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CITY OF OAKLAND



ONE FRANK OGAWA PLAZA • 2ND FLOOR • OAKLAND, CALIFORNIA 94612

Council President Ignacio De La Fuente
City Council Member, District 5

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October 2, 2008

Re: A Resolution Extending For One Year The Expiration Date Of Permits Issued Under The Authority Of Title 17 Of The Oakland Municipal Code (Planning Code) And Creek Protection Permits Issued Under The Authority Of Chapter 13.16 Of The Oakland Municipal Code That Expire Prior To January 1, 2010

Dear Fellow Council Members:

I am proposing this resolution to help retain investment in Oakland help ensure that projects the City has approved get built. I am proposing that the City grant a one-year extension to all planning approvals granted under Chapter 17 of the Oakland Municipal Code (Planning Code) such as variances, design review, and conditional use permits that expire before January 1, 2010. The same extension would apply to creek protection permits issued under the authority of Chapter 13.16 of the Oakland Municipal Code that expire prior to January 1, 2010. Extensions would not be granted to any property that has been cited as a nuisance property for blight under OMC Chapter 1.12. These extensions would support investment at virtually no cost to the City.

BACKGROUND

Due to the extraordinary real estate market downturn, numerous development projects in Oakland are "on hold" while they wait until the market conditions to improve or until they can obtain financing. During this time, capital is at risk for leaving Oakland, development projects may be cancelled entirely, and properties are subject to becoming blighted. If permits expire during this time, builders have to choose whether or not go through the expensive and laborious approval process again. Instead, builders may choose to leave their land vacant or leave dilapidated structures in place, or even put the land on the market for sale.

The entitlement process for most development projects in Oakland included extensive meetings with City staff, community meetings, planning commission committee meetings, full planning commission meetings and in some instances, City Council meetings. When an entitled project is built, it results in many benefits for the

community and the City. Community benefits include vacant and blighted properties replaced by new construction, cleanup of toxics, new housing units or office space, new jobs, and improve infrastructure and pedestrian amenities. Benefits to the city include property taxes and transfer taxes.

The City has invested great time and energy to attract investment over the last ten years, especially in neighborhoods that were had been severely de-capitalized. Passage of this resolution would cost nothing to the City and show a continued commitment to those individuals, firms and investors that chose to take a risk and invest in Oakland those who are contemplating doing so in the future.

Senate Bill 1185, approved by the Governor on July 15, 2008, provided one year extension to approvals of tentative maps, which in turn allows cities to preserve development applications that are set to expire and that cannot be processed presently due to prevailing adverse economic conditions in the construction industry. While the state has provided an extension on this one limited approval, the City of Oakland has many approvals of a similar nature. This resolution would take an affirmative step to apply the state extension to local approvals.

On October 1, 2008, this proposal was presented to the Planning Commission, who unanimously supported the one year extension.

PROPOSED POLICY

The standard conditions of approval for planning approvals granted under Chapter 17 of the Oakland Municipal Code (Planning Code) have an expiration date. The standard conditions of approval state that approvals expire after two years and can be extended for one year at a time thereafter through a request a request by the applicant and payment of a fee. This resolution would grant an automatic extension and remove the burden from the applicant to apply and pay for the extension for one year.

This proposed resolution would extend by one year all approvals granted by the City per Section 17 of the OMC (Planning Code) and Creek Protection Permits issued under the authority of the OMC Section 13.16 expiring before January 1, 2010. For example, if the expiration date of a permit was July 2009, the permit would now expire in July 2010. All projects remain subject to changes in the building code and approvals from other agencies.

The one year extension shall not apply to properties that have been issued an administrative citation under Oakland Municipal Code Chapter 1.12 (blighted property) or to properties where an administrative citation is issued between the adoption date of this Resolution and January 1, 2010.

The appeal section contained in Oakland Municipal Code Chapter 17.132 applies to the administrative determination and interpretations made pursuant to this resolution.

The resolution states that the City Council may grant additional extensions in the future if economic conditions warrant it.

SUSTAINABLE OPPORTUNITIES

Economic:

The proposed extension would result in increase private investment which would result in increased revenue to the City and jobs. Projects in redevelopment areas produce contributions to the low-moderate income housing set-aside fund.

Environmental:

Due to climate conditions, transportation infrastructure and access to job, buildings in Oakland have reduced environmental impacts compared to buildings in other locations. Additionally, building projects often improve the environmental quality by cleaning up hazardous materials and adding open space.

Social Equity:

Development projects can produce jobs and housing, revitalize neighborhoods, reduce blight, create funding for affordable housing, and improve infrastructure.

ACTION REQUESTED OF THE CITY COUNCIL

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Ignacio De La Fuente', with a stylized flourish at the end.

Council President Ignacio De La Fuente

OAKLAND CITY COUNCIL


City Attorney

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OAKLAND

RESOLUTION NO. _____ C.M.S.

08 OCT -2 PM 3:54 Introduced by: Council President Ignacio De La Fuente

A RESOLUTION EXTENDING FOR ONE YEAR THE EXPIRATION DATE OF PERMITS ISSUED UNDER THE AUTHORITY OF TITLE 17 OF THE OAKLAND MUNICIPAL CODE (PLANNING CODE) AND CREEK PROTECTION PERMITS ISSUED UNDER THE AUTHORITY OF CHAPTER 13.16 OF THE OAKLAND MUNICIPAL CODE THAT EXPIRE PRIOR TO JANUARY 1, 2010

WHEREAS, Senate Bill 1185, approved by the Governor on July 15, 2008, provided one year extension to approvals of tentative maps, which allows cities to preserve development application that are set to expire and that cannot be processed presently due to prevailing adverse economic conditions in the construction industry; and

WHEREAS, the extraordinary economic downtown, housing market decline, and difficulty of obtaining loans has resulted in construction projects being stalled, despite having completed the planning approvals process which often entails substantial costs and time; and

WHEREAS, the City Council wishes to encourage investment and revitalization activities in our neighborhoods, and encourage the improvement of vacant land and deteriorated buildings; and

WHEREAS, extending the validity of planning approvals granted by the City would help retain investment in Oakland at no cost to the City; now, therefore, be it

RESOLVED: That the expiration date of permits issued under the authority of the Oakland Municipal Code Title 17 (Planning Code) and expiring before January 1, 2010 is hereby extended for one year; and be it

FURTHER RESOLVED: That the expiration date of Creek Protection Permits issued under the authority of the Oakland Municipal Code Section 13.16 and expiring before January 1, 2010 is hereby extended for one year; and be it

FURTHER RESOLVED: This additional one year exception shall not apply to properties that have been issued an administrative citation under Oakland Municipal Code Chapter 1.12 ("blighted property") or to properties where an administrative citation is issued between the adoption date of this Resolution and January 1, 2010; and be it

FURTHER RESOLVED: The appeal section contained in Oakland Municipal Code Chapter 17.132 applies to the administrative determination and interpretations made pursuant to this Resolution; and be it

FURTHER RESOLVED: That the City Council may grant further extensions to planning approvals if necessitated by economic circumstances.

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN, REID, and PRESIDENT DE LA FUENTE

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____

LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California