

# ITEM 9-C

## PLANNING BOARD STAFF REPORT

**DATE:** February 8, 2010

**TO:** Honorable President and Members of the  
Planning Board

**FROM:** Andrew Thomas, Planning Services Manager  
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**APPLICATION:** An Ordinance to Amend Alameda Municipal Code  
Section 30-37.6 regarding the Expiration and Extension  
of Design Review approvals.

**ZONING DISTRICT:** Citywide

**GENERAL PLAN:** Citywide

**ACRONYMS:** AMC – Alameda Municipal Code

### EXECUTIVE SUMMARY:

The proposed amendment to Section 30-37.6 Expiration and Extension of the AMC changes the expiration date for valid design review permits from one (1) to two (2) years and increases the available permit extension from one (1) year to (2) two years. The amendment will:

1. Simplify the City's permitting processes by establishing consistent expiration and extension provisions for design review, use permit and variance approvals. Use permits and variances are valid for two (2) years with opportunity for a two (2) year extension.
2. Provide additional time for Alameda property owners to acquire the necessary financing and/or economic resources to commence construction on approved projects. The current economic downturn has caused many Alameda property owners to delay major expenditures on planned improvements that were approved in 2007, 2008, or 2009. Under the current one year and one year extension provisions, many valid design review permits have or will be expiring. Once the design review permit has expired, the property owner must re-apply to re-acquire design review

approval if they wish to proceed with the improvements. Re-doing the design review approval process adds unnecessary time and expense to previously approved projects.

## **BACKGROUND:**

Planning approvals in Alameda expire within a specified amount of time unless building permits have been acquired and construction has begun. Planning permits are given expiration dates, because community standards, requirements, and conditions change over time. A design review proposal that was deemed acceptable in 1990 may not be deemed acceptable in 2010. Therefore, a community may not wish to allow a 1990 approval to commence construction in 2010, even if the proposal was approved in 1990. In this example, the community may require that the proposal be resubmitted and revised to reflect current 2010 standards and requirements.

In Alameda, use permit and variance approvals expire in two (2) years and can be extended for up to an additional two (2) years. Design review approvals expire in one year and can be extended for one additional year. If a design review approval is attached to a variance approval or use permit approval, then the design review permit is good for two (2) years with opportunity for a two (2) year extension. Tentative Maps (subdivisions of property) expire within two years unless a Final Map is approved and recorded. In 2009, the State of California legislature approved a statewide extension on all tentative subdivision maps in recognition of the statewide economic downturn.

The City of Alameda Planning Board and design review staff processed 285 design review applications in 2007, 255 applications in 2008, and 154 in 2009. Many of these proposals were unable to proceed due to the economic downturn that has been especially difficult in the Bay Area. Many homeowners and property owners have been unable to acquire construction loans for their projects, and others postponed their projects over concerns about the security of their personal financial situation, with rising unemployment and significant job losses through almost every sector of the Bay Area economy. As a result of these delays, many of these design review approvals have or will be expiring.

## **ANALYSIS**

Under current provisions, property owners with a valid design review approval may request a one-year extension, provided that they make the request prior to the expiration of the approval. If they miss the one-year deadline, the design review approval expires. If they meet the deadline, the design review approval may be extended for an additional year. Therefore, with an approved extension, a property owner may delay construction for up to two (2) years from the date of approval, but no longer.

Given the economic downturn, many valid design review approvals have expired or will expire this year. If any property owner with an expired design review

approval wishes to commence construction in 2010 or 2011 as the Bay Area's economic conditions stabilize – or hopefully improve – these property owners will be required to completely re-do the design review approval process. This requires reapplying for approval, paying the applications fees again, re-noticing the neighbors, and re-holding public hearings, if a hearing is required for the project.

Reprocessing and re-approving previously approved design review approvals is an unnecessary additional cost for Alameda property owners and does not provide any benefit to the larger community. Allowing a design review approval that also required a variance approval to remain valid longer than a design review approval that did not require a variance is not in the best interest of the community or the public welfare. To maintain code provisions that include confusing and counter intuitive requirements causes confusion and frustration with the permit process.

Given these concerns, staff is recommending an amendment to AMC Section 30-37.6 Expiration and Extension to extend the expiration date for valid design review permits from one (1) to two (2) years and increases the available permit extension from one (1) year to (2) two years. The amendment simplifies the City's permitting processes by establishing consistent expiration and extension provisions for design review, use permit and variance approvals. The amendment also provides additional time for Alameda property owners to acquire the necessary financing and/or economic resources to commence construction on approved projects. The amendment preserves the City's ability to deny an extension if the original approval is no longer consistent with current City standards and requirements.

The recommended text amendments are as follows:

*30-37.6 Expiration and Extension.*

*Design Review approval shall expire ~~one (1)~~ two (2) years from the initial date of approval unless construction has commenced under valid permits. Design review approval may be extended upon application for up to two (2) additional years from the date of expiration. ~~When a Design Review approval is associated with a use permit or variance, the Design Review approval shall remain valid for the same period of time as the use permit or variance, as regulated by Section 30-21. Prior to the expiration of the Design Review approval the applicant may apply to the Design Review Staff for one (1) year extension by prior said expiration.~~*

As revised, a property owner may apply for the two-year extension, even if the design review permit has already expired, but the extension may not extend the permit beyond four years from the original approval. For homeowners who may not be aware that their permits have expired, this revision would allow staff to grant them the 2 year extension provided that the extension does not extend the permit beyond the four (4) year limit.

**FINDINGS**

Alameda Municipal Code, 30-22.5 states that when considering a Zoning Text Amendment, the staff and the Planning Board must consider:

**The effect of the proposed amendments on the integrity of the General Plan.**

The proposed zoning text amendment will not negatively impact the integrity of the General Plan. The proposed amendments will simplify and improve the design review process in Alameda and provide relief for property owners who are required to delay construction on approved projects.

**The effect of the proposed amendments on the general welfare of the community.**

The proposed zoning text amendment will not negatively effect the general welfare of the community. Only projects with valid design review permits will be allowed to proceed to construction. The amendments provide relief to property owners that may have been required to delay construction due to the worldwide economic downturn by not requiring them to pay for renewing permits.

**The equitableness of the proposal.**

The proposed zoning amendment is equitable in that it established a consistent expiration and extension requirements for all design review projects, irrespective of whether they are joined with a variance or use permit. .

**ENVIRONMENTAL REVIEW**

The proposed amendments are categorically exempt from CEQA pursuant to CEQA Guidelines Section 15305 Minor Alterations in Land Use Limitations. The proposed amendments amend the review process for Design Review and do not increase the intensity or density of use that would be permitted on property in Alameda.

**PUBLIC NOTICE**

A notice for this hearing published in the Alameda Journal.

**RECOMMENDATION**

Hold a public hearing and recommend the proposed amendments to the City Council.

RESPECTFULLY SUBMITTED BY:

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ANDREW THOMAS  
PLANNING SERVICES MANAGER

Attachments:

1. Resolution