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Case Clarifies California's Subdivision Map Act Requirements

Cities and Counties Impacted



The scope of findings that a city or county must make when approving subdivision maps under the California Subdivision Map Act were clarified in a recent California Court of Appeal decision. According to Government Code section 66473.5, for a city or county to approve a subdivision map, it must make a finding

that a proposed subdivision is consistent with its general plan. The general plan consistency finding is the only affirmative finding that the Subdivision Map Act purports to require by its express terms. There has long been question, however, as to whether local agencies must also make the “negative” findings under Government Code section 66474 to approve a parcel map.

Section 66474 provides that a city or county shall deny approval of a tentative tract or parcel map if it makes any one of seven specific “negative” findings. For example, if the site is not physically suitable for the type of development or for the proposed density of the development, then the city or county shall deny the application.

At issue in the *Spring Valley Association v. City of Victorville* case was a commercial development that included space for a new Wal-Mart store. For the project to proceed, the applicant requested a parcel map to subdivide the property for development. In approving the parcel map, the City Council found that the proposed subdivision was consistent with the City's General Plan. However, the City Council did not make findings under section 66474 because the City Council did not intend to deny the map.

Spring Valley Association argued that the City's parcel map findings for approval of the map were inadequate because the City did not make the converse “denial” findings under section 66474. Relying on a 1975 Attorney General opinion that interpreted the predecessor statute to the current section 66474, the court concluded that the City Council was, in fact, required to make the negative findings before it could approve the parcel map. Thus, for a city or county to approve a tentative tract or parcel map, it must make the general plan

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consistency finding in Government Code section 66473.5 and must also find the inverse of the seven “negative” findings in section 66474.

While this case adds a significant number of findings to the subdivision map process, cities and counties who use Best Best & Krieger LLP’s model subdivision resolutions should not experience any interruption in their current procedures. BB&K model subdivision resolutions already include both the affirmative finding under Government Code section 66473.5 and the inverse of the seven “negative” findings in section 66474. If you are uncertain about whether your subdivision map resolution contains all of the requisite findings, or if you are a BB&K client interested in obtaining a copy of the BB&K form resolutions, please contact one of the authors of this Legal Alert listed at right in the firm’s [Environmental Law & Natural Resources](#) practice group, or your [BB&K attorney](#).

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