



AGENDA REPORT

Meeting Date: July 7, 2011
Item Number: F-4
To: Honorable Mayor & City Council
From: City Attorney
Subject: AN ORDINANCE OF THE CITY OF BEVERLY HILLS CLARIFYING TERMS OF VALIDITY FOR DEVELOPMENT AND SUBDIVISION MAP APPROVALS AND AMENDING THE BEVERLY HILLS MUNICIPAL CODE
Attachments: 1. Ordinance

RECOMMENDATION

It is recommended that the proposed ordinance be adopted.

INTRODUCTION

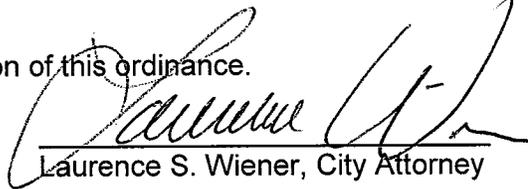
This ordinance amends the Municipal Code regarding the time periods in which rights granted pursuant to City development approvals must be exercised and is intended to create consistency between the State Subdivision Map Act and the City's ordinances related to subdivision map approvals, and to coordinate extensions for projects that include both planning entitlements and subdivision map approvals.

DISCUSSION

At the meeting of June 21, 2011 the City Council conducted a first reading of this ordinance.

FISCAL IMPACT

There is no fiscal impact anticipated from adoption of this ordinance.


Laurence S. Wiener, City Attorney

Attachment 1

ORDINANCE NO. 11-O-_____

AN ORDINANCE OF THE CITY OF BEVERLY HILLS
CLARIFYING TERMS OF VALIDITY FOR DEVELOPMENT
AND SUBDIVISION MAP APPROVALS AND AMENDING
THE BEVERLY HILLS MUNICIPAL CODE

THE CITY COUNCIL OF THE CITY OF BEVERLY HILLS HEREBY
ORDAINS AS FOLLOWS:

Section 1. The City Council hereby amends Subsection (C) of Section 10-2-206 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code to read as follows:

“C. Time Limits On Extensions: Extensions of a tentative map approval or conditional approval shall not exceed an aggregate of six (6) years.”

Section 2. The City Council hereby amends Section 10-3-207 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code to read as follows:

“10-3-207: TIME OF EXERCISE OF RIGHTS:

A. Time of exercise of rights for projects that consist solely of approvals granted pursuant to this Chapter.

Unless otherwise provided in this chapter or a resolution, development agreement or other action granting any discretionary approval authorized by this Chapter, the exercise of rights granted in such approval shall be commenced within three (3) years after the date of approval.

Unless otherwise provided in a resolution, development agreement or other action granting any discretionary approval authorized by this Chapter, the reviewing authority may grant up to two (2) 1-year extensions of the time limit contained in this section if an application

therefor is made at least thirty (30) days prior to the expiration of the time limit, or any extension thereof. Such extension may be granted after a duly noticed public hearing held pursuant to the same procedures applicable to the approval of the original application, if the reviewing authority determines that conditions and regulations affecting development in the city have not changed in a manner that would warrant reconsideration of the findings and decision made at the time of original approval and the extension of the approval will not unreasonably delay efforts to advance the objectives of the zone.

The reviewing authority may impose conditions on an extension to ensure that the extension will not be contrary to the findings made at the time of original approval.

Except as otherwise provided in this chapter, no time limit imposed pursuant to this subsection may be extended beyond five (5) years after the initial action granting the original approval. Any decision regarding an extension pursuant to this subsection may be appealed in the same manner and to the same appellate body as an appeal of the approval of the original application or, if no appeal procedures are specified, to the city council in the manner provided by Title 1, Chapter 4, Article 1 of this Code.

The failure to exercise any right granted by the original approval within the time limit provided, or any extension thereof, shall constitute an abandonment of the original approval and all rights conveyed by the approval shall lapse and expire.

The procurement of a building permit for or the commencement of any use authorized by a discretionary permit or approval shall constitute the exercise of the rights granted by such approval. However, all rights conveyed by the approval shall lapse and expire upon expiration of such building permit unless such building permit is extended pursuant to Title 9 of this code.

B. Time of exercise of rights for projects that include a tentative subdivision map pursuant to Chapter 2 of this Title.

Unless otherwise provided in this Chapter or a resolution, development agreement or other action granting any discretionary approval authorized by this Chapter, the exercise of rights granted in such approval shall be commenced within two (2) years from the date of approval if the approval is granted in conjunction with a tentative subdivision map approved pursuant to Chapter 2 of this Title.

The reviewing authority may grant extensions of the time limit contained in this subsection such that the time in which to exercise the discretionary approval rights is the same as the time in which to exercise the rights of the tentative map approval. In addition to the granting of extensions pursuant to the foregoing sentence, the reviewing authority may also grant an extension of the time limit in which to exercise the discretionary approval rights granted pursuant to this Chapter by one year from the date of final map approval.

Extensions of the time limit provided in this subsection may be granted if an application therefor is made at least thirty (30) days prior to the expiration of the time limit, or any extension thereof. Such extension may be granted after a duly noticed public hearing held pursuant to the same procedures applicable to the approval of the original application, if the reviewing authority determines that conditions and regulations affecting development in the city have not changed in a manner that would warrant reconsideration of the findings and decision made at the time of original approval and the extension of the approval will not unreasonably delay efforts to advance the objectives of the zone.

The reviewing authority may impose conditions on an extension of the approvals granted pursuant to this Chapter to ensure that the extension will not be contrary to the findings made at the time of original approval.

Any decision regarding an extension pursuant to this section may be appealed in the same manner and to the same appellate body as an appeal of the approval of the original application or, if no appeal procedures are specified, to the city council in the manner provided by Title 1, Chapter 4, Article 1 of this Code.

The failure to exercise any right granted by the original approval within the time limit provided, or any extension thereof, shall constitute an abandonment of the original approval and all rights conveyed by the approval shall lapse and expire.

The procurement of a building permit for or the commencement of any use authorized by a discretionary permit or approval granted pursuant to this Chapter shall constitute the exercise of the rights granted by such approval. However, all rights conveyed by the approval shall lapse and expire upon expiration of such building permit unless such building permit is extended pursuant to Title 9 of this code.

C. Extension of time to exercise rights when a related tentative map is extended by State law.

Unless otherwise provided in this Chapter or a resolution, development agreement or other action granting any discretionary approval authorized by this Chapter, if the State adopts legislation automatically extending the term of any valid tentative tract map approval, the Director shall have the authority to grant extensions of related valid City's approvals granted pursuant to this Chapter for the same period of time as set forth in the State legislation. If changes in city policies have occurred between the later of the date of project approval, or the

most recent extension thereof, and the effective date of the State legislation, and the related subdivision map is not a vesting map, the Director shall have the authority to refer extension requests to the reviewing authority.”

Section 3. The City Council hereby amends Section 10-3-1844 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code to delete existing Subsections A and B, and re-letter the remaining Subsections to read as follows:

“10-3-1844: APPROVALS:

The planning commission may approve a planned development if the commission finds that the proposal will meet the requirements of this code and will advance objectives of the zone in which it is located. The planning commission may impose such conditions and restrictions on the approval as are necessary to ensure that the planned development will advance objectives of the zone.

A. Vested Rights: The approval of a planned development shall not create any right to an extension of such approval or any vested right to develop the subject property in a manner that does not comply with the laws and regulations in effect at the time that the applicant obtains a building permit.

B. Notice Of Decision: Notice of the decision of the planning commission shall be provided to the applicant in the manner specified for notice of a hearing pursuant to section 10-3-1843 of this article.

C. Traffic Monitoring After Development Approval: The planning commission shall require as a condition of a planned development approval that the traffic generated by the development be periodically monitored, at the expense of the applicant, to ensure that the actual levels of traffic do not significantly exceed the levels of traffic anticipated by the environmental

review of the development when it was approved. In the event that such monitoring shows there has been a significant increase in the anticipated traffic generation, the planning commission may impose additional traffic mitigation measures on the development that are reasonably necessary to mitigate the traffic to the anticipated levels.”

Section 4. The City Council hereby amends Section 10-3-1847 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code to read as follows:

“10-3-1847: TIME FOR EXERCISE OF RIGHTS;

Unless otherwise provided in a resolution, development agreement, or other City approval granting a planned development approval, the exercise of rights granted in such approval shall be commenced in accordance with the time limits imposed by section 10-3-207 of this Chapter.”

Section 5. CEQA Findings.

The City Council hereby finds that it can be seen with certainty that there is no possibility that the adoption and implementation of the proposed Ordinance may have a significant effect on the environment. The Ordinance merely clarifies the Municipal Code to set the expiration date of subdivision map approvals and of planned development approvals. This Ordinance is therefore exempt from the environmental review requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of Title 14 of the California Code of Regulations.

Section 6. Severability.

If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance or the application thereof to any person or place, is for any reason held to be invalid

or unconstitutional by the final decision of any court of competent jurisdiction, the remainder of this Ordinance shall be and remain in full force and effect.

Section 7. Publication.

The City Clerk shall cause this Ordinance to be published at least once in a newspaper of general circulation published and circulated in the City within fifteen (15) days after its passage in accordance with Section 36933 of the Government Code, shall certify to the adoption of this Ordinance, and shall cause this Ordinance and his certification, together with proof of publication, to be entered in the Book of Ordinances of the Council of this City.

Section 8. Application to Existing Entitlements.

The provisions of this Ordinance shall not be applied in a manner that would cause an existing entitlement to expire at a date earlier than the expiration date applicable to such existing entitlement on the day that this Ordinance takes effect.

Section 9. This Ordinance shall go into effect and be in full force and effect at 12:01 a.m. on the thirty-first (31st) day after its passage.

ADOPTED:

BARRY BRUCKER
Mayor of the City of Beverly Hills, California

ATTEST:

BYRON POPE
City Clerk

(SEAL)

APPROVED AS TO FORM:


LAURENCE S. WIENER
City Attorney

APPROVED AS TO CONTENT:

JEFFREY KOLIN
City Manager


SUSAN HEALY KEENE, AICP
Director of Community Development