction that additional time should be granted for the filing of an application for, or reapplication for, a conditional use permit, the commission ~~shall~~ may institute proceedings to rezone such property to the zone in existence prior to the adoption of Zone ( )-DP or to such other zone as may be deemed appropriate.

D. If upon the expiration of additional time granted by the commission no application has been filed for a conditional use permit, or if a second conditional use permit has expired unused, the commission ~~shall~~ may initiate proceedings to rezone such property as provided in this section.

22.56.070 Application--Public hearing required--Exception. In all cases where an application for a conditional use permit is filed, except where ~~the hearing officer grants the permit pursuant to Section 22.56.080 or~~ the director grants the permit pursuant to Section 22.56.085, the public hearing shall be held pursuant to the procedure provided in Part 4 of Chapter 22.60.

22.56.080 Permit--Granted following ex parte consideration--Exceptions. ~~Where the hearing officer finds that the use requested, subject to such conditions as he deems necessary, will comply with the findings required by Section 22.56.090, he may grant such permit without a public hearing except that this section does not apply to an application for the following:~~

- ~~Airports.~~
- ~~Amusement and entertainment enterprises and concessions, including all structural devices and contrivances designed and operated for patron participation and pleasure.~~
- ~~Circus winter quarters.~~
- ~~Colleges and universities.~~
- ~~Communication equipment buildings.~~

~~-- Correctional institutions.~~
~~-- Day nurseries.~~
~~-- Earth stations.~~
~~-- Electrical distribution substations.~~
~~-- Electric transmission substations.~~
~~-- Electric generating plants.~~
~~-- Golf courses, including the customary clubhouse and appurtenant facilities.~~
~~-- Golf driving ranges.~~
~~-- Guest ranches.~~
~~-- Heliports.~~
~~-- Helistops.~~
~~-- Hospitals.~~
~~-- Institutions for the aged, private.~~
~~-- Institutions for children, private.~~
~~-- Juvenile halls.~~
~~-- Land reclamation projects.~~
~~-- Landing strips.~~
~~-- Mobilehome parks.~~
~~-- Motor recreational facilities for the driving, testing and racing of automobiles, dune buggies, motorcycles, trail bikes or similar vehicles, including appurtenant facilities in conjunction therewith.~~
~~-- Nudist camps.~~
~~-- Oil wells.~~
~~-- Outdoor festivals.~~
~~-- Parking buildings.~~
~~-- Public utility service centers.~~
~~-- Race tracks.~~
~~-- Radio and television stations and towers.~~
~~-- Recreation clubs, private.~~
~~-- Rifle, pistol, skeet or trap ranges.~~
~~-- Sewage treatment plants.~~

22.56.085 Grant or denial of minor conditional use permit by director. A. Any person filing an application for a conditional use permit may request the Director to consider the application in accordance with this section for the following uses:

-- Nonconforming apartment houses in zones where the use is allowed with a conditional use permit.
-- Joint live and work units, as provided in Part 19 of Chapter 22.52.
-- Mixed use developments, as provided in Part 18 of Chapter 22.52.
-- Modification of significant ridgeline protection provisions as provided in Sections 22.44.143.D.10.b., 22.44.143.D.10.c. or 22.44.144.D.10.b.
-- Tasting rooms, subject to the applicable provisions of Part 23 of Chapter

22.52.

-- Tasting rooms, remote, subject to the applicable provisions of Part 23 of Chapter 22.52.

-- Wind energy conversion system, non-commercial (WECS-N).

-- Wineries, subject to the applicable provisions of Part 23 of Chapter 22.52.

B. The purpose of this section is to authorize the director's ex parte consideration of applications that by their nature are limited in scope and impacts.

C. The director shall cause notice of the application to be mailed by first-class mail, postage pre-paid, to all those addresses on the list required by subsection A.10.c of Section 22.56.030 that are within a distance of 300 feet from the exterior boundaries of the parcel of land to be occupied by the requested use, and to such other persons whose property or interests might, in the director's judgment, be affected by the request. The notice shall describe the project and also indicate that any individual may request a public hearing on the application by filing a written request with the director within 14 calendar days following the date on the notice.

D. Unless at least two requests for a public hearing have been filed with the director as provided in subsection C of this section, the director may grant such permit without a public hearing if the director finds that the use requested, subject to such conditions deemed necessary, will comply with the findings required by Section 22.56.090 and with any applicable requirements of Chapter 22.52, and if he further finds that the impacts of the use requested on safety, facilities and services, and natural resources are minor in nature.

E. The director shall notify the applicant and any persons who filed a timely request for a hearing of his decision. Any appeal from the director's decision shall be filed with the hearing officer within 14 days following the date on the notice of director's decision. The decision of the hearing officer may be appealed to the commission. All appeals shall be filed within the time period set forth in, and shall be subject to all of the other provisions of Part 5 of Chapter 22.60 except that the decision of the commission shall be final and effective on the date of the decision and shall not be subject to further administrative appeal.

22.56.1630 Grant or denial of application. A. The hearing officer shall approve an application to modify or eliminate any condition(s) of a previously approved conditional use permit only upon a finding by the hearing officer that (1) not more than one protest to the granting of the application is received within the specified protest period; and (2) the information submitted by the applicant substantiates the following findings:

1. That the burden of proof for the conditional use permit as modified has been satisfied as required by Section 22.56.040,

2. That approval of the application will not substantially alter or materially deviate from the terms and conditions imposed in the granting of the previously approved conditional use permit, and

3. That approval of the application is necessary to allow the reasonable operation and use granted in the conditional use permit.

B. In all other cases the hearing officer shall deny the application.

C. In approving an application, the hearing officer may impose additional condition(s)

deemed necessary to insure that the modification or elimination of any condition will be in accord with the requirements of subsection A of the section.

D. Notwithstanding the foregoing, the hearing officer shall not modify or eliminate a condition specified as mandatory in this Title 22 or a condition which may only be modified pursuant to the provisions of Part 2 of Chapter 22.56.

22.56.1650 Appeal procedures. Any person dissatisfied with the action of the hearing officer may file an appeal of such action with the commission within the time period set forth in, and subject to all of the other provisions of Part 5 of Chapter 22.60.

A. On appeal, the commission shall approve an application to modify or eliminate any condition(s) of a previously approved conditional use permit only upon finding:

1. That the burden of proof for the conditional use permit as modified has been satisfied as required by Section 22.56.040,
2. That approval of the application will not substantially alter or materially deviate from the terms and conditions imposed in the granting of the previously approved conditional use permit, and
3. That approval of the application is necessary to allow the reasonable operation and use granted in the conditional use permit.

B. In all other cases the commission shall deny the application.

C. In approving an application, the commission may impose additional condition(s) deemed necessary to insure that the modification or elimination of any condition will be in accord with the requirements of subsection A of the section.

D. Notwithstanding the foregoing, the commission shall not modify or eliminate a condition specified as mandatory in this Title 22 or a condition which may only be modified pursuant to the provisions of Part 2 of Chapter 22.56.

22.60.190 Notification of action taken. The hearing officer, commission, or board of supervisors shall serve notice of its action upon:

A. The applicant for a permit, variance, nonconforming use or structure review, development agreement or zone change, or the person owning and/or operating a use for which the revocation of a permit, variance or nonconforming use or structure is under consideration as required by law for the service of summons or first class mail, electronic mail and announcement of the appeal period at the conclusion of the public hearing; and

B. The following persons by first class mail, postage prepaid:

1. All protestants testifying or speaking at the public hearing;
2. All persons testifying or speaking in favor of the proposal at a public hearing;
3. Any other persons testifying or speaking at a public hearing.

C. In matters for which a hearing examiner has conducted a public hearing, the hearing examiner shall mail notice of the date, time, and place for the commission public hearing on the project, a synopsis of the hearing examiner's public hearing, and the written recommendation to the commission to persons identified in subsections A and B.

The commission's public hearing in such matters shall also be preceded by timely and complete notice in accordance with sections 22.60.174 and 22.60.175.

RESOLUTION
THE REGIONAL PLANNING COMMISSION
COUNTY OF LOS ANGELES

WHEREAS, the Regional Planning Commission of the County of Los Angeles has conducted a public hearing on December 14, 2011 and discussed amendments to Title 21 (Subdivision) and Title 22 (Planning and Zoning) of the Los Angeles County; and

WHEREAS, the Commission finds as follows:

1. Minor revisions to the Subdivision and Zoning Codes to reflect changes in regulation and Department of Regional Planning practices are needed periodically; and

2. Most of the Code amendments in this project are exempt from the California Environmental Quality Act (CEQA) based on Section 15061(b)(1) (Chapter 3, Title A. California Code of Regulations) because there is no possibility that the activity in question may have a significant effect on the environment. The proposed section that adds nonconforming apartment buildings to the uses that qualify for the minor conditional use permit (CUP) process applies only to existing structures and is therefore exempt under Section 15301 of the CEQA Guidelines (Class 1, Existing Facilities).

3. Pursuant to the provisions of Sections 22.60.174(A)1 of the County Code, the community was appropriately notified of the public hearing by newspaper legal advertisement and DRP website posting. Notices were placed in 13 newspapers that publish throughout the unincorporated area. Papers included Acton, Agua Dulce Weekly News, Antelope Valley Press, Daily News, Inland Valley Daily Bulletin, La Opinion, Pasadena Star News, Press Telegram, San Gabriel Valley Tribune, The Argonaut, The Daily Breeze, The Signal, Whittier Daily News, and The Acorn; and

4. Upon notice duly provided pursuant to California Government Code §65090 and 22.64.174 of the Los Angeles County Code, the Regional Planning Commission held public hearings on the proposed Ordinance amendments on December 14, 2011.

WHEREAS, the Regional Planning Commission, having considered all materials, file information, and public comments and reports from the staff, does make the following findings:

1. The proposed amendments to the subdivision and zoning ordinances are needed to correct or update existing ordinances that regulate the land use permitting process. Practices have changed due to technology improvements or the organizational structure of affected departments has changed, or ordinance language as it was originally drafted is not able to be implemented.

THEREFORE BE IT RESOLVED, that the Regional Planning Commission recommends to the Board of Supervisors of the County of Los Angeles as follows:

1. That the Board hold a public hearing to consider the proposed amendments to Titles 21 (Subdivisions) and 22 (Planning and Zoning) of the Los Angeles County Code; and

2. That the Board adopt the proposed ordinance amendments, as recommended by this Commission, and determine that the amendments are compatible with and supportive of the goals and policies of the Los Angeles County General Plan.

I hereby certify that the foregoing resolution was adopted by a majority of the voting members of the Regional Planning Commission in the County of Los Angeles on December 14, 2011.

ROSIE O. RUIZ, Secretary
County of Los Angeles
Regional Planning Commission

SUMMARY OF PROCEEDINGS
LOS ANGELES COUNTY REGIONAL PLANNING COMMISSION

PROJECT NO. R2011-01079-(1-5)
ADVANCE PLANNING CASE NO. 201100009

The Los Angeles County Regional Planning Commission ("Commission") held a public hearing on December 14, 2011 for Project No. R2011-01079-(1-5) on the topic of minor amendments to Los Angeles County's Titles 21 (Subdivision Ordinance) and 22 (Zoning Ordinance). At that hearing, the Commission concluded by recommending that the Los Angeles Board of Supervisors ("Board") adopt the proposed amendments. The Commission found that the proposed amendments are categorically exempt from California Environmental Quality Act (CEQA) reporting requirements.

A public hearing is required pursuant to Sections 22.16.200 of the County Code and Section 65856 of the Government Code. Required notice must be given to the public pursuant to the procedures set forth in Section 22.60.174 of the Zoning Code. These procedures exceed the minimum standards of Government Code Sections 6061, 65090 and 65856 relating to notice of public hearing. Notice of hearing was given in the following newspapers: La Opinion, Acton-Agua Dulce Weekly, Antelope Valley Press, The Signal, San Gabriel Valley Tribune, Daily Breeze, The Press-Telegram, Pasadena Star News, Inland Valley Daily Bulletin, The Acorn, The Argonaut and the Whittier Daily News. Project materials are also posted on the Regional Planning website, http://planning.lacounty.gov/rpc.

December 14, 2011 Proceedings

On December 14, 2011, a public hearing was held and staff presented an overview of the proposed amendments, along with the final draft ordinance for the Commission's consideration. Staff identified two corrections that needed made to the proposed amendments. Originally, staff had proposed that appeals of tentative map extensions end at the Commission. Further research by County Counsel found however, that appeal rights must be retained through to the Board of Supervisors because the Commission is not a legislative body. At the hearing, staff identified the sections in the proposed amendments that needed to be adjusted. The other correction was to the notification process for final actions. The original proposed amendments eliminated most methods of providing notice of final actions without replacing with new methods. The solution was to add a series of new methods that reflect current technology. This was read into the record for the Commission's consideration. During the public hearing, one person testified in favor of the amendments. There was no opposing testimony, and no letters of opposition were received.

MC:mc
12/14/11

STAFF ANALYSIS
MINOR ZONING AND LAND DIVISION CODE AMENDMENTS
R2011-01079-(1-5)
RADV201100009

INTRODUCTION

On September 21, 2011 your commission initiated amendments to 11 sections of the Los Angeles County subdivision and zoning codes. The amendments are minor and or clean up in nature and are needed to clarify ambiguous language, confusing processes and account for changes in related regulations including state law. Amendments are to the following sections:

1. **21.08.090** -- delete reference to commercial in the definition of lease project, to be consistent with the Subdivision Map Act;
2. **21.12.010** – amend composition of Subdivision Committee ("SCM") to reflect current County Department structure;
3. **21.12.020** – delete final maps from SCM consideration to reflect the current County structure;
4. **21.40.040** and **21.48.040** – amend application requirements for major and minor land division to match for consistency;
5. **21.40.180** and **21.48.120** – amend matching existing extensions granted by the Subdivision Map Act, and end appeals of time extensions at the Regional Planning Commission;
6. **22.08.230** – amend the text in the definitions section – W "Water Well, Shared" by replacing adjoining with adjacent to match changes in the Plumbing Code;
7. **22.40.080** – amend the Development Program (DP) section related to unused permits;
8. **22.56.080** – delete the section that allows a conditional use permit without a public hearing;
9. **22.56.085** –add nonconforming apartment houses in zones where the use is allowed with a conditional use permit, to the list of uses that qualify for a minor conditional use permit;
10. **22.56.1650** – amend the appeal findings for modification or elimination of conditions requests; and
11. **22.60.190** – delete the requirement that notification of action taken by the hearing officer, commission or board of supervisors be mailed by certified letter.

REQUIRED ACTIONS

To become effective, the proposed ordinance amendments require approval action by the Board of Supervisors. The Regional Planning Commission's role in these situations is to conduct a public hearing and provide a recommendation to the Board of Supervisors.

LOCATION

The proposed amendments would affect all unincorporated areas regulated by the County's Subdivision and Zoning Codes unless specifically excluded by other sections of those Codes.

ENVIRONMENTAL DETERMINATION

Most of the Code amendments included in this project are exempt from the California Environmental Quality Act (CEQA) based on Section 15061(b) (Chapter 3, Title A. California Code of Regulations) because there is no possibility that the activity in question may have a significant effect on the environment. The proposed section that adds nonconforming apartment buildings to the uses that qualify for the minor conditional use permit (CUP) process applies only to existing structures and is therefore exempt under CEQA Class 1, Existing Facilities.

LEGAL NOTIFICATION AND PUBLIC OUTREACH

Pursuant to the provisions of Sections 22.60.174(A)1 of the County Code, the community was appropriately notified of the public hearing by newspaper legal advertisement and DRP website posting. Notices were placed in 13 newspapers that publish throughout the unincorporated area. Papers included Acton, Agua Dulce Weekly News, Antelope Valley Press, Daily News, Inland Valley Daily Bulletin, La Opinion, Pasadena Star News, Press Telegram, San Gabriel Valley Tribune, The Argonaut, The Daily Breeze, The Signal, Whittier Daily News and The Acorn.

PROPOSED AMENDMENTS

This section explains the purpose for each proposed amendment, including the revised Code language:

1. 21.08.090 A – Delete Reference to Commercial in Definition of Lease Project, to be Consistent with the Subdivision Map Act

References to commercial projects are removed from this section of Title 21 to be consistent with the language in Section 66412.1 of the Subdivision Map Act. The Subdivision Map Act was amended in 1982 to not apply to the financing or leasing of industrial or commercial buildings on a single parcel.

> "Lease project" refers to a development wherein two or more residential ~~or commercial~~ buildings are constructed and maintained on a parcel of land, and apartments, offices, stores or similar space are leased within one or more of the buildings, overall control of the land and buildings comprising the project being retained by the lessor. The following shall not be included when computing the number of buildings within a lease project:
> 1. Accessory or satellite buildings;
> 2. Parking structures;
> ~~3. Commercial buildings having a floor area of less than 400 square feet.~~

2. 21.12.010 – Amend Composition of Subdivision Committee to Reflect Current County Department Structure

The subdivision committee membership has changed since this section of the Code was last amended. Department names have changed or departments have been consolidated. The proposal is to amend this section to reflect the current membership and to read as follows:

Subdivision Committee Membership.
The subdivision committee created by Ordinance 3114 to act in an advisory capacity to the advisory agency, is hereby continued. It consists of the following members or their duly authorized representatives:
A. The director of regional planning ~~of the regional planning commission~~ of the county of Los Angeles;
B. The ~~county engineer~~ director of public works;
~~C. The road commissioner;~~
~~D~~C. The director of public health ~~officer~~;
~~E~~D. The director of parks and recreation;
~~F. The chief engineer of the Los Angeles County Flood Control District;~~
~~G~~E. The forester and fire warden.

3. 21.12.020 – Delete Final Maps from Subdivision Committee Consideration

This section of the Code presently requires that final maps be submitted to the Subdivision Committee and a meeting held for consideration. The meeting is no longer the practice because Public Works serves as the clearinghouse for final tract and parcel map clearance. In addition, as meetings are scheduled based on new tentative map application and revision filings, the suggested Code language to reflect the current process is as follows:

The subdivision committee shall meet ~~at least once a week~~ regularly to consider tentative maps~~, final maps~~ and ~~parcel~~ exhibit maps.

4. 21.40.040 and 21.48.140 – Amend Application Requirements to Refer to Separate Application Checklist for Complete List of Requirements

The changes proposed to these sections include updating the application requirements language of the Code to refer to separate application checklists maintained by the Director. This allows for ease in updating application requirements without amending the Code, and is consistent with Department efforts in the technical update to Title 22 (Zoning Ordinance).

21.40.040 Contents ---Information and documents required. ~~A.~~ The tentative map shall show and contain, or be accompanied by, ~~the following matters~~ as an aid to the advisory agency in its consideration of the design of the division of land, all of the information requested on the application checklist as maintained by the director, or such other information as the advisory agency may require~~:~~.
~~1. The map number;~~
~~2. Sufficient legal description of the land as to define the boundaries of the proposed division of land;~~
~~3. Name and address of subdivider and of registered civil engineer or licensed surveyor who prepared the tentative map;~~
~~4. The locations, names and existing widths of all adjoining highways,~~

~~streets or ways;~~

~~5. The width and approximate grades of all highways, streets and ways within such proposed division of land;~~

~~6. The widths and approximate locations of all existing and proposed easements, whether public or private, including but not limited to those for roads, drainage, sewage disposal, fire fighting access and public utility purposes. The subdivider or his agent shall certify by an affidavit or by a declaration made under penalty of perjury pursuant to Section 2015.5 of the Code of Civil Procedure that all existing easements of record are shown on the tentative map;~~

~~7. Approximate radius of all curves;~~

~~8. The approximate lot layout and the approximate dimensions of each lot;~~

~~9. Approximate locations of all areas subject to inundation or stormwater overflow, and the locations, widths and directions of flow of all watercourses;~~

~~10. Source of water supply, if any;~~

~~11. Proposed method of sewage disposal. Where public sewers are not available and where private sewage disposal systems will be utilized, the results of percolation tests shall be submitted in accordance with the recommendations of the health officer. The location of any existing sewage disposal system which is proposed to remain in the division of land shall be shown on the tentative map;~~

~~12. The proposed use of the property, including the number of dwelling units contained in each of the following:~~

~~a. Detached single-family residences;~~

~~b. Attached single-family residences (townhouses), two-family residences and/or apartment houses containing fewer than five dwelling units;~~

~~c. Apartment houses containing five or more dwelling units; and~~

~~d. Mobile homes;~~

~~13. Proposed public areas, if any;~~

~~14. Approximate contours at sufficient intervals to determine existing topography and all proposed grading. Proposed grading shall be shown in a manner that clearly demonstrates compliance with Appendix Chapter 33 (of Title 26 of the Los Angeles County Code);~~

~~15. North point and scale;~~

~~16. Number for each lot;~~

~~17. Approximate location of each area covered by trees, with a statement of the nature of the cover and the kind and approximate location of all trees standing within the boundaries of the proposed public rights-of-way;~~

~~18. Approximate location and outline to scale of each building or structure which is not to be moved in the development of the division of land;~~

~~19. Each street shown by its actual street name or by temporary name or letter for purposes of identification until the proper name of such street is determined;~~

~~20. When required by the county engineer, a geological report, prepared by an engineering geologist certified by the State Board of Registration for Geologists of the State of California, which states whether or not the property to be divided is subject to an existing or potential geological hazard and which discusses how geological conditions will affect the proposed development. The report shall be submitted in hardcopy format and also in an electronic version on a compact disc in Adobe® Portable Document Format (PDF) with searchable text. The report shall include the engineering geologist's seal, signature, license number, and the date on which the engineering geologist signed~~

~~and affixed his or her seal to the report;~~
~~21. In a division of land consisting of a condominium project as defined in Section 1350 of the Civil Code, a community apartment project as defined in Section 11004 of the Business and Professions Code, or a lease project as defined in this Title 21, a tentative map shall comply with the requirements of Section 21.16.015. In a mobile home division of land, as defined in this Title 21, a tentative map shall show the general location of all buildings, structures and mobile home spaces to be maintained or constructed, and the means of access thereto;~~
~~22. A written statement by the registered civil engineer or land surveyor as to whether or not he will set boundary monuments prior to filing with the county recorder of the final map;~~
~~23. A statement of the existing zoning and, if a zone change is proposed, the requested zoning for all real property within the division of land;~~
~~24. A vicinity map showing the location of the division in relating to the nearest existing cross streets;~~
~~25. Three prints of the most recent assessor Map Book page or pages covering the proposed division of land;~~
~~26. Such other information as the advisory agency may require.~~
~~B. If it is impossible or impracticable to place upon the tentative map any matter required by this section, such information shall be submitted with the map.~~

5. 21.40.180 and 21.48.120 – Amend Matching Existing Extensions Granted by the Subdivision Map Act, and End Appeals of Time Extensions at the Regional Planning Commission

These two sections of the Code should contain the same time extension periods of up to six years, to be consistent with the Subdivision Map Act. The timeframes have also been updated to reflect appeal timeframes already established in Title 22. The proposed amendments are as follows:

21.40.180 Duration of approval--Extensions.

A. The approval of a tentative map shall be effective for a period of two years.
B. The ~~advisory agency~~ hearing officer may grant one or more extensions to the terms of approval of a tentative map. Each extension shall be for no more than one year and the sum of such extensions shall not exceed ~~three~~ six years or in accordance with the Subdivision Map Act. The subdivider shall submit a written request to the ~~advisory agency~~ director for such extension before expiration of the map.
C. If the ~~advisory agency~~ hearing officer denies the subdivider's application for an extension, the subdivider or any interested person may appeal to the ~~legislative body~~ regional planning commission within ~~15~~14 days after the action of the ~~advisory agency~~ hearing officer.

21.48.120 Duration of approval - Extensions.

A. The approval of a tentative minor land division map shall be effective for a period of two years.
B. The advisory agency may grant one or more extensions to the terms of approval of a tentative

map. Each extension shall be for no more than one year and the sum of said extensions shall not exceed ~~three~~ six years or in accordance with the Subdivision Map Act. The subdivider shall submit a written request to the ~~advisory agency~~ director for such extension before expiration of the map.
C. If the ~~advisory agency~~ hearing officer denies the subdivider's application for an extension, the subdivider or any interested person may appeal to the ~~legislative body~~ regional planning commission within ~~15~~14 days after the action of the ~~advisory agency~~ hearing officer.

6. 22.08.230 – Amend Text in the Definitions Section – W "Water Well, Shared" Replacing Adjoining with Adjacent to Match Changes in the Plumbing Code

The Plumbing Code was revised recently to allow a water line to cross more than one parcel. The Zoning Code, which was written to be consistent with the Plumbing Code that has since changed, only allows a shared water well line to cross one lot line. Replacing adjoining with adjacent would correct the current inconsistency between the two codes. The proposed solution is to amend Section 22.08.230 Definitions – W to read as follows:

> "Water well, shared" means a single water well, with its related tanks, pumps, and pipes, that provides potable water for up to four dwelling units, which dwelling units are located on the lot that contains the well and/or on any adjoining ~~adjacent~~ lot, in any combination.

7. 22.40.080 – Amend the Development Program (DP) Section Related to Unused Permits

The Zoning Code presently requires that the Department investigate rezoning properties where a CUP to establish the development program has not been approved, and/or the use not established within the required two year period. In these instances, the Code requires that within 60 days, the Department conduct an investigation and potentially begin the process to change the zoning on the property. In practice, this has not been possible to implement. The proposed solution is that the 60-day period be removed and the Code language be changed from *shall* to *may*. This will allow the Department to investigate the matter in a reasonable time period and keep the existing zoning in place if that is appropriate to do so. The proposed amendment is to Section 22.40.080 Review of zone classification and would read as follows:

> A. Upon expiration of an unused conditional use permit in Zone ( )-DP, or if no application for a conditional use permit has been filed within two years following the effective date of an ordinance placing property in Zone ( )-DP, the commission ~~shall~~ may, ~~within 60 days thereafter,~~ investigate the circumstances resulting in failure to apply for or use such conditional use permit.
> B. In all cases the commission may extend such time for a period of not to exceed one year, provided an application requesting such extension is filed prior to such expiration date.
> C. If neither the applicant, nor the person who on the latest available assessment

roll appears to be the owner of the property involved, substantiates to the commission's satisfaction that additional time should be granted for the filing of an application for, or reapplication for, a conditional use permit, the commission ~~shall~~ may institute proceedings to rezone such property to the zone in existence prior to the adoption of Zone ( )-DP or to such other zone as may be deemed appropriate.

D. If upon the expiration of additional time granted by the commission no application has been filed for a conditional use permit, or if a second conditional use permit has expired unused, the commission ~~shall~~ may initiate proceedings to rezone such property as provided in this section.

8. 22.56.080 – Delete Section that Allows a Conditional Use Permit to be Approved Without Public Hearing

Section 22.56.080 of the Code allows the hearing officer to waive the public hearing requirement for CUPs. This contradicts state law and cannot be implemented; therefore it should be removed from the Zoning Code. The proposed amendment is to Section 22.56.070 Application--Public hearing required—Exception, and would read as follows:

22.56.070. In all cases where an application for a conditional use permit is filed, except where ~~the hearing officer grants the permit pursuant to Section 22.56.080 or~~ the director grants the permit pursuant to Section 22.56.085*, the public hearing shall be held pursuant to the procedure provided in Part 4 of Chapter 22.60.

*22.56.085 allows minor conditional use permits to be approved without public hearing, which would remain in effect.

In addition, Section 22.56.080 is affected and would need to be removed entirely:

~~22.56.080 Permit--Granted following ex parte consideration--Exceptions.~~

Remove entire section.

9. 22.56.085 – Add Nonconforming Apartment Houses in Zones Where the Use is Allowed with a Conditional Use Permit, to the List of Uses that Qualify for a Minor Conditional Use Permit

There are a number of apartment buildings in the older unincorporated neighborhoods that are legal nonconforming as a result of subsequent changes to the Zoning Code. In certain locations, zones were changed and apartments were removed frpm the list of allowed-by-right uses. Examples include situations where a zone was changed from R-3 (Limited Multiple Residence) or R-4 (Unlimited Residence) to a commercial zone or R-2 (Two Family Residence) zone. Recognizing that a number of property owners are affected, on June 28, 2011, the Board of Supervisors directed the Department to explore

options to amend the Code to allow nonconforming apartments to apply for the minor CUP process.

Although long range plans intend that no new apartments be developed in these zones, there is value in allowing existing apartments to remain legally so they can be properly maintained and provide needed housing for the community. Approximately 20 years ago, between 1990 and 1992, the West Athens-Westmont Community Plan, zoning consistency study and corresponding West Athens-Westmont Community Standards District (22.44.120) was approved by the Board of Supervisors. The project included a number of zone changes that made approximately 200 properties that contained apartments legal nonconforming. The structures and use have been allowed to remain because the use has five years and the structure has 20 years to amortize. For these apartments however, the legal non conforming status has now expired.

Many of the affected apartments remain viable uses and structures that can remain without detriment to the surrounding community. The present process to bring these properties into compliance with the Zoning Code would require that an apartment building obtain a CUP. The CUP process on average takes between 6 months and one year and costs exceed $8,000. In many cases this type of investment is beyond the abilities of property owners of these types of properties.

In accordance with the Board of Supervisors motion of June 28, 2011, staff has explored options and recommends the minor CUP process that is presently used for a select list of uses. The proposed solution is to allow apartment buildings to be added to the list of uses that qualify for a minor CUP. The benefit of making this change is:

- Process is administrative (no hearing) so therefore short (approximately 8-12 weeks)
- Fee is low. Present 2011 cost $1,418
- Manageable cost and time expenditure for the property owner

The proposed solution would require amending Section 22.56.085 to add existing nonconforming apartments to the list of uses qualifying for a minor CUP, as follows:

> **22.56.085 Grant or denial of minor conditional use permit by director.**
> A. Any person filing an application for a conditional use permit may request the Director to consider the application in accordance with this section for the following uses:
> -- Existing nonconforming apartment houses in zones where the use is allowed with a conditional use permit.
> --Joint live and work units, as provided in Part 19 of Chapter 22.52.
> -- Mixed use developments, as provided in Part 18 of Chapter 22.52.
> -- Modification of significant ridgeline protection provisions as provided in Sections 22.44.143.D.10.b., 22.44.143.D.10.c. or 22.44.144.D.10.b.
> -- Tasting rooms, subject to the applicable provisions of Part 23 of Chapter 22.52.
> -- Tasting rooms, remote, subject to the applicable provisions of Part 23 of Chapter 22.52.
> -- Wind energy conversion system, non-commercial (WECS-N).

-- Wineries, subject to the applicable provisions of Part 23 of Chapter 22.52.
...

10. 22.56.1650 – Amend the Appeal Findings for Modification or Elimination of Conditions Requests

As it is presently worded, the Code related to CUP condition modifications has the unintended consequences and renders many appeals to the RPC meaningless. Presently, the process to modify a condition goes before the hearing officer as a discussion item. The hearing officer must find, amongst other findings that there has been no more than one protest to the request before the hearing officer can approve the modification. If there are two protests, the request must be denied. If the hearing officer's decision to deny is appealed to the RPC, presently, the same findings must be made by the RPC. The proposed solution is to remove the two protest finding from the RPC consideration on appeals. The proposed solution to amend Section 22.56.1630 would read as follows:

22.56.1630 Grant or denial of application.
A. The hearing officer shall approve an application to modify or eliminate any condition(s) of a previously approved conditional use permit only upon a **finding by the hearing officer that (1) not more than one protest to the granting of the application is received within the specified protest period;** and (2) the information submitted by the applicant substantiates the following findings:
1. That the burden of proof for the conditional use permit as modified has been satisfied as required by Section 22.56.040,
2. That approval of the application will not substantially alter or materially deviate from the terms and conditions imposed in the granting of the previously approved conditional use permit, and
3. That approval of the application is necessary to allow the reasonable operation and use granted in the conditional use permit.
...

When the hearing officer denies the request and that decision is appealed to the RPC, the Code currently requires that the RPC make the same findings. This means that if the two or more protests still exist, the RPC must deny the request. The proposed change to the Code would eliminate the two or more protest findings for appeals. This would allow the RPC to consider the request and make a decision based on the merits of the proposed condition modification request.

The proposed solution is to amend Section 22.56.1650 to add findings that the Commission must make in approving condition modification/elimination request that eliminates the need to consider whether the number of protests received:

22.56.1650 Appeal procedures.
Any person dissatisfied with the action of the hearing officer may file an appeal of such action with the commission within the time period set forth in, and -

subject to all of the other provisions of Part 5 of Chapter 22.60.
A. On appeal, the commission shall approve an application to modify or eliminate any condition(s) of a previously approved conditional use permit only upon finding:
1. That the burden of proof for the conditional use permit as modified has been satisfied as required by Section 22.56.040,
2. That approval of the application will not substantially alter or materially deviate from the terms and conditions imposed in the granting of the previously approved conditional use permit, and
3. That approval of the application is necessary to allow the reasonable operation and use granted in the conditional use permit.
B. In all other cases the commission shall deny the application.
C. In approving an application, the commission may impose additional condition(s) deemed necessary to insure that the modification or elimination of any condition will be in accord with the requirements of subsection A of the section.
D. Notwithstanding the foregoing, the commission shall not modify or eliminate a condition specified as mandatory in this Title 22 or a condition which may only be modified pursuant to the provisions of Part 2 of Chapter 22.56.

11. 22.60.190 – Delete Requirement that Notification of Action Taken by the Hearing Officer, Commission or Board of Supervisors be Mailed by Certified Letter

The Code requires that notice of the actions taken by the hearing officer, RPC and Board of Supervisors be sent by registered or certified mail. This Code requirement was established at a time when the US Postal Service was the only way to deliver important correspondence. Electronic mail has made this requirement obsolete. Revisions to the appeals procedures several years ago require that we now give notice of the appeal period at the time the action is taken at a hearing. Additionally, the appeal period is posted on the Department's website. Prior to the revision, the mailed letter/notice of action was the only means to communicate the appeal period to the applicant and interested parties.

At the time of the appeals procedure revisions were made, it was intended that the requirement for registered or certified mailing be removed from the Code, but Section 22.60.190 was missed and consequently we have been required to continue to incur the cost, which is approximately $6 per mailing. An additional consideration to justify removing the requirement is that email and webposting make it possible for the Department to instantly deliver the information to interested parties. The proposed solution is to amend Section 22.60.190 Notification of action taken by deleting text as follows:

22.60.190. The hearing officer, commission, or board of supervisors shall serve notice of its action upon:
A. The applicant for a permit, variance, nonconforming use or structure review, development agreement or zone change, or the person owning and/or operating a

use for which the revocation of a permit, variance or nonconforming use or structure is under consideration as required by law for the service of summons ~~or by registered or certified mail, postage prepaid, return receipt requested~~; and

...

PUBLIC COMMENTS

At of the writing of this report, staff has received no comments from the public on the proposed amendments.

STAFF RECOMMENDATION

Staff recommends that the Regional Planning commission recommend to the Board of Supervisors that the proposed Subdivision and Zoning Code amendments be approved.

SUGGESTED APPROVAL MOTIONS

I move that the Regional Planning Commission direct staff to prepare the necessary documents to transmit the proposed Subdivision and Zoning Code amendments to the Board of Supervisors with a recommendation from the Regional Planning Commission to the Board of Supervisors that the amendments be approved.

Prepared by Mark Child, Assistant Administrator, Current Planning
Reviewed by Sorin Alexanian, Deputy Director, Current Planning

Attachments:
Revised Draft Ordinances
Draft Resolution
BOS Motion for Nonconforming Apartments