

D 100 DEVELOPMENT PROJECTS

D 110 OVERVIEW

A development project as defined in California Government Code Section 66000 is any project undertaken for the purpose of development. Development project includes a project involving the issuance of a permit for construction or reconstruction, but not a permit to operate. Development in the City of Los Angeles involves a number of departments and interdepartmental procedures governed by various local, state and federal codes and regulations. The participants in a development project can include a combination of owners, engineers, planners, attorneys and other specialists navigating their way through the process to complete the project. The types of projects can include commercial, industrial, or residential developments, governmental or institutional facilities, and can range from a simple addition to a complex phased project requiring multiple approvals.

Part D of the Manual covers the processing of development projects as it relates to the Bureau of Engineering's involvement in these projects. It serves as a guide for the training of new employees or as a reference to experienced professionals. It is not a substitute for detailed knowledge of engineering principles, building and zoning regulations, or real estate law. There is no single or correct way to proceed with a development project. Owners and their professional staff must come up with an implementation plan that includes project controls to achieve their objective.

D 120 DEFINITIONS AND TERMINOLOGY

The Los Angeles Planning & Zoning Code, Chapter 1 of the Los Angeles Municipal Code (LAMC), defines numerous terms and phrases applicable to development projects. Additional definitions and terms related to land development are listed in the California General Plan Glossary published by the California Planning Roundtable. A summary of definitions and abbreviations follows.

D 121 DEFINITIONS

Access/Egress

The ability to enter a site from a roadway and exit a site onto a roadway by motorized vehicle.

Acres, Gross

The entire acreage of a site. Most communities calculate gross acreage to the centerline of proposed bounding streets and to the edge of the right-of-way of existing or dedicated streets.

Acres, Net

The portion of a site that can actually be built upon. The following generally are not included in the net acreage of a site: public or private road rights-of-way, public open space, and flood ways.

Adverse Impact

A negative consequence for the physical, social, or economic environment resulting from an action or project.

Air Rights

The right granted by a property owner to a buyer to use space above an existing right-of-way or other site, usually for development.

Alley

A narrow service way, either public or private, which provides a permanently reserved but secondary means of public access not intended for general traffic circulation. Alleys typically are located along rear property lines.

Annex

To incorporate a land area into an existing district or municipality, with a resulting change in the boundaries of the annexing jurisdiction.

Apartment

(1) One or more rooms of a building used as a place to live, in a building containing at least one other unit used for the same purpose. (2) A separate suite, not owner occupied, which includes kitchen facilities and is designed for and rented as the home, residence, or sleeping place of one or more persons living as a single housekeeping unit.

Appropriate

An act, condition, or state that is considered suitable.

Benefit Assessment District

An area within a public agency's boundaries that receives a special benefit from the construction of one or more public facilities. A Benefit Assessment District has no legal life of its own and cannot act by itself. It is strictly a financing mechanism for providing public infrastructure as allowed under the Streets And Highways Code. Bonds may be issued to finance the improvements, subject to repayment by assessments charged against the benefitting properties. Creation of a Benefit Assessment District enables property owners in a specific area to cause the construction of public facilities or to maintain them (for example, a downtown, or the grounds and landscaping of a specific area) by contributing their fair share of the construction and/or installation and operating costs.

Bikeways

A term that encompasses bicycle lanes, bicycle paths, and bicycle routes.

Building

Any structure used or intended for supporting or sheltering any use or occupancy.

California Environmental Quality Act (CEQA)

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."

Circulation Element

One of the seven State-mandated elements of a local general plan, it contains adopted goals, policies, and implementation programs for the planning and management of existing and proposed thoroughfares, transportation routes, and terminals, as well as local public utilities and facilities, all correlated with the land use element of the general plan.

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Condominium

A structure of two or more units, the interior spaces of which are individually owned; the balance of the property (both land and building) is owned in common by the owners of the individual units. (See "[Townhouse.](#)")

Conservation Element

One of the seven State-mandated elements of a local general plan, it contains adopted goals, policies, and implementation programs for the conservation, development, and use of natural resources including water and its hydraulic force, forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals, and other natural resources.

Conveyance Tax

A tax imposed on the sale, lease, or transfer of real property. " is drawn).

Covenants, Conditions, and Restrictions (CC&Rs)

A term used to describe restrictive limitations that may be placed on property and its use, and which usually are made a condition of holding title or lease.

Cul-de-sac

A short street or alley with only a single means of ingress and egress at one end and with a large turnaround at its other end.

Dedication

The turning over by an owner or developer of private land for public use, and the acceptance of land for such use by the governmental agency having jurisdiction over the public function for which it will be used. Dedications for roads, parks, school sites, or other public uses often are made conditions for approval of a development by a city or county.

Dedication, In lieu of

Cash payments that may be required of an owner or developer as a substitute for a dedication of land, usually calculated in dollars per lot, and referred to as in lieu fees or in lieu contributions.

Detachment

Withdrawal of territory from a special district or city.

Developable Land

Land that is suitable as a location for structures and that can be developed free of hazards to, and without disruption of, or significant impact on, natural resource areas.

Developer

An individual who or business that prepares raw land for the construction of buildings or causes to be built physical building space for use primarily by others, and in which the preparation of the land or the creation of the building space is in itself a business and is not incidental to another business or activity.

Development

The physical extension and/or construction of urban land uses. Development activities include: subdivision of land; construction or alteration of structures, roads, utilities, and other facilities; installation of septic systems; grading; deposit of refuse, debris, or fill materials; and clearing of natural vegetative cover (with the exception of agricultural activities). Routine repair and maintenance activities are exempted.

Development Agreement

A legislatively-approved contract between a jurisdiction and a person having legal or equitable interest in real property within the jurisdiction (California Government Code Section 5865 *et seq.*) that "freezes" certain rules, regulations, and policies applicable to development of a property for a specified period of time, usually in exchange for certain concessions by the owner.

Development Fee

(See ["Impact Fee."](#))

Development Rights

The right to develop land by a land owner who maintains fee-simple ownership over the land or by a party other than the owner who has

obtained the rights to develop. Such rights usually are expressed in terms of density allowed under existing zoning. For example, one development right may equal one unit of housing or may equal a specific number of square feet of gross floor area in one or more specified zone districts. (See "[Interest, Fee.](#)", "[Interest, Less-than-fee.](#)" and "Development Rights, Transfer of (TDR).")

Development Rights, Transfer of (TDR)

Also known as "Transfer of Development Credits," a program that can relocate potential development from areas where proposed land use or environmental impacts are considered undesirable (the "donor" site) to another ("receiver") site chosen on the basis of its ability to accommodate additional units of development beyond that for which it was zoned, with minimal environmental, social, and aesthetic impacts. (See "Development Rights.")

Discourage, v.

To advise or persuade to refrain from.

Discretionary Decision

As used in CEQA, an action taken by a governmental agency that calls for the exercise of judgment in deciding whether to approve and/or how to carry out a project.

Duet

A detached building designed for occupation as the residence of two families living independently of each other, with each family living area defined by separate fee title ownership.

Duplex

A detached building under single ownership that is designed for occupation as the residence of two families living independently of each other.

Dwelling

Any residential building, other than an Apartment House, Hotel or Apartment Hotel.

Dwelling, Group

Two or more one-family, two-family or multiple dwelling, apartment houses or boarding or rooming houses, located on the same lot.

Dwelling, Multiple

A dwelling containing two dwelling units and not more than five guest rooms.

Dwelling, One-Family

A detached dwelling containing only one dwelling unit.

Dwelling, Two-Family

A dwelling containing two dwelling units.

Dwelling Unit

A room or group of rooms (including sleeping, eating, cooking, and sanitation facilities, but not more than one kitchen), which constitutes an independent housekeeping unit, occupied or intended for occupancy by one household on a long-term basis.

Easement

Usually the right to use property owned by another for specific purposes or to gain access to another property. For example, utility companies often have easements on the private property of individuals to be able to install and maintain utility facilities.

Eminent Domain

The right of a public entity to acquire private property for public use by condemnation, and the payment of just compensation.

Enhance, v.

To improve existing conditions by increasing the quantity or quality of beneficial uses or features.

Environment

CEQA defines environment as "the physical conditions which exist within the area which will be affected by a proposed project, including land, air, water, mineral, flora, fauna, noise, and objects of historic or aesthetic significance."

Environmental Impact Report (EIR)

A report required of general plans by the California Environmental Quality Act (CEQA) and which assesses all the environmental characteristics of an area and determines what effects or impacts

will result if the area is altered or disturbed by a proposed action.
(See ["California Environmental Quality Act."](#))

Environmental Impact Statement (EIS)

Under the National Environmental Policy Act, a statement on the effect of development proposals and other major actions that significantly affect the environment.

Exaction

A contribution or payment required as an authorized precondition for receiving a development permit; usually refers to mandatory dedication (or fee in lieu of dedication) requirements found in many subdivision regulations.

Finding(s)

The result(s) of an investigation and the basis upon which decisions are made. Findings are used by government agents and bodies to justify action taken by the entity.

Flag Lot

A lot that is located behind another lot or lots, has street access only via a long driveway corridor, and does not have a standard street frontage.

Floor Area

Is that area in square feet confined within the exterior walls of a building, but not including the area of the following: exterior walls, stairways, shafts, rooms housing building-operating equipment or machinery, parking areas with associated driveways and ramps, space for the landing and storage of helicopters, and basement storage areas.

Footprint; Building Footprint

The outline of a building at all of those points where it meets the ground.

Frontage

All property fronting on one (1) side of a street between intersecting or intercepting streets, or between a street and right-of-way, waterway, end of dead-end street, or city boundary measured along the street line. An intercepting street shall determine only the boundary of the frontage on the side of the street which it intercepts.

General Plan

A compendium of city or county policies regarding its long-term development, in the form of maps and accompanying text. The General Plan is a legal document required of each local agency by the State of California Government Code Section 65301 and adopted by the City Council or Board of Supervisors. In California, the General Plan has 7 mandatory elements (Circulation, Conservation, Housing, Land Use, Noise, Open Space, Safety and Seismic Safety) and may include any number of optional elements (such as Air Quality, Economic Development, Hazardous Waste, and Parks and Recreation). The General Plan may also be called a "City Plan," "Comprehensive Plan," or "Master Plan."

Goal

A general, overall, and ultimate purpose, aim, or end toward which the City or County will direct effort.

Granny Flat

(See ["Second Unit."](#))

Ground Floor

The story or basement within a portion of a building that has an access door that is directly accessible to and fronts on the street, and the elevation of the floor level is within three feet above or below the adjacent curb. The point on the adjacent curb is determined by drawing a line perpendicular to the door between the centerline of such door and the curb of the street. No portion of a ground floor can be located directly above or below another ground floor.

Guest House

A dwelling containing not more than five guest rooms or suites of rooms, but with no kitchen facilities.

Guidelines

General statements of policy direction around which specific details may be later established.

Hidden Lot

A parcel that contains more than one legal building site but only one dwelling unit.

Highway, Major

Any street designated as a major highway on the Highways and Freeways maps of the Transportation Element of the General Plan.

Highway, Secondary

Any street designated as a secondary highway on the Highways and Freeways maps of the Transportation Element of the General Plan.

Hillsides

Land that has an average percent of slope equal to or exceeding fifteen percent.

Hillside Area

Any land designated as a Hillside Area on the Bureau of Engineering Basic Grid Map, Map No. A-13372, excluding those areas specifically identified in maps entitled Hillside Ordinance Amended Exhibit A attached to Council File No. 91-1621.

Historic; Historical

An historic building or site is one that is noteworthy for its significance in local, state, or national history or culture, its architecture or design, or its works of art, memorabilia, or artifacts.

Historic Preservation

The preservation of historically significant structures and neighborhoods until such time as, and in order to facilitate, restoration and rehabilitation of the building(s) to a former condition.

Housing Element

One of the seven State-mandated elements of a local general plan, it assesses the existing and projected housing needs of all economic segments of the community, identifies potential sites adequate to provide the amount and kind of housing needed, and contains adopted goals, policies, and implementation programs for the preservation, improvement, and development of housing. Under State law, Housing Elements must be updated every five years.

Impact

The effect of any direct man-made actions or indirect repercussions of man-made actions on existing physical, social, or economic conditions.

Impact Fee

A fee, also called a development fee, levied on the developer of a project by a city, county, or other public agency as compensation for otherwise-unmitigated impacts the project will produce. California Government Code Section 66000 *et seq.* specifies that development fees shall not exceed the estimated reasonable cost of providing the service for which the fee is charged. To lawfully impose a development fee, the public agency must verify its method of calculation and document proper restrictions on use of the fund.

Implementation

Actions, procedures, programs, or techniques that carry out policies.

Improvement

The addition of one or more structures or utilities on a parcel of land.

In Lieu Fee

(See "[Dedication, In lieu of.](#)")

Infill Development

Development of vacant land (usually individual lots or left-over properties) within areas that are already largely developed.

Infrastructure

Public services and facilities, such as sewage-disposal systems, water-supply systems, other utility systems, and roads.

Interest, Fee

Entitles a land owner to exercise complete control over use of land, subject only to government land use regulations.

Interest, Less-than-fee

The purchase of interest in land rather than outright ownership; includes the purchase of development rights via conservation, open space, or scenic easements.

Kitchen

Any room or any portion of a dwelling unit, whether an enclosing subdivision thereof or otherwise, used or intended or designed to be used for cooking and preparing food except a light housekeeping room or that portion of a recreation room in a multiple residential use, or in an accessory building appurtenant thereto, containing the facilities for the cooking and preparation of food.

Land Use

The occupation or utilization of land or water area for any human activity or any purpose defined in the General Plan.

Land Use Element

A required element of the General Plan that uses text and maps to designate the future use or reuse of land within a given jurisdiction's planning area. The land use element serves as a guide to the structuring of zoning and subdivision controls, urban renewal and capital improvements programs, and to official decisions regarding the distribution and intensity of development and the location of public facilities and open space. (See "[Mandatory Element.](#)")

Leapfrog Development

New development separated from existing development by substantial vacant land.

Local Coastal Program (LCP)

A combination of a local government's land use plans, zoning ordinances, zoning district maps, and (within sensitive coastal resources areas) other implementing actions that together meet the local requirements of, and implement the provisions and policies of, the California Coastal Act of 1976.

Local Coastal Program Land Use Plan

The relevant portion of a local government general plan or coastal element that details type, location, and intensity of land use, applicable resource protection and development policies, and, where necessary, implementation actions.

Lot

A parcel of land occupied or to be occupied by a use, building or unit group of buildings and accessory buildings and uses, together with the yards, open spaces, lot width and lot area as are required by this chapter and fronting for a distance of at least 20 feet upon a street as defined in the LAMC, or upon a private street as defined in the LAMC. The width of an access-strip portion of a lot shall not be less than 20 feet at any point. In a residential planned development or an approved small lot subdivision a lot need have only the street frontage or access as is provided on the recorded subdivision tract or parcel map for the development. (Also see [“Site”](#))

Lot, Air Space

A division of the space above or below a lot as defined in this section with a finite width, length, and upper and lower elevation occupied or to be occupied by a use, building or portion thereof, unit group of buildings or portions thereof, and accessory buildings or portions thereof or accessory uses. An air space lot shall be identified on a final map or a parcel map recorded in the office of the County Recorder with a separate and distinct number or letter.

An air space lot shall have such access to a street or private street (as defined in the LAMC) by means of one or more easements or other entitlements to use in a form satisfactory to the Advisory Agency and the City Engineer.

Lot, Flag

A lot so shaped and designed that the main building site area is set back from the street on which it fronts and includes an access strip not less than 20 feet in width at any point connecting the main building site area to the frontage street.

Lot Line, Front

In the case of an interior lot, the line separating the lot from the street or place, and in the case of a corner lot, a line separating the narrowest street frontage of the lot from the street, except in those cases where the latest tract deed restrictions specify another line as the front lot line.

Lot Line, Rear

A lot line which is opposite and most distant from the front lot line and, in the case of an irregular, triangular, or gore-shaped lot, a line ten (10) feet in length within the lot, parallel to and at the maximum distance from the front line.

Lot Line, Side

Any lot boundary line not a front lot line or a rear lot line.

Lot Width

The horizontal distance between the side lot lines measured at right angles to the lot depth at a point midway between the front and rear lot lines.

Lot Depth

The horizontal distance between the front and rear lot lines measured in the mean direction of the side lot lines.

Lot Area

The total horizontal area within the lot lines of a lot.

Lot, Corner

A lot situated at the intersection of two (2) or more streets having an angle of intersection of not more than one hundred thirty five (135) degrees.

Lot, Reversed Corner

A corner lot the side street line of which is substantially a continuation of the front line of the first lot to its rear.

Lot, Interior

A lot other than a corner lot.

Lot, Key

The first interior lot to the rear of a reversed corner lot and not separated there from by an alley.

Lot, Through

A lot having a frontage or two parallel or approximately parallel streets, but not including those lots having frontage on a street and frontage on a navigable public canal or waterway parallel or approximately parallel to said street.

Lot, Transitional

The first 100 feet of a lot in an RA or R Zone having a side line adjoining or separated only by an alley from a lot in a C or M Zone.

Lot, Vacant

A lot on which no building, temporary or permanent, is erected.

Lot of Record

A lot that is part of a recorded subdivision or a parcel of land that has been recorded at the county recorder's office containing property tax records.

Maintain, v.

To keep in an existing state.

Mandatory Element

A component of the General Plan mandated by State Law. California State law requires that a General Plan include elements dealing with seven subjects--circulation, conservation, housing, land use, noise, open space and safety--and specifies to various degrees the information to be incorporated in each element. (See ["Land Use Element."](#))

May

That which is permissible.

Mello-Roos Bonds

Locally issued bonds that are repaid by a special tax imposed on property owners within a "community facilities" district established by a governmental entity. The bond proceeds can be used for public improvements and for a limited number of services. Named after the program's legislative authors.

Minimize, v.

To reduce or lessen, but not necessarily to eliminate.

Ministerial (Administrative) Decision

An action taken by a governmental agency that follows established procedures and rules and does not call for the exercise of judgment in deciding whether to approve a project.

Mitigate, v.

To ameliorate, alleviate, or avoid to the extent reasonably feasible.

Multiple Family Building

A detached building designed and used exclusively as a dwelling by three or more families occupying separate suites.

Municipal Services

Services traditionally provided by local government, including water and sewer, roads, parks, schools, and police and fire protection.

Must

That which is mandatory.

Natural State

The condition existing prior to development.

Necessary

Essential or required.

Need

A condition requiring supply or relief. The City or County may act upon findings of need within or on behalf of the community.

Noise Element

One of the seven State-mandated elements of a local general plan, it assesses noise levels of highways and freeways, local arterials, railroads, airports, local industrial plants, and other ground stationary sources, and adopts goals, policies, and implementation programs to reduce the community's exposure to noise.

Nonconforming Building

A building, structure or portion thereof, which does not conform to the regulations of this chapter and which lawfully existed at the time the regulations, with which it does not conform, became effective.

Nonconforming Lot

A lot whose width, area or other dimensions does not conform to the regulations of this chapter and which lawfully existed at the time the regulations with which it does not conform became effective.

Nonconforming Use

A use of building or land which does not conform to the regulations of this chapter and which lawfully existed at the time the regulations with which it does not conform became effective.

Notice (of Hearing)

A legal document announcing the opportunity for the public to present their views to an official representative or board of a public agency concerning an official action pending before the agency.

Open Space Element

One of the seven State-mandated elements of a local general plan, it contains an inventory of privately and publicly owned open-space lands, and adopted goals, policies, and implementation programs for the preservation, protection, and management of open space lands.

Open Space Land

Any parcel or area of land or water that is essentially unimproved and devoted to an open space use for the purposes of (1) the preservation of natural resources, (2) the managed production of resources, (3) outdoor recreation, or (4) public health and safety.

Ordinance

A law or regulation set forth and adopted by a governmental authority, usually a city or county.

Parcel

A lot, or contiguous group of lots, in single ownership or under single control, usually considered a unit for purposes of development.

Plan Line

A precise line that establishes future rights-of-way along any portion of an existing or proposed street or highway and that is depicted on a map showing the streets and lot line or lines and the proposed right-of-way lines, and the distance thereof from the

established centerline of the street or highway, or from existing or established property lines.

Planning Area

The area directly addressed by the general plan. A city's planning area typically encompasses the city limits and potentially annexable land within its sphere of influence.

Policy

A specific statement of principle or of guiding actions that implies clear commitment but is not mandatory. A general direction that a governmental agency sets to follow, in order to meet its goals and objectives before undertaking an action program. (See "[Program.](#)")

Principle

An assumption, fundamental rule, or doctrine that will guide general plan policies, proposals, standards, and implementation measures. The State Government Code (Section 65302) requires that general plans spell out the objectives, "principles," standards, and proposals of the general plan. "Adjacent land uses should be compatible with one another" is an example of a principle.

Private Road/Private Street

Privately owned (and usually privately maintained) motor vehicle access that is not dedicated as a public street. Typically the owner posts a sign indicating that the street is private property and limits traffic in some fashion. For density calculation purposes, some jurisdictions exclude private roads when establishing the total acreage of the site; however, aisles within and driveways serving private parking lots are not considered private roads.

Program

An action, activity, or strategy carried out in response to adopted policy to achieve a specific goal or objective. Policies and programs establish the "who," "how" and "when" for carrying out the "what" and "where" of goals and objectives.

Pro Rata

Refers to the proportionate distribution of the cost of something to something else or to some group, such as the cost of infrastructure improvements associated with new development apportioned to the users of the infrastructure on the basis of projected use.

Protect, v.

To maintain and preserve beneficial uses in their present condition as nearly as possible. (See ["Enhance."](#))

Recognize, v.

To officially (or by official action) identify or perceive a given situation.

A rule or order prescribed for managing government.

Residential Building

A building or portion thereof designed or used for human habitation.

Residential, Multiple Family

Usually three or more dwelling units on a single site, which may be in the same or separate buildings.

Residential, Single-family

A single dwelling unit on a building site.

Restore, v.

To renew, rebuild, or reconstruct to a former state.

Right-of-way

A strip of land occupied or intended to be occupied by certain transportation and public use facilities, such as roadways, railroads, and utility lines.

Risk

The danger or degree of hazard or potential loss.

Safety Element

One of the seven State-mandated elements of a local general plan, it contains adopted goals, policies, and implementation programs for the protection of the community from any unreasonable risks associated with seismic and geologic hazards, flooding, and wildland and urban fires. Many safety elements also incorporate a review of police needs, objectives, facilities, and services.

Second Unit

A Self-contained living unit, either attached to or detached from, and in addition to, the primary residential unit on a single lot. Sometimes called "Granny Flat."

Setback

The horizontal distance between the property line and any structure.

Shall

That which is obligatory; an unequivocal direction.

Should

Signifies a directive to be honored if at all possible; a less rigid directive than "shall," to be honored in the absence of compelling or contravening considerations.

Single-family Dwelling, Attached

A dwelling unit occupied or intended for occupancy by only one household that is structurally connected with at least one other such dwelling unit. (See ["Townhouse."](#))

Single-family Dwelling, Detached

A dwelling unit occupied or intended for occupancy by only one household that is structurally independent from any other such dwelling unit or structure intended for residential or other use. (See ["Family."](#))

Single Room Occupancy (SRO)

A single room, typically 80-250 square feet, with a sink and closet, but that requires the occupant to share a communal bathroom, shower, and kitchen.

Site

A parcel of land used or intended for one use or a group of uses and having frontage on a public or an approved private street. A lot.

Slope

Land gradient described as the vertical rise divided by the horizontal run, and expressed in percent.

Specific Plan

A legal tool authorized by Article 8 of the Government Code (Section 65450 *et seq.*) for the systematic implementation of the general plan for a defined portion of a community's planning area. A specific plan must specify in detail the land uses, public and private facilities needed to support the land uses, phasing of development, standards for the conservation, development, and use of natural resources, and a program of implementation measures, including financing measures.

Street Furniture

Those features associated with a street that are intended to enhance that street's physical character and use by pedestrians, such as benches, trash receptacles, kiosks, lights, newspaper racks.

Street Tree Plan

A comprehensive plan for all trees on public streets that sets goals for solar access, and standards for species selection, maintenance, and replacement criteria, and for planting trees in patterns that will define neighborhood character while avoiding monotony or maintenance problems.

Streets

Any public thoroughfare other than an alley or walk, except that in those cases where a subdivision has been recorded containing lots which abut only on an alley or walk, said alley or walk may be considered to be a street.

Streets, Collector

Any street designated as a collector street on an adopted community plan element of the general plan.

Streets, Local

(See ["Streets, Minor."](#))

Streets, Major

The transportation network that includes a hierarchy of freeways, arterials, and collectors to service through traffic.

Streets, Minor

Local streets not shown on the Circulation Plan, Map, or Diagram, whose primary intended purpose is to provide access to fronting properties.

Streets, Standard Hillside Limited

A street (public or private) with a minimum width of 36 feet and paved to a minimum roadway width of 28 feet, as determined by the Bureau of Engineering.

Streets, Substandard Hillside Limited

A street which does not meet the minimum requirements of a Standard Hillside Limited Street.

Streets, Through

Streets that extend continuously between other major streets in the community.

Structure

Anything constructed or erected that requires location on the ground (excluding swimming pools, fences, and walls used as fences).

Subdivision

The division of a tract of land into defined lots, either improved or unimproved, which can be separately conveyed by sale or lease, and which can be altered or developed. "Subdivision" includes a condominium project as defined in Section 1350 of the California Civil Code and a community apartment project as defined in Section 11004 of the Business and Professions Code.

Subdivision Map Act

Division 2 (Sections 66410 *et seq*) of the California Government code, this act vests in local legislative bodies the regulation and control of the design and improvement of subdivisions, including

the requirement for tentative and final maps. (See ["Subdivision."](#))

Substantial

Considerable in importance, value, degree, or amount.

Sustainability

Community use of natural resources in a way that does not jeopardize the ability of future generations to live and prosper.

Sustainable Development

Development that maintains or enhances economic opportunity and community well-being while protecting and restoring the natural environment upon which people and economies depend.

Sustainable development meets the needs of the present without compromising the ability of future generations to meet their own needs.

Taking

A real estate term traditionally used to mean acquisition by eminent domain but broadened by the U.S. Supreme Court to mean any government action that denies economically viable use of property. More recent federal and state legislative proposals would consider any government program causing a "substantial" reduction in property values to be a taking.

Townhouse; Townhome

A one-family dwelling in a row of at least three such units in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one or more common and fire-resistant walls. Townhouses usually have separate utilities; however, in some condominium situations, common areas are serviced by utilities purchased by a homeowners association on behalf of all townhouse members of the association. (See "[Condominium.](#)")

Trees, Street

Trees strategically planted--usually in parkway strips, medians, or along streets--to enhance the visual quality of a street.

Underutilized Parcel

A parcel that is not developed to its full zoning potential.

Undevelopable

Specific areas where topographic, geologic, and/or surficial soil conditions indicate a significant danger to future occupants and a liability to the City or County are designated as "undevelopable" by the City or County.

Undue

Improper, or more than necessary.

Uniform Building Code (UBC)

A national, standard building code that sets forth minimum standards for construction, published by the International Conference of Building Officials (ICBO).

Use

The purpose for which land or a building is arranged, designed or intended or for which either land or a building is or may be occupied or maintained.

Use Permit

The discretionary and conditional review of an activity or function or operation on a site or in a building or facility.

Will

That which is expected or may be expected. Expresses intent or purpose. (See "[Shall](#)" and "[Should.](#)")

Yard, Front

A yard extending across the full width of a lot, the depth of which is the minimum horizontal distance between the front lot line and a line parallel thereto on the lot.

Yard, Rear

A yard extending across the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and a line parallel thereto on the lot.

Yard, Side

A yard more than six (6) inches in width between a main building and the side lot line, extending from the front yard or the front lot line where no front yard is required, to the rear yard. The width of the required side yard shall be measured horizontally from the nearest point of the side lot line toward the nearest part of the main building.

Zero Lot Line

A detached single family unit distinguished by the location of one exterior wall on a side property line.

Zoning

The division of a city or county by legislative regulations into areas, or zones, which specify allowable uses for real property and size restrictions for buildings within these areas; a program that implements policies of the General Plan.

Zoning Administrator

The Zoning Administrator shall mean the Chief Zoning Administrator or an Associate Zoning Administrator. The Director

of Planning may appoint the Zoning Administrator to act as the Director's designee or as a Hearing Officer for the Director.

Zoning Map

Government Code Section 65851 permits a legislative body to divide a county, a city, or portions thereof, into zones of the number, shape, and area it deems best suited to carry out the purposes of the zoning ordinance. These zones are delineated on a map or maps, called the Zoning Map.

D 122 ABBREVIATIONS

CBD:	Central Business District
CC&Rs:	Covenants, Conditions, and Restrictions
CDBG:	Community Development Block Grant
CEQA:	California Environmental Quality Act
CRA:	Community Redevelopment Agency
EIR:	Environmental Impact Report (State)
EIS:	Environmental Impact Statement (Federal)
FIR:	Fiscal Impact Report
OPR:	Office of Planning and Research, State of California
PUD:	Planned Unit Development
SRO:	Single Room Occupancy
TDR:	Transfer of Development Rights
TOD:	Transit-oriented Development
UBC:	Uniform Building Code
UHC:	Uniform Housing Code

D 130 DEVELOPMENT PROCESS

From the City's perspective, every development project proceeds through a series of phases, from the time the developer makes an application to the City through the end of construction. Although the terminology may vary from agency to agency, in general the development process can be organized into the following three phases.

D 131 ENTITLEMENT PHASE

This phase is defined as a period during which the developer applies for the official permission to develop and construct the facility on a property within the governing jurisdiction. It starts when the developer formally submits the development application and ends when it obtains the development approval. Obtaining the development approval allows the developer to build the project on that site according to the concept it was approved for. The entitlements process varies from agency to agency. Among the major elements in obtaining its development permit are obtaining the Planning Commission and the City Council approval. Although this period seems more technical, the most challenging part is the exposure of the proposed project to the scrutiny of the public.

D 132 PERMIT PHASE

A developer needs a permit before it can construct a facility on a property. The permit phase is defined as a period during which architects and engineers collaborate on completing the proposed facility's design development and construction documents to obtain construction permits from the governing authorities. This phase starts when the developer receives a project's development approval and continues until it receives the construction permits from various departments allowing the developer to build the facility.

D 133 CONSTRUCTION PHASE

This phase represents the building period from when builders start constructing physical work on site until the project receives its certification—*Certificate of Occupancy*—from the authority that the facility is safe for occupation.

D 140 DEPARTMENTS INVOLVED WITH DEVELOPMENT PROJECTS

D 141 BUILDING & SAFETY

This department issues permits and enforces all ordinances and laws relating to the construction, alteration, repair, demolition, removal or relocation of buildings or structures as well as the installation, alteration, repair, use and operation of heating, plumbing, lighting, ventilating, refrigerating, electrical and mechanical appliances and equipment therein. The department also enforces the zoning ordinance of the City.

D 142 CITY PLANNING

This department prepares and maintains a general plan which is a comprehensive declaration of purposes, policies and programs for the development of the City including such elements as land use, conservation, historic preservation, circulation, service systems, highways, public works facilities, branch administrative centers, schools, recreational facilities and airports. The department regulates the use of privately-owned property through zoning regulations and State laws and through the approval of proposed subdivisions. The department investigates and reports on applications for amendments to zoning regulations, and passes upon zone variance applications.

D 143 FIRE

This department controls and extinguishes dangerous fires; provides rescue and emergency medical services; protects life and property from fire risks by inspecting buildings for fire hazards and enforcing fire prevention laws; carries on a fire prevention educational program; and investigates suspected cases of arson. The department's Hydrants and Access Unit is responsible for ensuring that newly constructed buildings meet minimum requirements for fire department emergency access and proximity to a fire hydrant.

D 144 PUBLIC WORKS

The Board of Public Works manages the Department of Public Works and is responsible for operation of the several bureaus within the department. The LAMC requires written permission from the Board of Public Works for the construction in any property, street, or other right of way owned by or under the control of the City.

D 144.1 BUREAU OF CONTRACT ADMINISTRATION

This Bureau is responsible for administering contracts and permits for construction of public works such as buildings, streets, bridges, sewers, storm drains and related improvements. It provides inspection services at construction sites and in plants engaged in manufacturing concrete and steel pipe, asphalt and concrete paving materials; prepares statements of payments due on contracts; recommends acceptance of completed public improvement projects; inspects the installation of erosion control devices whenever grading operations create a hazard to dedicated and future streets within the City; and reviews contractor compliance with affirmative action, minority business enterprise and other requirements on City projects.

D 144.2 BUREAU OF ENGINEERING

The Bureau prepares environmental assessments, designs, plans, specifications and estimates; supervises plans and specifications prepared by private engineers and architects; checks plans and prepares structural, electrical and mechanical engineering details for all storm drains, sewers, treatment plants, bridges and other structures, buildings, service yards and related public improvements. It administers contract documents and provides construction management. Public counters enable research into City records, review of private projects and the issuing of permits for work in the City's rights-of-way or public properties. The Bureau establishes the engineering features and standards of all private subdivisions and tracts. It acquires rights-of-way and easements for City projects; examines titles, and processes title transfers and property matters; and purchases properties used by City departments. The Bureau is responsible for all basic and project surveying, the preparation of all basic maps, and is the custodian of all related records. It is also the custodian of all original maps, plans, profiles, field books, estimates, records and other data relating to the public works with which the bureau is concerned. The Bureau conducts research into hydraulic modeling, geology and soils conditions to support its design work. It researches all aspects of public works engineering, develops standard plans for its own use, and distributes same to the private sector for continuity and standardization. The Bureau's district offices are responsible for issuing permits and checking plans for work in the public right of way. (Refer to the Permit Manual.) The Land Development Group investigates and processes various land use and right of way applications.

D 144.3 BUREAU OF SANITATION

This Bureau collects and disposes of household refuse and dead animals; collects and processes recyclables; operates land reclamation sites for the

disposal of refuse and acceptable wastes; plans and arranges for design of refuse collection facilities; and plans and designs refuse disposal facilities. It controls the discharge of wastewater, industrial wastes and storm waters into sewers, storm drains, open channels and navigable waters; inspects and maintains open storm water channels; maintains, operates and repairs all sanitary sewers, storm drains, culverts and appurtenant structures, such as wastewater and storm water pumping plants; and sewer ventilating plants; and operates and maintains wastewater treatment plants. The Bureau administers the Stormwater Pollution Abatement Program which oversees City compliance with the terms of the permit issued under the National Pollutant Discharge Elimination System (NPDES).

D 144.4 BUREAU OF STREET LIGHTING

This Bureau provides engineering design, construction, maintenance and repair of the City's Street Lighting System; maintains adequate roadway and sidewalk illumination for vehicular and pedestrian safety; prepares specifications, Ordinance of Intention and cost estimates for new installations and maintenance assessments for operation of all street lights in the Los Angeles City Lighting District; administers the development of street lighting financed by the basic Assessment Act procedures; spreads the cost of special assessments processed by the City in accordance with State Laws and City street lighting construction and maintenance ordinances; provides assessment advisory services to the City Council and its Public Works Committee; evaluates petitions for street lighting in accordance with the 1911 Improvement Act and requests for utilitarian (additional illumination) street lights; provides technical services to other agencies; and participates in the development and application of national illumination standards.

D 144.5 BUREAU OF STREET SERVICES

This Bureau maintains, repairs and cleans improved roadways, bridges, tunnels, sidewalks, pedestrian subways and related structures. It provides general maintenance for landscaped street islands and embankments and unimproved roadways, cleans unimproved lots, and removes brush from hillside properties. It constructs new improvements as ordered by the Council or the Board of Public Works Commissioners; resurfaces and reconstructs streets; and constructs street and alley pavements under special assessment procedures as forces are available. It inspects the refilling of and replaces surfaces over utility excavations. The Bureau enforces street tree ordinances, issues permits for the planting and removing of trees within parkways, and maintains such trees planted in new subdivisions. It sprays parkway trees for pest control, trims such trees for traffic and overhead utility lines clearance, and removes dead or hazardous parkway

trees. It enforces street use and sidewalk vending ordinances and inspects the movement of houses or oversized loads on streets.

D 145 RECREATION & PARKS

This Department operates and maintains parks, playgrounds, swimming pools, public golf courses, recreation centers, recreation camps and educational facilities, and structures of historic significance; supervises all recreation activities at such facilities; and controls its own funds. The LAMC requires the dedication of land or payment in lieu to the department for park and recreational facilities in conjunction development projects creating additional dwelling units.

D 146 TRANSPORTATION

This Department is responsible for the development of plans to meet the ground transportation needs of the traveling public and commerce; it has centralized authority over the conceptual planning and operation of the City's streets and highways system; and it provides a primary interface with the other government agencies on transportation matters. The department studies parking and traffic needs; provides for the installation and maintenance of traffic signs, signals, parking meters, street name signs and other transportation control devices; controls traffic and pedestrian movement at all intersections; enforces parking rules and regulations and accounts for all revenue therefrom; coordinates the development of off-street parking; oversees crossing guard services; provides public utility regulation. Developers may be required to mitigate any transportation impacts of a development project as determined by the department.

D 147 WATER & POWER

This Department is responsible for supplying the City and its inhabitants with water and electric energy by constructing, operating, and maintaining for that purpose works extending throughout the City and State to import water and electric energy and to other western states to import electric energy; fixes rates for water and electric service subject to approval of the Council by ordinance and controls its own funds.

D 150 FEES & EXACTIONS

Fees or the more inclusive term exactions may be imposed as a condition of approval on a development project. The four major types of exactions include:

- 1) Dedication of land and fees in lieu of dedication,
- 2) Subdivision reservations,
- 3) Project design and improvements, and
- 4) Fees.

Exactions must be related to and proportional to the impact of the development.

Local agencies have a long history of exacting requirements in exchange for permission to develop, but this practice became more prevalent after the passage of California Proposition 13 in 1978. Proposition 13 greatly reduced local governments' ability to raise property taxes leaving less money to finance infrastructure improvements. Local agencies in turn have increasingly looked to developers to fund the improvements that will be needed to serve the development.

D 151 DEDICATIONS

Dedication can be defined as the voluntary act of an owner or developer setting aside a portion of land for public use. In California, two types of dedication exist 1) those made under common law, and 2) those made pursuant to the Subdivision Map Act (Section 66410 et seq. California Government Code. A common law dedication occurs when an owner records a map of his or her property with areas labeled as for public use. Over time, the statutory provisions of the Map Act and non-statutory requirements of zoning law have become more important. Section 66475 of the California Government Code allows local agencies to require dedication or irrevocable offers of dedication of real property within the subdivision for streets, alleys, drainage, public utility easements and other public easements. (Refer to D600).

D 152 SUBDIVISION RESERVATIONS

Sections 66479 through 66482 of the California Government Code allows local agencies to reserve areas of real property within the subdivision for parks, recreational facilities, fire stations, libraries, or other public uses. The major difference between a reservation and a dedication is that the Map Act provides for reimbursement of the fair market value of the reserved area plus the taxes against the reserved area from the date of the reservation and any other costs incurred by the developer in the maintenance of the reserved area.

D 153 DESIGN AND IMPROVEMENT

Section 66411 of the California Government Code vests regulation and control of the design and improvement of subdivisions in the legislative bodies of local agencies. Section 17.05 LAMC includes design standards for streets, alleys, easements, grading, drainage, utilities and park and recreation sites. In addition, Section 17.05 requires that the subdivision be designed in conformance to the General Plan.

D 154 FEES

The three major categories of fees are:

- (1) Development fees which are levied on new development to cover the cost of infrastructure or facilities necessitated by that development;
- (2) Fees for benefits and services, and
- (3) Regulatory fees.

A development fee is an exaction that is imposed as a precondition for the privilege of developing land. Such fees are commonly imposed on developers by local governments in order to lessen the impacts of increased population or demand on services generated by that development. Traffic mitigation fees, infrastructure improvement fees, and fees for improving sewer and water systems to accommodate new development are common examples of development impact fees.

Local agencies can charge fees for various benefits and services. These fees include service fees, user fees, and connection fees and can be imposed for services such as refuse collection, sewer service, and water supply. In order to be considered a fee and not a tax subject to the limitations of Proposition 13, these fees must not exceed the value of the services rendered.

Regulatory fees are imposed to cover the cost of regulating some activity such as a business license fee. Similar to fees for benefits and services, regulatory fees which do not exceed the reasonable cost of providing the regulatory activity and which are not levied for general revenue purposes are not considered taxes.

D 155 LIMITATIONS ON EXACTIONS-TAKINGS

D 155.1 REGULATORY TAKINGS

The Fifth Amendment of the U.S. Constitution includes a provision “nor shall private property be taken for public use without just compensation.” As land use

regulations were implemented the legal concept of a regulatory taking emerged which limited the government's ability on exactions. The theory of a regulatory taking is that land use regulation can under certain circumstances have the same affect as the government taking the property outright. Thus an exaction cannot be imposed that results in a regulatory taking.

D 155.2 KEY FEDERAL AND CALIFORNIA TAKINGS AND EXACTIONS CASES

The following court cases established certain rules and principles which determine whether or not a taking has occurred.

D 155.21 AGINS v. CITY OF TIBURON, 447 U.S. 255 (1979)

This case, originating in California, established a “two-prong” test for determining when a regulatory taking has occurred. This test continues to be applied by Federal and California courts. Agins’ five acre parcel in Tiburon was rezoned from allowing five units to a designation permitting as few as one unit. Agins alleged that the regulations amounted to a taking. The U.S. Supreme Court held that a regulation amounts to a taking if one of the following is true:

- 1) the regulation does not substantially advance legitimate state interests;
or
- 2) the regulation denies an owner economically viable use of his land.

Here, the Court found that Tiburon’s regulation substantially advanced a legitimate state interest (regulating the density of development in the community) and left Agins with economically viable use of the property.

D 155.22 NOLLAN v. CALIFORNIA COASTAL COMMISSION, 483 U.S. 825 (1987)

The U.S. Supreme Court found that the Coastal Commission’s condition to a coastal development permit requiring dedication of access along the beach across Nollan’s property was a taking under the first prong of the Agins test. The Court addressed the required relationship between conditions imposed on development and the impacts of that development and held that there must be connection or “nexus” between the conditions and the impact. Here, the Court said that there was no such nexus between the lateral beach access condition and the identified impact of the project: blocked views of the ocean from areas inland of Nollan’s property.

D 155.23 DOLAN v. CITY OF TIGARD, 114 S.CT. 2309 (1994)

This case, dubbed the sequel to Nollan by the U.S. Supreme Court, addressed the required degree of connection under Nollan's nexus requirement. The Court held that two conditions imposed on a building permit approval, dedications of land within the 100-year flood plain and for a bicycle path, met Nollan's "essential nexus" requirement. However, the Court said that the conditions did not meet the required standard of "rough proportionality" with regard to their relationship to the impacts of the project. In order to establish rough proportionality, a city must make an "individualized determination" based on some quantification.

D 156 MELLO-ROOS ACT

D 156.1 HISTORY

When Proposition 13 (1978) restricted property taxes and briefly eliminated the use of general obligation bonds, private builders lacked access to public capital that was used to pay for the public works needed to support new development, the State Legislature responded with the Mello-Roos Community Facilities Act. Mello-Roos Act bonds can finance any type of local public infrastructure, making them a useful and desirable way to pay for the public works that subdividers want. The revenue stream that pays for these bonds comes from special taxes levied on the parcels affected. These so-called *parcel taxes* are fixed amounts charged to each lot, without regard to the amount of benefit received by any specific parcel. To comply with the constitutional requirement for two-thirds voter approval for new special taxes, the Mello-Roos Act allows landowners to cast ballots if the affected property has less than 12 registered voters. For example, the developer of a large uninhabited area can approve Mello-Roos Act by casting the sole "yes" vote.

The earliest use of Mello-Roos Act bonds was to build new schools for new subdivisions, avoiding the political entanglements that a school district might face in trying to convince voters in a district-wide election for general obligation bonds. Because builders wanted public capital for new schools, they readily agreed to vote for the bonds. Once the property is subdivided into marketable lots and houses, the new home buyers, not the builder, pay the parcel taxes that retire the bonds. In short, those who pay the taxes weren't there when the bonds passed.

The impacts of development on public facilities (in a time of reduced revenues) have increased reliance on developer exactions to finance new infrastructure which mitigates these impacts. Such developer exactions can come in the form of local infrastructure such as streets, curbs and gutters; regional infrastructure

such as parks, highway widening and freeway on-ramps; or cash payments (such as “trip fees”) to finance local and regional mitigation measures. Many public agencies have recognized that, by accessing the bond market through the creation of Mello-Roos special tax and special assessment districts, they can assist developers in financing new infrastructure. In return, the public agency can receive infrastructure improvements which provide a public benefit beyond simply mitigating the direct impact of new development. Additionally, Public agencies have recognized that through the creation of assessment districts, lower cost funds can be made available to existing property owners to make significant and costly alterations to their properties which significantly benefit the general public, such as installation of fire sprinkler systems in high rise buildings and seismic strengthening of commercial and residential structures.

D 156.2 ASSESSMENT AND MELLO-ROOS FINANCING

Mello-Roos and assessment financing are secured by a lien on real property, and that lien is superior to all mortgages even if those mortgages pre-date the special tax or assessment lien. It is the superiority of that lien which attracts investors to Mello-Roos and assessment bonds. If these vehicles are used to finance publicly-owned improvements, interest on the bonds is typically exempt from federal and state income taxes. Tax exemption lowers the interest rate paid to purchasers of these bonds, and thus decreases the special tax or assessment lien paid by property owners.

The key advantage of Mello-Roos and assessment financing of public infrastructure accrues to developers. There are limits to the amount a commercial bank, insurance company or other traditional lender will loan to given developer or project. Borrowing money for public infrastructure through Mello-Roos as assessment bond issues preserves the developer’s credit capacity for other purposes. This benefit has become increasingly important as recent difficulties experienced by financial institutions have reduced their capacity for lending.

The advantages of these financing tools to subsequent property owners or tenants are not immediately obvious. Since Mello-Roos and assessment bonds carry a tax exempt interest rate, the developer’s cost to finance certain infrastructure improvements is lower than with more traditional taxable forms of financing. However, real estate prices paid by subsequent property owners or tenants are more a function of the real estate market than the cost of development. Therefore, in order for the real estate market to fully reflect the existence of Mello-Roos or assessment financing on a particular property, and for subsequent property owners to realize any benefit, the existence of Mello-Roos

or assessment financing must be fully disclosed to all purchasers of property throughout the life of the assessment in a comprehensible and timely manner.

D 156.3 CITY OF LOS ANGELES MELLO-ROOS PROCEDURES

On November 1, 1994, the Policies and Procedures for Mello-Roos and Special Assessment Districts was amended and approved by the City Council. An interdepartmental Mello-Roos Review Committee was created to review applications for Mello-Roos bond financing. The City's Mello-Roos Policy establishes the procedure by which all Mello-Roos bond financing applications are reviewed by the City. These procedures are summarized as follows:

1. A 25 question application (See [Figure 156.3](#)) is submitted to the Department of City Planning along with an initial \$5,000 application deposit filing fee.
2. The Infrastructure Subcommittee including the Director of Planning (Chair), the City Engineer and the General Manager of the Department of Transportation, reviews the application for compliance with planning, engineering and transportation approvals and confirms that the improvements to be funded with bond proceeds are consistent with City Mello-Roos program policies. The Finance Subcommittee including the City Administrative Officer (CAO), the City Attorney and the City Treasurer reviews the application and makes recommendations on the financial structure of the proposed project. The CAO oversees the establishment of the district and development of financing.
3. The Review Committee, comprised of the Infrastructure Subcommittee and Finance Subcommittee, considers the public benefits offered by the applicant and makes a preliminary assessment of the project feasibility. The Review Committee's recommendations are transmitted to the Mayor and City Council.
4. The City Council may grant Provisional Approval and authorize staff to proceed with a more comprehensive project review. Provisional Approval is not the final authorization for funding.
5. To proceed with the comprehensive project review, the CAO has to be authorized by the City Council to retain the necessary consultants such as a bond counsel, financial advisor and special tax consultant who specialize in the creation of Mello-Roos Districts. All City and consultant costs associated with the project review, creation of the

Mello-Roos District and development of financing will be paid by the Developer. The Developer is required to make a deposit with the City that will be used to pay consultant costs during district formation and issuance of the bonds. Certain consultant costs are also recoverable through the proceeds of a bond issuance if, and when, bonds are issued, City policy requires that propose projects using Mello-Roos bond financing must provide “extraordinary public benefits” to justify use of the City’s debt capacity. Public benefits are described as features that go beyond mitigating project impacts and provide benefit to the surrounding region.

D 156.4 EXTRAORDINARY PUBLIC BENEFIT

Mello-Roos and assessment debt reduces the City’s overall debt capacity for the benefit of a private development. The transfer of this limited City asset to benefit a private development mandates a city policy that conditions approval of Mello-Roos and assessment financing on the receipt of an Extraordinary Public Benefit from the project financed.

Distinguishing Extraordinary Public Benefit from simple-mitigation measures to be carried out by the developer can be a difficult task. Therefore, the application for Mello-Roos and assessment financing contains the following information:

- a. A section titled “Extraordinary Public Benefits” which requires the applicant to describe in detail the nature of such Benefits offered.
- b. An explanation of which factors should be considered by the City as evidence of Extraordinary Public Benefit.
- c. A statement that exaction measures provided pursuant to a development agreement the applicant has negotiated with the City may be listed as a part or all of the Extraordinary Public Benefits required for these financings

The following factors will be considered by the City as evidence of Extraordinary Public Benefit in evaluating all applications for financing (on large-scale multi-phase projects, the City may evaluate Extraordinary Public Benefit based on the benefits provided by the entire project rather than evaluating each phase separately):

1. Regional Benefit
2. Accelerated Improvements

3. Additional Public Improvements
4. Environmental Benefit
5. Low-income Housing and Economic Development

D 160 DEVELOPMENT AGREEMENTS

D 161 VESTED RIGHTS

D 161.1 DESCRIPTION

Generally, a developer must comply with the laws in effect at the time a building permit is issued for a particular project. If a developer has performed substantial work and incurred substantial liabilities in good faith reliance on a permit issued by the City, that developer acquires a vested right to complete construction in accordance with the terms of the permit. In order to preserve its rights to complete the project as approved during the entitlement phase, the developer can enter into a development agreement with the City. Development agreements limit the power of the City to apply newly enacted ordinances, policies, and standards to ongoing developments. Another procedure to obtain vested rights is through a Vesting Tentative Map. (Refer to D 200.)

D 161.2 AVCO DECISION

The basic rule is that if a city changes its land use regulations, a property owner cannot claim a vested right to build out a project unless he has obtained a building permit and performed substantial work and incurred substantial liabilities in good faith reliance upon the permit. This common law vested rights rule in California was reaffirmed when the California Supreme Court stated:

It has long been the rule in this state and in other jurisdictions that if a property owner has performed substantial work and incurred substantial liabilities in good faith reliance upon a permit issued by the government, he acquires a vested right to complete construction in accordance with the terms of the permit. [Citations omitted.] Once a landowner has secured a vested right the government may not, by virtue of a change in the zoning laws, prohibit construction authorized by the permit upon which he relied. Avco Community Developers, Inc. v. South Coast Regional Comm'n, 17 Cal. 3d 785, 791 (1976).

D 162 LEGAL AUTHORITY

The authority for the development agreement procedure is contained in California Government Code Sections 65864-65869.5. The California Supreme Court described development agreements as follows:

[D]evelopment agreements between a developer and a local government limit the power of that government to apply newly enacted ordinances to

ongoing developments. Unless otherwise provided in the agreement, the rules, regulations, and official policies governing permitted uses, density, design, improvements, and construction are those in effect when the agreement is executed.

City of West Hollywood v. Beverly Towers, Inc., 52 Cal. 3d 1184, 1193 n. 6 (1991).

The court also stated "The purpose of [vesting tentative maps and development agreements] is to allow a developer who needs additional discretionary approvals to complete a long-term development project as approved, regardless of any intervening changes in local regulations." Id. at 1194.

D 163 PROVISIONS

The principal provisions of the legislation governing development agreements are:

- 1) Cities are given express authorization to enter into a development agreement and may adopt procedures to do so by resolution or ordinance. (Gov. Code Sec. 65865.);
- 2) The development agreement shall be enforceable by any party thereto, notwithstanding any change in any applicable general or specific plan, zoning, subdivision, or building regulation adopted by the city. (Gov. Code Sec.65865.4);
- 3) Unless otherwise provided by the development agreement, the applicable rules, regulations and policies shall be those which are in force at the time of the execution of the agreement. (Gov. Code Sec.65866); and
- 4) A development agreement is a legislative act which must be approved by ordinance, be consistent with the general plan and any specific plan, and is subject to repeal by referendum. However, the opportunity for such repeal expires 30 days after the city's adoption of the ordinance approving the agreement, and thereafter the project is immune to subsequent changes in zoning ordinances and land use regulations which are inconsistent with those provided for in the agreement. (Gov. Code Sec.65867.5)