



Legislation Text

File #: 20-0524, **Version:** 2

Recommendation to declare ordinance 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, read and adopted as read. (Citywide)

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.

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.

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.

Approve recommendation.

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

LINDA F. TATUM, FAICP
DIRECTOR OF DEVELOPMENT SERVICES

APPROVED:

THOMAS B. MODICA
ACTING CITY MANAGER