

June 9, 2020

HONORABLE MAYOR AND CITY COUNCIL
City of Long Beach
California

RECOMMENDATION:

Receive the supporting documentation into the record, conclude the public hearing, and find the project exempt from the California Environmental Quality Act (CEQA), in accordance with Article 5, Section 15061;

Adopt an Ordinance amending Title 2 of the Long Beach Municipal Code (LBMC) (Cultural Heritage Commission) to extend the expiration date for certain Certificates of Appropriateness (COA) and modify the expiration period for future approvals;

Adopt an Ordinance, Zoning Code Amendment ZCA20-006, to extend the expiration date for certain subdivision and entitlement approvals and modify the expiration period for future approvals; and,

Adopt a Resolution directing the Director of Development Services to submit the Ordinance amending Title 20 and 21 to the California Coastal Commission for a finding of conformance with the Certified Local Coastal Program. (Citywide)

DISCUSSION

On March 4, 2020, the City of Long Beach (City) declared a public emergency related to the outbreak of the COVID-19 virus among Long Beach residents. The worldwide pandemic related to the virus is an ongoing public health concern being addressed at all levels of government. On March 17, 2020, the City Council directed staff to develop resiliency measures to assist the City, its residents, and businesses in returning to normal life and economic vitality once the emergency has abated. This item, to extend existing land-use entitlements, was approved unanimously by the Planning Commission on April 16, 2020. As part of this approval, the Planning Commission made the appropriate findings, identified in Attachment A.

The recommendations by staff and the Planning Commission are to:

- 1) Extend the expiration date of all certificates of appropriateness, tract maps, lot line adjustments, entitlements, and other approvals, not expired on January 1, 2020, by 24 months; and,
- 2) Modify the entitlement expiration time for all new certificates of appropriateness, tract maps, lot line adjustments, entitlements, and other approvals to a uniform 36-month duration.

Upon City Council's direction, Development Services staff immediately implemented other economic resilience measures that do not require the approval of the Planning Commission or the City Council, such as facilitating electronic entitlement submittals and plan check review, payment deferral options for entitlement filing, and abeyance of certain non-critical code enforcement actions. All of these measures are intended to promote economic investment and activity through procedural and other regulatory relief without modifying safety or essential regulations and standards.

Entitlements are approvals to build upon or use land in a way authorized by the zoning code. Depending on the entitlement, approval may be granted by the Director of Development Services, the Zoning Administrator, the Planning Commission, City Council, or California Coastal Commission. Most entitlements and other land-use approvals contain an expiration date, whereby they must be utilized or vested, otherwise the approval is void and the applicant would be required to file a new application.

Entitlement expiration dates serve several public purposes: they assure that approvals granted at one period of time can be re-evaluated if they are not utilized in a timely fashion and local conditions change; and, they serve to encourage actual construction in lieu of land speculation because any value added to a property through the granting of an entitlement quickly lapses, preventing the banking and sale of that added value over time. These two benefits accrue to the public interest under normal economic circumstances.

In times of economic distress or uncertainty, property owners are sometimes not able to utilize entitlements, not because of a desire to participate in land speculation, but because of an inability to access construction financing or assemble the proper construction team. This can be due to the financial distress of an investor or project partner, or other factors related to the overall macroeconomic environment. The amount of change in the physical environmental during these periods of time is also reduced due to decreased levels of construction and economic activity, reducing any value to the local government and public interest to "re-do" existing entitlements.

During periods of distress or uncertainty, including the current pandemic and its associated economic implications, the public interest shifts from the strict enforcement of entitlement expiration provisions to a more adaptive and flexible approach. The proposal presented to the Planning Commission is similar to measures adopted by the California legislature during the 2008 great recession. Staff is proposing that all existing approvals be extended for a period of two-years and this provision be retroactive to January 1, 2020.

In preparing this item, it also became clear that entitlement expiration timelines currently vary according to approval type, without a clear reasoning. The range exists between historic preservation approvals, known as Certificates of Appropriateness, which are only valid for one year, to most entitlements, which are valid for two years, and tract maps, which are valid for three years. In normal economic times, a typical mid-sized, mixed-use project can expect to require 6 to 18 months to obtain entitlements, 18 to 24 months to prepare construction documents, obtain construction financing, and ultimately 24 months to construct. On the average, these timelines will be longer during unusual economic periods such as today.

The proposed action would harmonize expiration dates across all types of approvals at three years and would apply on a going-forward basis to new approvals only. This proposal provides greater certainty and flexibility to new project applicants. Together, these two actions do not change the underlying amount, look, or feel of development experienced by the public, but will provide greater flexibility to project owners and developers, allowing for projects to be constructed with minimal interruptions, risks, or burdensome re-entitlement procedures.

This matter was reviewed by Assistant City Attorney Michael J. Mais on May 8, 2020 and by Budget Management Officer Rhutu Amin Gharib on May 18, 2020.

Public Hearing Notice

In accordance with public hearing notification requirements for a Zoning Ordinance Amendment in LBMC Section 21.21.302.C, notice of this public hearing was published in the Long Beach Press-Telegram on May 25, 2020, written notices were sent to the California Coastal Commission, and public hearing notices were posted in public places throughout the City. Due to the declared state of emergency, notices were not provided to City libraries due to their closure. Notice posting was provided at City Hall, but not at multiple locations, and no public meetings were held on this matter. A notice of the proposed code amendment was distributed through the City's LinkLB e-mail blast system.

Environmental Review

Approved development was evaluated previously under the California Environmental Quality Act (CEQA) and no change in environmental impacts is expected through this extension of entitlement expiration deadlines. New development utilizing this code amendment is subject to its own individual review and is generally within the scope of what was analyzed in the previously certified Program Environmental Impact Report (EIR 03-16) prepared for the General Plan Land Use Element update, which found significant and unavoidable impacts related to air quality, global climate change, noise and transportation, and will not result in any new significant impacts. None of the conditions requiring a new subsequent or supplemental EIR, as stated in Section 21166 of the Public Resources Code or in Sections 15162 or 15163 of the CEQA Guidelines, are present. The EIR (Land Use Element, EIR 03-16) is available on the City's website <http://www.longbeach.gov/lbds/planning/environmental/reports>. Additionally, pursuant to CEQA, Article 5, Section 15061 and the State CEQA Guidelines, it can be seen with certainty that the subject modifications to the LBMC noted above will not have the potential for having a significant effect upon the environment and, therefore, the activity is not subject to CEQA.

TIMING CONSIDERATIONS

Pursuant to Section 21.25.103 of the Zoning Regulations, this request must be presented to the City Council within 60 days of the Planning Commission hearing, which took place on April 16, 2020. City Council action is requested on June 9, 2020.

FISCAL IMPACT

This recommendation has no staffing impact beyond the normal budgeted scope of duties and is consistent with existing City Council priorities. The measure is intended to protect future City revenues such as permit fees, sales taxes, and property taxes from new development. The amount of this gain is dependent on future macroeconomic factors and, while positive, cannot be quantified at this time and far outweighs the negligible loss of revenue to the Development Services Fund Group in the Development Services Department.

SUGGESTED ACTION:

Approve recommendation.

Respectfully submitted,



LINDA F. TATUM, FAICP
DIRECTOR OF DEVELOPMENT SERVICES

LFT:CK:PS

ATTACHMENTS: CITY COUNCIL ORDINANCE (2)
CITY COUNCIL RESOLUTION
ATTACHMENT A – FINDINGS

APPROVED:



THOMAS B. MODICA
CITY MANAGER

OFFICE OF THE CITY ATTORNEY
CHARLES PARKIN, City Attorney
411 W. Ocean Boulevard, 9th Floor
Long Beach, CA 90802

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ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LONG BEACH AMENDING THE LONG BEACH MUNICIPAL CODE BY AMENDING SUBSECTION 2.63.080.I, AND SECTION 20.20.050; AND BY ADDING SUBSECTION 2.63.080.J, AND SUBSECTION 20.12.180.C, RELATING TO THE EXTENSION OF THE EXPIRATION PERIOD FOR CERTAIN CERTIFICATES OF APPROPRIATENESS AND MODIFYING THE EXPIRATION PERIOD FOR FUTURE APPROVALS

The City Council of the City of Long Beach ordains as follows:

Section 1. Section 2.63.080.I of the Long Beach Municipal Code is amended to read as follows:

I. Notwithstanding any other provision of this Chapter, a certificate of appropriateness shall become void unless construction relating to the approved modification is commenced within thirty-six (36) months of the date of issuance. Certificates of appropriateness may be renewed for an additional twelve (12) month period by applying to the Cultural Heritage Commission staff or to the Director of Development Services.

If the approved modification is not completed within twelve (12) months after the expiration of the last building permit, a new certificate of appropriateness shall be required.

Section 2. Section 20.20.050 of the Long Beach Municipal Code is amended to read as follows:

20.20.050 Expiration.

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A. An approved lot line adjustment shall expire thirty-six (36) months after its approval and shall be of no force or effect if it has not been recorded with the County Recorder's Office, except when a time twelve (12) month extension has been granted by the Zoning Administrator.

B. Any lot line adjustment approved between December 1, 2017 and the effective date of this ordinance shall be effective for a period of forty-eight (48) months from the date of issuance, at which time it will expire and be of no force or effect.

Section 3. Section 2.63.080 of the Long Beach Municipal Code is amended by adding Subsection J to read as follows:

J. Any Certificate of Appropriateness approved between January 1, 2019 and the effective date of this ordinance shall be effective for a period of thirty-six (36) months from the date of issuance, at which time it will expire and be of no force or effect.

Section 4. Section 20.12.180 of the Long Beach Municipal Code is amended by adding Subsection C to read as follows:

C. Any tentative map approved between January 1, 2017 and the effective date of this ordinance shall be effective for a period of sixty (60) months from the date of issuance, at which time it will expire and be of no force or effect.

Section 5. The City Clerk shall certify to the passage of this ordinance by the City Council and cause it to be posted in three (3) conspicuous places in the City of Long Beach, and it shall take effect on the thirty-first (31st) day after it is approved by the Mayor.

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OFFICE OF THE CITY ATTORNEY
CHARLES PARKIN, City Attorney
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I hereby certify that the foregoing ordinance was adopted by the City Council of the City of Long Beach at its meeting of _____, 20____, by the following vote:

Ayes: Councilmembers: _____

Noes: Councilmembers: _____

Absent: Councilmembers: _____

Recusal(s): Councilmembers: _____

City Clerk

Approved: _____
(Date)

Mayor

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ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF LONG BEACH AMENDING THE LONG BEACH
MUNICIPAL CODE BY AMENDING SECTION 21.21.406,
RELATING TO THE EXTENSION OF THE EXPIRATION
DATE FOR CERTAIN SUBDIVISION AND ENTITLEMENT
APPROVALS AND MODIFYING THE EXPIRATION PERIOD
FOR FUTURE APPROVALS

The City Council of the City of Long Beach ordains as follows:

Section 1. Section 21.21.406 of the Long Beach Municipal Code is amended to read as follows:

21.21.406 Expiration.

A. Except as otherwise provided in the conditions of approval, every right or privilege authorized under this Title shall terminate three (3) years after the granting of the request and be of no further force and effect if the right or privilege has not been commenced within that two-year period. The termination will take effect without further City action if a timely request for extension of time has not been made or is denied. Any interruption or cessation necessitated by publicly declared emergency, fire, flood, earthquake or act of war or vandalism or cessation shall not result in the termination of the right or privilege.

B. Upon written request received prior to the expiration of the permit, a one (1) year extension of the right or privilege may be granted by the Zoning Administrator. The request may be granted upon a finding that no substantial change of circumstances has occurred and that the extension

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would not be detrimental to the purpose of the Zoning Regulations. Notice of the requested extension shall be given to any person determined by the Zoning Administrator to have been aggrieved at the original hearing. Any person aggrieved by the Zoning Administrator's decision on an extension request may appeal that decision to the Planning Commission.

C. Any right or privilege approved under this Title between January 1, 2018 and the effective date of this ordinance shall be effective for a period of forty-eight (48) months from the date of issuance at which time it will expire and be of no further force or effect.

Section 2. The City Clerk shall certify to the passage of this ordinance by the City Council and cause it to be posted in three (3) conspicuous places in the City of Long Beach, and it shall take effect on the thirty-first (31st) day after it is approved by the Mayor.

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I hereby certify that the foregoing ordinance was adopted by the City Council of the City of Long Beach at its meeting of _____, 20____, by the following vote:

Ayes: Councilmembers: _____

Noes: Councilmembers: _____

Absent: Councilmembers: _____

Recusal(s): Councilmembers: _____

City Clerk

Approved: _____
(Date)

Mayor

1 RESOLUTION NO.

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3 A RESOLUTION OF THE CITY COUNCIL OF THE
4 CITY OF LONG BEACH AUTHORIZING THE DIRECTOR OF
5 DEVELOPMENT SERVICES TO SUBMIT AMENDMENTS
6 TO THE LONG BEACH ZONING REGULATIONS TO THE
7 CALIFORNIA COASTAL COMMISSION FOR APPROVAL
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9 WHEREAS, on _____, 2020, the City Council of the City of
10 Long Beach amended certain provisions of the Long Beach Zoning Regulations, Title 21,
11 of the Long Beach Municipal Code; and

12 WHEREAS, it is the desire of the City Council to submit the above
13 referenced zoning regulation amendments to the California Coastal Commission for its
14 review and certification; and

15 WHEREAS, the Planning Commission and City Council gave full
16 consideration to all facts and the proposals respecting the amendments to the zoning
17 regulations at properly noticed and advertised public hearings; and

18 WHEREAS, the City Council, in accordance with the recommendation of
19 the Planning Commission, approved the proposed amendments to the zoning regulations
20 by adopting amendments to Title 21. The proposed zoning regulation amendments are
21 to be carried out in a manner fully consistent with the Coastal Act and become effective in
22 the Coastal Zone immediately upon Coastal Commission certification and approval; and

23 WHEREAS, the City Council hereby finds that the proposed zoning
24 amendments will not adversely affect the character, livability or appropriate development
25 in the City of Long Beach and that the amendments are consistent with the goals,
26 objectives and provisions of the City's General Plan and the California Coastal Act.

27 NOW, THEREFORE, the City Council of the City of Long Beach resolves as
28 follows:

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Section 1. The amendment to the Long Beach Zoning Regulations of the City of Long Beach adopted on _____, 2020, by Ordinance No. ORD-20-_____, a copy of which is attached to and incorporated in this resolution as Exhibit "A", is hereby submitted to the California Coastal Commission for its earliest review as to that part of the ordinance that directly affects land use matters in that portion of the California Coastal Zone within the City of Long Beach.

Section 2. The Director of Development Services of the City of Long Beach is hereby authorized to and shall submit a certified copy of this resolution, together with appropriate supporting materials, to the California Coastal Commission with a request for its earliest action, as an amendment to the Local Coastal program that will take effect automatically upon Coastal Commission approval pursuant to the Public Resources Code or as an amendment that will require formal City Council adoption after Coastal Commission approval.

Section 3. This resolution shall take effect immediately upon its adoption by the City Council, and the City Clerk shall certify the vote adopting this resolution.

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OFFICE OF THE CITY ATTORNEY
CHARLES PARKIN, City Attorney
411 West Ocean Boulevard, 9th Floor
Long Beach, CA 90802

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I certify that this resolution was adopted by the City Council of the City of Long Beach at its meeting of _____, 2020, by the following vote:

Ayes: Councilmembers: _____

Noes: Councilmembers: _____

Absent: Councilmembers: _____

Recusal(s): Councilmembers: _____

City Clerk

FINDINGS

Economic Resilience – Entitlement Expirations - Zoning Code Amendment Application No. 2003-006 June 9, 2020

The Long Beach Municipal Code does not require specific findings for the adoption of a Zoning Code Amendment. The proposed Zoning Code Amendments, however, are consistent with state law and guidelines, consistent with other elements of the General Plan, will not adversely affect the character, livability or appropriate development of the City, and is in conformity with public necessity, convenience, general welfare, and good planning practice. The City of Long Beach makes these findings in support of its adoption of the Economic Resilience – Entitlement Expirations - Zoning Code Amendments.

The Zoning Code Amendments are consistent with objectives, principles, and standards of the General Plan. The Zoning Code Amendments (ZCA) would not conflict with the City's General Plan, the 2010 Strategic Plan, local coastal program, or any other applicable land use plans and policies. The ZCA involves amendments to various sections of the zoning code to provide a one-time extension of existing entitlements during a time of public health and economic distress, consistent with the declared local, state and federal emergency. The ZCA is consistent with goals, policies and strategies in the existing Land Use Element (LUE), Housing Element (HE), and Mobility Element (ME) of the General Plan. The ZCA does not change physical development standards but rather changes the expiration date of existing approvals. As these projects underwent individual approval processes, including findings of General Plan consistency, extension of those approvals forwards the construction of projects that are consistent with the General Plan.

As part of clarifying entitlement expiration regulations, the ZCA will amend the expiration date of new entitlements on a going-forward basis to provide uniform 36-month entitlement lifespans. This approach is consistent with the Economic Blueprint and General Plan provisions that promote orderly development and reform of development regulations to be consistent, fair, transparent and productive toward public goals. This change to harmonize all expiration dates will remove an existing inequity within the Zoning Code whereby different approvals are treated differently without a rational basis to do so.

The Omnibus Zoning Code Amendments will not adversely affect the character, livability or appropriate development of the City, and is in conformity with public necessity convenience, general welfare, and good planning practice. As the City's current zoning code has not been substantively updated since 1989, there are many sections of the current code that maintain outdated standards, regulations, and references that affect quality of life in the City and inhibit good planning. The proposed amendments do not change development standards for physical development but rather change the procedural processing of entitlements and other approvals. This change will respond to an emergency situation and improve the City's economic resiliency and ability to resume construction including critical construction of market-rate and affordable housing. The change also harmonizes conflicting sections of the Zoning Code related to entitlement expirations, a change that is consistent with good planning practice and furtherance of the public interest to promote development and investment that is consistent with the General Plan.