



# Agenda Report

July 15, 2024

**TO:** Honorable Mayor and City Council

**FROM:** Planning & Community Development Department

**SUBJECT: APPROVE ZONING CODE AMENDMENTS: 1) PROJECT ENTITLEMENT TIME LIMITS AND EXTENSIONS; AND 2) MISCELLANEOUS UPDATES**

## **RECOMMENDATION:**

It is recommended that the City Council:

1. Find that the proposed amendments are exempt from environmental review pursuant to the guidelines of the State California Environmental Quality Act, Section 15305 (Class 5 - Minor Alterations in Land Use Limitations);
2. Adopt the Findings for the Zoning Code Amendments in Attachment A;
3. Approve the Zoning Code Amendments as outlined in this report and in Attachment B; and
4. Direct the City Attorney to prepare an ordinance for the Zoning Code Amendment within 90 days consistent with the provisions set forth in the agenda report.

## **PLANNING COMMISSION RECOMMENDATION:**

On April 24, 2024, the Planning Commission voted to recommend the City Council approve the proposed Zoning Code Amendments as recommended by staff, with recommended changes as listed below:

- 1) Reflective Materials – Require an Administrative Minor Conditional Use Permit (CUP) for materials that are reflective. Use industry standards for staff to identify when a material is considered reflective; and
- 2) Effect of Zoning Code Amendments on Projects in Progress – Projects with legislative or quasi-judicial approval shall be processed under the rules in effect when the project is deemed complete.

## **BACKGROUND:**

Over the past several years, development projects are taking longer to complete, due to factors such as rising construction costs and interest rates, economic uncertainty, longer supply chain lead times, and/or labor shortages. These have not only impacted construction itself, but they have also increased the time from entitlement approvals (e.g., CUPs, Variances, Design Review) to plan check submittal for the building permit. Furthermore, in instances where multiple entitlements are needed, such as a CUP and Design Review, the first entitlement could potentially expire prior to completion of Design Review, even though the applicant fully intends to pursue the original entitlement and the resulting development project.

All this has increased the number of Time Extension applications for approved entitlements. For example, 18 applications for Time Extension were submitted in 2023, double the number in 2022. Time Extensions require an application and an approval from the original hearing body with findings. The time needed to process Time Extension applications with public hearings before the Design Commission, Planning Commission, and/or Hearing Officer creates additional project delays and frustration from applicants. Further, to staff's knowledge a time extension request has not been denied as it extends the entitlement per the time limits already allowed in the Zoning Code.

The City, through the Housing Element of the General Plan, has committed to periodically review potential constraints to the development, maintenance, and improvement of housing as conditions change (Program #9, Removal of Constraints). Although not every development project includes housing, a significant number of projects do, so any streamlining of the City's development process will facilitate the production of additional housing units and address the commitments of removing constraints where appropriate.

A second set of amendments are technical changes to streamline implementation of the Zoning Code. The Planning Commission formally considered the proposed Zone Code Amendments at a Public Hearing on April 24, 2024. At the hearing, the Planning Commission voted to recommend adoption of the proposed amendments with two changes. Staff supports these changes and they are part of the staff recommendation for approval.

## **ANALYSIS:**

### 1) Project Entitlement Time Limits and Extensions

In an effort to simplify the post-approval period of project entitlements, and to address a recent increase in the number of Time Extension applications, staff is recommending several Zoning Code Amendments:

- a) Increase the time limit for project entitlements in a RS (Residential, Single-Family) zoning district;
- b) Establish a new time limit for projects that require a land use entitlement and a Design Review entitlement; and
- c) Change the review authority for time extension applications to the Director of Planning & Community Development (Director).

A table summarizing the proposed changes is included as Attachment C.

*a) Time Limits for Project Entitlements*

Time Limits are detailed in Section 17.64.040 of the Zoning Code and vary depending on the type of entitlement and the zoning district the project is located within:

- Concept Design Review: 12 months (one year) from the effective date of approval.
- All other entitlements:
  - RS (single-family) zoning districts: 24 months from the effective date of approval.
  - All other zoning districts: 36 months from the effective date of approval.

Staff recommends maintaining a 12-month (one year) time limit for Concept Design Review and changing the 'RS' to three years to be the same as 'All other zoning districts' time limits. This would provide consistency for the length of an entitlement and often the RS (single family zones) projects are owner/builder and run into delays due to financing and securing a contractor that cause delays before they can apply for a building permit and vest their approval.

*b) Time Limits for Projects with Land Use and Design Review Entitlements*

Some projects require both a land use entitlement and a Design Review entitlement. A project cannot commence the Design Review process until the land use entitlement (e.g., CUP) is obtained, when required. Such a project cannot proceed through the building permit process until both entitlements have approvals that are in effect. If the Design Review process takes longer than three years to complete, a time extension for the land use entitlement is needed.

Staff recommends that if an applicant submits a complete application for Concept Design Review within one-year of the land use approval that this will vest the land use entitlement and eliminate the need for a time extension while an applicant proceeds with Design Review. This would incentivize applicants to submit Design Review entitlements in a timely manner and would not impact their ability to exercise the land use entitlement. It would not change the time limits of Design Review.

### *c) Review Authority for Time Extensions*

The Time Extension process is also detailed in Section 17.64.040 of the Zoning Code and varies depending on the type of entitlement and zoning district the project is located within:

- Concept Design Review: Subject to findings, the Director may grant the time extension.
- All other entitlements:
  - RS (single-family) zoning districts: Subject to findings, the Director may grant the time extension.
  - All other zoning districts: Subject to findings, the review authority that originally approved the permit may grant the time extension.

Staff proposes the Director be the review authority for all time extension applications. All time extension approvals for entitlements would continue to be subject to the same findings and appealable or Called for Review by the City Council or members of the relevant review authority (e.g., the Planning Commission for Land Use Entitlements, the Design Commission for Design Review items, etc.). These would then be heard by the applicable body.

By simplifying the time extension process, the overall goal of streamlining the entitlement process would be achieved while still providing for public input if desired.

## 2) Miscellaneous Updates

The second set of Amendments are technical changes to streamline implementation of the Zoning Code, miscellaneous updates to clarify the application of development standards, and other administrative corrections for internal consistency within the Zoning Code. The following are the proposed minor amendments, with additional administrative corrections included in Attachment B.

- *Master Plans – 5-year Review*  
Section 17.61.050 (Permit Approvals or Disapprovals – Conditional Use Permits and Master Plans) of the Zoning Code requires Planning Commission review, every five years, for compliance with the approved plans and conditions of approval. The proposed amendment would make the Director the reviewer of Master Plans for compliance of approved plans and conditions similar to other applications. For other entitlements, this process already occurs at the staff level. The Planning Commission would be notified via the decision letter and would have the ability to Call for Review any determination made by the Director when reviewing a Master Plan.
- *Master Plans – Amendments*  
Section 17.61.050 (Permit Approvals or Disapprovals – Conditional Use Permits and Master Plans) of the Zoning Code requires Design Commission review of any new or

amended Master Plan in addition to Planning Commission and City Council review. However, there have been instances when an amended Master Plan would not include any new construction; it would only involve operational changes. For such proposed Master Plan Amendments, staff is recommending simplifying the amendment process by eliminating Design Commission Review, while maintaining Planning Commission and City Council review.

- *Accessory Structures, Roof Decks*  
This code amendment would codify an existing Zoning Administrator Interpretation from 2005 that prohibited roof top decks on accessory structures. The Zoning Code limits the height of accessory structures to one-story because they can come as close as two feet to a side or rear property line. The interpretation was originally made to limit potential impacts, such as loss of privacy, that could result from rooftop decks on accessory structures. Staff has been applying this interpretation since 2005.
- *Tandem Parking*  
Section 17.46.080 (Parking and Loading – Tandem Parking) of the Zoning Code establishes procedures to allow tandem parking. While minimum dimensions are established for double tandem parking of 9' x 34', none are provided for triple tandem parking. This amendment would use the existing tandem dimension standards (9' x 34') to establish minimum dimensions for triple stacked parking (9' x 51'). The amendment would also allow for the minimum dimensions to be modified as part of the review of the Minor CUP.
- *Walls and Fences*  
This amendment would modify standards related to walls and fences adjacent to the front and corner side setbacks.

For nonresidential properties, Section 17.40.180 (General Property Standards – Walls and Fences) of the Zoning Code provides varying maximum heights, between four and six feet, depending on the location of the wall/fence relative to an on-site structure. This amendment would establish a maximum standard height of six feet.

Residential properties require walls and fences to be set back 18 inches from the front property line. This requirement was introduced in 2005 and has created challenges for property owners needing to repair nonconforming walls/fences that do not meet the current setback requirement or replace walls/fences in-line with a neighboring wall or fence that pre-dates the requirement. Additionally, due to the relatively small area that results from the 18-inch setback, this area is sometimes left unmaintained, resulting in Code Enforcement complaints. This amendment would remove the 18 inch setback requirement.

- *Reflective Surfaces*  
In the RS (single-family) and RM-12 (two units per lot) zoning districts, Section 17.40.110 (General Property Standards – Reflective Surfaces) of the Zoning Code

requires a Minor CUP to use a metallic finish (e.g., exposed metal cladding) on exterior walls and/or the roof of a structure. The purpose of the review is to analyze the reflective properties of the metallic finish. The use of metallic materials for roofs and building elements has become more common in recent years due to their longevity, reduced maintenance, and safety ratings in fire hazard areas (non-combustible).

Many times, owners submit construction plans that include a metal finish (most commonly for roofs) unaware of the Minor CUP requirement, which can then take four to six months to process. This amendment would allow the use of metallic finishes that are *not reflective* by-right, without a Minor CUP.

As previously noted, the Planning Commission recommended an Administrative Minor CUP for materials that are reflective, and that staff use industry standards to identify when a material is considered reflective. Staff agrees with this recommendation.

- *Paving*  
This amendment would modify standards for parking area paving. Section 17.46.300 (Parking and Loading – Paving) of the Zoning Code requires all vehicle parking areas, circulation aisles, and access ways to be paved only with Portland cement concrete. The Zoning Administrator is authorized to approve alternative materials, including asphalt, decomposed granite, or gravel, but this requires a review and approval for each request. Nonresidential projects commonly request asphalt. In recent years, as alternative materials have become more popular, residential projects often request materials such as concrete pavers, gravel, cobblestone, and decomposed granite for parking areas. The amendment would remove the requirement that only Portland cement concrete be used and expand the list of approved materials to eliminate review by the Zoning Administrator.
- *Animal Services*  
One use that has evolved over the past few years is animal care. Based on demand, a recent code amendment expanded the zoning districts where animal hospitals could be established, including in the Central District. As part of the recently adopted Central District Specific Plan, the hours of operation for this use were also updated to coincide with other commercial uses in the Central District.

The Zoning Code currently limits the amount of time that any one animal can be boarded to 48 hours. Staff finds that this time limit is an arbitrary regulation that is difficult to enforce. It also encourages a high turnover of customers which could have more of a secondary impact if there was one. This amendment would remove the 48-hour time limit but maintain the requirement that boarding be conducted entirely within an enclosed area. Outdoor boarding is only allowed in certain areas of the city and requires a CUP; staff is not proposing to change this requirement.

- *Loading Spaces*

The existing loading space requirements in the Zoning Code were adopted in 2005. Over the same time, vehicle parking requirements have been reduced, or eliminated. In addition, there are numerous alternative means to comply with parking requirements (e.g., off-site, shared, parking studies to reduce required parking, etc.).

Due to the relatively high number of required loading spaces, as high as six, and lack of alternative ways to satisfy these requirements, staff has found loading spaces can be a barrier for new development and when reusing existing buildings; Section 17.46.260 (Parking and Loading – Off-Street Loading Spaces) of the Zoning Code applies loading space requirements to changes of use, even when no construction is proposed. In some instances, a loading space is required no matter the size of a use. Furthermore, the Zoning Code provides two different loading space sizes, depending on the size of the use and the number of spaces required.

The proposed amendment would eliminate the need to require loading spaces when there is a change of use within an existing building, raise the threshold for requiring loading spaces for new construction, and simplify the loading space size requirements by establishing one uniform size. In addition, the amendments would reduce the maximum number of loading spaces required to two for offices and four for all other uses.

- *Wireless Telecommunication Facilities*

The existing ordinance that governs wireless telecommunication facilities was adopted in 2009 and includes a provision that any CUP or Minor CUP for a wireless telecommunication facility is valid for 10 years and a time extension is required to extend it an additional 10 years; with no limit on the number of extensions available. At the time of adoption of the ordinance, it was unknown if these facilities would evolve in the future of telecommunication, so this provision was put in place to monitor facilities in case of abandonment. These facilities remain a common fixture locally and nationally to create a data network. This amendment would remove the requirement that the entitlement is only valid for 10 years and that a time extension is required every decade. Entitlements for wireless telecommunication facilities would be subject to the same rules for validity periods and enforcement as any other Conditional Use Permit.

- *Effect of Zoning Code Amendments on Projects in Progress*

Currently, an entitlement application (e.g., Conditional Use Permit, Design Review, Filming Permit, Temporary Use Permit, Variance, zone change, etc.) that is in process must comply with rules in place on the effective date of an approval. A decision becomes “effective” 10 days after the decision. For example, if an approved CUP goes into effect after a Zoning Code Amendment goes into effect, then the project must comply with the new Zoning Code rules. This can result in the rules changing for an applicant well into their application process and even after the project has received an approval, but the decision is not effective.



As previously noted, the Planning Commission recommends that these projects be subject to the rules in effect when the project application is deemed complete. Staff is in agreement with this recommendation. A significant amount of time and money is expended prior to an applicant receiving approval. Having a project vested when it is deemed complete provides a higher level of certainty for applicants.

### **COUNCIL POLICY CONSIDERATION:**

The proposed Zoning Code Amendments will support several Guiding Principles of the Land Use Element and Programs of the Housing Element of the General Plan as follows:

#### **Land Use Element**

- *Guiding Principle 3. Pasadena will be an economically vital city by providing jobs, services, revenues, and opportunities. A diverse economic base with jobs for Pasadena residents will be fostered; existing businesses will be encouraged to stay or expand; affordable housing will be provided for the labor pool; the continued fiscal health of the city will be ensured.*
- *Guiding Principle 6. Pasadena will be a cultural, scientific, corporate, entertainment and education center for the region. Long-term growth opportunities will be provided for existing institutions; a healthy economy will be fostered to attract new cultural, scientific, corporate, entertainment and educational institutions.*

In order to achieve the overall goals of a successful investment of a variety new development in Pasadena, as articulated in Guiding Principles 3 and 6, it has become necessary to provide for additional time for projects with land use entitlements to make their way through the entitlement process, while acknowledging the recent challenges to development such as rising interest rates, economic uncertainty, longer supply chain lead times, and/or labor shortages. The streamlining of the time extension process by authorizing the Director of Planning & Community Development to review and approve such applications, will also allow for additional time for those development projects that need the added time.

- *Implementation Program C.2 (Process of Development Review and Entitlement) Analyze the efficiency of the development review and entitlement process and identify the City's expectations for planning, designing, and reviewing development proposals every five years.*

This amendment will provide additional time for the development of land use entitlements as well as applying the same time limits to some land use entitlement, with the exception of Concept Design Review. However, allowing a land use entitlement to 'exercise' its approval by having an application for Concept Design Review be deemed complete, this 'linkage' of entitlements will provide additional surety of development.



The proposed amendments to the Zoning Code are miscellaneous updates that would ensure proper and consistent application of Zoning Code development standards and permitting procedures.

### Housing Element

- *Program #9: Removal of Constraints. City staff continues to examine how modifications to development review procedures and requirements-design review, permit processing, commission reviews, and other features-can be improved to streamline the process.*

By consolidating the time limits in which a project would need to begin construction to three years, connecting the time limit of some entitlements to Design Review to avoid expiration during that process (when applicable), and simplifying and streamlining the time extension process, the overall goal of simplifying the entitlement process, and thereby assisting in the development of additional housing units, would be achieved.

### **ENVIRONMENTAL ANALYSIS:**

The Zoning Code Amendments have been assessed in accordance with the criteria contained in the California Environmental Quality Act (CEQA) Guidelines and qualify for Categorical Exemption pursuant to Section 15305 (Class 5 – Minor Alterations in Land Use Limitations), and there are no features that distinguish this project from others in the exempt class; therefore, there are no unusual circumstances. Section 15305 exempts projects that consist of minor alterations in land use limitations. The Zoning Code Amendments would not introduce a new use that is not currently allowed.

### **CONCLUSION AND RECOMMENDATION:**

The proposed Zoning Code Amendments would simplify project entitlement and time extension processes. In addition, they include technical changes to streamline implementation of the Zoning Code, miscellaneous updates to clarify the application of development standards, and other administrative corrections for internal consistency within the Zoning Code. Staff recommends the City Council make the required findings and adopt the Zoning Code Amendments. Staff supports incorporating the two recommendations of the Planning Commission.

**FISCAL IMPACT:**

There is no direct fiscal impact to the City by adopting the recommended Zoning Code Amendments.

Respectfully Submitted,



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Attachments (3):

- Attachment A – Findings for Zoning Code Amendments
- Attachment B – Zoning Code Administrative Corrections
- Attachment C – Project Entitlement Time Limits and Extensions