



DATE: September 22, 2020

CATEGORY: Consent

DEPT.: Community Development

TITLE: **Permit Extensions Due to the COVID-19 Emergency**

RECOMMENDATION

Adopt a Resolution Authorizing One-Year Extensions of Planning Permits Due to the COVID-19 Emergency, to be read in title only, further reading waived (Attachment 1 to the Council report).

BACKGROUND

Zoning permits issued under Chapter 36 of the Municipal Code (Zoning) expire if the entitlements granted by the permit are not used within two years from the date of the approval. To “use” a permit is defined by Section 36.56.65 as obtaining a building permit and commencing construction, or commencing the permitted use, on the subject property in compliance with the conditions of approval. Permits may also be extended for up to two years upon review and approval of a permit extension application by the Zoning Administrator at a public hearing.

On March 16, 2020, in response to the spread of COVID-19, the Health Officer of the County of Santa Clara released an order directing all individuals living in the County to shelter at their place of residence, except to provide or receive certain essential services or engage in certain essential activities and work for essential businesses and government services. Further, the order directed all businesses and governmental agencies to cease nonessential operations at physical locations in the County, including nonessential construction activities. The order reduced City development review and permitting capabilities, including:

- Temporary pause in intake of planning and building permit applications (now being accepted electronically);
- Reduced functionality of the Community Development Department’s ability to review and issue planning and building permits;

- Canceled Environmental Planning Commission, Administrative Zoning, and Development Review Committee meetings in March and early April; and
- Postponed development application hearings scheduled for the City Council.

The April 29, 2020 County order allowed all construction activities to resume as of May 4, 2020, following specific safety protocols. This aids projects already under construction, but it is still expected that projects not yet under construction may experience associated delays in moving towards completion as the parameters of the County order continue to have impacts on City operations and the many general business functions that support development.

Environmental Planning Commission

The Environmental Planning Commission (EPC) reviewed this proposal as an informational item on September 2, 2020. The EPC expressed support for the proposal and had no substantive input.

ANALYSIS

In addition to the Santa Clara County Health Officer's orders that restricted construction activities to varying degrees between March 16 and May 4, as discussed above, the financial impacts of the COVID-19 emergency are uncertain; the shutdown has already resulted in widespread unemployment, and many experts are predicting a period of economic recession. This situation may lead to loss of financing for some developers (which may have otherwise been in place prior to the Shelter-in-Place order); difficulty engaging architects, engineers, contractors, and other planning and design professionals; or the necessity to delay the start of construction on an entitled project.

Under these circumstances, it may prove difficult for applicants with entitled projects to use their permit within the two-year period. Applications for a permit extension or reapplication of an expired permit will require staff resources and could present a potential time and financial hardship on applicants to go through the public hearing process. Staff has already seen a considerable increase in requests for Permit Extensions since March 2020. Therefore, staff recommends an automatic one-year extension beyond the expiration date for planning permits valid as of March 16, 2020. The extension would not extend or reactivate planning permits that lapsed or were not approved prior to the start of the County's Shelter-in-Place order on March 16, 2020 and would be in addition to any permit extension approved under the City's permit extension process.

Other local jurisdictions are beginning to take similar actions to preserve the rights of applicants that have previously obtained permits, and the proposed ordinance is aligned with those efforts. Other surrounding jurisdictions which have taken similar action include Palo Alto, Sunnyvale, and Cupertino.

ENVIRONMENTAL REVIEW

This action is exempt from the California Environmental Quality Act (CEQA) in accordance with Section 15061(b)(3) of the CEQA Guidelines because it can be seen with certainty that temporarily extending planning permit approvals for a limited period of time will not have a significant effect on the environment.

FISCAL IMPACT – None.

ALTERNATIVES

1. Modify the time frame of the permit extensions.
2. Do not allow permit extensions.
3. Provide staff with other direction.

PUBLIC NOTICING

The Council's agenda is advertised on Channel 26, and the agenda and this report appear on the City's Internet website. All interested stakeholders were notified of this meeting and a notice for the item was published in the newspaper.

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Attachment: 1. Resolution for One-Year Planning Permit Extensions