



DETERMINATION OF LEGAL PARCEL

PURPOSE

Establish guidelines to be used in determining if a parcel was legally created when issuing a building permit or accepting applications to develop property.

POLICY

A. When a parcel complies with the minimum zoning area requirements, one of the following may be acceptable as evidence of legal parcel with certain exceptions. (See Section B.)

1. A lot shown on a Final Map. (Major Subdivision Map)
2. A lot or parcel shown on a Record of Survey approved by the Board of Supervisors or the Planning Commission of the County of San Diego.
3. A parcel shown on a Parcel Map or Certificate of Compliance recorded in lieu of a Parcel Map.
4. A parcel described in a recorded Certificate of Compliance.
5. A parcel shown on an approved Division of Land Plat.
6. A parcel shown on a Lot Legalization Plat. (Used as evidence of legal parcel prior to Certificate of Compliance).
7. A parcel shown on an approved Boundary Adjustment Plat.
8. A parcel described in a Grant Deed or other bonafide conveyance document recorded prior to March 4, 1972. The deed/document does not have to be in the name of the present owner. However, it must describe the perimeter boundaries of the subject property and no other contiguous property. (See paragraph C. on page 2.)
9. A parcel which is completely surrounded by lots already determined to have been legally created.

B. Exceptions to this policy are as follows:

1. A recorded Subdivision Map (Major or Minor) invalidates any and all underlying lots or parcels previously established by any other legal means.
2. A Deed recorded prior to March 4, 1972 as a Condition of Approval of a Boundary Adjustment does not constitute a legal lot for the exchange of land as shown on the plat.
3. A Deed recorded prior to March 4, 1972 which would have caused a Major Subdivision to be recorded by the Grantor (five or more lots).

4. A Parcel which, in the Department's opinion, based on design, size, lack of public services, etc., was not intended as a building site.

C. A Certificate of Compliance must be requested and obtained for:

1. Any parcel meeting A.4 through A.9, above which subsequently merged with adjacent parcels as a result of some action taken by the County of San Diego or City of Encinitas.
2. Any request for a Legal Parcel determination that involves an interpretation of the Map Act and/or City Subdivision Ordinance.
3. Any parcel which, in the Department's opinion, based on design, size, lack of public services, etc., was not intended as a building site.
4. Any determination involving more than a routine staff review and decision.
5. Any request for a written determination.

D. Undersized Parcels:

When a parcel does not meet minimum zoning area requirements, it will be necessary to verify that it complies with Section 30.76.080 of the Municipal Code, including:

1. The parcel was created by A.1 through A.7 above; or
2. The parcel was described on a recorded Grant Deed or other bonafide conveyance document recorded prior to the date the parcel was first zoned the zone classification which caused it to be undersized. The Deed or document must also be recorded prior to March 4, 1972 (see paragraph C.3 and C.4, above). If the parcel was created by Deed, recorded prior to March 4, 1972, but in violation of the Zoning Ordinance, the owner must be successful in obtaining a zone reclassification or a zone variance.