

City of Brisbane

Planning Commission Agenda Report

TO: Planning Commission For the Meeting of 8/25/11

FROM: Tim Tune, Senior Planner, via John Swiecki, Community Development Director

SUBJECT: **STUDY SESSION:** Planning Permit Expirations and Extensions, Appeal Periods, Hearing Deadlines and Notification Requirements

INTRODUCTION: The Opus Sierra Point Office Project has raised questions regarding concurrent subdivision and planning permit approvals and the process for granting extensions to such approvals. As a result, at the July 28th meeting, Planning Commission Chairman Munir requested that the process for reviewing planning permit extensions be revised.

This study session provides an overview of current regulations regarding planning permit expirations and extensions. In addition, inconsistencies in the appeal periods and hearing deadlines set in the Municipal Code are discussed.

EXPIRATIONS: The terms for which planning permits remain valid vary.

The shortest is 45 days for Use Permit for temporary uses per BMC Section 17.32.020.B.4. Although not specified in the Municipal Code, the expiration date for Sign Reviews is, by standard practice, 1 year from the date of approval, if the sign has not been installed by that date.

In general, Use Permits and Variances "...shall be null and void if not used within one (1) year from the date of the approval thereof or within any different period of time, if so designated by the Planning Commission or City Council" per BMC Section 17.48.010. Typically, Use Permits and Variances for development permits are approved subject to conditions that specify their expiration in 2 years as follows:

The Variance shall expire 2 years from its effective date (at the end of the appeal period) if a Building Permit has not yet been issued for the approved project or if a Building Permit has been issued but allowed to lapse.

Once the use is established, the Use Permit or Variance typically "runs with the land."

Permit	Expiration	Extension
Temporary Use Permit	45 days per BMC	No provision
Sign Permit	1 year to install as condition of approval	No provision
Use Permit	1 year to establish per BMC or longer as condition of approval	No provision
Variance	1 year to build per BMC or longer as condition of approval	No provision
Design Permit	2 years to begin construction per BMC	Up to a total of 3 years per BMC
Planned Development Permit	2 years to begin construction per BMC	Up to a total of 3 years per BMC
Tentative Parcel or Subdivision Map	2 years to file Final Map per BMC (3 years possible per Government Code)	For 1 year up per BMC; occasional automatic extensions by State law
Vesting Tentative Map	2 years to file Final Map per BMC (3 years possible per Government Code)	Generally up to 6 years per Government Code
Interim Use Permit	Up to 5 years per BMC, longer subject to City Council approval	Up to a total of 5 years per BMC
Wireless Telecommunications Facilities Administrative Permit	None specified in BMC	No provision
Grading Permit Review	None specified in BMC	No provision
Secondary Dwelling Unit Permit	None specified in BMC	No provision

Design Permits expire 2 years from the date on which they became effective, “unless prior to such expiration date a building permit for the structure which is the subject of the permit is issued and construction is commenced” (BMC Section 17.42.060.A). Planned Development (PD) Permits also expire in 2 years, “unless prior to such expiration date a building permit is issued and construction is commenced on the site or structure constituting the subject of the PD permit, or a certificate of occupancy is issued for such site or structure, or, if no building permit or certificate of occupancy is required, the use or activity authorized by the PD permit is commenced upon the site.” Per California Government Code Section 65863.9, “Unless an earlier expiration appears on the face of the permit, any permit which is issued by a local agency in conjunction with a tentative subdivision map for a planned unit development shall expire no sooner than the approved tentative map, or any extension thereof, whichever occurs later.”

Use Permits for Interim Uses in the Baylands may initially be approved by the Planning Commission for not more than 5 years from the date on which the approval became final (BMC Section 17.41.080.A); although, the applicant may request a longer term, which requires City Council approval (BMC Section 17.41.080.B).

Similarly, no expiration dates are specified for Wireless Telecommunications Facilities Administrative Permits (BMC Section 17.32.032.D), Planning Commission review of Grading Permits (BMC Sections 15.01.081 & 17.32.220), and Secondary Dwelling Unit Permits (BMC Section 17.43.020). These generally remain valid indefinitely, awaiting development of the project for which they were issued.

Tentative Parcel Maps, Tentative Subdivision Maps, and Vesting Tentative Maps expire 24 months after approval, if a Final Map is not filed (BMC Sections 16.16.270 & 16.42.090.D; also see Government Code Sections 66452.6 & 66463.5, attached, which provides the approval may be valid for up to 36 months per local ordinance).

While there may be a number of reasons why projects are not developed before their planning permits expire, at least several are in some measure due to the City's regulations. For example, restrictions on issuance of Grading Permits during the "wet season" (BMC Sections 15.01.040.41 & 15.01.270) may make it impossible for construction to begin after October 15th and before April 15th. Adoption of new Building Codes may also delay issuance of Building Permits. Unless specifically provided otherwise in the enacting ordinances, amendments to the Brisbane Municipal Code may also impact projects that have received planning approvals but have not yet obtained Building Permits.

LENGTH OF EXTENSIONS: The Zoning Ordinance only addresses extensions of Design Permits and Interim Use Permits. Design Permits may be extended for a period or periods of time not exceeding 3 years per BMC Section 17.42.060.B. Use Permits for Interim Uses in the Baylands may be extended for up to 5 years by the Zoning Administrator per BMC Section 17.41.080.D, unless the original permit was expressly declared to be nonrenewable or unless the original approving body (Planning Commission or City Council, see BMC Sections 17.41.080.A & B) specified itself as the approving authority for any and all extensions of that permit.

The Subdivision Ordinance limits the extension of Tentative Parcel Maps and Tentative Subdivision Maps by the Planning Commission for periods of no more than 12 months (BMC Section 16.16.270). Vesting Tentative Maps are automatically extended for 1 year from the date of recordation of a Final Map (see BMC Section 16.42.090.D for exceptions) and may also be extended by the City Council (BMC Sections 16.42.080 & 16.42.090.D.3). Government Code Section 66452.6(e) (attached) generally limits the total length of any extensions to 6 years. Application for an extension automatically extends the Tentative Map approval for 60 days or until the application for the extension is approved, conditionally approved, or denied, whichever occurs first (no similar provision is provided for planning permits in the Municipal Code).

In response to economic downturns, the State occasionally adopts legislation that automatically extends the life of Tentative Parcel Maps, Tentative Subdivision Maps and Vesting Tentative Maps. Most recently, AB 208 signed by the Governor in July extended for 2 years those maps that had not yet expired as of July 15, 2011 and would have otherwise expired before January 1, 2014 (see attached Government Code Section 66452.23). Any related State approvals were also extended, but not any other local approvals.

Planned Development Permits may be extended for up to 36 months per BMC Section 17.28.110.B

Development Agreements adopted per California Government Code Sections 65864-65869.5 and City Council Resolution No. 88-10 may include a provision that the related planning permit approvals shall have the same expiration date as the Development Agreement.

FINDINGS FOR EXTENSIONS: The Municipal Code does not contain specific findings for the approval of extensions, so the original findings applicable to the type of planning permit at hand would still be required. Per BMC Section 17.28.110.B, "Extension of a PD permit is not a matter of right and the approving authority may deny the application or grant the same subject to conditions. No extension shall be granted unless the approving authority is able to make all of the findings required for approval of the original permit." Similar language is used for the extension of Design Permits in BMC Section 17.42.060.B. Regarding Use Permits for Interim Uses in the Baylands, BMC Section 17.41.090 states, "There is no vested right or legal entitlement to an extension and the decision on any application for extension shall be within the sole discretion of the approving authority." Similarly, "A use permit, design permit or grading permit issued prior to or concurrently with a vesting tentative map, and any other prior, concurrent or subsequent permits, approvals, extensions and entitlements issued with respect to the development, may be subsequently modified or revoked to the extent otherwise permitted by law so long as the vested right granted by subsection A of this section is not violated," per BMC Section 16.42.090.C.

In practice, staff processes an extension application as an update of the previous application. Changes in circumstances, including applicable code requirements, are considered in updating recommended findings and conditions of approval, but a complete reanalysis of the project is typically not undertaken.

Although not quite the same, it may be useful to consider the procedures under the California Environmental Quality Act (CEQA) for determining whether a subsequent Environmental Impact Report (EIR) or Negative Declaration is required for a project for

which an EIR has already been certified or a Negative Declaration adopted. Per Section 15162 of the State CEQA Guidelines (attached), a subsequent EIR or Negative Declaration is required only if:

- (1) Substantial changes are proposed in the project;
- (2) Substantial changes occur with respect to the circumstances under which the project is undertaken; or
- (3) New information of substantial importance shows any of the following:
 - (A) The project will have one or more significant effects not discussed before;
 - (B) Significant effects previously examined will be substantially more severe than shown before;
 - (C) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or
 - (D) Mitigation measures or alternatives which are considerably different from those analyzed before would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

This approach could be applied to planning permit extensions to determine, for example, whether a public hearing is needed before granting an extension.

ADMINISTRATIVE APPROVALS: If the Planning Commission is interested in alternatives to the current means of processing time extensions for previously approved projects, it may wish to examine existing procedures for administrative approval (by the Community Development Director or Zoning Administrator) of certain planning permits.

Title	Permit	Public Hearing	Notice
Planning Director	R&D in SP-CRO District without Use Permit	No	To City Council of action taken and right to require hearing
Zoning Administrator	Wireless telecommunications facilities	No	To property owners within 300 ft. to submit written comments or appeal
Zoning Administrator	Sign Permits	Yes	To nearby property owners and occupants
Zoning Administrator	Minor Modifications	No	To property owners within 75 ft. of action taken and right to appeal
Zoning Administrator	Design Permit Amendments, Variances, etc.	Yes	Standard 300 ft. notice

In the SP-CRO Sierra Point Commercial District, research and development uses are subject to Use Permit approval under certain circumstances (BMC Sections 17.18.020.K and 17.18.035.A, B & C). In those cases where conditions of approval identified in a risk analysis (BMC Section 17.18.045.A) or as recommended by the Fire Marshal and Building Official are agreed to by the applicant, the Planning Director may determine that a Use Permit is not required (BMC Section 17.18.035.A). That determination is then subject to a 15-day appeal period during which any 2 members of the City Council may require that the matter be heard by the City Council.

Wireless telecommunications facilities that comply with BMC Section 17.32.032.G may be approved by the Zoning Administrator after giving notice to property owners within 300 ft. that they may submit written comments before action is taken on the application and that they have a right to appeal the determination to the Planning Commission per BMC Section 17.32.032.D.2. The Zoning Administrator can also refer the application to the Planning Commission directly per BMC Section 17.32.032.D.3.

Sign Permits requiring Zoning Administrator approval, such as for illuminated signs (see BMC Tables 17.36.020, 17.36.020A-1 & 17.36.020A-1 for the complete list), require that notice of the public hearing be given to property owners and occupants on both sides of and directly across the street from the proposed sign site per BMC Section 17.36.060.C.2.

BMC Section 17.56.090 authorizes the Zoning Administrator to grant "minor modifications" to the lot area, lot coverage, setback and fence height regulations, with notice of approval and the right to appeal given to property owners within 75 ft. of the property and no requirement for a public hearing.

The remaining list of permits that the Zoning Administrator is authorized to approve [Design Permit amendments per BMC Section 17.42.070; Accessibility Improvement Permits per BMC Sections 17.32.060.D, 17.32.070.A.1.f and 17.32.080; administrative permits for solar energy systems per BMC Section 17.32.060.C; and applications for large family day care homes, per State Health and Welfare Code Sections 1597.46(a)(3) and 1597.465] are subject to the standard public hearing requirements.

Attached are excerpts from the Municipal Codes for the Cities of San Bruno and Millbrae. It is interesting to note that the City of San Bruno does not require a public hearing for renewal of planning permits if no new conditions of approval are needed, even though the Planning Commission is the body that would grant the extension.

If extensions were approved administratively, processing times would be shortened and application fees could be reduced.

APPEAL PERIODS AND THE EFFECTIVE DATE OF APPROVAL: Per BMC Sections 17.40.060.C, 17.46.040.B, 17.56.100 & 17.56.110, the effective date of Use Permits, Variances and Zoning Administrator decisions is the 7th day after approval, but this is inconsistent with BMC Section 17.52.020.A, which provides for a 15-day appeal period. Design Permits, in comparison, "...shall become effective upon the expiration of fifteen (15) days following the date on which the design permit was granted by the planning commission, unless an appeal has been taken to the city council pursuant to Chapter 17.52 of this title" (BMC Section 17.42.050.B). Note that, per the State Subdivision Map Act, actions taken under BMC Title 16, Subdivisions, are subject to a 10-day appeal period (see BMC Sections 16.44.010 & 16.44.020).

It should also be noted that "day" is not defined in the Zoning Ordinance (BMC Chapter 17.02). It may be helpful to clarify how deadlines would be interpreted if they fall on a day on which City Hall is closed (weekends or holidays) or when City Hall closes early (Fridays at 1 p.m.).

HEARING NOTIFICATION AND DEADLINES: According to the Permit Streamlining Act (Government Code Section 65943), the City has 30 days to review planning permit applications to determine whether they are complete. Once deemed complete, an application's environmental status must be determined within another 30 days (State CEQA Guidelines Section 15102). If it is then determined that a project is categorically exempt from the California Environmental Quality Act, the City must act on the application within 60 days [Government Code Section 6590(a)(4)], or 50 days for Tentative Parcel or Subdivision Maps (Government Code Sections 65952.1 & 66452.1). If a Negative Declaration is required, it must be completed and adopted within 180 days from the date the application was deemed complete (State CEQA Guidelines Section 15107), and the City then has 60 days more to act on the application [Government Code Section 65950(a)(3)]. If an Environmental Impact Report (EIR) is required, the City must act on the application within 180 days from certification of the EIR [Government Code Section 65950(a)(1)]. Exceptions to and extensions of these deadlines are provided in Government Code Sections 65943(d), 65950(a)(2) & (b) and 65957.

Thus, BMC Sections 17.40.040 & 17.46.030 requiring that the hearing of all Use Permit and Variance applications "...shall be held within forty-five (45) days after the filing of the application" should be revised so as to be consistent with State law.

Government Code Section 65091(a)(4) specifies that when a provision of the Code requires notice of a public hearing to be given, such notice shall be mailed or delivered at least 10 days prior to the hearing to all owners of real property as shown on the latest equalized assessment roll within 300 feet of the real property that is the subject of the hearing. Such public notice is required for rezonings (Government Code Section 65853),

specific types of Zoning Ordinance amendments (Government Code Sections 65850 & 65854), Variances and Use Permits, including the revocation, modification or appeal of any Variance or Use Permit [Government Code Section 65905(a)]. While BMC Sections 17.42.030 (Design Permits) 17.54.020.C (Public Hearings) are consistent with these requirements, BMC Section 17.54.030 specifically regarding Use Permits is out of conformance.

Attachments:

Government Code Sections 66452.6, 66452.23 & 66463.5
California Administrative Code Title 14, Division 6, Chapter 3, § 15162.
City of San Bruno Municipal Code Excerpts
City of Millbrae Municipal Code Excerpt

Government Code Section 66452.6.

(a) (1) An approved or conditionally approved tentative map shall expire 24 months after its approval or conditional approval, or after any additional period of time as may be prescribed by local ordinance, not to exceed an additional 12 months. However, if the subdivider is required to expend one hundred seventy-eight thousand dollars (\$178,000) or more to construct, improve, or finance the construction or improvement of public improvements outside the property boundaries of the tentative map, excluding improvements of public rights-of-way which abut the boundary of the property to be subdivided and which are reasonably related to the development of that property, each filing of a final map authorized by Section 66456.1 shall extend the expiration of the approved or conditionally approved tentative map by 36 months from the date of its expiration, as provided in this section, or the date of the previously filed final map, whichever is later. The extensions shall not extend the tentative map more than 10 years from its approval or conditional approval. However, a tentative map on property subject to a development agreement authorized by Article 2.5 (commencing with Section 65864) of Chapter 4 of Division 1 may be extended for the period of time provided for in the agreement, but not beyond the duration of the agreement. The number of phased final maps that may be filed shall be determined by the advisory agency at the time of the approval or conditional approval of the tentative map.

(2) Commencing January 1, 2005, and each calendar year thereafter, the amount of one hundred seventy-eight thousand dollars (\$178,000) shall be annually increased by operation of law according to the adjustment for inflation set forth in the statewide cost index for class B construction, as determined by the State Allocation Board at its January meeting. The effective date of each annual adjustment shall be March 1. The adjusted amount shall apply to tentative and vesting tentative maps whose applications were received after the effective date of the adjustment.

(3) "Public improvements," as used in this subdivision, include traffic controls, streets, roads, highways, freeways, bridges, overcrossings, street interchanges, flood control or storm drain facilities, sewer facilities, water facilities, and lighting facilities.

(b) (1) The period of time specified in subdivision (a), including any extension thereof granted pursuant to subdivision (e), shall not include any period of time during which a development moratorium, imposed after approval of the tentative map, is in existence. However, the length of the moratorium shall not exceed five years.

(2) The length of time specified in paragraph (1) shall be extended for up to three years, but in no event beyond January 1, 1992, during the pendency of any lawsuit in which the subdivider asserts, and the local agency which approved or conditionally approved the tentative map denies, the existence or application of a development moratorium to the tentative map.

(3) Once a development moratorium is terminated, the map shall be valid for the same period of time as was left to run on the map at the time that the moratorium was imposed. However, if the remaining time is less than 120 days, the map shall be valid for 120 days following the termination of the moratorium.

(c) The period of time specified in subdivision (a), including any extension thereof granted pursuant to subdivision (e), shall not include the period of time during which a lawsuit involving the

approval or conditional approval of the tentative map is or was pending in a court of competent jurisdiction, if the stay of the time period is approved by the local agency pursuant to this section. After service of the initial petition or complaint in the lawsuit upon the local agency, the subdivider may apply to the local agency for a stay pursuant to the local agency's adopted procedures. Within 40 days after receiving the application, the local agency shall either stay the time period for up to five years or deny the requested stay. The local agency may, by ordinance, establish procedures for reviewing the requests, including, but not limited to, notice and hearing requirements, appeal procedures, and other administrative requirements.

(d) The expiration of the approved or conditionally approved tentative map shall terminate all proceedings and no final map or parcel map of all or any portion of the real property included within the tentative map shall be filed with the legislative body without first processing a new tentative map. Once a timely filing is made, subsequent actions of the local agency, including, but not limited to, processing, approving, and recording, may lawfully occur after the date of expiration of the tentative map. Delivery to the county surveyor or city engineer shall be deemed a timely filing for purposes of this section.

(e) Upon application of the subdivider filed prior to the expiration of the approved or conditionally approved tentative map, the time at which the map expires pursuant to subdivision (a) may be extended by the legislative body or by an advisory agency authorized to approve or conditionally approve tentative maps for a period or periods not exceeding a total of six years. The period of extension specified in this subdivision shall be in addition to the period of time provided by subdivision (a). Prior to the expiration of an approved or conditionally approved tentative map, upon an application by the subdivider to extend that map, the map shall automatically be extended for 60 days or until the application for the extension is approved, conditionally approved, or denied, whichever occurs first. If the advisory agency denies a subdivider's application for an extension, the subdivider may appeal to the legislative body within 15 days after the advisory agency has denied the extension.

(f) For purposes of this section, a development moratorium includes a water or sewer moratorium, or a water and sewer moratorium, as well as other actions of public agencies which regulate land use, development, or the provision of services to the land, including the public agency with the authority to approve or conditionally approve the tentative map, which thereafter prevents, prohibits, or delays the approval of a final or parcel map. A development moratorium shall also be deemed to exist for purposes of this section for any period of time during which a condition imposed by the city or county could not be satisfied because of either of the following:

(1) The condition was one that, by its nature, necessitated action by the city or county, and the city or county either did not take the necessary action or by its own action or inaction was prevented or delayed in taking the necessary action prior to expiration of the tentative map.

(2) The condition necessitates acquisition of real property or any interest in real property from a public agency, other than the city or county that approved or conditionally approved the tentative map, and that other public agency fails or refuses to convey the property

interest necessary to satisfy the condition. However, nothing in this subdivision shall be construed to require any public agency to convey any interest in real property owned by it. A development moratorium specified in this paragraph shall be deemed to have been imposed either on the date of approval or conditional approval of the tentative map, if evidence was included in the public record that the public agency which owns or controls the real property or any interest therein may refuse to convey that property or interest, or on the date that the public agency which owns or controls the real property or any interest therein receives an offer by the subdivider to purchase that property or interest for fair market value, whichever is later. A development moratorium specified in this paragraph shall extend the tentative map up to the maximum period as set forth in subdivision (b), but not later than January 1, 1992, so long as the public agency which owns or controls the real property or any interest therein fails or refuses to convey the necessary property interest, regardless of the reason for the failure or refusal, except that the development moratorium shall be deemed to terminate 60 days after the public agency has officially made, and communicated to the subdivider, a written offer or commitment binding on the agency to convey the necessary property interest for a fair market value, paid in a reasonable time and manner.

66452.23. (a) The expiration date of any tentative map, vesting tentative map, or parcel map for which a tentative map or vesting tentative map, as the case may be, has been approved that has not expired on or before the date that the act that added this section became effective, and that will expire before January 1, 2014, shall be extended by 24 months.

(b) The extension provided by subdivision (a) shall be in addition to any extension of the expiration date provided for in Section 66452.6, 66452.11, 66452.13, 66452.21, 66452.22, or 66463.5.

(c) Any legislative, administrative, or other approval by any state agency that pertains to a development project included in a map that is extended pursuant to subdivision (a) shall be extended by 24 months if this approval has not expired on or before the date that the act that added this section became effective. This extension shall be in addition to any extension provided for in Sections 66452.13, 66452.21, and 66452.22.

(d) (1) For purposes of this section, the determination of whether a tentative map or parcel map expires before January 1, 2014, shall count only those extensions of time pursuant to subdivision (e) of Section 66452.6 or subdivision (c) of Section 66463.5 approved on or before the effective date of the act that added this section, and any additional time in connection with the filing of a final map pursuant to subdivision (a) of Section 66452.6 for a map that was recorded on or before the effective date of the act that added this section.

(2) The determination made pursuant to this subdivision shall not include any development moratorium or litigation stay allowed or permitted by Section 66452.6 or 66463.5.

(e) The provisions of Section 65961 relating to conditions that may be imposed upon or after a building permit for a subdivision of single- or multiple-family residential units or a parcel map for a subdivision for which no tentative map was required, are modified as set forth in subdivisions (e) and (f) of Section 65961 for tentative maps extended pursuant to this section.

66463.5. (a) When a tentative map is required, an approved or conditionally approved tentative map shall expire 24 months after its approval or conditional approval, or after any additional period of time as may be prescribed by local ordinance, not to exceed an additional 12 months.

(b) The expiration of the approved or conditionally approved tentative map shall terminate all proceedings, and no parcel map of all or any portion of the real property included within the tentative map shall be filed without first processing a new tentative map. Once a timely filing is made, subsequent actions of the local agency, including, but not limited to, processing, approving, and recording, may lawfully occur after the date of expiration of the tentative map. Delivery to the county surveyor or city engineer shall be deemed a timely filing for purposes of this section.

(c) Upon application of the subdivider filed prior to the expiration of the approved or conditionally approved tentative map, the time at which the map expires may be extended by the legislative body or by an advisory agency authorized to approve or conditionally approve tentative maps for a period or periods not exceeding a total of six years. Prior to the expiration of an approved or conditionally approved tentative map, upon the application by the subdivider to extend that map, the map shall automatically be extended for 60 days or until the application for the extension is approved, conditionally approved, or denied, whichever occurs first. If the advisory agency denies a subdivider's application for an extension, the subdivider may appeal to the legislative body within 15 days after the advisory agency has denied the extension.

(d) (1) The period of time specified in subdivision (a) shall not include any period of time during which a development moratorium, imposed after approval of the tentative map, is in existence. However, the length of the moratorium shall not exceed five years.

(2) Once a moratorium is terminated, the map shall be valid for the same period of time as was left to run on the map at the time that the moratorium was imposed. However, if the remaining time is less than 120 days, the map shall be valid for 120 days following the termination of the moratorium.

(e) The period of time specified in subdivision (a), including any extension thereof granted pursuant to subdivision (c), shall not include the period of time during which a lawsuit involving the approval or conditional approval of the tentative map is, or was, pending in a court of competent jurisdiction, if the stay of the time period is approved by the local agency pursuant to this section. After service of the initial petition or complaint in the lawsuit upon the local agency, the subdivider may apply to the local agency for a stay pursuant to the local agency's adopted procedures. Within 40 days after receiving the application, the local agency shall either stay the time period for up to five years or deny the requested stay. The local agency may, by ordinance, establish procedures for reviewing the requests, including, but not limited to, notice and hearing requirements, appeal procedures, and other administrative requirements.

(f) For purposes of this section, a development moratorium shall include a water or sewer moratorium or a water and sewer moratorium, as well as other actions of public agencies that regulate land use, development, or the provision of services to the land, including the public agency with the authority to approve or conditionally approve the tentative map, which thereafter prevents, prohibits, or delays

the approval of a parcel map.

(g) Notwithstanding subdivisions (a), (b), and (c), for the purposes of Chapter 4.5 (commencing with Section 66498.1), subdivisions (b), (c), and (d) of Section 66498.5 shall apply to vesting tentative maps prepared in connection with a parcel map except that, for purposes of this section, the time periods specified in subdivisions (b), (c), and (d) of Section 66498.5 shall be determined from the recordation of the parcel map instead of the final map.

**Cal. Admin. Code Title 14. Natural Resources, Division 6. Resources Agency
Chapter 3. Guidelines for Implementation of the California Environmental Quality Act
§ 15162. Subsequent EIRs and Negative Declarations.**

(a) When an EIR has been certified or a negative declaration adopted for a project, no subsequent EIR shall be prepared for that project unless the lead agency determines, on the basis of substantial evidence in the light of the whole record, one or more of the following:

(1) Substantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;

(2) Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or

(3) New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the negative declaration was adopted, shows any of the following:

(A) The project will have one or more significant effects not discussed in the previous EIR or negative declaration;

(B) Significant effects previously examined will be substantially more severe than shown in the previous EIR;

(C) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or

(D) Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

(b) If changes to a project or its circumstances occur or new information becomes available after adoption of a negative declaration, the lead agency shall prepare a subsequent EIR if required under subdivision (a). Otherwise the lead agency shall determine whether to prepare a subsequent negative declaration, an addendum, or no further documentation.

(c) Once a project has been approved, the lead agency's role in project approval is completed, unless further discretionary approval on that project is required. Information appearing after an approval does not require reopening of that approval. If after the project is approved, any of the conditions described in subdivision (a) occurs, a subsequent EIR or negative declaration shall only be prepared by the public agency which grants the next discretionary approval for the project, if any. In this situation no other responsible agency shall grant an approval for the project until the subsequent EIR has been certified or subsequent negative declaration adopted.

(d) A subsequent EIR or subsequent negative declaration shall be given the same notice and public review as required under Section 15087 or Section 15072. A subsequent EIR or negative declaration shall state where the previous document is available and can be reviewed.

See: Public Resources Code Sections 21083 & 21166

City of San Bruno Municipal Code

12.128.010 Time limit. Architectural review permits, use permits, planned unit permits, minor modifications, and variances shall become null and void if not exercised within one year, or in the case of a variance, one hundred eighty days, from the effective date of the approval thereon unless a greater period of time is authorized, or if either of following has been issued:

A. A building permit, where construction has been started on the site, diligently pursued toward completion, and completed within the time limits set forth in Chapter 11.34; or

B. A certificate of occupancy for the site or structure for the subject property.

Notwithstanding the foregoing, no architectural review permit, use permit, planned unit permit, minor modification, or variance shall extend beyond five years. (Ord. 1734 § 1, 2007; Ord. 1410 § 1 (part), 1982: prior code § 27-15.1)

12.128.020 Renewal. Use permits, planned unit permits, and architectural review permits may be renewed for an additional period not to exceed the original period. Prior to the expiration date, an application for renewal shall be filed with the commission. The commission may grant or deny an application for renewal based upon the same findings applicable to a new application. No public hearing shall be required for renewal; provided, however, no conditions of the use permit, planned unit development permit, minor modification, or variance may be added, altered, or amended without first holding a public hearing pursuant to the provisions of Chapter 12.132. (Ord. 1410 § 1 (part), 1982: prior code § 27-15.2)

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10.05.2550 Expiration and extension of permits. Any design review permit, zoning permit, conditional use permit, exception, or variance granted in accordance with the terms of this chapter shall, without further action, become null and void if a building permit application is not submitted within one year from the date of approval thereof or within any shorter or longer period of time not to exceed three years, if so designated by the planning commission or city council, unless extended by action of the planning commission. A public hearing shall be held prior to any such extension and notice of such hearing shall be in the time and manner provided in Article XXIX of this chapter. (Ord. 726, § 2 (Att. A); Ord. 643, § 6; Ord. 231; 1976 Code § 10-1.1017; 1966 Code § 8650. Formerly 10.05.1440).