

STRUMWASSER & WOOCHELLP

ATTORNEYS AT LAW

10940 WILSHIRE BOULEVARD, SUITE 2000
LOS ANGELES, CALIFORNIA 90024

MICHAEL J. STRUMWASSER
BRYCE A. GEE
BEVERLY GROSSMAN PALMER
DALE K. LARSON
CAROLINE C. CHIAPPETTI
JULIA G. MICHEL †
SALVADOR E. PÉREZ

† Also admitted to practice in Washington

TELEPHONE: (310) 576-1233
FACSIMILE: (310) 319-0156
WWW.STRUMWOOCHELLP.COM

FREDRIC D. WOOCHELL
ANDREA SHERIDAN ORDIN
SENIOR COUNSEL

October 10, 2022

Marc Wiener
Community Development Director
City of Laguna Beach
505 Forest Avenue
Laguna Beach, CA 92651

VIA E-MAIL

Re: Statements regarding LRF Initiative and Lot Line Adjustments

Dear Mr. Wiener:

This firm writes on behalf of Laguna Residents First (LRF), the organizational proponent of the initiative now known as Measure Q in the November 2022 Laguna Beach General Municipal Election. At the October 4, 2022 City Council meeting, you provided comments to the Council regarding the purported inapplicability of a lot line adjustment to the City's potential construction of a fire station on three parcels (APN 056-105-07; APN 056-105-35; AN 056-105-04) located in the South Laguna Village Commercial Zone. The purpose of this letter is to respond to your remarks and clarify the use of the lot line adjustment process, which is a provision of state law.

At the October 4 City Council meeting, your comments indicated that a lot line adjustment would not be appropriate for the construction of the fire station, because a lot line adjustment could move property boundaries, not create a single lot. You noted that the South Laguna Village Commercial Zone property development standards prohibit the subdivision of parcels or their reduction in size. (See Laguna Beach Municipal Code section 25.25.008 ["Parcels shall not be further subdivided for development purposes or otherwise reduced in size."].) Underscoring your comments was the presumption that three parcels would have to be maintained even after a lot line adjustment. You also noted, however, that a lot line adjustment is ministerial and based on objective criteria.

A lot line adjustment does not need to maintain the same number of existing parcels, as your analysis erroneously assumes. The statute contains no such requirement. The key restriction in the use of a lot line adjustment is that new parcels cannot be *created* in greater number than existed prior to the lot line adjustment. There is no requirement that all of the previously existing parcels be maintained following the adjustment.

Government Code section 66412 provides that the Subdivision Map Act does not apply to “[a] lot line adjustment between four or fewer existing adjoining parcels, where the land taken from one parcel is added to an adjoining parcel, and where a greater number of parcels than originally existed is not thereby created, if the lot line adjustment is approved by the local agency, or advisory agency.” As one court of appeal explained the statutory requirement, “according to the plain, clear and unambiguous language of the statute, the Legislature has excluded from the Map Act lot line adjustments meeting the following criteria: (1) the adjustment is between four or fewer parcels; (2) the parcels must be adjoining; (3) the adjustment does not result in more parcels than originally existed; and (4) the lot line adjustment is approved by the local agency.” (*Sierra Club v. Napa County Bd. of Supervisors* (2012) 205 Cal.App.4th 162, 173.) As the court explained, based on review of legislative history, the purpose was to “allow[] a ‘friendly neighbor [lot line] adjustment without going through procedures provided in the map act.’” (*Id.*, p. 168.)

It is important to note what is *not* included in the requirements for a lot line adjustment: there is no need to maintain the same number of parcels. So long as parcels are (1) fewer than four; and (2) adjacent, a lot line adjustment to create *fewer* parcels can be processed without compliance with the Subdivision Map Act. In *San Dieguito Partnership v. City of San Diego* (1992) 7 Cal.App.4th 748, the court considered the prior version of this lot line adjustment exemption, which allowed any number of adjacent parcels to have lot lines adjusted (as opposed to the applicable limit in today’s law of four parcels). The court’s analysis remains instructive as to the Legislature’s intent, however. The court expressly rejected reading requirements into the statute, noting that the key requirement is that “no greater number of parcels” are created. (*Id.* at p. 756.) “The existence of the no greater number of parcels element, the absence of other limiting words and the manner in which the language is phrased very directly suggest this is the extent of the Legislature’s limitation on the number of parcels which are permitted to be included in a lot line adjustment. It also suggests the Legislature’s determination, consistent with its definitions of “subdivider” and “subdivision” in which the dominant word is a variable of the verb “divide”, that the dominant concern of the SMA is division of real property resulting in a greater number of parcels than existed before the division.” (*Ibid.*) There is no indication in these cases or in the statute that the lot line adjustment process is prohibited when it would result in *fewer* parcels than were originally present.

The statute requires adding land from one parcel to an adjoining parcel; this would be present here, as there is no requirement that both parcels survive the lot line adjustment process. The new lot would satisfy the requirements of the zoning code because it would not reduce lot size or further subdivide existing parcels. Thus, the lot line adjustment procedure is available to City should it acquire these parcels, and Measure Q would have no bearing on the City’s potential fire station project. It appears based upon your comments that you agree that a lot line adjustment is ministerial and recognize that Measure Q only applies to land divisions or combinations that are regulated by the Subdivision Map Act.

If, upon review of this letter and the authorities discussed in it, you reconsider your previous statements regarding Measure Q and its impact on the South Laguna fire station project, LRF believes it would be appropriate for you to explain to the public your revised opinion. The fire station project has been raised frequently by opponents of Measure Q, and LRF thinks it is

October 10, 2022

Page 3

important that the public be apprised if the City's position on Measure Q and the fire station project has changed as a result of this information.

I am available to discuss this issue at your convenience at (310) 933-5930 or by email to bpalmer@strumwooch.com.

Very truly yours,

A handwritten signature in black ink, appearing to read "Beverly Grossman Palmer". The signature is fluid and cursive, with the first name "Beverly" being the most prominent.

Beverly Grossman Palmer
Strumwasser & Woocher LLP

Cc: City Attorney Phil Kohn
City Council via email to CityCouncil@lagunabeachcity.net
David Raber for Laguna Residents First