



## County of Lassen

### Department of Planning and Building Services

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TO: Lassen County Planning Commission  
Agenda Date: September 6, 2022

FROM: Maurice Anderson, Director  
Don Willis, County Surveyor

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SUBJECT: Question posed during the August 2, 2022 Planning Commission meeting related to a proposed update of Title 16 of the Lassen County Code.

A question was posed during the August 2, 2022 meeting of the Planning Commission regarding whether the property taxes were required to be pre-paid when completing land division projects. This question arose during the portion of the meeting that was addressing a proposed update to Title 16 (Subdivisions) of the Lassen County Code.

The answer to that question is that they are in fact required to be pre-paid as specified by Sections 66492 and 66493 of the Government Code, copies of which are enclosed for reference. This portion of the Government Code, known as the Subdivision Map Act, consists of a series of state regulations that serve to regulate divisions of land that occur within California. These sections specifically state that property taxes, both current and any which are a lien against the property, are to be paid prior to the filing of a parcel map or final map. This provision is also applicable to lot line adjustments as specified under Section 66412(d) of the Subdivision Map Act, a copy of which is also enclosed.

There does exist a provision within Section 66493(d) which states "*A county may, by ordinance, after consultation with the tax collector, waive the requirement to secure the payment of estimated taxes or special assessments, as required by subdivision (a) or (b), for a final parcel map of four or fewer parcels or for a lot line adjustment.*" A conversation with Nancy Cardenas, Lassen County Tax Collector, revealed that she was *not* willing to waive this requirement because it provides a mechanism for the County to ensure that it receives its tax payments when land is being reconfigured. She informed me that removal of this requirement could lead to undesirable issues if taxes become delinquent for properties that have been reconfigured. Property taxes become a lien as of January 1<sup>st</sup> in any given year, and if the taxes continue to remain unpaid, this will ultimately allow the Tax Collector to sell the property to collect on the taxes owed. This authority could effectively allow a land division or property line reconfiguration to be "undone." Mrs. Cardenas also informed me that she does not know of any county in California that has waived this requirement.

My experience as a private land surveyor, who worked in multiple counties within the state, also confirms that no county had waived this requirement, as Mrs. Cardenas noted. As a County Surveyor, I also would not recommend that the pre-payment of property taxes be waived because it does provide an assurance to the County that the taxes will in fact be paid. Parcels are frequently sold by property owners immediately after being created and it may prove more difficult to collect property taxes if this is occurring and ownership changes are being made. Additionally, properties could potentially be reconfigured in a manner where most of the value is placed on one parcel, which could then be sold, leaving the other parcel of little value. Chasing the property tax payments after this type of situation occurs seems undesirable from a County's standpoint.

It is important to note that the pre-payment of property taxes is *not* an *additional* tax, but merely a *pre-payment* of them. Also, a property owner is certainly able to delay recording a project until after December 10<sup>th</sup> in any given year, which is the point in time when pre-payments become non-applicable because the taxes have been paid by that time (assuming they have in fact been paid). Recordation of a project must be completed before December 31<sup>st</sup> however, otherwise another tax year will come into effect.

Although the payment of property taxes is undesirable from a property owners' viewpoint, it is necessary that local governments collect them without having to expend additional resources after parcel reconfigurations and ownership changes have occurred. Land development within California can be challenging and the pre-payment of property taxes is one of those challenges that is specifically addressed within the Subdivision Map Act. Our local subdivision ordinance, Title 16, has "mirrored" the Subdivision Map Act for many years and the proposed updates to it do the same because this series of state regulations serves as the framework for local ordinances to be adopted from.

MLA:dw

Enclosures: Sections 66942, 66493 and 66412(d) of the Government Code.  
Exhibit "A" from the August 2, 2022 Planning Commission meeting.



Ordinance Number \_\_\_\_\_

the Spaulding Eagle Lake Tract. Recordation of an approved building site shall allow for subsequent issuance of a permit from the Spaulding Community Services District for waste water connection at an individual building site.

- (4) Each Building Site Designation that is recorded in the Official Records of Lassen County shall serve to officially merge those lots of the Spaulding Eagle Lake Tract that are specifically listed on the Building Site Designation. Further, any previously recorded Building Site Designations shall be officially recognized as having merged, pursuant to Section 16.40.110 (Voluntary Merger), those lots of the Spaulding Eagle Lake Tract that are specifically listed on any Building Site Designation.
- (5) Should any additional whole lots of said Spaulding Eagle Lake Tract be desired to be added to or subtracted from an existing recorded Building Site Designation, a new Building Site Designation may be recorded which shall supersede any previously recorded Building Site Designation, if approval is granted by and obtained from the Spaulding Community Services District. If any alteration of the exterior boundaries of a previously recorded Building Site Designation are desired, aside from merely adding or subtracting whole lots to a previously recorded Building Site Designation, this shall be accomplished only through the procedures relating to a Lot Line Adjustment or by resubdivision pursuant to provisions of the Subdivision Map Act.

**SECTION FOUR:** Title 16 (Subdivisions) of the Lassen County Code is hereby repealed in its entirety and replaced with the following:

**Title 16 Subdivisions**

**Chapter 16.04 General Provisions**

**16.04.010 Citation and Authority.**

This title is adopted to supplement and implement the Subdivision Map Act, Section 66410 et seq. of the Government Code, and may be cited as the Subdivision Ordinance of the County of Lassen.

**16.04.020 Purpose.**

It is the purpose of this title to regulate and control the division of land within the County of Lassen and to supplement the provisions of the Subdivision Map Act concerning the design, improvement and survey data of subdivisions, the form and content of all maps provided for by the Subdivision Map Act and the procedure to be followed in securing the official approval of the Board of Supervisors, Planning Commission, the County Surveyor, and other applicable County departments and public agencies regarding such maps. To accomplish this purpose, the regulations outlined in this chapter are determined to be necessary for the preservation of the public health, safety and general welfare, to



(b) The preliminary soils report may be submitted to the city engineer or county engineer for review. The city engineer or county engineer may review the preliminary soils report and may require additional information or reject the report if it is found to be incomplete, inaccurate, or unsatisfactory.

(c) If the preliminary soils report indicates the presence of critically expansive soils or other soils problems which, if not corrected, would lead to structural defects, a soils investigation of each lot in the subdivision may be required.

(d) If the preliminary soils report indicates the presence of rocks or liquids containing deleterious chemicals which, if not corrected, could cause construction materials such as concrete, steel, and ductile or cast iron to corrode or deteriorate, a soils investigation of each potentially affected lot in the subdivision may be required.

(e) Any soils investigation required pursuant to this section shall be done by a civil engineer registered in this state, who shall recommend the corrective action which is likely to prevent structural damage to each structure proposed to be constructed in the area where the soils problem exists.

(f) The local agency may approve the subdivision or portion thereof where soils problems described in subdivision (c) or (d) exist if it determines that the recommended action is likely to prevent structural damage to each structure to be constructed, and as a condition to the issuance of any building permit may require that the approved recommended action be incorporated in the construction of each structure.

[Amended, Chapter 668, Statutes of 1991]

## ARTICLE 8 TAXES AND ASSESSMENTS

### **66492 Subdivider to File a Statement or Certificate Indicating There are No Liens Against Subdivision for Unpaid Taxes or Special Assessments**

Prior to the filing of the final map or parcel map with the legislative body, the subdivider shall, in accordance with procedures established by the county, file with the county recorder of the county in which any part of the subdivision is located, a certificate or statement from the official computing redemptions in any public agency in which any part of the subdivision is located, showing that, according to the records of that office, there are no liens against the subdivision or any part thereof for unpaid, state, county, municipal or local taxes or special assessments collected as taxes, except taxes or special assessments not yet payable.

This section shall not be applicable to amending maps filed in accordance with the provisions of Section 66469.

[Amended, Chapter 906, Statutes of 1993]

### **66493 Payment in Full or Security for Payment; Redemption; Certificate of Clerk of Legislative Body of Assessment District; Computation of Amount**

(a) Whenever any part of the subdivision is subject to a lien for taxes or special assessments collected as taxes which are not yet payable, the final map or parcel map shall not be recorded until the owner or subdivider does both of the following:

(1) Files with the clerk of the board of supervisors of the county wherein any part of the subdivision is located a certificate or statement prepared by the appropriate state or local official giving his or her estimate of those taxes or assessments.

(2) Executes and files with the clerk of the board of supervisors of the county wherein any part of the subdivision is located, security conditioned upon the payment of all state, county, municipal, and local taxes and the current installment of principal and interest of all special assessments collected as taxes, which at the time the final map is recorded are a lien against the property, but which are not yet payable.

(b) If the land being subdivided is a portion of a larger parcel shown on the last preceding tax roll as a unit, the security for payment of taxes need be only for the sum which may be determined by the county to be sufficient to pay the current and delinquent taxes on the land being subdivided, together with all accrued penalties and costs if those taxes have been or are allowed to become delinquent. Separate assessor's parcel numbers shall be given to the portion of the larger parcel which is not within the proposed subdivision and to the parcel or parcels which are within the proposed subdivision.

If the land being subdivided is tax-defaulted, it may be redeemed without the redemption of the remainder of the larger parcel of which it is a part pursuant to the Revenue and Taxation Code as if it were held in ownership separate from and other than the ownership of the remainder.

(c) A county may, by ordinance, require that if a property owner or subdivider deposits cash to secure the payment of the estimated taxes or special assessments required in paragraph (a) or (b), the county tax collector shall draw upon the cash deposit, at the request of the taxpayer, to pay the taxes or special assessments when they are payable.

(d) A county may, by ordinance, after consultation with the tax collector, waive the requirement to secure the payment of estimated taxes or special assessments, as required by subdivision (a) or (b), for a final parcel map of four or fewer parcels or for a lot line adjustment.



(e) Whenever land subject to a special assessment or bond which may be paid in full is divided by the line of a lot or parcel of the subdivision, that assessment or bond shall be paid in full; security shall be filed with the clerk of the board of supervisors, payable to the county as trustee for the assessment bondholders for the payment of the special assessment or bond; or the responsibility for payment of the assessment shall be certified as segregated pursuant to subdivision (f).

(f) Whenever land subject to a special assessment for payment of a bond would be divided by the line of a lot or parcel of a subdivision, and the special assessment is not paid in full or secured pursuant to subdivision (e), the final map or parcel map shall not be recorded until the owner or subdivider files with the clerk of the board of supervisors of the county a certificate prepared by the clerk of the legislative body that created the assessment district. The certificate shall certify that the legislative body has determined that provision has been made for segregation of the responsibility of each of the proposed new parcels for a portion of the assessment payment obligation in the manner provided in the statute pursuant to which the assessments were levied or to which the bonds were issued.

(g) In computing the amount of security for "taxes" in subdivision (a) or "current taxes" in subdivision (b), it shall only be necessary to consider amounts shown on the regular assessment roll or shown on any supplemental rolls prepared pursuant to Chapter 3.5 (commencing with Section 75) of Part 0.5 of Division 1 of the Revenue and Taxation Code.

(h) This section shall not be applicable to amending maps filed in accordance with Section 66469.

[Amended, Chapter 480, Statutes of 1997]

#### **66494 Delinquent Taxes and Special Assessments to be Paid from Security Deposit**

(a) If the taxes or special assessments are allowed to become delinquent, the county shall recover from the security the principal sum of the security without proof of loss. The county shall apply the sum received in payment of any or all of such taxes or special assessments, including penalties and costs, if any, accruing thereto, to the proper state, county, municipal or district officers, for the satisfaction of the tax and special assessment liens and shall pay the balance, if any, over to the surety or depositor.

(b) If the taxes or special assessments are allowed to become delinquent and the security consists of a deposit of money, negotiable bond or instrument of credit, the clerk, subject to any rules of the board of supervisors with respect thereto, shall apply the proceeds thereof to the payment of such taxes and special assessments, including penalties and costs. Any excess proceeds shall be deposited in the county treasury for the benefit of the persons entitled thereto.

(c) If authorized by prior agreement with the subdivider or his or her sureties, when secured taxes become due the amount of taxes and special assessments may be paid to the county tax collector from the security deposit, or the negotiable paper or instrument of credit may be cashed and any excess proceeds placed in the county treasury subject to refund claim by the subdivider.

[Amended, Chapter 392, Statutes of 1981]

#### **66494.1 Clerk's Duties May be Assigned**

The board of supervisors may, by resolution, authorize any county officer to perform the duties required of the clerk of the board of supervisors under this article.

[Added, Chapter 866, Statutes of 1984]

## **ARTICLE 9 MONUMENTS**

#### **66495 Surveyor to Set Sufficient Durable Monuments**

At the time of making the survey for the final map or parcel map unless the survey is not required pursuant to Section 66448, the engineer or surveyor shall set sufficient durable monuments to conform with the standards described in Section 8771 of the Business and Professions Code so that another engineer or surveyor may readily retrace the survey. He shall also set such additional monuments as may be required by local ordinance. The local agency shall require that at least one exterior boundary line of the land being subdivided be adequately monumented or referenced before the map is recorded.

[Amended, Chapter 234, Statutes of 1977]

#### **66496 Security for Setting Interior Monuments**

Interior monuments need not be set at the time the map is recorded, if the engineer or surveyor certifies on the map that the monuments will be set on or before a specified later date, and if the subdivider furnishes to the legislative body security guaranteeing the payment of the cost of setting such monuments.



to the filing of the parcel map or final map. With respect to any parcel created by a parcel map or final map subject to this section, payment of exactions and acceptance of offers of dedication under this section shall be deferred by the local agency until the contract terminates or is canceled as to that parcel, except that no deferral is required under this subdivision as to fees and assessments that are due and payable for governmental services provided to the parcel prior to termination or cancellation of the contract. The applicants for a parcel map or final map subject to this section shall be personally liable for performance of obligations deferred under this section at the time they become due.

[Added, Chapter 494, Statutes of 1988]

#### **66412 Application of Division; Exclusions**

This division shall be inapplicable to any of the following:

- (a) The financing or leasing of apartments, offices, stores, or similar space within apartment buildings, industrial buildings, commercial buildings, mobilehome parks, or trailer parks.
- (b) Mineral, oil, or gas leases.
- (c) Land dedicated for cemetery purposes under the Health and Safety Code.
- (d) A lot line adjustment between four or fewer existing adjoining parcels, where the land taken from one parcel is added to an adjoining parcel, and where a greater number of parcels than originally existed is not thereby created, if the lot line adjustment is approved by the local agency, or advisory agency. A local agency or advisory agency shall limit its review and approval to a determination of whether or not the parcels resulting from the lot line adjustment will conform to the local general plan, any applicable specific plan, any applicable coastal plan, and zoning and building ordinances. **An advisory agency or local agency shall not impose conditions or exactions on its approval of a lot line adjustment except to conform to the local general plan, any applicable specific plan, any applicable coastal plan, and zoning and building ordinances, to require the prepayment of real property taxes prior to the approval of the lot line adjustment, or to facilitate the relocation of existing utilities, infrastructure, or easements.** No tentative map, parcel map, or final map shall be required as a condition to the approval of a lot line adjustment. The lot line adjustment shall be reflected in a deed, which shall be recorded. No record of survey shall be required for a lot line adjustment unless required by Section 8762 of the Business and Professions Code. A local agency shall approve or disapprove a lot line adjustment pursuant to the Permit Streamlining Act (Chapter 4.5 (commencing with Section 65920) of Division 1).
- (e) Boundary line or exchange agreements to which the State Lands Commission or a local agency holding a trust grant of tide and submerged lands is a party.
- (f) Any separate assessment under Section 2188.7 of the Revenue and Taxation Code.
- (g) The conversion of a community apartment project, as defined in Section 4105 of the Civil Code, to a condominium, as defined in Section 783 of the Civil Code, but only if all of the following requirements are met:
  - (1) The property was subdivided before January 1, 1982, as evidenced by a recorded deed creating the community apartment project.
  - (2) Subject to compliance with Sections 4290 and 4295 of the Civil Code, all conveyances and other documents necessary to effectuate the conversion shall be executed by the required number of owners in the project as specified in the bylaws or other organizational documents. If the bylaws or other organizational documents do not expressly specify the number of owners necessary to execute the conveyances and other documents, a majority of owners in the project shall be required to execute the conveyances or other documents. Conveyances and other documents executed under the foregoing provisions shall be binding upon and affect the interests of all parties in the project.
  - (3) If subdivision, as defined in Section 66424, of the property occurred after January 1, 1964, both of the following requirements are met:
    - (A) A final or parcel map of that subdivision was approved by the local agency and recorded, with all of the conditions of that map remaining in effect after the conversion.
    - (B) No more than 49 percent of the units in the project were owned by any one person as defined in Section 17, including an incorporator or director of the community apartment project, on January 1, 1982.
  - (4) The local agency certifies that the above requirements were satisfied if the local agency, by ordinance, provides for that certification.
  - (h) The conversion of a stock cooperative, as defined in Section 4190 or 6566 of the Civil Code, to a condominium, as defined in Section 783 of the Civil Code, but only if all of the following requirements are met:
    - (1) The property was subdivided before January 1, 1982, as evidenced by a recorded deed creating the stock cooperative, an assignment of lease, or issuance of shares to a stockholder.
    - (2) A person renting a unit in a cooperative shall be entitled at the time of conversion to all tenant rights in state or local law, including, but not limited to, rights respecting first refusal, notice, and displacement and relocation benefits.