



Board Agenda Item 10

DATE: August 23, 2016

TO: Board of Supervisors

SUBMITTED BY: Steven E. White, Director
Department of Public Works and Planning

SUBJECT: Amendment to Text Application No. 374 (Applicant: County of Fresno)

RECOMMENDED ACTION(S):

Consider and approve Amendment to Text Application No. 374 and adopt Ordinance amending Sections 873 and 877 of the Fresno County Zoning Ordinance (Uses Permitted Subject to Conditional Use Permit and Variances) to revise the additional time extension opportunities language for land use permit applications (Conditional Use Permits and Variances) in the unincorporated areas of Fresno County.

This item comes before the Board with a recommendation for approval from the Planning Commission. Staff has determined that the subject proposal is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Section 15061(b)(3) - Actions that will not have a significant effect on the environment. The Planning Commission's June 16, 2016 action is attached as Exhibit 1.

ALTERNATIVE ACTION(S):

If the Board determines that alternative language is preferable to the Amendment to Text as presented, it would be appropriate to make a motion to direct staff to prepare an alternative amendment to be heard by the Board at a later date.

If the Board determines that the proposed Amendment to the Zoning Ordinance is not consistent with the General Plan, a motion to deny Amendment to Text Application No. 374 would be appropriate.

FISCAL IMPACT:

Preparation of the Amendment to Text and the related Agenda Item in the amount of approximately \$7,500 is a Net County Cost, which is being absorbed within the Department of Public Works and Planning Org 43600200 FY 2016-17 Adopted Budget.

DISCUSSION:

An Amendment to the Zoning Ordinance is a legislative act requiring final approval from the Board. If approved, the amended Zoning Ordinance would then become effective 30 days after adoption. Specific language relating to this Amendment to Text is included in Exhibit 1.

On December 6, 2011, the Board of Supervisors adopted Ordinance No. T-087-366, to amend the zoning provisions of the Ordinance Code of the County of Fresno by amending text to Sections 872-F, 873-I, 874-A, and 877-D addressing additional time extension opportunities for land use permit applications in the unincorporated areas of Fresno County. This Ordinance as adopted permanently increased the potential life of Site Plan Review and Director Review and Approval applications from two years to four years by permitting

applicants to apply for additional discretionary time extensions. The Ordinance similarly increased the potential life of Conditional Use Permits (from four years to six years) and increased the potential life of Variances (from two years to three years). However, the extension provisions for Conditional Use Permits and Variances are only applicable for those applications that are valid on or approved one year after the effective date of that amendment to the Zoning Ordinance (January 5, 2012).

Amendment to Text (AT)Application No. 374 proposes to revise the existing language to increase the potential total life of Conditional Use Permit (CUP) applications by two years and Variance (VA) applications by one year, consistent with the January 2011 to January 2013 time period. Additionally, staff has proposed the removal of existing ordinance language which would allow a time extension on a Variance without a public hearing. Staff proposes this change to be consistent with other extension provisions in the Ordinance and since any action taken by the Planning Commission (including actions on consent items) are made at a public hearing. This proposal would be a permanent addition to the Zoning Ordinance, unless removed by subsequent revisions.

This item was heard by the Planning Commission at its regularly scheduled June 16, 2016 hearing. The Planning Commission discussed the request as presented. One Commissioner proposed an alternative to the Text Amendment, which would revise the time limits such that the entire potential life of a project (initial life plus time extension opportunities) would be granted to the applicant with approval of the application. This alternative would reduce the amount of fees required of an applicant who has not achieved substantial development in regard to their use permit, but would also remove an opportunity for public comment on time extension requests. Although this position was not supported in a motion to approve, the Commission did recommend that the Board consider waiving the fees associated with time extension requests.

At its June 16, 2016 hearing, after considering the Staff Report (included as Exhibit 2) and testimony, the Planning Commission considered the subject Amendment to Text Application and unanimously (8-0, one Commissioner absent) to recommend that the Board approve Amendment to Text Application No. 374. In the motion to approve, the Planning Commission requested that the Board of Supervisors consider omitting the fee for time extension requests.

Staff notes that the time extension application fees are 25 percent of the base application fee for the applicable land use application. Staff's work related to time extension applications involve routing time extension requests to reviewing agencies, coordination with agencies if necessary, preparing a Staff Report, publication, public noticing, addressing public inquiries, and presenting the item to the Planning Commission if pulled from the Consent Agenda by Commission members or members of the public. Staff notes that some time extension requests can be contentious at Planning Commission hearings and have been appealed to the Board of Supervisors. If the Board determines that the Department should omit or reduce charges associated with time extension requests, staff would request that the Board include direction to staff to return with a separate Agenda Item to update the Master Schedule of Fees.

If the Board determines that the proposed Amendment to the Zoning Ordinance is consistent with County policies and the General Plan, an approval motion would be appropriate. If the Board determines that the Amendment to the Zoning Ordinance is not consistent with County policies or the General Plan, denial of the application would be appropriate, citing the reasons for denial.

ATTACHMENTS INCLUDED AND/OR ON FILE:

Exhibits 1 - 2
On file with Clerk - Ordinance

CAO ANALYST:

John Hays