Development Review Process: Discretionary Permits and CEQA

February 28, 2019

Presenters:

Anthony Bernal, Development Project Manager, AQBernal@sandiego.gov

Chris Tracy, Senior Planner, CRTracy@sandiego.gov
Presentation Overview

- Online Information
- Types of Approvals & Permits
- Permit Review Process
- Noticing
- Tips for Successful CPG Review
- CEQA (California Environmental Quality Act)
- Questions
City of San Diego – Development Review Process Workshop

Public Notices
Land Use and Development

https://www.sandiego.gov/city-clerk/officialdocs/notices/

City Bulletin of Public Notices
Land Use and Development

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(Type one or more search terms in search box and press the "Search" button, also see Basic Search Essentials)

Specific Field Search - An Advanced Search provides specific field search options for all City Bulletin of Public Notices.

Noticing property owners, tenants, concerned citizens, and interested persons on applications for permits, maps or other matters regarding land use and development. Includes notice of application, and notice of future decision.

Documents Available for Download
These documents are available for viewing in Portable Document Format (PDF) using the free Adobe Reader. If you are unable to view the documents, please review the help page or contact our office at (619) 233-4000 for alternative formats.

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Development Services Main Webpage
http://www.sandiego.gov/development-services
Two Types of Approvals

**Ministerial:** Administrative decisions by staff (building permits, right-of-way permits, etc.)

Information Bulletin 502:

**Discretionary:** Approval or Denial by a Decision Maker after public notice and/or public hearing (subdivisions, Coastal & Site Development Permits, etc.)

Information Bulletin 503:
Ministerial Approvals

- Staff-level decision
- Little or no personal/subjective judgment
- Use of fixed standards or objective measurements
- No public notice, appeal process or CPG input
- Construction permits issued based on Code
- “By Right” permits
Decision Process Levels

- **Process 1 – City Staff Decision**
  - Ministerial, no appeal process (i.e. Building Permits)
- **Process 2 – City Staff Decision**
  - Appealable to Planning Commission
- **Process 3 – Hearing Officer Decision**
  - Appealable to Planning Commission
- **Process 4 – Planning Commission Decision**
  - Appealable to City Council
- **Process 5 – City Council Decision**
  - No Appeal Process, Final Decision

* Processes 2-5 are Discretionary *
Decision Processes

PROCESS ONE, Ministerial, City Staff

Application/Plans Submitted → Staff Level Review → Staff Decision To Approve/Deny

Ministerial, No public review, notice, CPG rec. or appeal

PROCESS TWO, Discretionary, City Staff

Application/Plans Submitted → Staff Level Review → Staff Decision To Approve/Deny → Appeal filed to Planning Commission → Appeal Hearing by Planning Commission

PROCESS THREE, Discretionary, Hearing Officer

Application/Plans Submitted → Staff Level Review → Hearing Officer Hearing → Appeal Filed to Planning Commission → Appeal Hearing by Planning Commission

PROCESS FOUR, Discretionary, Planning Commission

Application/Plans Submitted → Staff Level Review → Planning Commission Hearing → Appeal Filed to City Council → Appeal Hearing by City Council

PROCESS FIVE, Discretionary, City Council

Application/Plans Submitted → Staff Level Review → Planning Commission Recommendation Hearing → City Council Hearing
Discretionary Approvals

- Exercise of judgment/deliberation
- Decision Maker uses discretion to approve or deny
- Findings must be made to support the decision
- Requires public notice, decision may be appealed
- CPG recommendation required
- Not a Building Permit; plans are conceptual
- Type of approvals required based on project scope and location
# Samples of Discretionary Approvals

<table>
<thead>
<tr>
<th>Approval</th>
<th>Basis</th>
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<tbody>
<tr>
<td>Coastal Development Permit:</td>
<td>Coastal Zone development</td>
</tr>
<tr>
<td>Tentative Map:</td>
<td>To subdivide property</td>
</tr>
<tr>
<td>Rezone/Plan Amendment:</td>
<td>To change allowed land uses</td>
</tr>
<tr>
<td>Planned Development Permit:</td>
<td>Allow zone flexibility/deviations</td>
</tr>
<tr>
<td>Conditional Use Permit:</td>
<td>To allow uses conditionally</td>
</tr>
<tr>
<td>Variance:</td>
<td>Relief from regulations when warranted</td>
</tr>
<tr>
<td>Site Development Permit:</td>
<td>Impacts to environmentally lands, or surrounding areas, CPIOZ’s</td>
</tr>
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FINDINGS

“Findings means determinations based upon a statement or set of statements of factual evidence that are used as the criteria for making a decision on a discretionary action.”

(Land Development Code)

“The result of a judicial examination or inquiry - the results of an investigation”

(Merriam Webster)
BASIC FINDINGS

- The proposed development will not adversely affect the applicable land use plan; and,
- The proposed development will not be detrimental to the public health, safety, and welfare; and,
- The proposed development will comply with the applicable regulations of the Land Development Code, including any allowable deviations pursuant to the Land Development Code.
IMPORTANCE OF FINDINGS

- Findings are located in the permit Resolution(s)
- Legal basis for decision makers approval or denial
- Findings are subjective (discretionary)
- Relating your recommendations/conditions to the Findings give your issues weight
Process 2

Notice of Future Decision – CPG has right to request 20 business day extension. Per SDMC Section, 112.0503(b)
Process 3, 4, and 5

**Process 3 / 4**
- Application & Plans Submitted
- Staff Review
- Community Planning Group Review
- Hearing Officer / Planning Commission Hearing
- Appeal Filed to Planning Comm / City Council
- Appeal Hearing By Planning Comm / City Council
- Notice Application
- Notice Public Hearing
- Notice Public Hearing
- Notice Public Hearing

**Process 5**
- Application & Plans Submitted
- Staff Review
- Community Planning Group Review
- Planning Commission Recommendation Hearing
- City Council Hearing
- Notice Application
- Notice Public Hearing
- Notice Public Hearing
- Notice Public Hearing

Always the Final decision by the City
Development Project Managers

- All Discretionary projects require a DPM
- DPM manages the multi-discipline project review
  - Geotechnical
  - Engineering
  - Transportation
  - Environmental
  - Map Check
  - Community Planning Group
  - Planning
  - Water and Sewer
- Serves as the project’s single point of contact
- Prepares assessment letters, staff reports, permits, findings & required approval documents
- Presents the project at public hearings
- Advocates for the process not the project
Community Planning Group Review

Project Submittals

• Project plans and application routed to CPG by City
• CPG is a reviewer in City’s Project Tracking System
• DPM enters CPG comments into system
• Additional submittals with significant changes sent to CPG along with Assessment Letters
Assessment Letters

- AL prepared by Development Project Manager
- Valuable tool for applicant and CPG
- Outlines project issues, required permits, process level, next steps, resubmittal instructions
- CPG Chair receives copies of all AL’s
- AL available approx. 5 weeks after 1st submittal
- AL prepared for each subsequent review
- Most CPGs won’t hear projects before 1st AL
Permit Noticing

- Types of Notices:
  - Notice of Future Decision – Process 2
  - Notice of Decision – Process 2
  - Notice of Application – Process 3, 4 & 5
  - Notice of Public Hearing - Process 2, 3, 4, 5
- Notices mailed to Chairperson of CPG
- Owners/Occupants in 300’ of project site
### Notice of Future Decision

**Date of Notice:** February 27, 2017

**Project No.:** 536369  
**Project Name:** AT&T North Parker EOT  
**Project Type:** Extension of Time for Planned Development Permit and Neighborhood Use Permit, Process Two

**Applicant:** Morgan Norville  
**Community Plan Area:** North Park  
**Council District:** 3  
**City Project Manager:** Travis Cleveland, Development Project Manager  
**Phone Number/E-Mail:** (619) 446-5407/ TCEveland@sandiego.gov

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**Notice of Decision**

**Date of Notice:** April 5, 2017  
**Project No.:** 536369  
**Project Name:** AT&T North Parker EOT  
**Project Type:** Extension of Time for Planned Development Permit and Neighborhood Use Permit, Process Two

**Applicant:** Morgan Norville  
**Community Plan Area:** North Park  
**Council District:** 3  
**City Project Manager:** Travis Cleveland, Development Project Manager  
**Phone Number/E-Mail:** (619) 446-5407/ TCEveland@sandiego.gov

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The decision by City staff will be made without a public hearing no less than thirty (30) calendar days after the date of mailing the Notice of Future Decision. If you want to receive a "Notice of Decision", you must submit a written request to the City Project Manager listed above no later than ten (10) business days from the mailing date of this Notice. This project is undergoing environmental review.

The decision of the Development Services Department Staff can be appealed to the City Council. An appeal must be made within twelve (12) business days after the decision date. Appeal Applications are located at the office of the City Clerk, 202 “C” Street, 2nd Floor, San Diego, CA 92101.

Please note that Community Planning Groups provide citizens with an opportunity for involvement in advising the City on land use matters. Community Planning Group recommendations are integral components of the project review process. You may contact Vicki Granowitz, Chair of the North Park Planning Committee, at (619) 586-1203 to inquire about the community planning group meetings date, time, and location for community review of this project.

If you have any questions about the project after reviewing this information, you may contact the City Project Manager listed above. This information will be made available in alternative formats upon request.

**Internal Order No.:** 11003679

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**Information Bulletin 505 "Appeal Procedure"**, available at [www.sandiego.gov/development-services](http://www.sandiego.gov/development-services) or in person at the City Clerk’s office, located at 202 “C” Street, 2nd Floor, San Diego, CA 92101. Please do not e-mail your appeal as it will not be accepted. The decision of the City Council is final.

This information will be made available in alternative formats upon request.

**Internal Order No.:** 11003679

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**cc:** Chair of CPG

**HMD 1-25-17**
Notices – Process 3-5

**NOTICE OF APPLICATION**

**DEVELOPMENT SERVICES DEPARTMENT**

*DATE OF NOTICE: March 6, 2017*

**NOTICE OF APPLICATION**

As a property owner, tenant, or person who has requested notice, you should know that an application has been filed with the City of San Diego for a Process 4 Planned Development Permit to allow continued use of previously permitted lattice tower Wireless Communication Facility with twelve antennas, 24 Remote Radio Units (RRUs), and associated equipment. The project is located at 7460 Convoy Court, IL-2-1, FAA Part 77 Noticing Area, Airport (Miramar, Montgomery Field).

**PROJECT NO:** S22120
**PROJECT NAME:** AT&T RUFFNER
**PROJECT TYPE:** PLANNED DEVELOPMENT PERMIT, PROCESS 4
**APPLICANT:** JAMO STEPHENSON
**COMMUNITY PLAN AREA:** KERNY MESA
**COUNCIL DISTRICT:** 6
**CITY PROJECT MANAGER:** Travis Cleveland, Development Project Manager
**PHONE NUMBER/E-MAIL:** (619) 446-5487 / TCleveland@sandiego.gov

The decision to approve or deny this application will be made at a public hearing. You will receive another notice informing you of the date, time, and location of the public hearing. This project is undergoing environmental review.

Please note that Community Planning Groups provide citizens with an opportunity for involvement in advising the City on land use matters. Community Planning Group recommendations are integral components of the project review process. You may contact Jeffrey Sallen, Chair of the Kearny Mesa Planning Group at (619) 540-5443 to inquire about the community planning group meeting dates, times, and location for community review of this project.

If you have any questions about the project after reviewing this information, you may contact the City Project Manager listed above.

This information will be made available in alternative formats upon request.

Internal Order No.: 11003679

**NOTICE OF PUBLIC HEARING**

**PLANNING COMMISSION**

*DATE OF NOTICE: May 17, 2017*

**NOTICE OF PUBLIC HEARING**

As a property owner, tenant, or person who has requested notice, you should know that an application has been filed with the City of San Diego for a Process 4 Planned Development Permit to allow continued use of previously permitted lattice tower Wireless Communication Facility with twelve antennas, 24 Remote Radio Units (RRUs), and associated equipment. The project is located at 7480 Convoy Court, IL-2-1, FAA Part 77 Noticing Area, Airport (Miramar, Montgomery Field).

The decision of the Planning Commission is final unless appealed to the City Council. In order to appeal the decision of the Planning Commission you must be present at the public hearing and file a speaker slip concerning the application or have expressed interest by writing to the Planning Commission before the close of the public hearing. Please do not e-mail appeals as they will not be accepted. See Information Bulletin 505 “Appeal Procedure”, available at [www.sandiego.gov/development-services](http://www.sandiego.gov/development-services) or in person at the Development Services Department located at 1222 First Avenue, 3rd Floor, San Diego, CA 92101. The appeal must be made within 10 business days of the hearing. You may file a written appeal to the Board of Adjustment by addressing your appeal to the City of San Diego Hearing Officer.

This project was determined to be categorically exempt from CEQA per Article 19, Section 15301 (Existing Facilities) of the CEQA State Guidelines (Attachment B). The environmental exemption determination for this project was made on April 10, 2017, and the opportunity to appeal that determination ended April 24, 2017.
# Public Notices

## Land Use and Development


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Permit Noticing

• Notices are available on the City’s website: http://www.sandiego.gov/city-clerk/officialdocs/notices/index.shtml

  - Public Hearing Notices
Tips for Successful CPG Review

• Focus on conformity with the Community Plan
• Frame issues within the permit findings
• Take formal action (avoid continuances)
• Project review should be timely
• Communicate with City Project Manager
• Approve meeting minutes as soon as possible
• Return to DPM and Applicant Community Planning Committee Distribution Form
CPG Recommendations

- Include actual vote count
- Provide enforceable conditions that have a nexus and a trigger (i.e. prior to Building Permit)
- If denied, provide backup documentation
- State why project would adversely affect the community plan, relate to findings
- Relate to community plan elements & goals
- Email recommendation to DPM
- Written recommendation is your primary tool
Hearing Staff Reports

- CPG vote a critical component of the process
- CPG vote included prominently in all staff reports
- CPG’s concerns addressed in Report
- CPG’s minutes included as report attachment
Appealing Project Decisions

• Information Bulletin No. 505, “Appeal Procedure”
  https://www.sandiego.gov/sites/default/files/dsdib505.pdf

• If appealing a project as CPG chairperson, appeal basis must be consistent with community group vote and the appeal fee will be waived.

• Appeal application must be complete and submitted in a timely manner.

• Be as specific as possible, individually list appeal points to provide a clear basis. Use Findings!
California Environmental Quality Act (CEQA)
http://opr.ca.gov/ceqa/
“California Environmental Quality Act”, a State law passed in 1970

- It is a **process** triggered by a discretionary action to disclose to the public and decision makers the environmental impacts of development projects.

- Requires identification and adoption of feasible mitigation measures and/or alternatives for the significant environmental effects of project
Purpose of CEQA

• Inform decision makers and the public about the possible environmental effects of projects
• Identify ways environmental damage can be avoided or reduced
• Prevent or avoid damage to the environment through alternatives or mitigation
• Disclose to the public reasons a project is approved even if it leads to environmental impacts
CEQA Process

Responsibilities

Produce a legally defensible document and, pursuant to Section 128.0103(b) of the Land Development Code, an unbiased impact analysis.

Unlike other members of the reviewing team, the Environmental Analysis Section (EAS) does not make any recommendation to approve or deny a project.

Maintain independence and objectivity while conducting the environmental review. This mandate is emphasized in City Attorney’s Opinion Number 95-2.
Pre-Public Review CEQA Process

• Preliminary Review for Completeness of Application
  • Determine if action is “Discretionary”
  • Determine whether action is a “Project”

• Review for Exemption
  • General Rule
  • Statutory Exemption
  • Categorical Exemption

• Commence Initial Study and complete within 30 days.
  • Based on results, conclude if previously addressed, or prepare ND, MND, Addendum, EIR, or other document.
Significance Thresholds
https://www.sandiego.gov/sites/default/files/july_2016_ceqa_thresholds_final_0.pdf

• Adoption not required by CEQA
• Thresholds provide staff with guidance on determining the significance of an impact
• If an impact is determined to be significant, mitigation or an Environmental Impact Report is required.
• Lower thresholds result in more significant impacts and preparation of more Environmental Impact Reports when impacts cannot be mitigated.
Evaluation Guidelines

Significance Thresholds

CEQA Statutes and Guidelines

Land Development Code

Biology Guidelines

Technical Reports

Historical Resources Guidelines

Community Plans
CEQA Implementation

Coordination

Within DSD
- Fire Prevention Officer
- Transportation Engineers
- Hydrology/Water Quality Engineers
- Geologists
- Biologists
- Historical Resources Specialists
- Noise Experts
- Permit Planners
- Landscape Planners

Planning (Policy Division)
- Long Range Planners
- Multiple Species Conservation Program Staff

Other Agencies
- U.S. Fish and Wildlife Service
- Army Corps of Engineers
- California Department of Fish and Game
- Regional Water Quality Control Board
- County Environmental Health
- County Air Pollution Control District
Exemptions

• Statutory Exemptions
  – Used to exempt ministerial (e.g., building permits and Substantial Conformance Review) and certain types of discretionary projects (e.g., emergency projects, pipelines less than a mile) regardless of impacts.

• Categorical Exemptions
  – Used to exempt certain types of discretionary projects where there is no “reasonable possibility” for a significant impact.
Result of the Analysis: the Draft Environmental Document

• Negative Declaration (ND)
  – No significant effect

• Mitigated Negative Declaration (MND)
  – Significant effects are mitigated

• Environmental Impact Report (EIR) – If there is substantial evidence that a project may have a significant effect that cannot be mitigated
Subsequent Documents

• 15162 - Subsequent Documents
  – Addendum
  – Supplemental EIR
  – Subsequent EIR
Environmental Impact Report

- Analyzes significant effects and discusses ways to mitigate
- Project alternatives are analyzed
- Cumulative impacts are analyzed separately
- Projects may be approved with significant unmitigated impacts
- Findings and Statement of Overriding Considerations must be adopted
CEQA Alternatives

• No Project Alternative

• Alternatives Considered but Rejected

• Environmentally Superior Alternative
CEQA Implementation

Public Review

• 20-30 days for ND or MND
• 30-45 days for EIR

• Staff responds to public comments. Environmental document revised if necessary.

• Final document distributed 14 days before first public hearing (LDC Section 128.0310(a)).
CEQA Implementation

Project Decision

Notice of Right to Appeal the Environmental Determination (NORA)

• For all Exemptions and Environmental Documents prepared under a Process 2 decision.
• Notice covers 10 Business Days
• Notice is distributed to the district’s Council Member, the Community Planning Chair, and any interested parties.
CEQA Implementation

Project Decision

• Certify/adopt environmental document or note Exemption
• Approve project
• Notice of Determination (NOD) and Notice of Exemption (NOE) Filed; sets limits on legal challenges
Environmental Appeals Regulations
Environmental Appeals Regulations - Why?

CEQA and the City’s Municipal Code require appeals to Council of:

- Exemptions
- Negative Declarations
- Mitigated Negative Declarations
- Environmental Impact Reports

NOT Required:

- “Not a Project”
- Consistency (15162) Determinations
Environmental Notice of Right to Appeal

DATE OF NOTICE: April 3, 2017

NOTICE OF RIGHT TO APPEAL
ENVIRONMENTAL DETERMINATION
DEVELOPMENT SERVICES DEPARTMENT
SAP No. 2406369

PROJECT NO: 432769
PROJECT NAME: WASHINGTON PLACE NDP
COMMUNITY PLAN AREA: Uptown
COUNCIL DISTRICT: 3
LOCATION: 1826 & 1836 Washington Place (APN: 431-631-01 and -02) San Diego, CA 92103

PROJECT DESCRIPTION:
NEIGHBORHOOD DEVELOPMENT PERMIT (PROCESS 2) for the construction of a 7,231 sq. ft., two-
story over basement single family residence, inclusive of a four car garage, patio, and retaining walls,
on a 13,504 sq. ft. site parcel. The site is located at on the western side of Washington Place,
between Portola Place and Pringle Street, specifically at 1826 & 1836 Washington Place (APN: 431-
631-01 and -02) San Diego, CA 92103.

The parcel is designated Low Density Residential (5 - 9 dwelling units per acre) and Open-Space, and
Recreation, Zoned - Residential Single-Family (RS-1-1 & RS-1-7), within the Uptown Community Plan.
Additionally, the project site is within Airport Influence Area (AIA) Review Area 1 for the San Diego
International Airport (SDIA) as depicted in the adopted 2014 Airport Land Use Compatibility Plan
(ALUCP) and the Federal Aviation Administration (FAA) Part 77 Notification Area, Brush Management
Zones 1 and 2, Environmentally Sensitive Lands (ESL) and Council District 3. The parcel is situated in
a neighborhood setting of similar uses (residential development). The site is bounded by
Washington Street to the east, Banker's Hill Open Space Trail Park to the west, an existing residence
to the south, and an existing residence to the north. In addition, the project site is located in a
developed area currently served by existing public services and utilities. [LEGAL DESCRIPTION: Lots
95 and 96 of Mission Hills, City of San Diego, County of San Diego, State of California. According to
Merrill 9601 Mo. 1115, filed in Office of the County Recorder of San Diego County. The site is
not included on any Government Code listing of hazardous waste sites.]

ENTITY CONSIDERING PROJECT APPROVAL: City of San Diego, Development Services Department
(Process 2)

ENVIRONMENTAL DETERMINATION: The City of San Diego conducted an Initial Study which
determined that the proposed project could have a significant environmental effect in the following
Environmental Appeals Regulations

Appeal Hearings

• City Council Hearing
• By a majority vote, the Council may:
  – Deny the appeal and uphold the determination
  – Grant the appeal and make superseding environmental determination or CEQA findings
  – Grant the appeal, set aside the determination, and remand for reconsideration
Contacting Us

- Project Management (619) 446-5220
- Community Planning (619) 235-5200
- Development & Permit Information (619) 446-5000
- Code Enforcement (619) 236-5500
- General Information (619) 446-5000
- Internet: www.sandiego.gov
Thank you for your participation!

ANY QUESTIONS?