



A Tradition of Stewardship
A Commitment to Service

Agenda Date: 4/1/2009
Agenda Placement: 10B

Napa County Planning Commission Board Agenda Letter

TO: Napa County Planning Commission
FROM: John McDowell for Hillary Gitelman - Director
Conservation, Development & Planning
REPORT BY: John McDowell, Deputy Director - 299-1354
SUBJECT: Use Permit Time Extension Process

RECOMMENDATION

USE PERMIT TIME EXTENSION PROCESS

Discussion and possible action concerning utilizing the staff-level Minor Modifications process as a means to grant time extensions on a case-by-case basis to the standard two year approval period in which permittees must "use" their approved use permits.

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EXECUTIVE SUMMARY

In recent months, due to the worsening economic conditions affecting our Country and local region, Staff have been receiving greater numbers of inquiries from use permit holders seeking to extend the life of their use permits. County Code Chapter 18.124 requires that use permit holders expend substantial funds toward construction of their project within two years of the project's approval or the use permit automatically expires. The applicable County Code goes on to state there shall be no further extensions, but then states that shorter or longer periods (than the two years) can be included in the project's conditions of approval. Based off of that later clause, Staff believe that the period in which a use permit must be "used" may be extended by modifying the conditions of approval to specify a different period of time from the standard two year period. The question before the Commission is whether the Commission wishes to review and act on any such modification request, or if these requests can be determined at a Director level. Staff is requesting that the Commission endorse processing time extension requests on a case-by-case basis through the Very Minor Modification application process, and that such requests will be decided upon by the Director. Alternatively, the Commission, as the original decision-maker on most use permit projects, could be the decision-maker for any such time extension request.

FISCAL IMPACT

Is there a Fiscal Impact? No

ENVIRONMENTAL IMPACT

ENVIRONMENTAL DETERMINATION: The proposed action is not a project as defined by 14 California Code of Regulations 15378 (State CEQA Guidelines) and therefore CEQA is not applicable.

BACKGROUND AND DISCUSSION

Napa County Code Section 18.124.080 specifies a two year period from date of approval in which a use permit holder, or permittee, must "use" their use permit (or use permit modification) entitlement in order to prevent it from automatically expiring. The section further details methods in which a permittee can "use" the entitlement, which to summarize, consist of either pulling a building permit and constructing a building foundation, pulling a septic permit and installing a septic system, or expending an equivalent amount of funds commensurate to either installing a foundation or septic system. Staff believe the purpose behind limiting the time in which to "use" a use permit serves two purposes as follows: 1) it discourages persons from seeking entitlements strictly for speculative purposes because substantial funds must be expended within a specified time period; and 2) it protects the County in the event conditions under which the original entitlement was granted have changed to where the previous approval would no longer be found acceptable.

Until recently, the two year period has proven to be sufficient time for permittees to move forward and "use" their entitlement. However, in recent months, staff has received several inquiries from permittees who are concerned that economic factors outside of their control may prevent them from being able to expend sufficient funds to "use" the permit. These permittees have questioned whether time extensions can be granted.

Below is the Code section pertaining to automatic expiration of use permits:

"18.124.080 Automatic expiration of use permits. A. Subject to Sections 18.124.090 and 18.124.091 of this chapter, unless one or more of the following conditions occur, a use permit shall, without further action by any county officer or body, expire and become void two years after the date the approving officer or body orders the use permit issued or, if an appeal is taken to the board of supervisors, two years after the date the decision of the board on appeal becomes final; and there shall be no further extensions of time; provided, however, that if a shorter or longer time period is included in the conditions of approval of the use permit, that time period shall control and there shall be no further extensions of time (for purposes of this chapter this date shall hereafter be referred to as the "use permit expiration date")."

This Code Section specifies that no further extensions of time occur beyond the two year period, except that an alternative period may be included in the conditions of approval for the use permit. It appears that the Code section was intended to prevent the grant of time extensions. However, the section goes on to state that alternative periods can be granted if included in the conditions of approval, and when this is considered in concert with Section 18.124.130 which establishes that all use permits can be modified, Staff concludes that permittees have the ability to request time extension through the use permit modification process. The County is not obligated to approve such a request, but the County must consider the request if a permittee chooses to file.

Given that Staff believes current code enables time extensions to be requested through the modification process, the question before the Commission is to determine which County decision-maker should handle such

requests. Staff is requesting that the Commission endorse processing time extensions via a Staff-level (Director approved) Very Minor Modification application process. Alternatively, extensions of time could return to the original decision maker, which in most cases would be the Planning Commission. Staff recommends allowing time extensions at the Staff-level because it will reduce costs and uncertainty for applicants, and may eliminate the Commission having to conduct a hearing on what may otherwise be a non-controversial item.

SUPPORTING DOCUMENTS

None

Napa County Planning Commission: Approve

Reviewed By: John McDowell