

GROWTH AND DEVELOPMENT: PROJECTS, APPROVAL PROCESS AND SUBDIVISIONS

UC UC Cooperative Extension CE Land Use Fact Sheet Series

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“Smart growth balances development and environmental protection – accommodating growth while preserving open space and critical habitat, reusing land, and protecting water supplies and air quality.”



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What is Smart Growth?

Smart Growth is **development that serves the economy, the community, and the environment.** It changes the terms of the development debate away from the traditional growth/no growth question to “how and where should new development be accommodated.” Smart Growth answers these questions by simultaneously achieving:

- Healthy communities that provide families with a clean environment.
- Economic development and jobs that create business opportunities and improve local tax base; that provide neighborhood services and amenities; and that create economically competitive communities.
- Strong neighborhoods which provide a range of housing options giving people the opportunity to choose housing that best suits them. It maintains and enhances the value of existing neighborhoods and creates a sense of community.
- Transportation choices that give people the option to walk, ride a bike, take transit, or drive.



California Environmental Quality Act

CEQA (see Fact Sheet #12 for more details on CEQA & EIR) is a state law requiring state and local agencies to regulate activities with consideration for environmental protection. If a proposed activity has the potential for a significant adverse environmental impact, an Environmental Impact Report (EIR) must be prepared and certified as to its adequacy before taking action on the proposed project. General Plans require the preparation of a “program EIR.”

Project

A project, as defined by CEQA, is **any action that has the potential for a direct or indirect impact on the environment.** A project can be any of the following: 1) an activity of a public agency, 2) an activity of someone who receives assistance, such as grants or loans, from a public agency, 3) an activity that involves receiving a lease, permit, or other permission for use that is issued by a public agency (California Code of Regulations 15378).

Lead Agency

The primary public **agency with the principal responsibility** for issuing permits to a project, or for carrying out the project, is called the lead agency (California Code of Regulations

Section 15367). As such, this agency is responsible for determining whether or not a project will significantly impact the environment and, when necessary, for analyzing the project's possible environmental impacts (or contracting for this work to be done under its direction). The **planning department is usually the lead agency** in local planning matters.

PROJECT APPROVAL PROCESS

Permits

Most **projects require one or more permits**, depending upon state and local codes and regulations. Generally speaking, **permits fall into two categories: discretionary and ministerial.** A **discretionary permit** is subject to the evaluation, judgment, and approval or denial by the local planning authority or other permitting agencies. A **ministerial permit** is not subject to discretion.



SOURCES FOR MORE INFORMATION

California Environmental Quality Act: Statutes and Guidelines (Resources Agency) The CEQA Guidelines describe the requirements for evaluating environmental impacts. Available online at <http://ceres.ca.gov/ceqa/>

California Land Use and Planning Law, by Daniel J. Curtin Jr., (Solano Press, Pt. Arena, California), revised annually. A look at the planning, zoning, subdivision, and environmental quality laws that is illustrated by references to numerous court cases.

Growth within Bounds: Report of the Commission on Local Governance for the 21st Century, 2000. Recommendations on future local governance options, including LAFCO reform. Available online at <http://www.opr.ca.gov/publications/>

Guide to California Planning, by William J. Fulton (Solano Press, Point Arena, California). A lively, well-written discussion of nearly every aspect of planning in the State.

Subdivision Map Act Manual, by Daniel J. Curtin, Jr., (Solano Press, Pt. Arena, California). A practitioner's guide to the Map Act, including pertinent legal precedents.

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Rather, the **approval of a ministerial permit is automatic** if it meets certain pre-determined requirements. Typically, small projects such as renovating a kitchen or building a fence are ministerial. **Ministerial projects are not subject to the California Environmental Quality Act (CEQA).**

SUBDIVISIONS

In general, land cannot be subdivided in California without local government approval. Dividing land for sale, lease or financing is regulated by local ordinances based on the state Subdivision Map Act (commencing at Government Code Section 66410). The local general plan and the zoning, subdivision, and other ordinances govern the design of the subdivision, the size of its lots, and the types of improvements that will be required as conditions of approval.

There are basically two kinds of subdivisions: (1) *parcel maps*, which are limited to divisions resulting in fewer than 5 lots (with certain exceptions), and (2) *subdivisions (or tract maps)*, which create 5 or more lots. **Tract maps and parcel maps are approved in two stages.**

Tentative Map

Upon receiving an application for a tentative subdivision map, the city or county staff will examine the design of the subdivision to ensure that it meets the requirements of the general plan and the subdivision ordinance. An environmental impact analysis must be done and an advertised public hearing held before a tentative map is considered for approval.

If approved, the map will be **subject to conditions that the subdivider must meet within a specific time period.**

While these conditions are being met, no lots have been officially approved. However, if the developer is granted a *vesting tentative map* by the local jurisdiction prior to approval of the tentative map, the builder has the vested right to build the project laid out in the tentative map. More detailed information may be requested for a tentative map, though, if the developer requests vesting.

Final Map

When all of the conditions set out in the approved tentative map have been

satisfied, and compliance certified by city or county officials, the city council or county board of supervisors will approve a final map.

Unlike a tentative map, which can be denied if it does not meet city or county standards, **the final map must be approved** (with some exceptions) **if it substantially complies with the previously approved tentative map.** The subdivider may now record the map at the County Recorder's office.



Subdivision approval is conditioned upon the subdivider providing public improvements such as streets,

drainage facilities, water supply or sewer lines to serve the subdivision. They may also be required to dedicate park land to the community. These improvements must be installed or secured by bond before the city or county will grant final map approval and allow the subdivision to be recorded in the recorder's office.

Lots within the subdivision cannot be sold and are not legal divisions of land until a final map has been recorded. The subdivider has at least two years (and with extensions, usually more) in which to comply with the improvement requirements, gain final administrative approval, and record the final map.

California Statutes

Full text of the following California Statutes may be found on the Official California Legislative Information website: www.leginfo.ca.gov/calaw.html

- CEQA Public Resources Code Sections 21000-21178
- Permit Streamlining Act Government Code Sections 65920-65963.1
- Subdivision Map Act Government Code Sections 66410-66499.58

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