



**COUNTY OF SAN LUIS OBISPO
BOARD OF SUPERVISORS
AGENDA ITEM TRANSMITTAL**

(1) DEPARTMENT Planning and Building	(2) MEETING DATE 8/18/2020	(3) CONTACT/PHONE Airlin Singewald, Planning Manager / (805) 781-5198	
(4) SUBJECT Hearing to consider a request by the County of San Luis Obispo to adopt an Urgency Ordinance extending the expiration dates of land use permits and land use permit applications; exempt from CEQA. All Districts.			
(5) RECOMMENDED ACTION It is recommended that the Board: <ol style="list-style-type: none"> 1. Adopt the Urgency Ordinance to extend the expiration dates of land use permits and land use permit applications by two years; 2. If adopted, waive the reading of the ordinance; and 3. Direct staff to prepare an Urgency Ordinance extension for Board consideration prior to October 2, 2020. 			
(6) FUNDING SOURCE(S) Planning Department Budget	(7) CURRENT YEAR FINANCIAL IMPACT \$0.00	(8) ANNUAL FINANCIAL IMPACT \$0.00	(9) BUDGETED? yes
(10) AGENDA PLACEMENT <input type="checkbox"/> Consent <input type="checkbox"/> Presentation <input checked="" type="checkbox"/> Hearing (Time Est. <u>10 mins</u>) <input type="checkbox"/> Board Business (Time Est. <u> </u>)			
(11) EXECUTED DOCUMENTS <input type="checkbox"/> Resolutions <input type="checkbox"/> Contracts <input checked="" type="checkbox"/> Ordinances <input type="checkbox"/> N/A			
(12) OUTLINE AGREEMENT REQUISITION NUMBER (OAR) N/A		(13) BUDGET ADJUSTMENT REQUIRED? BAR ID Number: <input type="checkbox"/> 4/5th's Vote Required <input checked="" type="checkbox"/> N/A	
(14) LOCATION MAP N/A	(15) BUSINESS IMPACT STATEMENT? No	(16) AGENDA ITEM HISTORY <input checked="" type="checkbox"/> N/A Date _____	
(17) ADMINISTRATIVE OFFICE REVIEW Zachary A. Lute			
(18) SUPERVISOR DISTRICT(S) All Districts			



COUNTY OF SAN LUIS OBISPO

TO: Board of Supervisors

FROM: Airlin Singewald, Planning Manager

VIA: Trevor Keith, Director

DATE: August 18, 2020

SUBJECT: Hearing to consider a request by the County of San Luis Obispo to adopt an Urgency Ordinance extending the expiration dates of land use permits and land use permit applications; exempt from CEQA. All Districts.

RECOMMENDATION

It is recommended that the Board:

1. Adopt the Urgency Ordinance to extend the expiration dates of land use permits and land use permit applications by two years;
2. If adopted, waive the reading of the ordinance; and
3. Direct staff to prepare an Urgency Ordinance extension for Board consideration prior to October 2, 2020.

DISCUSSION

Background

Per your Board direction on Tuesday June 2, 2020, this item is a request to adopt an Urgency Ordinance extending the expiration dates of land use permits and land use permit applications.

On March 4, 2020, the Governor of the State of California issued a Proclamation of State of Emergency due to outbreaks within the state of a novel coronavirus, named COVID-19. On March 11, 2020, the World Health Organization (WHO) declared COVID-19 to be a pandemic. The restrictions and economic impacts resulting from the COVID-19 pandemic have impaired the ability of local businesses, including architects, engineers, planners, and builders, to perform their essential job functions. This in turn has limited the ability of these businesses to complete the work necessary to comply with application and permit requirements within the timeframes required by the relevant sections of the County of San Luis Obispo Land Use Ordinance (Title 22 and 23). The recommended action before the Board today would extend by two years the expiration dates for all County of San Luis Obispo land use permits and land use permit applications for both residential and commercial projects.

In response to the COVID-19 pandemic, the California State Legislature is currently considering Senate Bill-281, *Housing development: permits and other entitlements: extension*. The proposed legislation would amend the Government Code to add Section 65914.5, which would extend by two years any legislative, adjudicative, administrative, or any other kind of approval, permit, or other entitlement necessary for, or pertaining to, a housing development project. The legislation would also extend the expiration date of an application for any entitlement related to a housing development project and the length of any vested right associated with a housing development project. The legislation defines a “housing development project” as “a residential or mixed-use development in which at least two-thirds of the square footage of the development is designated for residential use.”

At this time, it is unknown whether this bill will become legislation. In addition, if passed, this bill would only apply to residential projects. Staff will continue to update your Board with the outcome of this proposed legislation.

Proposed Urgency Ordinance

The intent of the proposed Urgency Ordinance is to provide a two-year time extension for all County of San Luis Obispo land use permits and land use permit applications for both residential and commercial projects. These include Conditional Use Permits, Minor Use Permits, Site Plans, and Plot Plans issued by a County of San Luis Obispo hearing body. This will ensure that all such permits and applications receive a two-year time extension, regardless of the residential or commercial nature of the project, and in the case that SB 281 is not signed into law. Any extension provided by the proposed Urgency Ordinance will not be in addition to any extension authorized by SB 281.

The Urgency Ordinance would extend the expiration dates for permits and permit applications that have not expired prior to March 4, 2020 (the date of the Governor’s State of Emergency proclamation) by two years. Permits and permit applications that have already received extensions pursuant to County Code would receive an additional two-year extension. Per California Government Code, the Urgency Ordinance would be effective for 45 days. However, prior to the expiration date of the Urgency Ordinance (October 2, 2020), the Board of Supervisors (“Board”) may hold a hearing to extend the Urgency Ordinance for a maximum of 2 years from the initial adoption date (August 18, 2022). The proposed Urgency Ordinance would apply to all land use permits that were active between March 4, 2020 and the expiration date of the Urgency Ordinance.

The following discussion describes how the extensions would be applied to land use permits and land use permit applications.

Land Use Permit Applications (Not yet approved)

The Urgency Ordinance would apply to land use permit (Plot Plan, Site Plan, Minor Use Permit, or Conditional Use Permit) applications that have not yet been approved and are pending submittal of additional information. The County Land Use Ordinance states that the Planning and Building Department (“Department”) may withdraw a land use permit application within 90 days of the last County notification requesting additional information or last public hearing. When an applicant does not respond to information request within 90 days, the Department will send the applicant a letter granting them another 30 days to respond. If the applicant does not respond within 30 days, the Department may withdraw the land use permit application and the applicant would be required to apply for a new land use permit if and when they decide to resume their project. The proposed Urgency Ordinance would give applicants two years and 90 days (27 months) to respond to an information request before the Department withdraws their land use permit application. The Urgency Ordinance would apply retroactively to March 4, 2020. This means any land use permit application that was not withdrawn between March 4, 2020 and the expiration of the Urgency

Ordinance (October 2, 2020, unless extended by the Board) would receive a 2 year extension. Land use permit applications submitted after the Urgency Ordinance expiration date would not receive an extension.

Land Use Permits (Approved)

After a land use permit is approved, an applicant has 18 months (for Plot Plans and Site Plans) or 24 months (for Minor Use Permits and Conditional Use Permits) to “vest” the land use permit by completing substantial site work, which is defined as work progressing above grade (commonly referred to as “sticks in the air” which means framing has started). Land use permits that do not involve construction have alternative methods of vesting such as receiving a business license to establish the approved use. Once a land use permit is vested it cannot expire.

In addition to the initial (18 or 24 month) timeframe to vest a permit, the Land Use Ordinance allows applicants to request up to three one-year time extensions. The first two time extensions are approved administratively, and the third time extension requires Planning Commission approval with special findings. Applicants are required to submit a letter requesting a time extension and pay a fee before their permit expires. If an approved land use permit expires without vesting it becomes invalid and a new land use permit would be required.

Under the proposed Urgency Ordinance, an approved land use permit that did not expire prior to March 4, 2020 would have an additional two years to vest, in addition to the initial timeframe and allowable time extensions. The following is an example of how the time extensions under the Urgency Ordinance would extend a Minor Use Permit or Conditional Use Permit approved in July 2020:

- Initial expiration date – July 2022
- Urgency Ordinance extension (automatic) – July 2024
- First and second one-year time extensions (requires written request and Department approval) – July 2026
- Third and final time extension (requires written request and Planning Commission approval) – July 2027

The Urgency Ordinance would only extend land use permits approved prior to the expiration date of the Urgency Ordinance (October 2, 2020, unless extended by the Board). A land use permit approved after the Urgency Ordinance expires would be subject to the standard initial timeframe and allowable extensions per the Land Use Ordinance.

Does not Apply to Subdivisions

The proposed Urgency Ordinance does not include provisions to extend the expiration dates of tentative maps. Section 66452.6(e) of the Government Code, part of the Subdivision Map Act, authorizes the County to approve requests to extend the expiration date of tentative maps for a period or periods not exceeding a total of six years. The County does not have the authority under the Subdivision Map Act to provide additional extensions beyond those six years as it is a state law.

Time Extensions for Building Permits

Building permits and applications are not included under the proposed Urgency Ordinance as the Building and Construction Ordinance of the County of San Luis Obispo – Title 19, contains provisions that differ from the California Building Code and allow for extended application timeframe and the ability to extend building permits. Title 19 currently allows for seven (7) 180-day extensions (3.5 years under certain circumstances) with no additional fee for

building permit applications. Title 19 currently allows for two (2) one (1) year permit extension at no additional fee. Additional extensions are available by written request to the Building Official.

OTHER AGENCY INVOLVEMENT/IMPACT

County Counsel has reviewed and approved the proposed ordinance as to form and codification.

FINANCIAL CONSIDERATIONS

This item was prepared with funds from the Planning and Building Department's adopted FY 2020-21 budget. By automatically extending the expiration dates of permits the Department would forgo potential revenue from time extension requests. However, it is expected that this financial impact would be negligible.

RESULTS

Adoption of the proposed ordinance will extend the expiration dates for all land use permits and land use permit applications. Denial of any of the amendments will mean that the proposed urgency ordinance would not become effective and the expiration dates would remain as is.

ATTACHMENTS

1. Attachment 1 - Presentation
2. Attachment 2 - Urgency Ordinance to Extend Expiration Dates for Land Use Permits and Land Use Permit Applications
3. Attachment 3 - Notice of Exemption