



2011 JUN -2 PM 5:14

TO: Council President Reid and Members of the City Council
FROM: Councilmembers Brunner and De La Fuente
DATE: June 14th, 2011

RE: **A RESOLUTION EXTENDING UNTIL DECEMBER 31, 2012 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 OTHERWISE WOULD EXPIRE ON OR PRIOR TO JANUARY 1, 2012 UPON REQUEST AND PAYMENT OF ADMINISTRATIVE FEE**

We are proposing to extend the expiration date for all development entitlements by one year, until December 31, 2012. Due to the slow real estate market and limited financing opportunities, many development projects are unable to move forward. This legislation will help to retain investment in Oakland and ensure that already-approved projects actually get built.

BACKGROUND

In November 2008, Council passed a resolution extending all development entitlements until December 31, 2011. This extension applied 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 expired before January 1, 2011. The same extension applied to creek protection permits issued under the authority of Chapter 13.16 of the Oakland Municipal Code.

Unfortunately, project developers are facing many of the same barriers that they faced in 2008. The housing market is still weak and it is difficult to secure financing for development projects. 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.

The entitlement process is a costly and time-intensive one, requiring meetings with staff, community members, as well as public hearings at the Planning Commission and sometimes Council. If entitlements expire during this time, builders have to choose whether or not to go through the expensive and laborious approval process again. Instead,

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they may choose to leave their land vacant or leave dilapidated structures in place, or even put the land on the market for sale.

The current extension expires on December 31, 2011 putting many projects at risk.

PROPOSED POLICY

The proposed legislation would extend the original extension for one more year, until December 31, 2012. All development 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 that would otherwise expire on or before January 1, 2012 could be extended. Applicants would be required to submit their request in writing to their assigned planner and pay the administrative extension fee, per the master fee schedule.

As with the original resolution, extensions would not be granted to any property that has been cited as a nuisance property for blight under OMC Chapter 1.12. The appeal section contained in Oakland Municipal Code Chapter 17.132 would also apply to the administrative determination and interpretations made pursuant to this resolution.

RECOMMENDATION:

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 improved infrastructure and pedestrian amenities. Benefits to the City include property taxes and transfer taxes.

Passage of this resolution will not create any costs for the City and will show a continued commitment to those individuals, firms and investors that chose to take a risk and invest in Oakland.

We recommend that the Council approve this resolution.

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~~DRAFT~~
City Attorney

OAKLAND CITY COUNCIL

RESOLUTION No. _____ C.M.S.

Introduced by: Council Members Brunner and De La Fuente

A RESOLUTION EXTENDING UNTIL DECEMBER 31, 2012 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 OTHERWISE WOULD EXPIRE ON OR PRIOR TO JANUARY 1, 2012 UPON REQUEST AND PAYMENT OF ADMINISTRATIVE FEE

WHEREAS, the extraordinary economic downturn, 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, 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, on July 15, 2009, the Governor signed AB 333, which further extended by 2 years the life of vesting tentative and tentative maps that had not already expired and that otherwise would have expired before January 1, 2012; 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 Creek Protection Permits issued under the authority of the Oakland Municipal Code Section 13.16 expiring on or before January 1, 2012 is hereby extended through December 31, 2012 upon request and payment of the administrative extension fee in the Master Fee Schedule (Ordinance 12880 CMS); and be it

FURTHER RESOLVED: That this extension shall not apply to properties that have been issued an administrative citation under Oakland Municipal Code Chapter 1.12 ("blighted property"). Furthermore, in the event that a property included in a permit that has been extended pursuant to this resolution receives

an administrative citation under Oakland Municipal Code Chapter 1.12 (“blighted property”) that is not corrected, the City may terminate said extension; and be it

FURTHER RESOLVED: That this extension shall not apply to permits that have already expired: and be it

FURTHER RESOLVED: That 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.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 20_____

PASSED BY THE FOLLOWING VOTE:

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

NOES -

ABSENT -

ABSTENTION -