

ORDINANCE NO. 2587

**AN ORDINANCE OF THE CITY OF CHULA VISTA
AMENDING SECTION 19.14.480 OF THE CHULA VISTA
MUNICIPAL CODE RELATING TO SITE PLAN AND
ARCHITECTURAL APPROVAL APPEALS AND DECLARING
THE URGENCY THEREOF**

WHEREAS, under the authority of Section 19.14.030, the Zoning Administrator has the authority ("Site Plan and Architectural Review Authority" or alternatively "Authority") to review and reject site plans and architectural plans for use requiring conditional use permits and when specifically granted by zoning regulations; and,

WHEREAS, Zoning Administrator is required to exercise said Authority pursuant to the guidelines set forth in Section 19.14.470; and,

WHEREAS, the Zoning Administrator has the power to assign the Authority to the Planning Commission under the authority of Section 19.14.050(A); and,

WHEREAS, Section 19.14.480 provides that the decision of the Zoning Administrator is appealable to the Planning Commission, but does not provide appeal to the City Council, as in other decisions of the Planning Commission (e.g., design review decisions, Section 19.14.583); and,

WHEREAS, there exists a final subdivision map commonly referred to as the Bayona Subdivision, consisting of Esla Drive (blending into) Norella Street, Martos Place and Gredos Place, all in the Rancho del Rey, SPA I area; and,

WHEREAS, the Planned Community Regulations for the Rancho del Rey, SPA I, adopted by Ordinance No. 2535, at Section XIV.2 ("Administrative Review") and XIV.3.B ("Site Plan and Architectural Approval"), requires that for single family dwellings less than 5,000 square feet, Site Plan and Architectural approval in accordance with the Chula Vista Zoning Chapter of the Municipal Code is required; and,

WHEREAS, part of the Bayona Subdivision--that consisting of Esla Drive--has been built out with approximately 44 single family residential structures which are currently occupied by non-developer residents ("Existing Residents"); and,

WHEREAS, the unimproved part of Bayona Subdivision, currently owned by Kaufman & Broad ("Unimproved Part"), is proposed by the owner for immediate

development of 51 single family housing units on lots less than 5,000 square feet thereby triggering the right in the Zoning Administrator or the Planning Commission to exercise the Authority and without the express right of appeal to the City Council; and,

WHEREAS, the Existing Residents have expressed substantial anxiety regarding the proposed roof and exterior stucco color, square footage, etc. of the houses to be developed on the Unimproved Part ("Bayona Dispute"), and the exercise of the Authority is scheduled to be heard by the Planning Commission on January 26, 1994 and without appeal rights expressly provided to the City Council; and,

WHEREAS, design decisions under the Design Review Process (see Section 19.14.583) are appealable to the City Council, and the public expects that similar decisions made under the Authority should be appealable to the Council; and,

WHEREAS, in order to remove any questions as to the appellate authority of the City Council and in time to hear the Bayona Dispute, the City Council finds that the amendment of the Zoning Chapter to grant itself appellate review on the exercise of the Authority is necessary and urgent; and

WHEREAS, procedural changes to the Zoning Code are exempt from environmental review under CEQA Guidelines Section 1501(b)(3).

NOW, THEREFORE, the City Council of Chula Vista does hereby ordain:

SECTION I. Section 19.14.480 of the Chula Vista Municipal Code is amended to read as follows:

"Sec 19.14.480 Site plan and architectural approval-Zoning permit issuance prerequisite-Chief Building Officer authority-Appeals.

- A. Following site plan and architectural approval by the Zoning Administrator as provided in this chapter, and provided all other applicable requirements of this chapter have been met, the Chief Building Officer shall issue a zoning permit, as provided in Sections 19.14.500 through 19.14.550, and shall ensure that development is undertaken and completed in conformity to the approved plans. A copy of the decision resolution of the Zoning Administrator shall be filed with the Planning Director and mailed to the applicant. Appeals from determinations by the Zoning Administrator shall be to the Planning Commission, upon written request for a hearing before the Commission. In the absence of such request being filed within seven days after determination by the Administrator, the determination shall be final.
- B. The appeal shall be filed with the Planning Director on the form required by the Planning Director, and be accompanied by the non-refundable Required Fee therefor. The appeal

shall include a statement of the reasons supporting the appeal, including a demonstration that any issues being raised were raised before the Zoning Administrator. Upon the proper filing of the appeal, the Director of Planning shall cause the matter to be set for public hearing, giving the same notice as required in Sections 19.12.070 and 19.12.080.

- C. Upon the hearing of an appeal, the Planning Commission may by resolution, affirm, reverse or modify, in whole or in any part, any determination of the Zoning Administrator. The resolution shall contain findings of facts showing wherein the project meets or fails to meet any applicable site plan and architectural principles in Section 19.14.470, the provisions of the Design Manual or any Design Standards required for the project, or other non-conformity with the requirements of this Chapter. A copy of the decision resolution of the Planning Commission shall be filed with the City Clerk and mailed to the applicant. The decision of the Planning Commission shall be final on the eleventh day after its filing, except where further appeal is taken as provided herein.
- D. The applicant or other interested person may appeal the decision of the Planning Commission granting or denying site plan and architectural approval to the City Council within ten days after said decision is filed with the City Clerk. Said appeal shall be filed with the City Clerk in writing upon forms provided by the Planning Director and be accompanied by the non-refundable Required Fee therefore. The appeal shall include a statement of the reasons supporting the appeal, including a demonstration that any issues being raised were raised during the public hearing. If a proper appeal is filed within the time limits specified, it automatically stays proceedings in the matter until a determination is made by the City Council on the appeal.
- E. Upon the filing of the appeal, the City Clerk shall set the matter for public hearing, giving the same notice as required in Sections 19.12.070 and 19.12.080. The City Clerk shall send the Planning Director a duplicate copy of the appeal and who shall transmit to the City Council the minutes of the hearing before the Planning Commission and/or Zoning Administrator (if any), and all other evidence, maps, papers and exhibits upon which the Planning Commission made its decision.
- F. After hearing the appeal, the City Council may, by resolution, affirm, reverse or modify, in whole or in any part, any determination of the Zoning Administrator or the Planning Commission. The Council resolution by which the appeal is decided shall contain findings of facts showing wherein the project meets or fails to meet the applicable site plan and architectural principles in Section 19.14.470, the provisions of the Design Manual, any Design Standards required for the project, or other non-conformity with the requirements of this Chapter. A copy of the decision resolution of the City Council shall be filed with the city clerk and mailed to the applicant."

SECTION II. Effective Date: Urgency.

If approved by a four-fifth's majority, this ordinance shall become effective immediately upon adoption as an Urgency Ordinance. Pursuant to Charter Section 311, the reason for the urgency is the inconsistency of the appeal process between decisions rendered by the Design Review Committee and those rendered by the

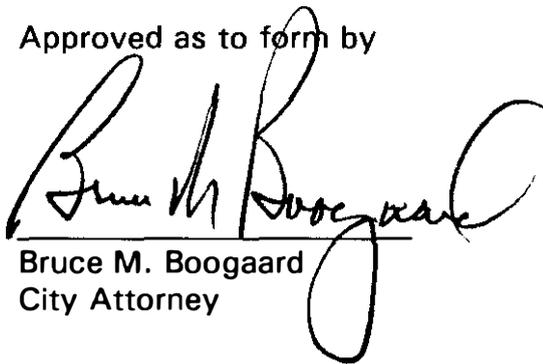
Zoning Administrator and the immediacy of the Bayona Dispute set forth in the recitals herein. Current applicants on projects would not be afforded the same due process unless this ordinance becomes effective immediately.

Presented by

Approved as to form by



Robert A. Leiter
Robert A. Leiter
Director of Planning



Bruce M. Boogaard
Bruce M. Boogaard
City Attorney

PASSED, APPROVED and ADOPTED by the City Council of the City of Chula Vista, California, this 25th day January, 1994, by the following vote:

AYES: Councilmembers: Fox, Horton, Moore, Rindone, Nader

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ABSTAIN: Councilmembers: None



Tim Nader, Mayor

ATTEST:

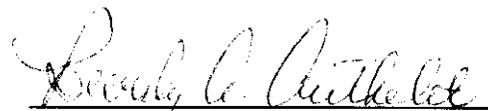


Beverly A. Authelet, City Clerk

STATE OF CALIFORNIA)
COUNTY OF SAN DIEGO) ss.
CITY OF CHULA VISTA)

I, Beverly A. Authelet, City Clerk of the City of Chula Vista, California, do hereby certify that the foregoing Ordinance No. 2587 had its urgency reading and adoption on January 25, 1994 at a regular meeting of said City Council.

Executed this 25th day of January, 1994.



Beverly A. Authelet, City Clerk