ITEM NO. 33

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OCEANSIDE FOR ZONE AMENDMENT (ZA11-00001) AMENDING ARTICLES 41 AND 43 OF THE ZONING ORDINANCE TO ALLOW AUTOMATIC TIME EXTENSIONS FOR DISCRETIONARY PERMITS OTHER THAN TENTATIVE MAPS THAT ARE VALID ON THE DATE THIS ORDINANCE BECOMES EFFECTIVE

WHEREAS, the City of Oceanside Planning Division identified that several approved entitlements are near expiration; and

WHEREAS, the concomitant decline in real estate values has significantly constrained the credit market, making it very difficult for land developers and business owners to obtain financing for many entitled projects; and

WHEREAS, in response to the current economic downturn and the State of California has developed another automatic 24-month time extension under Assembly Bill AB 208 for tentative maps. This 24-month non-map entitlement extension would be consistent with the State's intent to foster recovery of the economy and revitalization of blighted and un-performing properties.

WHEREAS, the Planning Commission after giving the required notice, did on the 13th day of June 2011, conducted a duly-advertised public hearing as prescribed by law to consider said application, and after holding a duly-advertised public hearing adopted Resolution No. 2011-P22, recommending approval of said Zone Amendment (ZA11-00001); and

WHEREAS, the three-year time limit denoted in Articles 4108 (B) and 4308 (C) of the Oceanside Zoning Ordinance shall not apply to those entitlements extended pursuant to this ordinance; and

WHEREAS, the "Time Extension" procedures contained in ARTICLES 41 and 43 of the Oceanside Zoning Ordinance are the exclusive time extension procedures recognized by the City of Oceanside and are thus intended to apply citywide in all areas of the City of Oceanside, including the Coastal Zone; and

WHEREAS, on August 17, 2011, the City Council of the City of Oceanside held a duly-advertised public hearing to consider said Zone Amendment and the recommendation of the Planning Commission thereon and heard and considered written evidence and oral testimony by all persons regarding the proposed Zone Amendment; and

WHEREAS, a Notice of Exemption was prepared by the Resource Office of the City of Oceanside for this project pursuant to the California Environmental Quality Act of 1970 and the State Guidelines thereto amended to date; and

WHEREAS, based upon such evidence, testimony and staff reports, this Council finds as follows:

1. The Zoning Amendment conforms to the General Plan, Zoning Ordinance and the Local Coastal Program of the City of Oceanside.
2. The Zoning Ordinance amendment is a fair and expeditious response to the needs of the development community yet balances those needs with the rights of the residents to continue to participate in the development review process.

NOW, THEREFORE, the City Council of the City of Oceanside does ordain as follows:

Articles 4108(B)(1) and 4308(C)(1) are herby added to the Zoning Ordinance as follows:

1. <u>Article 4108(B)(1) Automatic Extension.</u> All Use Permits, Variances, and Regular Coastal Permits approved but not yet implemented that are valid and unexpired on the date this Ordinance becomes effective, and that are set to expire prior to January 1, 2014, shall be extended 24-months, from the current expiration date. Any Conditional Use Permit with an existing sunset clause shall not be affected by this amendment.
2. <u>4308 (C)(1) Automatic Extension.</u> All Development Plans, including Regular Coastal Permits approved but not yet implemented that are valid and unexpired on the date this Ordinance becomes effective, and that are set to expire prior to January 1, 2014, shall be extended for a period of 24-months from the current expiration date.

Provided however, that any Development Plan approved concurrent with a Tentative Map, Vesting Tentative Map or Parcel Map shall, pursuant to Government Code § 66452.21 and § 66452.22, be provided the same extension provided to the Tentative Map, Vesting Tentative Map or Parcel Map.

3. Notice is hereby given that the time within which judicial review must be sought on this decision is governed by CCP Section 1094.6.

4. This Ordinance shall not be codified.

5. The City Clerk of the City of Oceanside is herby directed to publish the title of this Ordinance once with fifteen (15) days after its passage in North County Times, a newspaper of general circulation published in the City of Oceanside. This Ordinance shall take effect and be in force on the thirtieth (30th) day from and after its final passage.

INTRODUCED at a regular meeting of the City Council of the City of Oceanside, California, held on the 17th day of August 2011, and, thereafter

PASSED AND ADOPTED by the City Council of the City of Oceanside, California this 17th day of August 2011, by the following votes:

AYES:

NAYES:

ABSENT:

ABSTAIN:

Mayor of the City of Oceanside

ATTEST:

APPROVED AS TO FORM:

City Clerk

City Attorney

EXHIBIT A

Assembly Bill No. 208

CHAPTER 88

An act to amend Section 65961 of, and to add Section 66452.23 to, the Government Code, relating to land use, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 13, 2011. Filed with Secretary of State July 15, 2011.]

legislative counsel's digest

AB 208, Fuentes. Land use: subdivision maps: expiration dates.

(1) The Subdivision Map Act vests the authority to regulate and control the design and improvement of subdivisions in the legislative body of a local agency, and sets forth procedures governing the local agency's processing, approval, conditional approval or disapproval, and filing of tentative, final, and parcel maps, and the modification thereof. The act generally requires a subdivider to file a tentative map or vesting tentative map with the local agency, as specified, and the local agency, in turn, to approve, conditionally approve, or disapprove the map within a specified time period. The act requires an approved tentative map or vesting tentative map to expire 24 months after its approval, or after an additional period of time prescribed by local ordinance, not to exceed 12 months. However, the act extends the expiration date of certain approved tentative maps and vesting tentative maps, as specified.

This bill would extend by 24 months the expiration date of any approved tentative map or vesting tentative map that has not expired as of the effective date of this act and will expire prior to January 1, 2014. By adding to the procedures that local agency officials must follow, this bill would impose a state-mandated local program.

(2) The Permit Streamlining Act prohibits a local agency, after its approval of a tentative map for a subdivision of single- or multiple-family residential units, from requiring conformance with, or the performance of, any conditions that the local agency could have lawfully imposed as a condition to the previously approved tentative or parcel map, as a condition to the issuance of any building permit or equivalent permit upon approval of that subdivision, during a 5-year period following the recordation of the final map or parcel map for that subdivision. The act also prohibits a local agency from refusing to issue a building permit or equivalent permit for a subdivider's failure to conform with or perform those conditions. However,

the act also provides that this 5-year period is a 3-year period for a tentative map extended pursuant to a specified provision of law, and the local agency is not prohibited from levying a fee, or imposing a condition that requires

the payment of a fee upon the issuance of a building permit, with respect to the underlying units.

This bill would provide that a tentative map extended pursuant to its provisions is also subject to the truncated 3-year period described above, and that the local agency is not prohibited from levying a fee, or imposing a condition that requires the payment of a fee upon the issuance of a building permit, with respect to the underlying units. By adding to the procedures that local agency officials must follow, this bill would impose a state-mandated local program.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

(4) This bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. Section 65961 of the Government Code is amended to read:

65961. Notwithstanding any other provision of law, except as provided in subdivisions (e) and (f), upon approval or conditional approval of a tentative map for a subdivision of single- or multiple-family residential units, or upon recordation of a parcel map for such a subdivision for which no tentative map was required, during the five-year period following recordation of the final map or parcel map for the subdivision, a city, county, or city and county shall not require as a condition to the issuance of any building permit or equivalent permit for such single- or multiple-family residential units, conformance with or the performance of any conditions that the city or county could have lawfully imposed as a condition to the previously approved tentative or parcel map. Nor shall a city, county, or city and county withhold or refuse to issue a building permit or equivalent permit for failure to conform with or perform any conditions that the city, county, or city and county could have lawfully imposed as a condition to the previously approved tentative or parcel map. However, the provisions of this section shall not prohibit a city, county, or city and county from doing

any of the following:

(a) Imposing conditions or requirements upon the issuance of a building permit or equivalent permit which could have been lawfully imposed as a condition to the approval of a tentative or parcel map if the local agency finds it necessary to impose the condition or requirement for any of the following reasons:

(1) A failure to do so would place the residents of the subdivision or of the immediate community, or both, in a condition perilous to their health or safety, or both.

(2) The condition is required in order to comply with state or federal law.

(b) Withholding or refusing to issue a building permit or equivalent permit if the local agency finds it is required to do so in order to comply with state or federal law.

(c) Assuring compliance with the applicable zoning ordinance.

(d) This section shall also apply to a city or city and county which incorporates on or after January 1, 1985, and which includes within its boundaries any areas included in the tentative or parcel map described in this section.

When the incorporation includes areas included in the tentative or parcel map described in this section, "a condition that the city could have lawfully imposed as a condition to the previously approved tentative or parcel map," as used in this section, refers to conditions the county could have imposed had there been no incorporation.

(e) For purposes only of a tentative subdivision map or parcel map that is extended pursuant to Section 66452.22 or 66452.23, the five-year period described in this section shall be three years.

(f) For purposes only of a tentative subdivision map or parcel map that is extended pursuant to Section 66452.22 or 66452.23, this section does not prohibit a city, county, or city and county from levying a fee or imposing a condition that requires the payment of a fee, including an adopted fee that is not included within an applicable zoning ordinance, upon the issuance of a building permit, including, but not limited to, a fee defined in Section 66000.

SEC. 2. Section 66452.23 is added to the Government Code, to read:

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.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of

Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to permit cities, counties, and cities and counties to preserve development applications that are set to expire and that cannot be processed presently due to prevailing adverse economic conditions in the construction industry, it is necessary that this act take effect immediately.

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Project Name	File Number	Action Date	Approval Body	Resolution
Downs Residence	ADP-2-07	11/30/2009	City Planner	
Elfens Children School	ADP-6-07	10/20/2008	City Planner	
Riojas Residence	ACP10-00002	10/4/2010	City Planner	
Wick Residence	ACP09-00002	10/4/2010	City Planner	
Moreno Residence	ACP09-00006	2/3/2010	City Planner	
Lopez Residence	ACP-2-09	6/16/2009	City Planner	
Hunter Steak House	ACP10-00003	9/30/2010	City Planner	
Plata Del Norte	ADP-8-04TE09	Tolling Since 7/13/09	City Planner	
Medical Office Building	ADP-3-05	5/23/2008	City Planner	
Dakmin Inc.	ACP-8-06	9/26/2007	City Planner	
Betyar Residence	ADP-4-06	12/28/2009	City Planner	
Alta Loma Creek Side	ADP-2-06	6/9/2008	City Planner	
Airport Rd. Dev. Time Ext.	ADP-5-04TE09	8/17/2009	City Planner	
Banks Addition	ACP-1-09	6/1/2009	City Planner	
Hostetter Addition	ACP-6-08	3/10/2009	City Planner	
Schreiber Lot Line Time Ext	C-7-06, V-4-06, RC-4-6TE09	5/4/2009	Planning Commission	2009-P23
LDS Church Rev.	D-22-02, C-11-02REV07	3/10/2008	Planning Commission	2008-P13
Harbor Aquatics Center	D09-00005, RC-2-09	12/2/2009	Harbor Board	09-R0798-2
The Greens @ Arrowood	D10-00006	12/6/2010	Planning Commission	2010-P36
Arrowood Village K (Fairways)	D10-00007	1/10/2011	Planning Commission	2011-P01
Goodwill @ Mission Douglas	D10-00012	2/14/2011	Planning Commission	2011-P04
Taco Bell Revision	D11-00001	7/11/2011	Planning Commission	2011-P20
PCBP Revision	D-17-04REV08	11/16/2009	Planning Commission	2009-P40
PCBP Phase II	D-1-09	1/11/2010	Planning Commission	2010-P03
Pepper Tree Rev.	D10-00002	8/23/2010	Planning Commission	2010-P25
West Coast Tire & Wheel	D-15-92REV05	3/8/2010	Planning Commission	2010-P09
Mission Ave. 76 Station Rev.	D-2-08, C-17-84REV08	3/10/2008	Planning Commission	2010-P07
Marchi Apartments	D-4-06, C-51-06, RC-8-06	Tolling Since 1/8/2009	Planning Commission	2007-P04
Singh Farms Amendment	D-8-99Rev07	2/25/2008	Planning Commission	2008-P10
La Pacifica 2	D-8-07	4/7/2008	Planning Commission	2008-P20
Mission SLR Cemetery Expansion	D-2-07, C-3-07, H-1-07	1/26/2009	Planning Commission	2009-P01
Melrose Commercial Center	D-35-06	1/14/2008	Planning Commission	2008-P04
Pacific View Medical Office	D-25-06, C-6-07	2/11/2008	Planning Commission	2008-P07

El Camino Executive Center	D-23-06, V-1-07	6/9/2008	Planning Commission	2008-P34
Community Lutheran Church	D-11-06, C-36-06	4/7/2008	Planning Commission	2008-P23
Ivey Ranch Park Equestrian Center	D-13-08, C-38-08	6/22/2009	Planning Commission	2009-P33
Lloyd Wells Gift Trust	P10-00002	4/25/2011	Planning Commission	2011-P14
Robertson Parcel Map	P-15-04, D-10-06, C-41-04, C-5-06	Tolling Since 7/14/08	Planning Commission	2006-P44
Cleveland St. Condos	P-17-06, D-20-06, RC-20-06TE09	Tolling Since 1/22/09	Planning Commission	2007-P10
1007 S. Cleveland St	P-13-05, D-13-05, RC-6-04, V-9-05	Tolling Since 4/23/09	Planning Commission	2007-P21
Target Revision	P-4-07, D-3-79REV05, C-39-05, V-3-07	Tolling Since 8/13/09	Planning Commission	2007-P53
CA Row Homes @ Horne St	P-24-06, D-33-06, C-52-06	Tolling Since 5/12/09	Planning Commission	2007-P29
307 S. Ditmar	P-1-04, D-1-04, C-4-04, C-9-04TE09	Tolling Since 12/18/09	Planning Commission	2007-P06
Letourneau Row Homes	P-26-06, C-54-06, RC-26-06TE08	Tolling Since 12/17/08	Planning Commission	2007-P12
Avocado Road	P-5-04, C-8-07	Tolling Since 9/16/09	Planning Commission	2007-P47
Taylor Subdivision Time Extension	P-18-04, C-37-05, C-36-05TE08	8/11/2008	Planning Commission	2008-P47
Essex RDO Time Extension	P-11-05, D-28-05, V-14-05TE08	7/28/2008	Planning Commission	2008-P43
Enright Parcel Map II	P-2-08, RC-3-08	6/23/2008	Planning Commission	2008-P39
WindStar Ocean Ranch 19	P-4-08, D-5-08	10/6/2008	Planning Commission	2008-P61
Seagate Parcel 10 Condo Map	P-7-07	2/25/2008	Planning Commission	2008-P09
Laguna Pacifica Rev.	P-29-06, C-56-06, RC-28-06, V-19-06	5/5/2008	Planning Commission	2008-P32
Cassidy Cove	P-5-08, D-6-08, RC-5-08	3/22/2010	Planning Commission	2010-P11
Monarch @ RDO-Piazza	P-8-08, D-26-02REV06	2/9/2009	Planning Commission	2009-P09
Avocado RD. Parcel Map	P-2-05, C-2-05, C-40-05	12/2/2009	City Council	09-R0797-1
Pavilion @ Oceanside	P-7-06, D-6-06, C-19,20, 21, 22, 23-06	12/19/2008	City Council	08-R0653-1
Oceanview Plaza Time Ext	P-1-06, D-1-06, C-1-06, C-2-08 TE	6/18/2009	Planning Commission	2009-P27
San Luis Rey Crossing	P10-00004	12/15/2010	Planning Commission	2010-P34
The Cove Canyon Bluff	P-11-08, D-16-08, C-39-08, C-40-08	5/24/2010	Planning Commission	2010-P17
Hensel Parcel Map	P-12-01, C-2-03, V-7-02	11/3/2008	Planning Commission	2008-P69
The Cove Canyon Strand	P-12-08, D-17-08, C-41-08, C-42-08	5/24/2010	Planning Commission	2010-P18
N. Coast United Methodist Parcel Map	P-9-08	6/22/2010	Planning Commission	2009-P32
Stensrud Addition	RC10-00004	11/10/2011	Planning Commission	2011-P03
1610 S. Pacific Street	RC-6-08	6/23/2008	Planning Commission	2008-P41
Gary Stone @ 1941 S. Pacific St	RC10-00006	2/28/2011	Planning Commission	2011-P08
Keller Addition	RC10-00012	7/11/2011	Planning Commission	2011-P26
Hennenhoeffer Remodel	RC11-00001	7/11/2011	Planning Commission	2011-P23
1301 S. Pacific Balcony Extension	RC11-00003	7/11/2011	Planning Commission	2011-P24

Dillon Residence	RC10-00007	9/27/2010	Planning Commission	2010-P30
1443 S. Pacific Street	RC-6-09	1/25/2010	Planning Commission	2010-P06
Enright Townhomes Rev09	RC-12-03Rev09	1/11/2011	Planning Commission	2010-P04
Mudge Residence	RC-2-08, V-15-08	11/2/2009	Planning Commission	2009-P49
Jones Residence Time Ext	RC-13-01TE09	7/27/2009	Planning Commission	2009-P36
Trial Connector & Observation Deck	RC-1-09	4/6/2009	Planning Commission	2009-P17
311 Eaton Street Remodel	RC-10-08	11/17/2008	Planning Commission	2008-P71
Lundstrom Residence	RC-7-06	3/24/2008	Planning Commission	2008-P15
Brenna Estate Phase II	T-13-04, D-31-04, C-44-04	Tolling Since 6/6/11	Planning Commission	2007-P37
Dixie Street Development	T-2-04, D-5-04, C-10-04,	Tolling Since 6/6/11	Planning Commission	2007-P08
Vista Pacific	T-6-06, D-9-06	2/23/2009	Planning Commission	2009-P06
Rancho Vista	T-16-02REV06, D-31-02REV06	10/20/2009	Planning Commission	2008-P68
Bella Terra	T-7-04, D-13-01, RC-8-01TE08	8/11/2008	Planning Commission	2008-P48
Avocado Highlands	T-2-06, D-37-06, C-15-06, C-16-06	8/11/2008	Planning Commission	2008-P46
Oceanpointe	T-12-04, D-30-04, V-20-04, V-10-05	3/24/2008	Planning Commission	2008-P19
Kruger Variance	V-14-07	2/9/2009	Planning Commission	2009-P08