

ATTACHMENT A
Planning Commission Report of March 11, 2009

STAFF REPORT

TO: Planning Commission
FROM: Richard J. Bruckner, Director, Planning and Development
RE: Extension of Time Limits for Approval of Planning Entitlements

DATE: Meeting of March 11, 2009

RECOMMENDATION

The staff recommends that the Commission provide comments to the City Council regarding the proposed policy to extend the time limits for planning entitlements as outlined in this report.

Comment from Historic Preservation Commission

The proposed policy was reviewed by the Historic Preservation Commission on March 2, 2009. That commission provided the following comment:

- Each applicant that would potentially be impacted by this proposed policy should receive a notice of the City Council public hearing on this proposed policy.

Comments from the Design Commission

The proposed policy was reviewed by the Design Commission on March 9, 2009. Their comments will be presented orally to the Commission.

BACKGROUND

Currently, § 17.64.040.B of the Municipal Code provides that:

- B. **Extensions of time.** Upon request by the applicant, the Director may extend the time for an approved permit to be exercised in the following manner.
1. The applicant shall file a written request for an extension of time with the Department before expiration of the permit.
 2. The Director may grant the extension, without notice or public hearing, only upon making a determination that the findings and conditions of the original approval still apply.
 3. The burden of proof is on the permittee to establish with substantial evidence that the permit should not expire. If the Director determines that the permittee has good-faith intent to presently commence the proposed project, the Director may grant a time extension for up to an additional 12 months, from the date of the decision, to extend the permit.
 4. Only one 12-month time extensions may be granted.

Due to the current economic climate, numerous projects that have secured entitlements have not been able to proceed with development. It is estimated that approximately 40 entitlements are due to expire this calendar year (see attached listing).

PROPOSED POLICY

Because the successful undertaking of these projects could have a positive impact on the local economy the following policy is proposed:

Notwithstanding § 17.64.040.B.4, which provides that the Director may grant only one 12-month time extension, upon request by the applicant, a second 12-month time extension may be granted by the Director, subject to the following provisions:

1. No sooner than 120 days prior to the expiration of a permit, the applicant shall file an application for an extension of time with the Department and shall pay the applicable application fee before expiration of the permit, or for those permits that have already expired, the applicant shall file an application for an extension of time with the Department and shall pay the applicable application fee within 60 days of the effective date of the implementing ordinance of this policy.
2. There shall be no burden of proof required on the part of the permittee. There is a presumption that all projects are impacted by the current economic climate. Additionally, it shall not be necessary for the Director to determine that "the permittee has a good-faith intent to presently commence the proposed project" for either the first or the second extension during the period specified below in provision no. 5.
3. The Director shall grant the second time extension, without notice or public hearing, only upon making the following determinations:
 1. that the findings and conditions of the original approval still apply; and
 2. that the project is compliant with all findings and conditions of approval from any applicable permit or approval; and
4. The second time extension shall be for only one additional 12-month period beyond the expiration of the first time extension.
5. The grant of the second extension by the Director shall occur before December 31, 2011.
6. This policy shall not apply to any permit that has been officially abandoned or relinquished by the applicant.
7. Only the following types of entitlements shall be eligible for a second extension under this policy:

Adjustment Permits; Affordable Housing Concession / Waiver Permits; Conditional Use Permits (note that extensions under Master Plans are governed under the provisions of the applicable master plan); Minor Conditional Use Permits; Creative Sign Permits; Expressive Use Permits; Hillside Development Permits; Master Sign Plans; Modifications to Persons with Disabilities; Sign Exceptions; Variances; Minor Variances; Variances for Historic Structures; Floor Area Increase; Concept Design Approvals; Consolidated Design Approvals; Final Design Approvals; Certificates of Appropriateness; and Home Occupation Permits

The following types of entitlements are expressly not eligible for a second extension under this policy:

Tentative and Final Tract Maps (including vesting maps); Certificates of Exception (i.e. lot line adjustments); Tree Removals (unless associated with another entitlement in which case the other entitlement may be eligible); Long-term Filming Permits; Temporary Use Permits; Relief from Replacement Building Permit Requirement; and Code Compliance Certificates

Implementation of this policy would require adoption of an uncodified ordinance (i.e. would not require any amendment to Title 17 of the Municipal Code) by the City Council. Also, it is noted that authority for extension of Building Permits and Plan Checks is authorized by Appendix Chapter 1, Sections 105.3.2 and 105.5 of the 2007 California Building Code.

ANALYSIS

The current economic climate has resulted in the delay or abandonment of numerous development projects. If they were to proceed, each of these projects could have a positive impact on the local economy through: the employment of construction industry personnel; the purchase of materials and supplies; and the payment of regulatory fees and taxes. Attached is an abbreviated listing of projects in the City of Pasadena, which have entitlements which are due to expire in 2009.

Some economic forecasts predict that the current economic downturn will continue through calendar year 2009 into 2010. The ability to retain entitlements could act as an inducement to continue to work on a project until the market rebounds. However, because an entitlement vests a project to comply with the regulations in place at the time of initial approval, and because regulations are continuously changing, the extension of entitlements would mean that a greater number of projects would be developed according to standards, which were no longer in effect. This is a situation which is anticipated by §17.10.130.E.1 of the Municipal Code, which states:

E. Effect of Zoning Code changes on projects in progress.

1. **Project with legislative or quasi-judicial approval.** A project with an effective legislative or quasi-judicial approval will be processed under the rules in effect on the effective date of the discretionary approval. These projects include a Conditional Use Permit, Design Review, Expressive Use Permit, Filming Permit, Temporary Use Permit, Variance, zone change, etc.

The number of projects that would fall under this provision has the potential to increase. The following table illustrates the potential extensions of time for a representative project under this proposed policy.

ENTITLEMENT	TIME LIMIT	1 ST EXTENSION	2 ND EXTENSION	TOTAL
Concept Design Approval	1 yr	1 yr	1 yr	3 yrs
Final Design Approval	2 yrs	1 yr	1 yr	4 yrs
Subtotal	3 yrs	2 yrs	2 yrs	7 yrs

Under this representative scenario a project could be developed under standards that were seven as opposed to five years old. Given the proposed limitation on the Director's authority under this proposed policy, it is unlikely that extensions exceeding this time frame would occur.

Respectfully submitted,

Richard J. Bruckner, Director
Planning and Development

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ATTACHMENTS:

- A. Partial listing of project entitlements scheduled to expire in 2009

ATTACHMENT B
Partial Listing of Project Entitlements Scheduled to Expire in 2009

APPROVED PROJECTS NOT FULLY IMPLEMENTED.

CURRENT PLANNING									
APRIL 2009									
Address	Project Description	Case Number/Type	PLN Number	Effective Date	Extension Request	Expiration Date	Bld. Permit (or Bus. Lic.) Status		
2191 E. Colorado Blvd.	Mixed Use Project - 44 work live units	CUP#4619	PLN2005-00535	11/21/2006	10/30/2008	11/21/2009	Plans are in plan check; CUP still active		
888 N. Los Robles	Construct storage room at rear of	MCUP #4697 CUP#4697 (ext.)	PLN2006-00113 PLN2008-00542	11/26/2008 11/26/2008	yes 11/25/2008	11/26/2009 11/25/2009	Plans never submitted for plan check: CUP still active		
3051 E. Foothill Blvd. 740 Holladay Rd.	Ice Skating Rink Single-family residence	CUP#4646 V#11563	PLN2005-00617 PLN2006-00454	7/18/2006 11/21/2006	7/19/2008 11/22/2008	7/19/2009 11/22/2009	Plans in plan check Plans never submitted for checking		
496 S. Arroyo Pkwy.	Mixed Use Project - 21 units; 7,500 sq. ft.	AHCP#11586	PLN2006-00385	1/30/2007	1/31/2009	1/31/2010	Plans checked; no final		
550 E. Colorado	Medical Office Building 112,850 sq. ft.	CUP#4537	PLN2006-00215	1/31/2006	yes	1/31/2009	Entitlements have expired. Final desing expires 8/22/2010.		
311 W. Mountain St.	36,000 sq. ft Office Bldg for Public Works	CUP#4739	PLN2006-00344	9/19/2006	yes	9/19/2009	Awaiting final sign-off; permit still to be issued		
95 N. Arroyo Pkwy. 95 N. Arroyo Pkwy.	Pawnshop	CUP#4805 CUP#4805 (mod)	PLN2006-00588 PLN2008-00479	4/3/2006	yes	4/3/2009	Applicant has withdrawn CUP as of 2/09.		
300 W. Green Street	Ambassador West - 450,000 sq. ft Life Care Facility 70 Residential Condos	CUP#4653 VTTM#063103	PLN2005-00642 PLN2006-00390 PLN2005-00582 PLN2006-00223-00231 PLN2007-00001	6/18/2007	yes 4/13/2009	4/2/2010	Design review process not completed		
106 W. Valley Street 134 W. Valley Street 144 W. Valley Street	Westgate Pasadena - Mixed Use urban housing project	MCUP#4703	PLN2004-00488	8/14/2006	yes	8/14/2009	Block 3 bidg permit issued & under construction; Block 2 final design approved, not submitted for plan check;		
25 W. Walnut Ave	200 RM HOTEL/110-UNIT CONDO	CUP# 4865	PLN2006-00650	6/19/2007	no	6/19/2009	No plans submitted for plan check.		

DESIGN & HISTORIC PRESERVATION

APRIL 2009

Address	Project Description	Case Number/Type	PLN Number	Effective Date	Extension Request	Expiration Date	Bld. Permit (or Bus. Lic.) Status
ALLEN S 94	3-UNIT	CONS DESIGN	PLN2005-00156	11/27/2007	NO	11/27/2009	NO BLDG PERMIT/NOT IN PLAN CHECK
ALPINE 321	4-UNIT	CONS DESIGN	PLN2007-00127	5/30/2007	NO	5/30/2007	NO BLDG PERMIT/NOT IN PLAN CHECK
ALTADENA S 58	12-UNIT	CONS DESIGN	PLN2007-00206	9/21/2007	NO	9/21/2009	NO BLDG PERMIT/NOT IN PLAN CHECK
ARROYO S 496	21-UNIT	FINAL DESIGN	PLN2007-00464	11/2/2007	NONE	11/2/2009	NO BLDG PERMIT/PLAN CHECK EXPIRED
CLAREMONT E	REAR ADDITION	CONS DESIGN		1/19/2007	NONE	1/19/2009	NO BLDG PERMIT/PLAN CHECK
COLORADO E 2191	44 WORK-LIVE	FINAL DESIGN	PLN2007-00391	8/10/2007	NO	8/10/2009	NO BLDG PERMIT/IN PLAN CHECK
COLORADO E 2191	44 LIVE-WORK	FINAL DESIGN	PLN2007-00391	8/10/2007	NONE	8/10/2009	NO BLDG PERMIT/IN PLAN CHECK
COLORADO E 2370	NEW DRUG STORE	Concept Design Final Design Master Sign Plan	PLN2007-00208 PLN2008-00241 PLN2008-00271	8/7/2007 3/31/2009 11/25/2008	YES	8/7/2009 3/31/2011 11/24/2010	Concept Design approved. Final Design approved recently. Not yet submitted for plan check.
DE LACEY S 151	WESTGATE, BLOCK 2	FINAL DESIGN	PLN2007-00669	12/21/2007	NO	12/21/2009	NO BLDG PERMIT/NOT IN PLAN CHECK
DE LACEY S 151	WESTGATE, BLOCK 2	FINAL DESIGN	PLN2007-00668	12/21/2007	NO	12/21/2009	NO BLDG PERMIT/NOT IN PLAN CHECK
Del Mar E 177	8-Unit Mixed Use	CONS DESIGN	PLN2006-00606	11/28/2006	no	11/28/2008	Plan check expired
EL MOLINO N 1350	4-UNIT	CONS DESIGN	PLN2007-00193	6/26/2007	NO	6/26/2009	NO BLDG PERMIT/PLAN CHECK EXPIRED
FAIR OAKS N 855	14-UNIT RESIDENTIAL	FINAL DESIGN	PLN2007-00144	7/22/2008	NO	7/22/2010	NO BLDG PERMIT/NOT IN PLAN CHECK
GREEN W 300	SUNRISE Senior Housing - 248 UNITS	CONCEPT DESIGN	PLN2007-00281	9/7/2007	Yes 6/24/2008	9/7/2009	NO BLDG PERMIT/NOT IN PLAN CHECK
HOLLISTON N 398	8-UNIT	CONS DESIGN	PLN2006-00668	5/19/2007	yes	5/19/2010	NO BLDG PERMIT/NOT IN PLAN CHECK
HUDSON S 171	20-UNIT	FINAL DESIGN	PLN2007-00196	6/12/2007	NO	6/12/2010	NO BLDG PERMIT/PLAN CHECK EXPIRED
LAKE N 580	2 STORY BLDG IN	CONS DESIGN		10/24/2006	NONE	10/24/2008	IN PLAN CHECK, RECENT ACTIVITY
LOCUST 1588	3-UNIT	CONS DESIGN	PLN2007-00636	2/16/2007	NO	2/16/2009	NO BLDG PERMIT/NOT IN PLAN CHECK
LOS ROBLES N 550	8-UNIT	CONS DESIGN	PLN2007-00069	10/23/2007	NO	10/23/2009	NO BLDG PERMIT/NOT IN PLAN CHECK
LOS ROBLES S 123	MIXED-USE - 31 Units	FINAL DESIGN	PLN2008-00085	3/21/2008	NONE	3/21/2010	NO BLDG PERMIT/PLAN CHECK EXPIRED
MARENGO S 229	21-UNIT	CONS DESIGN	PLN2006-00348	2/25/2008	NO	2/25/2010	NO BLDG PERMIT/NOT IN PLAN CHECK
MARENGO S 715	16-UNIT	CONS DESIGN	PLN2007-00334	11/7/2008	NO	11/7/2010	NO BLDG PERMIT/NOT IN PLAN CHECK
MICHIGAN N 277	8-UNIT	CONS DESIGN	PLN2006-00539	1/30/2007	NO	1/30/2009	NO BLDG PERMIT/NOT IN PLAN CHECK
MOUNTAIN E 1653	TWO-STORY ADDN	CONS DESIGN		4/6/2007	NONE	4/6/2009	3 RECHECKS. NO BP. PC EXPIRED
OAK KNOLL N 173	3-STORY, 5000 SF ADDITION	CONS DESIGN	PLN2006--00537	2/14/2007	NO	2/14/2009	BUILDING PERMIT ISSUED
OAK KNOLL N 175	MIXED-USE	RELIEF REPLACEMENT	PLN2008-00142	3/28/2008	NO	8/20/2008	BUILDING PERMIT ISSUED
OAK KNOLL N 175		CONS DESIGN	PLN2006--00537	2/14/2007	NONE	2/14/2009	BUILDING PERMIT ISSUED
OAK KNOLL N 175		RELIEF REPLACEMENT	PLN2008-00142	3/28/2008	NONE	8/20/2008	BUILDING PERMIT ISSUED
ORANGE GROVE E	5-UNIT	CONS DESIGN	PLN2006-00689	7/24/2007	NO	7/24/2009	NO BLDG PERMIT/NOT IN PLAN CHECK

ORANGE GROVE E 140	26-UNIT/MIXED USE	CONCEPT DESIGN	PLN2007-00258	11/2/2007	YES 11/5/2008	11/2/2009	NO BLDG PERMIT/NOT IN PLAN CHECK
PARKE 270	4-UNIT	CONS DESIGN	PLN2006-00304	3/30/2007	NO	3/30/2009	NO BLDG PERMIT/PLAN CHECK EXPIRED
RAYMOND S 686	MED. OFFICE	Final Design	PLN2006-00583	11/3/2006	YES 11/3/2008	11/3/2009	NO PLAN CHECK
SIERRA BONITA N	26-UNIT	CONS DESIGN	PLN2006-00372	11/18/2008	---	11/18/2009	NO BLDG PERMIT/NOT IN PLAN CHECK
WALNUT W 25	200 RM HOTEL/110- UNIT CONDO	CONCEPT DESIGN Relief from	PLN2006-00690 PLN2007-00284	10/5/2007 7/24/2007	YES	10/5/2009	No FDR. NO BLDG PERMIT/NOT IN PLAN CHECK
WILSON N 57	6-UNIT	CONS DESIGN	PLN2007-00182	7/14/2007	NO	7/14/2009	NO BLDG PERMIT/NOT IN PLAN CHECK
WORCESTER 1080	REAR ADD & GARG	Certificate of	PLN2007-00066	4/17/2007	NONE	4/17/2009	NO BP. PLANS EXPIRED