



COUNTY OF PLACER
Community Development Resource Agency

**ENGINEERING &
SURVEYING**

Michael J. Johnson, AICP
Agency Director

MEMORANDUM

TO: Honorable Board of Supervisors
FROM: Michael Johnson, AICP *MJ.*
Agency Director
DATE: August 21, 2012
SUBJECT: Amendments to Chapter 15 and 16 of the Placer County Code Regarding Early Building Permits

ACTION REQUESTED

1. Determine the proposed amendments to the Placer County Code are not subject to review under the California Environmental Quality Act review pursuant to Section 15061 (b) (3) where it can be seen with certainty that there is no possibility that the activity discussed in this report may have a significant effect on the environment, and
2. Introduce an Ordinance amending Section 15.04.050 (Building Permits During Construction of Subdivision Improvements) and Section 16.16.050 (Final Map – Supplementary Documents) to address alternative means of providing project security requirements.

BACKGROUND

Section 15.04.050 of the Placer County Code allows for the issuance of restricted building permits prior to the completion of all subdivision improvements when it is determined that the development is nearly complete and all other requirements of County Code have been satisfied. Because of the short construction season and the need to address snowloads on all structures, these building permits are currently restricted to "non-occupancy" of the structure and available only to projects at or below the elevation of 5,000 feet. In an effort to facilitate development throughout the County, this proposed text amendment will eliminate the elevation restriction and make this "non-occupancy" permit available to all projects in Placer County.

Section 15.04.050 also allows for a "foundation" permit for projects above the 5,000 foot elevation. This "foundation" permit was authorized by the Board in recognition of the very short construction season in the Sierra. A "foundation" permit is more restrictive than "non-occupancy" permits and is available when the subdivision improvements are not complete and security in the form of cash, certificate of deposit or letter of credit in an amount equivalent to 125 percent of the cost of the unfinished subdivision improvements has been posted with the County. Based upon discussions with the development community (Martis Camp, East-West Partners, Sugar Bowl Ski Resort, Building Industry Association), the existing security requirements are, at times, onerous, and the development community has expressed support for the allowance of other types of security guarantees, such as conventional bonds and bonds assuring multiple construction phases. This proposed text amendment allows the CDRA Director the discretion to approve other types of security that are found to be consistent with the standards established in the Placer County Code. Given the financial options available to the development community, staff has concluded this is an appropriate way to ensure that adequate security can be provided in a changing financial environment.

Section 16.16.050 of Placer County Code requires that security "equivalent to the estimated cost of construction of all improvements" be posted with the County before Final Subdivision Map approval. State Law requires that such security be posted only for the public improvements. On July 27, 2010, the Board approved an Ordinance amending County Code Section 16.08.200 that eliminated the requirement to provide warranty security for private subdivision improvements. This proposed text amendment builds upon that decision and serves to separate the subdivider's public and private responsibilities. Infrastructure that will be owned or maintained by a public entity, such as water and sewer transmission facilities and public roads will, continue to be fully secured. Privately-maintained improvements such as landscaping, private recreational amenities and private roads will not require security. Although the private improvements are not secured, these improvements will continue to be shown on the project's improvement plans and therefore must be completed before the Board can accept the improvements as complete. Should a developer desire to provide a security for private improvements, implementation of this Code amendment will not prohibit a developer from providing such security.

On November 23, 2010, the Board acted to adopt an Ordinance modifying Chapter 15 of Placer County Code to conform with the California State Building Codes. A description of the work permitted with a "foundation" permit was inadvertently removed due to a clerical error. This text amendment will also correct that error and define a "foundation" permit as work involving the foundation, rough framing and roof sheeting (consistent with the previously removed language).

These changes to County Code are being proposed as an improvement to the County's current development review process. In an ongoing effort to address impediments to the development review process, staff has concluded these proposed text amendments will provide additional tools to the development community to address project security requirements and meet housing demands.

ENVIRONMENTAL CLEARANCE

The requested actions are not subject to review under the California Environmental Quality Act review pursuant to Section 15061 (b) (3) which exempts projects where it can be seen with certainty that there is no possibility that the activity discussed in this report may have a significant effect on the environment.

FISCAL IMPACT

There is no impact to the General Fund as a result of this action.

RECOMMENDATION

Staff recommends the Board of Supervisors:

1. Determine the project is not subject to review under the California Environmental Quality Act review pursuant to Section 15061 (b) (3) where it can be seen with certainty that there is no possibility that the activity discussed in this report may have a significant effect on the environment, and
2. Introduce an Ordinance amending Section 15.04.050 (Building Permits During Construction of Subdivision Improvements) and Section 16.16.050 (Final Map – Supplementary Documents).

Attached to this report for the Board's information/consideration are:

- Attachment A: Current County Code Sections 15.04.050 and 16.16.050
- Attachment B: Ordinance Amending County Code Sections 15.04.050 and 16.16.050

ATTACHMENT A

ATTACHMENT A
CURRENT COUNTY CODE

15.04.050 Building permits during construction of subdivision improvements.

A. No building permit shall be issued within a recorded subdivision or planned unit development until such time as all improvements required by the agreement between the county and the subdivider have been completed and accepted by the county, except that building permits may be issued prior to the acceptance of the improvements by the county as provided in this section.

B. For projects at or below the elevation of five thousand (5,000) feet, once the permit applications have met all other requirements for permit issuance, building permits with a restriction on non-occupancy of the structure may be issued by the building service division if the following conditions are met as determined by the engineering and surveying department:

1. The final map of the subdivision or planned unit development has been approved by the board of supervisors and duly recorded;

2. All pad grading required by the county has been completed;

3. Roads serving the building lot have been paved;

4. All underground utilities are installed to the lot lines;

5. Utility systems have passed all required tests;

6. The subdivision developer, the contractor responsible for constructing the subdivision improvements and the owner of record of the lot if title has been transferred from the subdivider, have each executed a release to the satisfaction of the county specifically authorizing the issuance of a building permit. The release shall hold the county, the serving fire entity and utility companies harmless from any and all liability from damages or losses resulting from early permit issuance. The release shall also provide that the county will hold the subdivision developer responsible for all improvements regardless of the presence of house contractors, material suppliers, tradesmen, or public in the subdivision. The release shall also hold the county harmless in the event that the subdivision improvements are not completed and the construction of the home or other structure is delayed and/or prohibited;

7. The locations of all structures and any required setbacks have been certified by a licensed surveyor and have been submitted to the county.

C. For projects above the elevation of five thousand (5,000) feet, once the permit applications have met all other requirements for permit issuance, building permits, with a restriction that no construction beyond the foundation level will be issued by the building service

division if the following conditions are met as determined by the engineering and surveying department:

1. The final map of the subdivision or planned unit development has been approved by the board of supervisors and duly recorded;
2. All pad grading required by the county has been completed;
3. Roads serving the building lot and firefighting water service have been constructed to a standard approved by the serving fire district and the county;
4. The subdivision developer, the contractor responsible for constructing the subdivision improvements and the owner of record of the lot if title has been transferred from the subdivider, have each executed a release to the satisfaction of the county specifically authorizing the issuance of a building permit. The release shall hold the county, the serving fire entity and utility companies harmless from any and all liability from damages or losses resulting from early permit issuance. The release shall also provide that the county will hold the subdivision developer responsible for all improvements regardless of the presence of house contractors, material suppliers, tradesmen, or public in the subdivision. The release shall also hold the county harmless in the event that the subdivision improvements are not completed and the construction of the home or other structure is delayed and/or prohibited;
5. The locations of all structures and any required setbacks have been certified by a licensed surveyor and have been submitted to the county;
6. Security in the form of cash, certificate of deposit, or letter of credit (the latter two to be in a form acceptable to the county) shall be deposited with the county. This security shall be in an amount equal to one hundred twenty-five (125) percent of the value of the unfinished infrastructure required under the subdivision agreement for the project. The amount of the deposit shall be based on an estimate prepared by a registered civil engineer and approved by the community development resource agency. The final amount shall be determined solely by the community development resource agency. An additional agreement shall be entered into between the county and the subdivider (and the property owner if a lot has been sold) to establish the terms of the release of any deposits required under this section;
7. The building service division shall have approved a complete set of building plans;
8. The local serving fire district shall indicate, in writing, that it is satisfied with the provisions for fire protection.

Each permit issued under this subsection shall contain the following note: "It is expressly understood that no construction except the foundation of the structure will be permitted until all of the conditions of approval relating to the subdivision shall have been met." A processing fee, payable to the engineering and surveying department, shall be charged for preparing documents and processing permits under this subsection ("high elevation processing fee"). The high

elevation processing fee shall be in addition to any other required fees as prescribed in the engineering and surveying department fee schedule.

D. For the construction of model homes at all elevations, building permits that have met all other requirements for permit issuance may be issued by the building service division provided the following conditions are met as determined by the engineering and surveying department. Model home permits will be conditionally issued with a restriction on non-occupancy of the structure.

1. Conditions of subsections (B)(1), (B)(2), (B)(6) and (B)(7) of this section have been satisfied;
2. All underground utility crossings within roadways have been installed and waterlines and fire hydrants serving proposed model construction have been installed to the satisfaction of the serving fire protection entity or the developer can provide written evidence from the serving fire protection entity that adequate fire protection can be provided for the model homes;
3. Developer agrees in writing to remove landscaping and level the multipurpose easement to sidewalk grade at developer's own expense as required by the utility companies prior to utility trenching operations;
4. Developer agrees in writing not to convey title to model homes for occupancy prior to utilities and improvements being fully installed and accepted;
5. Developer agrees in writing that a model home shall not be used for offices nor will public foot traffic be allowed through such homes until a "temporary certificate of occupancy" has been issued by the building service division, and, further, that before a model home can be used for residence purposes a permanent certificate of occupancy must be obtained;
6. Developer agrees in writing that model homes shall not be connected to sewer laterals until all required sewer line testing has been completed;
7. Until such time as the utilities are installed and passed to the lot lines, developer shall provide written evidence that the county has been named as an additional insured on the developer's liability insurance in an amount to be determined.

E. Building permits issued under subsection B or C of this section shall be limited to twenty (20) percent of the total number of lots in a subdivision or phase for projects of twenty (20) or more lots. For subdivisions of less than twenty (20) lots, the maximum number of permits under subsection B or C of this section shall be limited to four. The maximum number of model home building permits issued under subsection D of this section for each unit of a subdivision shall equal ten (10) percent of the number of lots shown on the final map of the unit or a total of fifteen (15) building permits, whichever is less; except that for subdivisions having less than thirty (30) lots the maximum number of model permits will be three. A computed fractional number will be rounded to the next whole number.

F. For all permits issued under subsection B or C of this section, no certificate of occupancy may be issued until the subdivision improvements are accepted by the county and the final inspection of the structure(s) is completed. Each permit issued pursuant to the provisions of subsection B or C of this section shall contain the following note: "Certificate of Occupancy shall not be issued until all subdivision improvements have been approved by the Board of Supervisors and other agencies involved. No occupancy is allowed until such approvals are given."

G. The conditions contained in this section may be applied to subdivision phases as approved by the county planning commission. (Ord. 5629-B § 3, 2010)

16.16.050 Final maps—Supplementary documents.

The final map shall be accompanied by the following documents, all of which must have been approved prior to the time said final map is set for hearing before the board of supervisors.

A. Subdivision Agreement. A subdivision agreement, approved by the county counsel, guaranteeing that the subdivider will complete the construction of improvements within a time period specified by the board of supervisors and will make full payment therefor.

B. Security for Construction of Improvements.

1. Subject to the approval of the county, a cash deposit, letter of credit, certificate of deposit, acceptable surety bond or a security interest in real property equivalent to the estimated cost of construction of all improvements, monuments, landscaping guaranteeing performance of work, payment for labor and materials, and any other claims that may arise as a result of the improvement work, as set forth in the subdivision agreement.

2. Use of security interests in real property to guarantee improvement construction shall also require a cash deposit in an amount to be determined by the county with stipulations in the subdivision agreement regarding use of the cash deposit to cover potential county costs associated with foreclosure, reconveyance, reversion to acreage proceedings and any other costs associated with the county's efforts to ensure performance of the subdivision contract agreement.

C. Taxes and Assessments. Proof of payment from tax collector showing that all payable taxes have been paid, and a bond or cash deposit guaranteeing payment of taxes and assessments then a lien but not yet payable, as required by the Subdivision Map Act.

D. Fees. Cash payment or proof of payment for all checking and filing fees; inspection of construction; cash deposit as required by the fire districts or water company or district having jurisdiction of fire hydrant rental fees, and other applicable fees or deposits; all approved by the county surveyor.

E. Legal Entities. Evidence of formation of legal entities when required to operate and perform all required maintenance and services.

F. CC&Rs. Two copies of fully executed CC&Rs shall be approved in final form by county counsel. (Prior code § 19.225)

Attachment B

Before the Board of Supervisors County of Placer, State of California

In the matter of:

AN ORDINANCE AMENDING:
PLACER COUNTY CODE
ARTICLE 15.04.050 RELATING
TO EARLY BUILDING PERMITS
AND ARTICLE 16.16.050
RELATING TO THE SECURITY
REQUIRED FOR FINAL MAPS

Ordinance No.: _____
FIRST READING: _____

The following Ordinance was duly passed by the Board of Supervisors of the County of Placer at a regular meeting held August 21, 2012, by the following vote on roll call:

Ayes:

Noes:

Absent:

Signed and approved by me after its passage.

Attest:

Clerk of said Board

Chair, Board of Supervisors

Clerk of the Board Signature

Chair Signature

THE BOARD OF SUPERVISORS OF THE COUNTY OF PLACER, STATE OF CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1: Sections B and C, and Subsections C(6) and C(8) of Article 15.040.050 of Chapter 15 of the Placer County Code are hereby amended as follows:

B. ~~For projects at or below the elevation of five thousand (5,000) feet, once~~ **Once** the permit applications have met all other requirements for permit issuance, building permits with a restriction on non-occupancy of the structure may be issued by the building service division if the following conditions are met as determined by the engineering and surveying department:

...

C. For projects above the elevation of five thousand (5,000) feet, once the permit applications have met all other requirements for permit issuance, building permits, with a restriction that no construction beyond the foundation level, **rough framing and roof sheeting** will be issued by the building service division if the following conditions are met as determined by the engineering and surveying department:

...

C(6). Security in the form of cash, certificate of deposit, or letter of credit, **or as approved by the CDRA Director** (the latter ~~two~~ **three** to be in a form acceptable to the county), shall be deposited with the county. This security shall be in an amount equal to one hundred twenty-five (125) percent of the value of the unfinished infrastructure required under the subdivision agreement for the project. The amount of the deposit shall be based on an estimate prepared by a registered civil engineer and approved by the community development resource agency. The final amount shall be determined solely by the community development resource agency. An additional agreement shall be entered into between the county and the subdivider (and the property owner if a lot has been sold) to establish the terms of the release of any deposits required under this section;

...

C(8). The local serving fire district shall indicate, in writing, that it is satisfied with the provisions for fire protection.

Each permit issued under this subsection shall contain the following note: "It is expressly understood that no construction except the foundation, **rough framing and roof sheeting** of the structure will be permitted until all of the conditions of approval relating to the subdivision shall have been met." A processing fee, payable to the engineering and surveying department, shall be charged for preparing documents and processing permits under this subsection ("high elevation processing fee"). The high elevation processing fee shall be in addition to any other required fees as prescribed in the engineering and surveying department fee schedule.

SECTION 2: Subsection B(1) of Article 16.16.050 of Chapter 16 of the Placer County Code are hereby amended as follows:

B(1). Subject to the approval of the county, a cash deposit, letter of credit, certificate of deposit, acceptable surety bond or a security interest in real property equivalent to the estimated cost of construction of all **public (to be owned or maintained by the county or other public agency or utility)** improvements, ~~monuments, landscaping~~ guaranteeing performance of work, payment for labor and materials, and any other claims that may arise as a result of the improvement work, as set forth in the subdivision agreement.

SECTION 3: This Ordinance shall take effect and be in full force thirty (30) days after the date of its passage. The Clerk is directed to publish this Ordinance, or a summary thereof, within fifteen (15) days in accordance with Government Code Section 25124.