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# CITY OF POMONA

## PLANNING COMMISSION

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**DATE:** September 23, 2020

**TO:** Planning Commission

**FROM:** Gustavo N. Gonzalez, AICP, Planning Manager

**SUBJECT:** Time Extension Requests

### STAFF RECOMMENDATION

Staff recommends that the Planning Commission receive and review the information included in this memo and provide input and direction to staff.

### DISCUSSION

At its regular meeting of September 9, 2020, the Planning Commission considered three time extension requests on the consent calendar, which promoted questions about the maximum number of time extensions allowed and ability to deny a time extension request. The Commission directed staff to bring back a discussion item on the time extension process. In preparation for this discussion item, staff offers the following information for the Commission's consideration.

#### *Tentative Maps*

The State's Subdivision Map Act and the City's Subdivision Code regulate Tentative Tract Maps (TTM) and Tentative Parcel Maps (TPM). Generally, the Subdivision Map Act (Government Code Section 66452.6) provides for a 24-month expiration timeframe from the date of approval of a TTM or TPM. The Subdivision Map Act also provides for discretionary extensions totaling up to six years. However, applicants must apply for an extension before their TTM or TPM expires as the Subdivision Map Act does not recognize revival of a tentative map once expired.

#### *Conditional Use Permits*

Conditional Use Permits (CUP) are regulated by the Pomona Zoning Ordinance (PZO).

#### Expiration Deadline

Section .580(I)(1) of the PZO states that a conditional use permit shall lapse and become void at the time specified in the resolution approving such conditional use permit or if no time is so specified one year following the date on which the approval became effective unless prior to the expiration of one year one of the following occurs:

- A building permit is issued and work is commenced and diligently pursued toward completion on the site, which was the subject of the application.
- A permit is issued authorizing occupancy of improvements to the site or structure which was the subject of the application.
- The site is occupied if no building permit or certificate of occupancy is required.

As a matter of policy, the majority of recent CUPs have been approved with a one-year expiration timeframe. However, Section .580(I)(1) provides authority to the Commission to set the expiration deadline of the CUP from the date of its approval. If no expiration time is specified in the CUP's approved resolution, a one-year expiration timeframe is required. In consideration of the typical development process and economic factors affecting projects, expiration timeframe could be set depending on the type and/or size of a project. For example, larger projects such as a multi-story mixed-use building are less likely to have commenced any construction work within one year of CUP approval than a smaller residential project. The Commission could consider granting a longer expiration date for larger projects given that they are more likely to need a time extension within one year.

#### Number of Extensions and Timeliness of Submittals

Section .580(I)(2) of the PZO states that a CUP may be extended twice for an additional period of one year provided that prior to the expiration of one year from the date when the approval or the renewal became effective, an application for renewal of the CUP is filed with the Planning Division. The extension must be received prior to the date of expiration.

Prior to granting the second extension of a CUP, the approving authority must find, based upon substantial evidence submitted by the applicant, that all of the following exist:

- The applicant has made a consistent, progressive, good-faith effort to exercise his conditional use permit within the one-year period following its initial extension.
- The applicant has been prevented or otherwise inhibited in his efforts to exercise such conditional use permit by unreasonable conditions beyond his control. Such conditions may include, but not necessarily be limited to, requirements imposed by other governmental agencies.
- Substantial evidence does not currently exist which would justify revocation of the conditional use permit. Such evidence must not have existed at the time of approval of the original conditional use permit or, if such evidence did exist, it must not have been capable of production at that time with the exercise of reasonable diligence.
- The conditional use permit will not be contrary to or in violation of any currently adopted policy, ordinance, rule or regulation.
- Only the applicant (owner or developer) who originally received approval for the conditional use permit may be granted a second extension.

Time extension applications require a filing fee of \$812.33 and must be submitted prior to the CUP date of expiration. As noted in Section .580(I)(2), a CUP may be extended twice for an additional period of up to one year. A question raised by the Commission was whether the Commission could grant extensions beyond the two one-year extensions. Upon consultation with the City Attorney's Office, it does not appear that the PZO allows additional extensions beyond the two explicitly stated. However, as previously mentioned, a project's expiration timeframe could be extended upon approval of its entitlements. This could benefit larger projects that would otherwise likely need to request a time extension based on their size and complexity.

#### **ATTACHMENTS**

- 1) PZO, Section .580 (Conditional Use Permits)