

TO: City Manager, City Council

FROM: Doug Monn, Public Works Director/Ron Whisenand, Community Development Director

SUBJECT: Development Permit Extension Options

DATE: November 18, 2008

NEEDS: For the City Council to consider extending approved building permit applications in recognition of the difficult economic times currently facing the construction industry.

- FACTS:**
1. Members of City Council requested staff review and report on a recent decision by the City of Atascadero to extend development permit approvals as a way to help the struggling construction industry.
 2. After contacting the City of Atascadero, it was determined that the extension of permits was limited to building permits and was implemented primarily as a way to allow the City to recover \$370,000 in outstanding plan review fees owed the City.
 3. Section 105.3.2 of the 2007 California Building Code states: “An application for a permit for any proposed work shall be deemed to have been abandoned 180 days after the date of filing, unless such application has been pursued in good faith or a permit has been issued; except that the building official is authorized to grant one or more extensions of time for additional periods not exceeding 90 days each. The extension shall be requested in writing and justifiable cause demonstrated.” This allows the building official to grant one or more extensions in 90 day increments for applications when such extensions are justified.
 4. Extensions of planning entitlements (Atascadero did not take action to extend these entitlements) vary depending on the type of permit. Typical development approvals (i.e. Use Permits, Variances, and Development Plans) are good for two years with the ability to extend them in one year increments provided an extension request is received prior to approval. Tentative subdivision maps are regulated by State law and carry with them an initial effective date of two years plus the ability to extend the filing date an additional six years. It is important to note that the State Legislature, in response to the “prevailing adverse economic conditions in the construction industry” granted an automatic one year extension on all tentative subdivision maps in addition to the eight years already provided for.

ANALYSIS &

CONCLUSION: As is the case in the rest of the State, Paso Robles has experienced a significant slowing in the construction industry. Financing is tight and buyers wary. Many developers are choosing to delay construction until the economic picture improves.

The City engages in two distinct entitlement processes that present performance deadlines that if not adhered to, can result in expiration of City approvals. The first, involves, but is not limited to, planning decisions such as Development Permits, Use

Permits, and Subdivisions. While effective dates for these approvals are limited to two years, extension requests extending for seven or more years are possible.

The Building Permit marks the second and final step before a project entitled by the planning process is constructed. Once an application for construction is filed and the code compliance review (plan check) completed, the applicant has 6 months to acquire a building permit for the approved project. The building code adopted by the State of California provided to extend this time limit for an additional 180 days subject to request by the owner or his/her agent, subject to approval from the Chief Building Official. Presently City building staff contacts applicants or their agents when applications or permits are nearing expiration to determine if an extension is wanted by the applicant or, if the applicant wishes to do so, staff would close the permit.

While it is within the authority of the City Council to establish a Building Permit extension policy similar to Atascadero, such a policy could have negative effects due to the following:

- a. A proposed project could be constructed on a building code that is 2 cycles old, resulting in completed projects that do not reflect the most up to date seismic, fire or safety provisions cited in a more recent edition of the building codes.
- b. Extending building permits for projects that are under construction for an extended period of time can lead to that portion of the completed construction falling into disrepair, becoming unsightly. In turn this could impair the safety of structure and as a result the public. Additionally, incomplete construction projects, especially those that fall into disrepair could have an impact on surrounding business and/or property values as has been noted during the construction of projects along Park and 12th Streets.

The permit extension agreed to in Atascadero is applicable to building permits only and does not extend to planning entitlements nor does the extension extend or 'freeze' development or impact fees. In addition, a freeze on development and impact fees would be contrary to the Council's adopted goals of fiscal neutrality and would require fundamental and provocative amendments to a number of key policy documents (fiscal policy, general plan, economic strategy, and Council goals). Additionally freezing of fees would result in under-collection of funds needed to build infrastructure that are intended to mitigate new projects' impacts.

Freezing development and impact fees could indicate that new development is not held to the same standards as the community at large. This could have a profound effect on support for water user rate proposals.

POLICY

REFERENCE: Economic Strategy; General Plan, Fiscal policy, Economic strategy and Council Goals List

FISCAL IMPACT: The City Building Division presently has thirty-two (32) permits that are ready to issue and thirty-six (36) approved permits underway. The total fees (development, permit, water, sewer, etc.) associated with those permits is \$3,224,223 and \$1,373,844 respectively. Resolutions adopted by Council would adjust the fees 2.25% per year. If fees were frozen for a period of two years, deferring the collection and/or adjustment of the fees, the impact to fee balances would be \$209,242 in 2011.

- OPTIONS:**
- a. Provide direction to staff as appropriate
 - 1. Make no changes to current policy.
 - 2. Extend building permits.
 - b. Amend, modify, or reject the above option.

Attachments:

- 1. Ready to Issue Permits Spreadsheet
- 2. Approved Permits Spreadsheet

Remaining Fees Due on Thirty-Six (36) Permits in "Approved Status"

Account	Category	Amount	Comment
Development Impact Fees	Res, Com, Ind.		Per Resolution 06-188 - Development Impact Fees shall be paid upon the issuance of an Certificate of Occupancy, at the rate in effect at that time.
Law Enforcement		\$ 7,079	
Fire Protection		\$ 68,177	
Street, Traffic Bridge		\$ 962,545	
Storm Drainage Fac.		\$ 81,162	
City Hall/Gen Gov Fac.		\$ 120,109	Rate increase every July 1st based on ENR increase
Library Expansion Fac.		\$ 14,426	
Park/Parkland, Open S.A.		\$ 74,488	
Bike & Pedestrian Path		\$ 7,143	
Total		\$ 1,335,129	
Borkey Specific Plan Fees	Res, Com, Ind		Paid prior to issuance of Certificate of Occupancy Rate increase every July 1st based on ENR increase
Borkey Storm Drainage		\$ 526	
Borkey Wastewater		\$ 2,652	
Borkey Water		\$ 19,343	
Borkey Interchange		\$ 1,696	
Borkey Contingency Fee		\$ 3,160	
Total		\$ 27,377	
Union 46 Specific Plan Fees	Res, Com, Ind		Paid prior to issuance of Certificate of Occupancy Rate increase every July 1st based on ENR increase
Union 46 Plan Prep		\$ 302	
Union 46 Public Safety		\$ 710	
Union 46 Road		\$ 8,028	
Union 46 Park		\$ 1,638	
Union 46 Water		\$ 660	
Total		\$ 11,338	

Thirty-two (32) Permits in "Ready to Issue Status"

Account	Category	Amount	Comment
Development Impact Fees	Res, Com, Ind.		Per Resolution 06-188 - Development Impact Fees shall be paid upon the issuance of an Certificate of Occupancy, at the rate in effect at that time.
Law Enforcement		\$ 12,656	
Fire Protection		\$ 119,741	
Street, Traffic Bridge		\$ 1,885,061	
Storm Drainage Fac.		\$ 1,797	
City Hall/Gen Gov Fac.		\$ 156,395	Rate increase every July 1st based on ENR increase
Library Expansion Fac.		\$ 13,338	
Park/Parkland, Open S.A.		\$ 68,874	
Bike & Pedestrian Path		\$ 6,604	
Total		\$ 2,264,466	
Borkey Specific Plan Fees	Res, Com, Ind		Paid prior to issuance of Certificate of Occupancy Rate increase every July 1st based on ENR increase
Borkey Storm Drainage		\$ 71,816	
Borkey Wastewater		\$ 1,647	
Borkey Water		\$ 3,630	
Borkey Interchange		\$ 93,960	
Borkey Contingency Fee		\$ 3,160	
Total		\$ 174,213	
Union 46 Specific Plan Fees	Res, Com, Ind		Paid prior to issuance of Certificate of Occupancy Rate increase every July 1st based on ENR increase
Union 46 Plan Prep		\$ 151	
Union 46 Public Safety		\$ 355	
Union 46 Road		\$ 4,014	
Union 46 Park		\$ 819	
Union 46 Water		\$ 330	
Total		\$ 5,669	
Building Fee	Residential Commercial Industrial	\$ 25,769 \$ 50,284 \$ 44,115	Based on application submittal date - Fees increase July 1st based on CPI Rate
Total		\$ 120,168	
Assembly Bill 717		Total \$ 1,333	
Permit Automation Fee		Total \$ 8,407	
Nexus		Total \$ 329	
Plot Plan Review - Planning		Total \$ 970	

Account	Category	Amount	Comment
Water Connection	Residential	\$ 25,314	Permit Issuance at the rate in effect at that time Rate increase every July 1st based on ENR increase
	Commercial	\$ 119,128	
	Industrial	\$ 48,250	
Nac Water Portion	Residential	\$ 21,614	
	Commercial	\$ 101,705	
	Industrial	\$ 41,180	
Nac W Tmt Portion	Residential	\$ 4,211	
	Commercial	\$ 19,820	
	Industrial	\$ 8,020	
	Total	\$ 389,242	
Sewer Connection	Residential	\$ 29,183	Permit Issuance at the rate in effect at that time Rate increase every July 1st based on ENR increase
	Commercial	\$ 178,376	
	Industrial	\$ 51,867	
	Total	\$ 259,426	