



# LAND USE SERVICES DEPARTMENT PLANNING STAFF REPORT



HEARING DATE: May 3, 2012

AGENDA ITEM NO: 4

**Project Description:**

**Applicant:** San Bernardino County Department of Land Use Services

**Proposal:** A Development Code Amendment to amend Sections 83.05.060 (b) and (c) to exempt public agencies from certain requirements relative to the posting of surety bonds to delay required street improvements and Section 83.12.030 to include in the Road System Design Standards references to the San Bernardino County Department of Public Works Road Planning and Design Standards document.

**Community:** Countywide

**Location:** Countywide

**Project No:** L612

**BACKGROUND:**

Under the County’s Development Code, certain levels of development trigger requirements to improve streets in and around the development and it is the County’s standard practice to require such improvements as conditions of approval.

On occasion, prudential factors may dictate the delay of the street improvements. A private developer or governmental agency (which includes any federal, State, other County, municipal corporation, school district, or any other public district or body) may request the delay of the required infrastructure improvements per the approved conditions. Such delays may be granted on a case-by-case basis when factors dictate that immediate installation of the street improvements are impractical and when it can be determined that the delay will not compromise public health and safety. However, the County’s current standard development process requires that all developers, both private and public, post a cash deposit or surety bond, sign a developer lien agreement or post some other form of surety acceptable to the County in an amount equal to the estimated cost of the public street improvements. (Subsections 83.05.060(b) and (c).)

The purpose of this surety requirement is to allow for the delay of the improvements but ensuring that the developer completes the required improvements by a specified date. This arrangement is memorialized in a Delayed Improvement Agreement with County Public Works. Should the developer not meet his/her/its obligation to complete the specified improvements, the County can use the proceeds of the surety bond or cash deposit or execute on the lien agreement to undertake the construction of the required improvements.

The County Development Code provides that if a developer lien agreement is used as a form of surety for the Delayed Improvement Agreement, it shall be used only for commercial or industrial development and shall be prepared and processed in compliance with County policy. (Subsection 83.05.060(c).)

Action taken by the Planning Commission on this item may be appealed to the Board. Yes  No   
Note: Recommendations to the Board of Supervisors are not appealable.

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Finally, the County Development Code identifies the road system design standards and references the San Bernardino County Standards and Specifications Manual for diagrams and specific features in the County maintained road system. (Section 83.12.030.)

**ANALYSIS:**

On occasion, County staff receives requests from governmental agencies to have the surety requirement waived when the installation of street improvements is being delayed. In reviewing this request, County staff determined that the likelihood of default on a Delayed Improvement Agreement by a governmental agency is less than that of a private entity as it is rare for governmental agencies to go bankrupt, dissolve, or disappear. County staff also determined that the County's interest (ensuring the completion of the public improvements) is protected even without a surety requirement on governmental agency projects since the governmental agency will still be required to include in the Delayed Improvement Agreement a written guarantee of payment of all costs for which the agency may become liable to the County.

Staff is therefore proposing to amend the Development Code to allow for the delay of street improvements for governmental agency projects without requiring the government agency to post sureties to the County, subject to the execution of a Delayed Improvement Agreement with the County. This agreement would include a written guarantee of payment of all costs for which the agency may become liable to the County. In addition, the execution of such an agreement would release the agency from having to post any type of surety with the County but would still require the agency to complete the public street improvements according to the timeframes established in the Delayed Improvement Agreement.

The one exception to the posting of a surety instrument with the County would be for any project involving the subdivision of property, such as a parcel or tract map, pursuant to the provisions of the California Subdivision Map Act (California Government Code Section 66410 et seq.)

A second component of the surety issue concerns developer lien agreements -- one of the types of surety which the County currently accepts for only commercial or industrial development projects. This amendment would also allow subdivisions (both parcel and tract maps) to utilize the developer lien agreement for surety purposes per the Development Code 87.07.040 (d).

A third, and final, component of this item involves referencing within the Development Code the County's road system design standards. Currently, the Development Code references only the San Bernardino County Standards and Specifications Manual, with respect to diagrams and specific features on the County maintained road system. The County Department of Public Works has requested that the references include the Board approved Road Planning and Design Standards document, which provides the design guidelines for road design, traffic study, and any transportation fees within the unincorporated County area.

The proposed amendments to the Development Code are exempt from the California Environmental Quality Act (CEQA) in accordance with Section 15061(b)(3) of the CEQA Guidelines as the proposed changes do not have the potential to cause a significant effect on the environment.

**FINDINGS:**

1. The proposed amendments are consistent with the General Plan and any applicable community plan or specific plan as it offers another alternative for development;
2. The proposed amendments would not be detrimental to the public interest, health, safety, convenience, or welfare of the County because it has several safeguards in place designed to protect the public interest, health, safety convenience or welfare;
3. The proposed amendments are internally consistent with other applicable provisions of this Development Code because they allow for the orderly development of the County, which are the same privileges enjoyed by others; and
4. The proposed amendments are exempt from the California Environmental Quality Act (CEQA) in accordance with Section 15061(b)(3) of the CEQA Guidelines as the proposed changes do not have the potential to cause a significant effect on the environment.

**RECOMMENDATION:** THAT THE PLANNING COMMISSION MAKE THE FOLLOWING RECOMMENDATIONS TO THE BOARD OF SUPERVISORS:

- A. ADOPT the proposed Development Code Amendments.
- B. ADOPT the findings as contained in the staff report;
- C. FILE the Notice of Exemption.

**ATTACHMENTS:**

Exhibit A - Proposed Development Code Changes

# **EXHIBIT A**

## **PROPOSED DEVELOPMENT CODE CHANGES**

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1 SECTION 2. Subsections 83.05.060(b) and (c) of the San Bernardino  
2 County Code is amended, to read:

3 **83.05.060. Delayed Improvements.**

4 (b) *Delayed Improvements Allowed with Written Agreement.* Where  
5 it is impractical to install the required improvements at the time of the proposed  
6 development, a delayed improvement agreement in writing shall be entered into with  
7 the County Department of Public Works to make the improvements along with the  
8 posting of a form of surety described in subsection (c), herein. If the United States,  
9 this State, this or any other county, any municipal corporation, school district, other  
10 public district or public body includes in the delayed improvement agreement a  
11 written guarantee of payment of all costs for which they may become liable to the  
12 County, then the posting of a form of surety described in subsection (c), herein, is  
13 not required from such persons. The foregoing exemption to the surety requirement  
14 does not apply to subdivisions under the California Subdivision Map Act,  
15 Government Code section 66410 et seq.

16 (c) *Surety Required.* A cash deposit, a surety bond, a developer lien  
17 agreement, or other form of surety acceptable to the County Department of Public  
18 Works in an amount equal to the estimated cost of the improvements as determined  
19 by the County Engineer, shall be posted with the County Department of Public  
20 Works to guarantee the installation of the improvements. The actual installation of  
21 street improvements may be delayed until the County makes a written demand for  
22 the installment. If surety bonds are submitted, they shall be furnished by a surety  
23 company authorized to write the bonds in the State of California. If a developer lien  
24 agreement is used, it shall be used only for residential subdivisions (as defined in  
25 Subsection 87.07.040(d)(1)), commercial or industrial development and shall be  
26 prepared and processed in compliance with County policy.

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SECTION 3. Section 83.12.030 of the San Bernardino County Code is amended, to read:

**83.12.030 Road System Design Standards.**

Table 83~20 provides road system design standards. For diagrams and specific features on the County maintained road system, refer to the Road Planning and Design Standards and the San Bernardino County Standards and Specifications Manual, as may be amended from time to time. The Road Planning and Design Standards and the Standards and Specifications Manual are maintained by the Department of Public Works.

*Table 83-20*

*Road System Design Standards*

Highway Designation	Number of Lanes	Right-of-way Width	Curb-to-curb Separation
Freeway	Variable (per Caltrans)	Variable (per Caltrans)	Variable (per Caltrans)
State Highway (special standards/conditions)	Variable (per Caltrans)	Variable (per Caltrans)	Variable (per Caltrans)
Major Arterial Highway	6	120 ft. minimum	104 ft.
Major Divided Highway	4	120 ft.	94 ft.
Major Highway	4	104 ft. minimum	80 ft.
Secondary Highway	4	88 ft.	64 ft.
Controlled/Limited Access Collector	2	66 ft.	44 ft.
Mountain Major Highway	4	80 ft.	64 ft.
Mountain Secondary Highway	2	60 ft.	44 ft.



1 \_\_\_\_\_  
2 \_\_\_\_\_  
3 and the Clerk, the foregoing ordinance was passed and adopted by the following  
4 vote, to wit:

5 AYES: SUPERVISORS:

6 NOES: SUPERVISORS:

7 ABSENT: SUPERVISORS:

8 IN WITNESS WHEREOF, I have hereunto set my hand and affixed the  
9 official seal of the Board of Supervisors this \_\_\_\_ day of \_\_\_\_\_, 2012.

10 LAURA H. WELCH, Clerk of the  
11 Board of Supervisors of the  
12 County of San Bernardino,  
13 State of California

14 \_\_\_\_\_  
15 Deputy

16 Approved as to Form:

17 JEAN-RENE BASLE, County Counsel

18 By: \_\_\_\_\_  
19 Kenneth C. Hardy, Deputy County Counsel

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