AGENDA NO. 5

PLANNING COMMISSION CITY OF OCEANSIDE

DATE: November 4, 2013

TO: Chairperson and Members of the Planning Commission

FROM: Development Services Department/Planning Division

SUBJECT: **CONSIDERATION OF ZONE AMENDMENT (ZA13-00007) AMENDING ARTICLES 41 AND 43 OF THE OCEANSIDE ZONING ORDINANCE – THIRD 24-MONTH AUTOMATIC TIME EXTENSIONS FOR DEVELOPMENT PLANS, CONDITIONAL USE PERMITS, VARIANCES, AND REGULAR COASTAL PERMITS – APPLICANT: CITY OF OCEANSIDE**

RECOMMENDATION

Staff recommends that the Planning Commission by motion:

(1) Confirm issuance of a Class One (1), Categorical Exemption of the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3), and

(2) Adopt Planning Commission Resolution No. 2013-P46 recommending approval of Zone Amendment (ZA13-00007) to allow a third 24-month extension of permits with findings of approval attached herein.

PROJECT DESCRIPTION AND BACKGROUND

The City of Oceanside Zoning Ordinance Sections 4108 (B) & 4308 (C) are intended to ensure that developments that have received entitlement approval be conditionally permitted to allow additional time to construct the development or preform the approved use through a Time Extension approval. Under these procedures, time extensions can be approved for projects that pay their fair share toward needed public services and that do not conflict with any changes in City policy or any substantial physical changes in the surrounding area that have occurred since the original approval.

Articles 41 and 43 of the Oceanside Zoning Ordinance establish that Development Plans, Conditional Use Permits, Variances and Regular Coastal Permits are effective for a period of two years following their original approval. Articles 41 and 43 further establish that such approvals may be extended for an additional period of up to three years through a formal application for renewal, which must be filed with the Planning Division no less than 30 days and no more than 90 days prior to expiration.

In the fall of 2007, the economy went into recession, and the housing market suffered unprecedented losses in value. As a result of these economic factors, the building industry suffered huge job losses and many have been unable to secure financing to complete their entitled projects. In response to this industry-wide downturn, the California State Legislature approved several bills amending the Subdivision Map Act to allow automatic time extensions for unexpired tentative maps, as shown in the table below. AB116 was the latest bill approved July 2013 and it also allowed an automatic two-year extension.

Assembly Bill	Tentative Map Eligibility	Time Extension
***SB 1185** (July 2008)	Maps approved prior to July 15, 2008, unexpired on July 15, 2008, and set to expire before January 1, 2011.	Automatic one-year and local discretionary additional one-year. City Council approved the combined one-year extensions for a two-year extension.
***AB 333** (July 2009)	Maps approved prior to July 15, 2009, unexpired on July 15, 2009, and set to expire before January 1, 2012.	Automatic two-year extension.
***AB 208** (July 2011)	Maps approved prior to July 15, 2011, unexpired on July 15, 2011, and set to expire prior to January 1, 2014.	Automatic two-year extension.
***AB 116** (July 2013) Current action	Maps approved on or after January 1, 2000, unexpired on July 11, 2013. Additionally, maps approved on or before December 31, 1999, upon application at least 90 days prior to the expiration of the map.	Automatic two-year extension.

*Bills impose a state-mandated local program.

For the previous time extensions, tentative maps were extended but no other entitlements received the same extension. Thus, applicants were required to apply for extensions of all locally-issued entitlements, even if they were approved in conjunction with a subdivision map. On August 17, 2011, the City Council approved the Planning Commission's recommendation of a non-codified Zone Amendment (ZA11-00001) to include unexpired entitlement projects issued concurrent with subdivision map approvals, in the two-year automatic time extension commensurate with AB 208.

The City of Oceanside's Subdivision Ordinance Section 607 for Expirations and Extensions allows a maximum of a 24-month time extension, which is more restrictive than the Subdivision Map Act Section (66463.5(a)), which allows a 36 month extension period.

ANALYSIS

The U.S. economy has continued to recover since the economic downturn in 2007 and in some cases, land development across the country continues to struggle to secure construction financing in a timely manner. To ensure approved entitlements don't expire and can eventually contribute to the economic recovery, another automatic time extension is necessary. Similar to the 24-month automatic time extension that was approved by the City Council on August 17, 2011; an additional 24-month at this time should provide sufficient time for entitlements to be implemented.

The extensions are exclusive of Conditional Use Permits that possess a condition of expiration based on an allocated time period or an operational time agreement. Conditional Use Permits that are required to cease all operations of the use as conditioned by the Planning Commission shall not benefit or be subject to this automatic 24-month time extension. Telecommunication facilities and other similar type uses with allocated operational time periods or otherwise known as sunsets of time conditioned by the Planning Commission and/or City Council would not benefit from this time extension.

There are approximately 250 active projects which many have not been issued building permits, construction and/or grading permits that remain active because of the previous August 19, 2009 and August 17, 2011 time extensions. These projects will be eligible for this additional time extension as well as any other project with a tentative map or vesting tentative map that was approved on or after January 1, 2000 or that was approved on or before December 31, 1999 for which an application for a time extension was submitted within 90 days prior to its expiration.

Because Articles 41 and 43 of the Zoning Ordinance currently limit time extensions of entitlements to a total of three years, an additional automatic extension beyond three years would require amendment of Articles 41 and 43. To account for such projects, staff recommends adoption of a non-codified Zone Amendment that provides for the automatic extension of Development Plans, Conditional Use Permits, Variances and Regular Coastal Permits in accordance with any automatic time extension for tentative maps enacted by the state.

ENVIRONMENTAL DETERMINATION

The proposed zone text amendment is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15061(b) (3). The activity under consideration is covered by the general rule that CEQA applies only to projects which have the potential of causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

SUMMARY

Allowing an additional 24-month time extension, in addition to the August 19, 2009 and the August 17, 2011 time extensions would allow developers and entitlement holder's additional time to secure financing and address other constraints of a recovering market. As such, staff recommends that the Planning Commission:

(1) Confirm issuance of a Class One (1), Categorical Exemption of the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3), and

(2) Adopt Planning Commission Resolution No. 2013-P46 recommending approval of Zone Amendment (ZA13-00007) to allow a third 24-month extension of permits with findings of approval attached herein.

PREPARED BY:

Megan Crooks
Senior Management Analyst

SUBMITTED BY:

Marisa Lundstedt
City Planner

Attachments:

1. Planning Commission Resolution No. 2013-P46
2. City Council Staff Report dated August 17, 2011
3. City Council Ordinances 09-OR0595-1, 09-OR0595A-3, and 11- OR0624-1

ATTACHMENT 1

PLANNING COMMISSION
RESOLUTION NO. 2013-P46

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF OCEANSIDE, CALIFORNIA RECOMMENDING APPROVAL OF AN ADDITIONAL ZONE TEXT AMENDMENT AMENDING ARTICLES 41 AND 43 OF THE ZONING ORDINANCE

APPLICATION NO:	ZA13-00007
APPLICANT:	City of Oceanside
LOCATION:	Citywide

THE PLANNING COMMISSION OF THE CITY OF OCEANSIDE, CALIFORNIA DOES RESOLVE AS FOLLOWS:

WHEREAS, according to the National Bureau of Economic Research, the national economy fell into a recession in fall of 2007;

WHEREAS, in response to the national recession and the concomitant decline in real estate values and associated difficulty in securing financing for entitled projects, the State of California passed legislation in 2008, 2009, 2011, and again in 2013 to automatically extend time limits for tentative maps, vesting tentative maps and parcel maps;

WHEREAS, the automatic time extensions for tentative and parcel map approvals established by the state statutes did not extend to other administrative or discretionary permits issued by the City; accordingly, on September 31, 2011, the Oceanside City Council adopted an uncodified ordinance adding Sections 4108(B)(1) and 4308(C)(1) to the Oceanside Zoning Ordinance to provide an automatic 24-month time extension for unexpired use permits, variances, development plans and regular coastal permits approved but not yet implemented, to coincide with the automatic time extension for tentative and parcel maps effected through state legislation;

WHEREAS, according to the National Bureau of Economic Research, although the recession has ended, the economy is still in a state of recovery;

WHEREAS, new state legislation (AB 116) was enacted on July 11, 2013 and provides for an additional automatic 24-month time extension for unexpired tentative maps, vesting

tentative maps and parcel maps that were approved on or after January 1, 2000 and unexpired on July 11, 2013;

WHEREAS, the automatic time extension proposed by AB 116 will not extend to other administrative or discretionary permits issued by the City of Oceanside;

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;

WHEREAS, the Planning Commission, after giving the required notice, did on the 4th day of November, 2013, conduct a duly advertised public hearing as prescribed by law to consider zone text amendments amending Articles 41 and 43 of the Oceanside Zoning Ordinance to allow an additional automatic 24-month time extension for unexpired and not yet implemented use permits, variances, development plans and regular coastal permits;

WHEREAS, pursuant to the California Environmental Quality Act of 1970, and State Guidelines thereto, a Notice of Exemption has been prepared for the zone text amendment project; and

WHEREAS, studies and investigations made by this Commission and on its behalf reveal the following facts:

//////////

//////////

//////////

//////////

//////////

//////////

//////////

//////////

//////////

//////////

//////////

For the Zone Amendment:

1. The Zone Text Amendments, as proposed, conform to the General Plan of the City.
2. The granting of the Zone Text Amendments is consistent with the purposes of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission does hereby recommend approval of Zone Amendment (ZA13-00007) to provide for an additional automatic 24-month time extension, consistent with the provisions of proposed AB 116 (if and when enacted) for unexpired and not yet implemented use permits, variances, development plans and regular coastal permits, by the following vote, to wit:

AYES:

NAYS:

ABSENT:

ABSTAIN:

_____

Robert Neal, Chairperson
Oceanside Planning Commission

ATTEST:

_____

Marisa Lundstedt, Secretary

I, MARISA LUNDSTEDT, Secretary of the Oceanside Planning Commission, hereby certify that this is a true and correct copy of Resolution No. 2013-P46.

Dated: November 4, 2013

ATTACHMENT 2

ITEM NO. 36

STAFF REPORT

CITY OF OCEANSIDE

DATE: August 17, 2011

TO: Honorable Mayor and Councilmembers

FROM: Development Services Department/Planning Division

SUBJECT: **ORDINANCE TO AUTHORIZE AN AUTOMATIC EXTENSION WITH NO ASSOCIATED COST OF UNEXPIRED ENTITLEMENTS INCLUDING DEVELOPMENT PLANS, CONDITIONAL USE PERMITS, VARIANCES AND REGULAR COASTAL PERMITS FOR A PERIOD OF 24 MONTHS**

SYNOPSIS

Staff recommends that the City Council introduce an Ordinance for a Zone Amendment (ZA11-00001), revising a subsection to the "Time Extension" procedures of Articles 41 and 43 of the Zoning Ordinance to allow an automatic time extension to projects that have been approved, and on the date that the ordinance becomes effective has not expired prior to January 1, 2014. The time extension fee will be waived for this automatic time extension. Staff further recommends that unexpired discretionary permits (except certain conditional use permits with time-sensitive expiration dates) issued concurrent with subdivision map approvals, shall be further extended for a period of time commensurate and be consistent with the State Bill AB 208 and with the extension of unexpired tentative maps or parcel maps pursuant to Government Code Section 66452.22.

BACKGROUND

The City of Oceanside Zoning Ordinance Sections 4108 (B) & 4308 (C) are intended to ensure that developments that have received entitlement approval be conditionally permitted to allow additional time to construct the development or perform the approved use through a Time Extension approval. Under these procedures, time extensions may be approved for projects that pay their fair share toward needed public services, and do not conflict with any changes in City policy nor any substantial physical changes in the surrounding area that have occurred since the original approval.

Articles 41 and 43 of the Oceanside Zoning Ordinance establish that Development Plans, Conditional Use Permits, Variances and Regular Coastal Permits are effective for a period of two years following their original approval. Articles 41 and 43 further establish that such approvals may be extended for an additional period of up to three years through a formal application for renewal, which must be filed with the Planning Division, no less than 30 days, or more than 90 days prior to expiration.

In the fall of 2007, the economy went into recession, and the housing market suffered unprecedented losses in value.

As a result of these economic factors, the building industry suffered huge job losses and many project owners/applicants have been unable to secure financing to complete their entitled projects. In response to this industry-wide downturn, the California State Legislature approved Senate Bill 1185 in July 2008, which granted an automatic one-year extension to all subdivision maps that were unexpired on July 15, 2008, and set to expire before January 1, 2011. This amendment to the Subdivision Map Act also extended the maximum life of a tentative map from five to six years. In July 2009, the California Legislature enacted another automatic extension of 24 months for unexpired tentative maps via AB 333. However, neither of these State statutes extends the life of any other locally-issued entitlements, e.g., Development Plans, Use Permits, Variances and Regular Coastal Permits.

Accordingly, under the current statutory scheme, tentative maps were extended, but no other entitlements received the same extension. Thus, applicants were required to apply for extensions of all locally-issued entitlements, even if they were approved in conjunction with a subdivision map. Under the City's then current fee schedule, fees for time extension applications were 50 percent of the processing fees for the original entitlements. Furthermore, Assembly Bill (AB) 208 was approved on July 13, 2011, allowing extensions for tentative subdivision and parcel maps for additional 24 months.

In response to requests from the development community, the City Council approved a Zone Amendment on August 19, 2009, to authorize an automatic time extension with a waiver for the extension cost of all unexpired entitlements including Development Plans, Conditional Use Permits, Variance and Regular Coastal Permits, for a period of 24 months. Since August 19, 2009, the economy has not improved as expected, and many entitled projects have not been constructed and are near expiration. Therefore, this second proposal for a 24-month time extension is needed to help facilitate development for the community and foster economic vitality.

This second 24-month time extension would apply to all projects approved on or before January 1, 2011, with the exception of Conditional Use Permits that possess a condition of expiration based on an allocated time period or an operational time agreement. Some of these Conditional Use Permits, which would not benefit from this extension, would range from telecommunication facilities that possess an allocated time of operation as conditioned, and use permits for businesses that were conditioned with a sunset of time for conducting business until a certain year or date. Conditional Use Permits, which are required to cease all operations of the use as conditioned by the Planning Commission, shall not benefit or be subject to this automatic 24-month time extension. Telecommunication facilities and other similar type uses with allocated operational time periods, or otherwise known as sunsets of time, conditioned by the Planning Commission and/or City Council would not benefit from this time extension.

ANALYSIS

Current Economic Conditions

As stated in the August 19, 2009, staff report and analysis, the U.S. economy has been in a recession since the fall of 2007, and the current economic conditions have not dramatically improved. Many real estate values have been falling into an economic lull, and land development across the country continues to struggle to secure construction financing in a timely manner. The time and expenses involved in obtaining time extensions will be burdensome to already delayed projects, and may result in expired projects, which will result in even less income to the City. Another automatic time extension is necessary to ensure approved entitlements do not expire and the projects may eventually contribute to the economic recovery. Similar to the 24-month automatic time extension, which was approved on August 19, 2009, by the City Council, an additional 24 months should provide sufficient time for entitlements to be implemented.

There are approximately 80 active residential projects comprising of approximately 900 housing units, many of which have not been issued building permits, construction and/or grading permits. Exhibit B displays a list of the entitled projects that would benefit from this extension. As a result of the August 19, 2009, one-time time extension approval, at least 20 commercial and mixed-use projects have received approval and are still active. Staff has estimated that since the last automatic time extension approval in August 19, 2009, approximately five projects were completed or are under construction due to the extension of time. Staff is anticipating that many of these entitled projects will move forward with building permits and development, due to the increase in building activity in the last year since the economic recession.

Because Articles 41 and 43 of the Zoning Ordinance currently limit time extensions of entitlements to a total of three years, an additional automatic extension beyond three years would require an amendment of Articles 41 and 43. To account for such projects, staff recommends adoption of a non-codified Zone Amendment that provides for the automatic extension of Development Plans, Conditional Use Permits, Variances and Regular Coastal Permits in accordance with any automatic time extension for tentative maps enacted by the state.

COMMISSION/COMMITTEE REPORT

On June 13, 2011, the Planning Commission reviewed and unanimously recommended approval of the proposed Zone Amendment by a 6-0 vote.

FISCAL IMPACT

In some cases, this proposal may result in loss of revenue from fees that would otherwise be required as part of the standard time extension process, assuming extensions were requested. However, the current economic circumstances, it is likely that many of the projects in question would simply be cancelled. Automatic extensions will keep the prospect of future development open, with the resulting construction and development fees being paid at a later date.

The Planning Division did not include fees for extensions in its projected revenue budget for FY 10-11, so no adjustments to budget are required. As during the last automatic extension, it is hoped that some of the open 80 entitled projects will be continued and that the City will realize income from building permits and future property tax revenues.

CITY ATTORNEY'S ANALYSIS

Pursuant to Article 4506 of the Oceanside Zoning Ordinance, the City Council is required to hold a public hearing on the proposed text amendment. Consideration of the amendment should be based on the evidence presented at the public hearing. After conducting the public hearing, the City Council should approve, modify or reject the Planning Commission's recommendation. A modification not previously considered by the Planning Commission shall be referred to the Planning Commission for review and report prior to adopting the proposed Zone Amendment.

RECOMMENDATION

Staff recommends that the City Council introduce an Ordinance for a Zone Amendment (ZA11-00001), revising a subsection to the "Time Extension" procedures of Articles 41 and 43 of the Zoning Ordinance to allow an automatic time extension to projects that have been approved, and on the date that the ordinance becomes effective has not expired prior to January 1, 2014. The time extension fee will be waived for this automatic time extension. Staff further recommends that unexpired discretionary permits (except certain conditional use permits with time-sensitive expiration dates) issued concurrent with subdivision map approvals, shall be further extended for a period of time commensurate and be consistent with the State Bill AB 208 and with the extension of unexpired tentative maps or parcel maps pursuant to Government Code Section 66452.22.

PREPARED BY:

Scott Nightingale
Planner II

SUBMITTED BY:

Peter A. Weiss
City Manager

REVIEWED BY:

Michelle Skaggs-Lawrence, Deputy City Manager

George Buell, Development Services Director

Jerry Hittleman, City Planner

ATTACHMENTS/EXHIBITS

1. City Council Ordinance
2. City Council Staff Report dated August 19, 2009
3. City Council Resolution No. 09-OR0595-1 dated August 19, 2009
4. Planning Commission Resolution No. 2011-P22
5. Planning Commission Staff Report dated June 13, 2011

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.

O

96

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

ATTACHMENT 2 ITEM NO. 25

STAFF REPORT *CITY OF OCEANSIDE*

DATE: August 19, 2009

TO: Honorable Mayor and Councilmembers

FROM: Development Services Department/Planning Division

SUBJECT: **ORDINANCE TO AUTHORIZE A ONE-TIME EXTENSION OF UNEXPIRED ENTITLEMENTS INCLUDING DEVELOPMENT PLANS, CONDITIONAL USE PERMITS, VARIANCES AND REGULAR COASTAL PERMITS FOR A PERIOD OF 24 MONTHS**

SYNOPSIS

Under consideration is a Zone Amendment (ZA-3-09) adding a new subsection to the "Time Extension" procedures of Articles 41 and 43 of the Zoning Ordinance. Staff recommends that the City Council introduce an ordinance adding a section to Articles 41 and 43 to automatically extend the expiration date of any entitlement that has been approved, but not yet implemented, and that has not expired on the date that the ordinance becomes effective and that will expire prior to January 1, 2012 for a period of 24 months from the original expiration date. Staff further recommends that unexpired discretionary permits issued concurrent with subdivision map approvals, shall be further extended for a period of time commensurate with the extension of unexpired tentative maps or parcel maps pursuant to Government Code Section 66452.22.

BACKGROUND

Time extension procedures currently outlined in the Zoning Ordinance are intended to ensure that development projects and conditionally-permitted land uses remain consistent with applicable policies, regulations and guidelines. Under these procedures, time extensions can be approved for projects that pay their fair share toward needed public services and do not conflict with any changes in City policy nor any substantial physical changes in the surrounding area that have occurred since the original approval.

Articles 41 and 43 of the Oceanside Zoning Ordinance establish that Development Plans, Conditional Use Permits and Variances are effective for a period of two years following their original approval. Regular Coastal Permits are issued with identical effective dates, and are often issued in conjunction with other entitlements. Articles 41 and 43 further establish that such approvals may be extended for an additional period of up to three years through a formal application for renewal, which must be filed with the Planning Division no less than 30 days or more than 90 days prior to expiration.

In the fall of 2007, the economy went into recession, and the housing market suffered

unprecedented losses in value. As a result of these economic factors, all facets of the building industry have suffered huge job losses and been unable to secure financing to complete their entitled projects. In response to this industry-wide downturn, in July 2008, the California State Legislature approved Senate Bill 1185, which granted an automatic one-year extension to all subdivision maps that were unexpired on July 15, 2008, and set to expire before January 1, 2011. This amendment to the Subdivision Map Act also extended the maximum life of a tentative map from five to six years. In July 2009, the California Legislature enacted another automatic extension of 24 months for unexpired tentative maps via AB 333. However, neither of these state statutes extend the life of any other locally-issued entitlements, e.g., Development Plans, Conditional Use Permits, Variances and Regular Coastal Permits.

Accordingly, under the current statutory scheme, tentative maps and parcel maps are extended, but no other entitlements receive the same extension. Thus, applicants are required to apply for extensions of all locally-issued entitlements, even if they were approved in conjunction with a subdivision map. Under the City's current fee schedule, fees for time extension applications amount to 50 percent of the processing fees for the original entitlements. For example, the fee for a time extension application for an approved Development Plan on less than 10 acres is $4,527 x 0.50 = $2,263.50. Average processing times for time extension applications range from 12 to 16 weeks.

On June 17, 2009, in response to requests from the development community, staff recommended to the City Council various changes to the Municipal Code, various City Council policies, and a more streamlined and less expensive time extension application process for non-map entitlements. At this public hearing, the City Council authorized a modification to the Oceanside Municipal Code to provide the Building Official with the discretion to approve extensions to building permits up to 12 months. However, no action was taken on staff's recommendation for expedited review and reduced fees for time extension requests for non-map entitlements (proposed City Council Policy 300-26), and thus the question remains as to how time extension requests for non-map entitlements should be processed in light of the state-mandated automatic time extensions for tentative maps.

ANALYSIS

Current Economic Conditions

According to the National Bureau of Economic Research, the U.S. economy has been in recession since the fall of 2007. Over the past 18 months, the national unemployment rate has nearly doubled. While home sales in California have increased slightly in recent months, the median home price is nearly 50 percent below its peak during the summer of 2007, and home foreclosure rates remain near historic highs. The commercial vacancy rate in San Diego County reached 20 percent in the second quarter of 2009 – the highest level seen since 1993. In Oceanside, the impact of these national, state and regional trends is reflected in both an eight percent decrease in business license applications between January-June 2008 and January-June 2009 and

a 20 percent decline in building permit applications between Fiscal Year 2007-08 and Fiscal Year 2008-09.

Faced with diminished real estate values, a restricted credit market and other obstacles associated with the current economic crisis, land development projects across the country continue to struggle to secure construction financing in a timely manner. For projects unable to commence construction before the end of their initial approval period, the time and expense involved in a standard time extension process may prove to be a greater burden than their proponents can afford to undertake, with the result being the expiration of approved projects that might otherwise have contributed to a community's built environment, quality of life and economic development. A similar fate exists for projects that have already applied for and received all of the time extensions for which they are eligible under current standards. Granting a one-time automatic time extension for non-map entitlements (i.e., Development Plans, Conditional Use Permits, Variances and Regular Coastal Permits), would provide a respite for imperiled development projects without eliminating the community's ability to apply the standard time extension review process to future entitlements.

Zone Amendment

In order to achieve consistency with both the letter and spirit of state law, it is staff's position that a one-time 24-month extension should be granted to all Development Plans, Conditional Use Permits and Variances and Coastal Permits that are valid on the date the ordinance goes into effect, and that are set to expire prior to January 1, 2012. Because Articles 41 and 43 of the Zoning Ordinance currently limit time extensions of entitlements to a total of three years, an additional automatic extension beyond three years would require amendment of Articles 41 and 43. To account for such projects, staff recommends adoption of a non-codified Zone Amendment that provides for the automatic extension of Development Plans, Conditional Use Permits, Variances and Regular Coastal Permits in accordance with any automatic time extension for tentative maps enacted by the state. Such an amendment would account for the provisions of SB 1185 and AB 333.

In addition to the benefits of aligning City protocol with state law and providing relief to projects imperiled by current economic conditions, staff support for automatic time extensions for entitlements meeting these time parameters is also based on the fact that no substantive changes in land use policy have been adopted since the initial approval of projects that would be automatically extended by the proposed Zone Amendment. In the intervening period, the City has not comprehensively updated the Land Use Element of the General Plan or the Zoning Ordinance, nor has it adopted any specific plans or other regulatory documents that would render nonconforming any automatically extended project. Although the potential exists for automatically extended projects to be rendered nonconforming by future changes in land use policy, the same potential exists for more recently entitled projects that will not benefit from automatic time extensions. It is staff's position that the temporary nature of the proposed automatic time extension would ensure the long-term integrity of the standard time extension process, which would be reestablished once the automatic time extension period has expired.

Potentially Eligible Projects

Working from available information, staff has identified the entitled and unexpired projects that would be eligible for automatic time extensions under the proposed Zone Amendment. At present, there are roughly 40 active residential projects comprising approximately 900 housing units, many of which have not as yet been issued permits for grading or construction. Several of these projects have submitted time extension applications within the past year; these requests have been tolling as the City evaluates the appropriateness of automatic extensions. Roughly 20 commercial and mixed-use projects have active entitlements at this time, including the S.D. Malkin hotel and timeshares, the CityMark complex, the Pavilion at Oceanside retail center, the La Pacifica 2 industrial development, several small retail complexes and a variety of medical and professional office buildings. One commercial project, San Luis Rey Crossing at North River Road and College Blvd., currently has a tolling time extension request. It is impossible to know how many of these projects might ultimately benefit from automatic time extensions, but assuming economic conditions improve within the next year, it seems likely that most of these projects can be implemented within their originally-prescribed time parameters.

The Coast Highway Vision and Strategic Plan (CHVSP)

The Coast Highway Vision and Strategic Plan (CHVSP), adopted by the City Council on April 15, 2009, outlines a variety of strategies for the revitalization of Coast Highway and adjacent areas. The principal goals of the CHVSP are to create pedestrian-friendly, transit-oriented mixed-use nodes along Coast Highway while enhancing the character of established neighborhoods and preserving open space, wildlife habitat and other environmental resources. Although not a regulatory document, the CHVSP provides a basis for subsequent changes to the General Plan, Local Coastal Program and Zoning Ordinance meant to foster the sustainable revitalization of Coast Highway. The CHVSP also includes design guidelines for future development along and adjacent to this commercial corridor. At present, few entitled projects are slated for properties within CHVSP boundaries; comprising mostly small-scale residential development, none of these projects are contrary to the overall vision of the CHVSP. Should proponents of any of these projects be interested in modifying their plans to more fully align with CHVSP principles (e.g., achieving higher residential densities or incorporating commercial elements), the Planning Division stands ready to assist their efforts, and, when deemed appropriate and feasible, to expedite any additional administrative or discretionary review that may be required under the Zoning Ordinance or applicable City protocol.

Alternatives

While staff recommends that the Zoning Ordinance be amended to allow for a one-time automatic time extension of Development Plans, Conditional Use Permits, Variances and Regular Coastal Permits, the City could instead choose to: a) allow no additional time extensions beyond those now provided for in the Zoning Ordinance; or b) provide

for additional time extensions through an administrative or discretionary review process. The City could require that additional time extension requests be subjected to either the standard review process or an expedited review process involving an abridged application, reduced or waived fees, reduced processing time, fewer notification requirements and/or a lower level of review. As directed, staff can provide a matrix of alternatives to automatic time extensions.

COMMISSION/COMMITTEE REPORT

On July 27, 2009, the Planning Commission reviewed and unanimously recommended approval of the proposed Zone Amendment.

FISCAL IMPACT

Automatic time extensions for Development Plans, Conditional Use Permits and Variances would result in a nominal loss of revenue from fees that would otherwise be required as part of the standard time extension process. However, this loss of revenue would be largely offset by the recovery of staff time that would otherwise be devoted to processing standard time extension applications.

CITY ATTORNEY'S ANALYSIS

Pursuant to Article 4506 of the Oceanside Zoning Ordinance, the City Council is required to hold a public hearing on the proposed text amendment. Consideration of the amendment should be based on the evidence presented at the public hearing. After conducting the public hearing, the City Council should approve, modify or reject the Planning Commission's recommendation. A modification not previously considered by the Planning Commission shall be referred to the Planning Commission for review and report prior to adopting the proposed Zone Amendment.

RECOMMENDATION

Staff recommends that the City Council introduce an ordinance adding a section to Articles 41 and 43 to automatically extend the expiration date of any entitlement that has been approved, but not yet implemented, and that has not expired on the date that the ordinance becomes effective and that will expire prior to January 1, 2012 for a period of 24 months from the original expiration date. Staff further recommends that unexpired discretionary permits issued concurrent with subdivision map approvals, shall be further extended for a period of time commensurate with the extension of unexpired tentative maps or parcel maps pursuant to Government Code Section 66452.22.

PREPARED BY:

Russ Cunningham
Senior Planner

SUBMITTED BY:

Peter A. Weiss
City Manager

REVIEWED BY:

Michelle Skaggs-Lawrence, Deputy City Manager
George Buell, Development Services Director
Jerry Hittleman, City Planner

ATTACHMENTS/EXHIBITS

1. City Council Ordinance
2. Planning Commission Resolution No. 2009-P37
3. Planning Commission Staff Report dated July 27, 2009
4. Correspondences

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL AND COMMUNITY DEVELOPMENT COMMISSION OF THE CITY OF OCEANSIDE FOR ZONE AMENDMENT (ZA-03-09) 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, according to the National Bureau of Economic Research, the national economy has been in recession since the fall of 2007; and,

WHEREAS, the concomitant decline in real estate values has significantly constrained the credit market, making it difficult for business owners and land development interests to secure financing for entitled projects;

WHEREAS, in response to the current economic downturn, the State of California has taken steps to automatically extend time limits for tentative, vesting tentative maps and parcel maps; and

WHEREAS, the automatic time extensions for tentative, vesting tentative and parcel map approvals established by state statute do not extend to other administrative or discretionary permits issued by the City; and

WHEREAS, on June 17, 2009, the City Council approved an amendment to the Municipal Code that provides the Building Official with discretion to extend active building permits for 12 months through July 31, 2010; and

WHEREAS, the three-year time limit denoted in Articles 4108(B) and 4308(C) of the 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 July 27, 2009, the Planning Commission of the City of Oceanside, after holding a duly advertised public hearing as required by law, adopted Resolution No. 2009-P37

recommending approval of the subject request; and

WHEREAS, on August 19, 2009, 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 Officer 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 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 hereby added to the Zoning Ordinance as follows:

1. Article 4108(B)(1) One-time Automatic Extension. Notwithstanding the above, all Use Permits, and Variances, 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, 2012, shall be extended for a period of 24 months from the original date of expiration, or if already extended pursuant to this Article, from the expiration date of the extension. Provided however, that any Use Permit or Variance 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 as the extension provided to the tentative map, vesting tentative map or parcel map.

2. Article 4308(C)(1) One-time Automatic Extension. Notwithstanding the above,

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, 2012, shall be extended for a period of 24 months from the original date of expiration, or if already extended pursuant to this Article, from the expiration date of the extension. 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 as the 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 hereby directed to publish the title of this Ordinance once within fifteen (15) days after its passage in the 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 19th day of August, 2009, and, thereafter,

///

///

///

///

///

///

///

///

///

///

///

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Oceanside, California, held on the _____ day of _____, 2009, by the following vote:

AYES:

NAYS:

ABSENT:

ABSTAIN:

_____
Mayor of the City of Oceanside

ATTEST:

_____
City Clerk

APPROVED AS TO FORM:

_____
City Attorney

PLANNING COMMISSION
RESOLUTION NO. 2009-P37

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF OCEANSIDE, CALIFORNIA RECOMMENDING APPROVAL OF A ZONE TEXT AMENDMENT AMENDING ARTICLES 41 AND 43 OF THE ZONING ORDINANCE

APPLICATION NO:	ZA-3-09
APPLICANT:	City of Oceanside
LOCATION:	Citywide

THE PLANNING COMMISSION OF THE CITY OF OCEANSIDE, CALIFORNIA DOES RESOLVE AS FOLLOWS:

WHEREAS, according to the National Bureau of Economic Research, the national economy has been in recession since the fall of 2007; and,

WHEREAS, the concomitant decline in real estate values has significantly constrained the credit market, making it difficult for business owners and land development interests to secure financing for entitled projects;

WHEREAS, in response to the current economic downturn, the State of California has taken steps to automatically extend time limits for tentative maps; and

WHEREAS, the automatic time extensions for tentative map approvals established by state statute do not extend to other administrative or discretionary permits issued by the City; and

WHEREAS, on June 17, 2009, the City Council approved an amendment to the Municipal Code that provides the Building Official with discretion to extend active building permits for 12 months through July 31, 2010; and

WHEREAS, the three-year time limit denoted in Articles 4108(B) and 4308(C) of the 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, the Planning Commission, after giving the required notice, did on the 27th day of July, 2009, conduct a duly advertised public hearing as prescribed by law to consider said application; and

WHEREAS, pursuant to the California Environmental Quality Act of 1970, and State Guidelines thereto, a Notice of Exemption has been prepared for the zone text amendment project; and

WHEREAS, studies and investigations made by this Commission and on its behalf reveal the following facts:

For the Zone Amendment:

1. The Zone Text Amendments, as proposed, conform to the General Plan of the City.
2. The granting of the Zone Text Amendments is consistent with the purposes of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission does hereby recommend approval of Zone Amendment (ZA-3-09) as represented in the attached Exhibit "A".

PASSED AND ADOPTED Resolution No. 2009-P37 on July 27, 2009 by the following vote, to wit:

AYES: Troisi, Neal, Martinek, Bertheaud, Rosales and Scrivener

NAYS: None

ABSENT: Balma

ABSTAIN: None

Claudia Troisi, Chairperson
Oceanside Planning Commission

ATTEST:

Jerry Hittleman, Secretary

I, JERRY HITTLEMAN, Secretary of the Oceanside Planning Commission, hereby certify that this is a true and correct copy of Resolution No. 2009-P37.

Dated: July 27, 2009

PLANNING COMMISSION

STAFF REPORT

DATE: July 27, 2009

TO: Chairperson and Members of the Planning Commission

FROM: Development Services Department/ Planning Division

SUBJECT: **CONSIDERATION OF ZONE AMENDMENT (ZA-3-09) AMENDING ARTICLES 41 AND 43 OF THE ZONING ORDINANCE – TIME EXTENSIONS – APPLICANT: CITY OF OCEANSIDE**

RECOMMENDATION

Staff recommends that the Planning Commission by motion:

1. Adopt Planning Commission Resolution No. 2009-P37 recommending approval of Zoning Amendment (ZA-3-09) with findings of approval attached herein.

PROJECT DESCRIPTION AND BACKGROUND

Time extension procedures currently outlined in the Zoning Ordinance are intended to ensure that development projects and conditionally-permitted land uses remain consistent with applicable policies, regulations and guidelines. Under these procedures, time extensions can be approved for projects that pay their fair share toward needed public services and do not conflict with any changes in City policy nor any substantial physical changes in the surrounding area that have occurred since the original approval.

Articles 41 and 43 of the Oceanside Zoning Ordinance establish that Development Plans, Conditional Use Permits, Variances and Regular Coastal Permits are effective for a period of two years following their original approval. Articles 41 and 43 further establish that such approvals may be extended for an additional period of up to three years through a formal application for renewal, which must be filed with the Planning Division no less than 30 days or more than 90 days prior to expiration.

In the fall of 2007, the economy went into recession, and the housing market suffered unprecedented losses in value. As a result of these economic factors, all facets of the building industry have suffered huge job losses and been unable to secure financing to complete their entitled projects. In response to this industry-wide downturn, in July 2008 the California State Legislature approved Senate Bill 1185, which granted an automatic one-year extension to all subdivision maps that were unexpired on July 15,

2008 and set to expire before January 1, 2011. This amendment to the Subdivision Map Act also extended the maximum life of a tentative map from five to six years. In July 2009, the California legislature enacted another automatic extension of 24 months for unexpired tentative maps via AB 333. However, neither of these state statutes extend the life of any other locally-issued entitlements, e.g., Development Plans, Use Permits, Variances and Regular Coastal Permits.

Accordingly, under the current statutory scheme, tentative maps were extended, but no other entitlements received the same extension. Thus, applicants were required to apply for extensions of all locally-issued entitlements, even if they were approved in conjunction with a subdivision map. Under the City's current fee schedule, fees for time extension applications amount to 50 percent of the processing fees for the original entitlements. For example, the fee for a time extension application for an approved Development Plan on less than 10 acres is $4,527 x 0.50 = $2,263.50. Average processing times for time extension applications range from12 to 16 weeks.

On June 17, 2009, in response to requests from the development community, staff recommended to the City Council various changes to the Municipal Code, various City Council policies, and a more streamlined and less expensive time extension application process for non-map entitlements. At this public hearing, the City Council authorized a modification to the Oceanside Municipal Code to provide the Building Official with the discretion to approve extensions to building permits up to 12 months. However, no action was taken on staff's recommendation for expedited review and reduced fees for time extension requests for non-map entitlements (proposed City Council Policy 300-26), and thus the question remains as to how time extension requests for non-map entitlements should be processed in light of the state-mandated automatic time extensions for tentative maps.

ANALYSIS

Current Economic Conditions

According to the National Bureau of Economic Research, the U.S. economy has been in recession since the fall of 2007. Over the past 18 months, the national unemployment rate has nearly doubled. While home sales in California have increased slightly in recent months, the median home price is nearly 50 percent below its peak during the summer of 2007, and home foreclosure rates remain near historic highs. The commercial vacancy rate in San Diego County reached 20 percent in the second quarter of 2009 – the highest level seen since 1993. In Oceanside, the impact of these national, state and regional trends is reflected in both an eight percent decrease in business license applications between January-June 2008 and January-June 2009 and a 20 percent decline in building permit applications between Fiscal Year 2007-08 and Fiscal Year 2008-09.

Faced with diminished real estate values, a restricted credit market and other obstacles associated with the current economic crisis, land development projects across the

country continue to struggle to secure construction financing in a timely manner. For projects unable to commence construction before the end of their initial approval period, the time and expense involved in a standard time extension process may prove to be a greater burden than their proponents can afford to undertake, with the result being the expiration of approved projects that might otherwise have contributed to a community's built environment, quality of life and economic development. A similar fate exists for projects that have already applied for and received all of the time extensions for which they are eligible under current standards. Granting automatic time extensions for non-map entitlements (i.e. Development Plans, Conditional Use Permits, Variances and Regular Coastal Permits), with a provision to sunset these automatic time extensions when economic conditions improve, would provide a respite for imperiled development projects without eliminating the community's ability to apply the standard time extension review process to future entitlements.

Zone Amendment

In order to achieve consistency with both the letter and spirit of state law, it is staff's position that a one-time 24-month extension should be granted to all Development Plans, Conditional Use Permits and Variances and Coastal Permits that are valid on the date the ordinance goes into effect, and that are set to expire prior to January 1, 2012. Because Articles 41 and 43 of the Zoning Ordinance currently limit time extensions of entitlements to a total of three years, an additional automatic extension beyond three years would require amendment of Articles 41 and 43. To account for such projects, staff recommends adoption of a non-codified Zone Amendment that provides for the automatic extension of Development Plans, Conditional Use Permits, Variances and Regular Coastal Permits in accordance with any automatic time extension for tentative maps enacted by the state. Such an amendment would account for the provisions of SB 1185 and AB 333.

In addition to the benefits of aligning City protocol with state law and providing relief to projects imperiled by current economic conditions, staff support for automatic time extensions for entitlements meeting these time parameters is also based on the fact that no substantive changes in land use policy have been adopted since the initial approval of projects that would be automatically extended by the proposed Zone Amendment. In the intervening period, the City has not comprehensively updated the Land Use Element of the General Plan or the Zoning Ordinance, nor has it adopted any specific plans or other regulatory documents that would render non-conforming any automatically extended project. Although the potential exists for automatically extended projects to be rendered non-conforming by future changes in land use policy, the same potential exists for more recently entitled projects that will not benefit from automatic time extensions. It is staff's position that the temporary nature of the proposed automatic time extension would ensure the long-term integrity of the standard time extension process, which would be reestablished once the automatic time extension period has expired.

Potentially Eligible Projects

Working from available information, staff has identified the entitled and unexpired projects that would be eligible for automatic time extensions under the proposed Zone Amendment. At present, there are roughly 40 active residential projects comprising approximately 900 housing units, many of which have not as yet been issued permits for grading or construction. Several of these projects have submitted time extension applications within the past year; these requests have been tolling as the City evaluates the appropriateness of automatic extensions. Roughly 20 commercial and mixed-use projects have active entitlements at this time, including the S.D. Malkin hotel and timeshares, the CityMark complex, the Pavilion at Oceanside retail center, the La Pacifica 2 industrial development, several small retail complexes and a variety of medical and professional office buildings. One commercial project, San Luis Rey Crossing at North River Road and College Blvd., currently has a tolling time extension request. It is impossible to know how many of these projects might ultimately benefit from automatic time extensions, but assuming economic conditions improve within the next year, it seems likely that most of these projects can be implemented within their originally-prescribed time parameters.

The Coast Highway Vision and Strategic Plan (CHVSP)

The Coast Highway Vision and Strategic Plan (CHVSP), adopted by the City Council on April 15, 2009, outlines a variety of strategies for the revitalization of Coast Highway and adjacent areas. The principal goals of the CHVSP are to create pedestrian-friendly, transit-oriented mixed-use nodes along Coast Highway while enhancing the character of established neighborhoods and preserving open space, wildlife habitat and other environmental resources. Although not a regulatory document, the CHVSP provides a basis for subsequent changes to the General Plan, Local Coastal Program and Zoning Ordinance meant to foster the sustainable revitalization of Coast Highway. The CHVSP also includes design guidelines for future development along and adjacent to this commercial corridor. At present, few entitled projects are slated for properties within CHVSP boundaries; comprising mostly small-scale residential development, none of these projects are contrary to the overall vision of the CHVSP. Should proponents of any of these projects be interested in modifying their plans to more fully align with CHVSP principles (e.g., achieving higher residential densities or incorporating commercial elements), the Planning Division stands ready to assist their efforts, and, when deemed appropriate and feasible, to expedite any additional administrative or discretionary review that may be required under the Zoning Ordinance or applicable City protocol.

Alternatives

While staff recommends that the Zoning Ordinance be amended to allow for a one-time automatic time extension of Development Plans, Conditional Use Permits, Variances and Regular Coastal Permits, the City could instead choose to: a) allow no additional time extensions beyond those now provided for in the Zoning Ordinance; or b) provide for additional time extensions through an administrative or discretionary review process.

ATTACHMENT 3

CITY ORDINANCE NO. 09-OR0595-1
CDC ORDINANCE NO. 09-OR0595A-3

AN ORDINANCE OF THE CITY COUNCIL AND COMMUNITY DEVELOPMENT COMMISSION OF THE CITY OF OCEANSIDE FOR ZONE AMENDMENT (ZA-03-09) 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, according to the National Bureau of Economic Research, the national economy has been in recession since the fall of 2007; and,

WHEREAS, the concomitant decline in real estate values has significantly constrained the credit market, making it difficult for business owners and land development interests to secure financing for entitled projects;

WHEREAS, in response to the current economic downturn, the State of California has taken steps to automatically extend time limits for tentative, vesting tentative maps and parcel maps; and

WHEREAS, the automatic time extensions for tentative, vesting tentative and parcel map approvals established by state statute do not extend to other administrative or discretionary permits issued by the City; and

WHEREAS, on June 17, 2009, the City Council approved an amendment to the Municipal Code that provides the Building Official with discretion to extend active building permits for 12 months through July 31, 2010; and

WHEREAS, the three-year time limit denoted in Articles 4108(B) and 4308(C) of the 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 July 27, 2009, the Planning Commission of the City of Oceanside, after holding a duly advertised public hearing as required by law, adopted Resolution No. 2009-P37

recommending approval of the subject request; and

WHEREAS, on August 19, 2009, 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 Officer 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 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 hereby added to the Zoning Ordinance as follows:

1. Article 4108(B)(1) One-time Automatic Extension. Notwithstanding the above, all Use Permits, and Variances, 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, 2012, shall be extended for a period of 24 months from the original date of expiration, or if already extended pursuant to this Article, from the expiration date of the extension. Provided however, that any Use Permit or Variance 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 as the extension provided to the tentative map, vesting tentative map or parcel map.

2. Article 4308(C)(1) One-time Automatic Extension. Notwithstanding the above,

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, 2012, shall be extended for a period of 24 months from the original date of expiration, or if already extended pursuant to this Article, from the expiration date of the extension. 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 as the 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 hereby directed to publish the title of this Ordinance once within fifteen (15) days after its passage in the 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 19th day of August, 2009, and, thereafter,

///

///

///

///

///

///

///

///

///

///

///

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Oceanside, California, held on the 2nd day of Sept., 2009, by the following vote:

AYES: WOOD, CHAVEZ, FELLER, KERN

NAYS: SANCHEZ

ABSENT: NONE

ABSTAIN: NONE

Mayor of the City of Oceanside

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

ORDINANCE NO. 11-OR0624-1

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, 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 31st day of August 2011, by the following votes:

AYES: WOOD, FELIEN, FELLER, KERN, SANCHEZ

NAYES: NONE

ABSENT: NONE

ABSTAIN: NONE

Mayor of the City of Oceanside

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

NOTICE OF EXEMPTION
City of Oceanside, California

Post Date: Removal: (180 days)

1. **APPLICANT:** City of Oceanside
2. **ADDRESS:** 300 N. Coast Highway, Oceanside, CA 92054
3. **PHONE NUMBER:** (760) 435-5005
4. **LEAD AGENCY:** City of Oceanside
5. **PROJECT MGR.:** Megan Crooks, Sr. Management Analyst
6. **PROJECT TITLE:** Zone Amendment (ZA13-00007) 3rd Time Extension
7. **DESCRIPTION:** The City of Oceanside is proposing to permit an additional 24 month time extension to the approved August 17, 2011 City Council approval for one-time times extensions for 24-months. This additional 24-month time extension would allow projects near expiration additional time to construct their developments and implement the entitlements for facilitating economic stability and fostering development throughout the City.

ADMINISTRATIVE DETERMINATION: Planning Division staff has completed a preliminary review of this project in accordance with the California Environmental Quality Act (CEQA). Based on that review, the City Planner determined that further environmental evaluation is not required because:

[X] "The activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA" (Section 15061(b)(3)); or,

[ ] The project is statutorily exempt, Section_____, <name> (Sections 15260-15277); or,

[ ] The project is categorically exempt, Class 8, "Action by Regulatory Agencies for Protection of the Environment" per Section 15308 of the California Environmental Quality Act; or,

[ ] The project does not constitute a "project" as defined by CEQA (Section 15378).

Date: 10/31/13

Marisa Lundstedt, City Planner

cc: [x] Project file [ ] Counter file [ ] Library Posting: [ ] County Clerk $50.00 Admin. Fee