



# Planning Commission Report

**Meeting Date:** March 24, 2011

**Subject:** **ORDINANCE AMENDMENT**– Clarifying the time during which the recipient of a development approval or subdivision map approval must exercise the approval rights. (Continued from March 10, 2011)

**Recommendation:** That the Planning Commission:

1. Take public comment, conclude deliberations, close the public hearing, and adopt the attached resolution.

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## REPORT SUMMARY

Attached for the Planning Commission's consideration is a draft resolution (Attachment A) recommending that the City Council adopt the draft ordinance, entitled "AN ORDINANCE OF THE CITY OF BEVERLY HILLS CLARIFYING TERMS OF VALIDITY FOR PLANNED DEVELOPMENT AND SUBDIVISION MAP APPROVALS," which is included as Attachment 1 to the draft resolution.

As discussed at the March 10, 2011 Commission meeting, the draft ordinance proposes minor changes to the City's Code in order to clarify the time period during which the recipient of a planned development approval must exercise rights under that approval in order to retain such rights. The ordinance would clarify that the time period may be set forth in a development agreement or other approval, in addition to in a resolution approving a development approval. At the conclusion of the discussions on March 10<sup>th</sup>, the Commission directed staff to report back regarding the rights vested through vesting subdivision maps and to make certain revisions to the draft ordinance. These issues are discussed below.

### Vesting Tentative Maps

The Commission requested clarification of the relationship between planning approvals and the rights granted through a vesting tentative map approval. Pursuant to the Subdivision Map Act, approval of a vesting tentative map confers "a vested right to proceed with development *in substantial compliance with the ordinances, policies, and standards*" that are "in effect at the date the [city] has determined that the application is complete...." (Govt. Code Section 66498.1 (b) and Section 66474.2(a), respectively.)

If, for example, a vesting map is approved at the same time as development applications, and those development applications are allowed to expire, the subdivider could apply for new development entitlements so long as the map had not expired. The City, however, could not apply any new ordinances, policies or standards that may have

Attachment(s):

- A. Draft RESOLUTION, including Draft ORDINANCE
- B. Redlined Ordinance showing changes from March 10, 2011 version
- C. Redlined Code Sections

Report Author and Contact Information:

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dsnow@beverlyhills.org

been adopted after the date on which the vesting map application was deemed complete.<sup>1</sup> Therefore, the rights that are vested are the rights to proceed in a manner consistent with regulations in effect at the time the application is deemed complete, and not right to develop in accordance with related planning entitlements that may have been granted concurrently. At bottom, the City could preserve flexibility to revisit planning approvals while the vesting map remains valid, but it could only do so through application of the regulations in effect at the time the vesting map application was deemed complete. The City would not be able to require compliance with ordinances, policies or standards adopted after the date on which the vesting subdivision map application was deemed complete.

Therefore, the entitlements granted in conjunction with a vesting subdivision map would be subject to the same extension rules as a standard subdivision map, except that any new ordinances, policies or standards could not be imposed on planning entitlements related to a vesting map, whereas they could be imposed on applications related to a standard subdivision map.

#### **Extensions to Match Automatic Extensions of Subdivision Maps by State Law**

During discussions at the March 10<sup>th</sup> meeting, the Commission expressed interest in allowing for extension of planning entitlements if the term of a related subdivision approval is extended by the operation of State law. Examples of such automatic extensions include Senate Bill 1185 and Assembly Bill 333, from 2008 and 2009, respectively, which automatically extended all unexpired map approvals by a total of three years.

The draft ordinance has been revised to include this new provision, which authorizes the Director to grant an extension of the planning entitlements for the same length of time as the related subdivision map is extended by State law. In the event of changes in policy after the later of the initial approval or the most recent extension, the Director has the authority to refer the extension request to the reviewing authority, provided the subdivision map is not a vesting map. The Director would not have the authority to refer extension requests for approvals related to a vesting map because, under vesting rules, the City would generally be precluded from imposing new policies or regulations on those entitlements. Instead, the City would be limited to applying only the regulations or policies in effect at the time the vesting map application was deemed complete.

The new provision appears at Section 10-3-207 C. in the draft ordinance.

#### **Extension of Planning Entitlement for an additional year after final map approval.**

In discussing the proposed ordinances with Mr. Lee Silver, he noted that in some circumstances project applicants would not be in a position to exercise rights under the planning entitlements until after the final subdivision map has been approved for recordation. Under the ordinance as previously drafted, planning approvals could be extended to be valid for the same term as the related subdivision map. In order to allow an applicant to keep planning entitlements in effect after final map approval, the ordinance was revised to provide an opportunity for extension of those entitlements for up to an additional year after final map approval.

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<sup>1</sup> The Subdivision Map Act includes limited exceptions for when the action would place residents of the subdivision or the community in a condition dangerous to their health or safety, or both, or in order to comply with State or Federal law (Govt. Code Sec. 66498.1(c)).

## **GENERAL PLAN<sup>2</sup> POLICIES –**

As noted in the staff report for the March 10<sup>th</sup> meeting, when amending the zoning code, state law requires the Planning Commission recommendation to include the reasons why it is recommending the zoning amendment, and how those changes would relate to the general, and any specific plans. The General Plan includes policies and programs relevant to the Planning Commission's review of the project, as provided below.

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### Related General Plan Program

#### Program 2.1 **Update Zoning Code and Development**

**Regulations.** Review and revise the Zoning Code to reflect the general plan's policies for permitted uses and development standards.

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The zoning code amendments accomplished through the proposed Ordinance would revise the Zoning Code to comply with state law and ensure consistency among the development standards for various planned development approvals. By clarifying the administrative regulations for planned development approvals, the proposed Ordinance adds more certainty as to when approvals would expire.

## **ENVIRONMENTAL ASSESSMENT**

The subject Ordinance has been assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines<sup>3</sup>, and the environmental regulations of the City. 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 certain administrative provisions related to planned development and subdivision map approvals. Thus, the Ordinance is 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.

### Public Review Period

Notice that the Planning Commission was to consider this item at a public hearing on March 10, 2011 was noticed as a public hearing in the Beverly Hills Courier on February 25, 2011, which allows a 13 day advance notice (State requirement is 10 days). In addition a courtesy notice was published in the Beverly Hills Weekly on March 3, 2011.

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<sup>2</sup> Available online at: [http://www.beverlyhills.org/services/planning\\_division/general\\_plan/genplan.asp](http://www.beverlyhills.org/services/planning_division/general_plan/genplan.asp)

<sup>3</sup> The CEQA Guidelines and Statute are available online at <http://ceres.ca.gov/ceqa/guidelines>

**PUBLIC OUTREACH AND NOTIFICATION**

Type of Notice	Required Period	Required Notice Date	Actual Notice Date	Actual Notice Period
Posted Notice	n/a			
Newspaper Notice	10 days in advance	2/28/2011	2/25/2011	13 days
Mailed Notice (Owners & Residents - 300' Radius)	n/a			
Property Posting	n/a			
Website	n/a			

Public Comment

At the time this report was written, no public comments had been received. Public Comments can be received up to the time at which the item is to be heard by the Planning Commission.

**NEXT STEPS**

The Planning Commission should consider, revise if necessary, and adopt a draft resolution recommending that the City Council adopt an ordinance amending the zoning code to clarify administrative provisions related to planned development approvals. The recommendation from the Planning Commission will then be transmitted to the City Council along with a draft ordinance amending the zoning code to clarify the time period during which planned development approvals shall remain valid.

Report Reviewed By:

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Jonathan Lait, AICP  
Assistant Director of Community Development / City Planner

**ATTACHMENT A**

Draft RESOLUTION

RESOLUTION NO. \_\_\_\_\_

**RESOLUTION OF THE PLANNING COMMISSION OF  
THE CITY OF BEVERLY HILLS RECOMMENDING  
THAT THE CITY COUNCIL ADOPT AN ORDINANCE  
AMENDING THE MUNICIPAL CODE TO CLARIFY  
TERMS OF VALIDITY FOR DEVELOPMENT AND  
SUBDIVISION MAP APPROVALS**

The Planning Commission of the City of Beverly Hills hereby resolves as follows:

Section 1. The California Legislature has amended state law to provide that tentative subdivision map approvals may be extended for up to six years beyond the initial two-year period of validity, instead of the five years previously allowed by state law. The Beverly Hills Municipal Code Section 10-2-206 should be updated to reflect this change in state law.

Section 2. The Municipal Code presently states that the period to exercise any rights granted under a planned development or other approval shall commence in accordance with Section 10-3-207, unless otherwise stated in a *resolution* approving the development. However, there are instances in which the City may provide for different periods for the exercise of planned development or other entitlement rights by development agreement or other approval. Thus, the City should amend the Municipal Code to clarify that the period in which a party must commence exercising rights granted under a development approval may be set forth in a development agreement or other approval, in addition to terms set forth in a resolution. If no other period is specified, the 3-year default period of Section 10-3-207 would apply.

Section 3. The Planning Commission 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 administrative provisions regarding the expiration date and extension periods for planned development and subdivision map 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 4. On February 25, 2011, notice of the March 10, 2011 public hearing was published in *The Beverly Hills Courier*. On March 3, 2011, a courtesy notice of the public hearing was published in the *Beverly Hills Weekly*.

Section 5. On March 10, 2011, the Planning Commission held a duly noticed public hearing to consider a draft Ordinance entitled as follows, hereinafter referred to as “Ordinance”, clarifying the terms of validity for development and subdivision map approvals. The Planning Commission directed staff to make certain revisions to the draft ordinance to provide for extensions of planning entitlements consistent with automatic extensions of related subdivision maps as may be granted by the State from time to time, and continued the matter to the March 24, 2011 meeting, at which time further opportunity for public testimony was provided, deliberations were held, and the public hearing was closed.

Section 6. The Ordinance, as proposed, is set forth in Exhibit 1, and would amend Section 10-3-207 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code regarding the generally applicable rules regarding the time to exercise rights under city planning and zoning approvals to clarify that terms can be set by development agreements, and to set forth specific

extension regulations for project with related subdivision maps. The Ordinance would also amend Section 10-2-206 of Chapter 2 of Title 10 regarding the period of validity for subdivision map approvals. Finally, the Ordinance would amend Sections 10-3-1844 and 10-3-1847 to clarify and make consistent the various provisions related to the time period during which a party must begin exercising rights under a planned development approval.

Section 7. Based on the evidence presented in the record on this matter including the staff report and oral and written testimony, the Planning Commission hereby finds that clarifying these administrative provisions regarding planned development and subdivision map approvals serves the public interest, health, comfort, convenience, and general welfare.

Section 8. Based on the evidence presented in the record on this matter including the staff report and oral and written testimony, the Planning Commission hereby finds that the Ordinance is consistent with policies and programs in the General Plan. The Ordinance complies with Program 2.1, which states that the City will “[r]eview and revise the Zoning Code to reflect the general plan’s policies for permitted uses and development standards.” Therefore, the proposed Ordinance is consistent with the General Plan.

Section 9. The Planning Commission hereby recommends that the City Council adopt an Ordinance with provisions substantially in the form as set forth in Exhibit 1 attached hereto.

Section 10. The Secretary shall certify to the adoption of this Resolution and shall cause this Resolution and his certification to be entered in the Book of Resolutions of the Planning Commission of the City.

Adopted:

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Daniel Yukelson  
Chair of the Planning Commission of the  
City of Beverly Hills, California

ATTEST:

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Secretary

Approved as to form:

Approved as to content:

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David M. Snow  
Assistant City Attorney

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Jonathan Lait, AICP  
City Planner

EXHIBIT 1

[DRAFT] ORDINANCE NO. 11-O-\_\_\_\_\_

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

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. 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 after the 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:

\_\_\_\_\_  
[Mayor's Name]  
Mayor of the City of Beverly Hills, California

ATTEST:

\_\_\_\_\_  
BYRON POPE  
City Clerk

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

\_\_\_\_\_  
LAURENCE S. WIENER  
City Attorney

\_\_\_\_\_  
JEFFREY KOLIN  
City Manager

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SUSAN HEALY KEENE, AICP  
Director of Community Development

## **ATTACHMENT B**

Redlined Ordinance showing changes from March 10, 2011 version

EXHIBIT 1

[DRAFT] ORDINANCE NO. 11-O-\_\_\_\_\_

AN ORDINANCE OF THE CITY OF BEVERLY HILLS  
CLARIFYING TERMS OF VALIDITY FOR ~~PLANNED~~  
DEVELOPMENT AND SUBDIVISION MAP APPROVALS

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 ~~project~~projects that include a tentative subdivision map pursuant to Chapter 2 of this Title.

Unless otherwise provided in this ~~chapter~~Chapter or a resolution, development agreement or other action granting any discretionary approval authorized by this ~~chapter~~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. 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 after the 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:

\_\_\_\_\_  
[Mayor's Name]  
Mayor of the City of Beverly Hills, California

ATTEST:

\_\_\_\_\_  
BYRON POPE (SEAL)  
City Clerk

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

\_\_\_\_\_  
LAURENCE S. WIENER  
City Attorney

\_\_\_\_\_  
JEFFREY KOLIN  
City Manager

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SUSAN HEALY KEENE, AICP  
Director of Community Development

<b>Input:</b>	
Document 1 ID	interwovenSite://RWGDMS2/RWGIMAN1/1328948/3
Description	#1328948v3<RWGIMAN1> - BH - Ord - Planned Development Approvals
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## **ATTACHMENT C**

Redlined Code Sections

## **10-2-206: EXPIRATION OF TENTATIVE MAP APPROVAL:**

A. Expiration: The approval or conditional approval of a tentative tract map shall expire twenty four (24) months after the date the map was approved or conditionally approved or such other period as may be set by section 66452.6 of the Government Code of the state.

B. Extensions: The person filing the tentative map may request an extension of the tentative map approval or conditional approval by a written application to the planning commission, such application to be filed at least thirty (30) days before the approval or conditional approval is due to expire. The application shall state the reasons for requesting the extension. In granting an extension, new conditions may be imposed, and existing conditions may be revised.

C. Time Limits On Extensions: ~~An extension or extensions~~ Extensions of a tentative map approval or conditional approval shall not exceed an aggregate of ~~three~~six (36) years."

D. Effect Of Map Modifications On Extensions: The modification of a tentative map after approval or conditional approval shall not extend the time limits imposed by this section.

E. Failure To File Final Maps: Failure to file the final map within the time periods set forth in this section shall automatically terminate and void the tentative map. (Ord. 75-O-1561, eff. 3-4-1975; amd. Ord. 82-O-1846, eff. 4-15-1982; Ord. 88-O-2034, eff. 8-4-1988)

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

~~The~~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 in any resolution granting a discretionary approval, 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 ~~section~~subsection may be extended beyond five (5) years after the adoption of the initial final ~~resolution~~action granting the original approval. Any decision regarding an extension pursuant to this ~~section~~subsection may be appealed to the appropriate review authority in the same manner ~~provided by~~and to the same procedures applicable to ~~an~~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~~Title 1, chapter 4, article 1 of this code. For those projects that include a tentative map subject to the provisions of chapter 2 of this title, the time limit imposed pursuant to this ~~section~~ may be extended up to seven (7) years after the adoption of the initial final resolution granting the original approval in accordance with applicable state law 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~~Title 9 of this code. (Ord. 02-O-2411, eff. 11-22-2002)

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. 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 after the 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.

**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. Expiration: The planning commission's approval of a planned development shall expire unless the applicant obtains building permits for the planned development within three (3) years after the date of the planned development approval. Furthermore, the planned development approval will also expire if the building permits for such development expire.

~~B. Extensions: The planned development approval may be extended a maximum of two (2) times. Each extension shall be for a period of no more than one year. The planning commission may grant an extension if, after a public hearing, pursuant to the procedures set forth in section 10-3-1843 of this article, the planning commission determines that: 1) conditions and regulations affecting development in the city have not changed in a manner that would warrant reconsideration of the findings and the decision made at the time of the original planned development approval, and 2) the extension of the planned development approval will not unreasonably delay efforts to advance the objectives of the zone.~~  
~~C. 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.~~

~~D. 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.~~

~~E. 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. (Ord. 91-O-2127, eff. 11-8-1991)~~

### **10-3-1847: TIME FOR EXERCISE OF RIGHTS:**

~~Unless otherwise provided in thea 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. (Ord. 02-O-2411, eff. 11-22-2002)Chapter.~~

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