



Board Agenda Item 49

DATE: October 22, 2019

TO: Board of Supervisors

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

SUBJECT: Tentative Tract Map No. 5943 - Extension Request (Applicant: Bratton Investments)

RECOMMENDED ACTION(S):

Adopt Resolution approving a 24-month discretionary extension to exercise Tentative Tract Map No. 5943 in accordance with Section 66452.26 of the Subdivision Map Act, extending the life of the Tentative Tract Map from August 30, 2019 to August 30, 2021.

The subject property is located on the southeast corner of the Bretz Road and Garnet Lane intersection, approximately 1.2 miles east of State Route 168 (Tollhouse Road) and 1.2 miles south of the unincorporated community of Shaver (APNs: 130-040-23, 136-374-01 and 130-920-17).

Approval of the recommended action will extend the granted legislative time to exercise Tentative Tract Map (TTM) No. 5943 an additional 24 months as requested on July 17, 2019 by the Applicant. The Subdivision Map Act (Act), Section 66452.26 requires legislative action by your Board to approve an extension. Typically, other extensions under the Act simply require the approval of an advisory agency and are referred to the Fresno County Planning Commission for action. This item pertains to a location in District 5.

ALTERNATIVE ACTION(S):

Your Board may deny the recommended action or approve the extension for a period less than 24 months.

FISCAL IMPACT:

There is no Net County Cost associated with the recommended action. Pursuant to the County's Master Schedule of Fees, Charges, and Recovered Costs, the Applicant paid land use processing fees in the amount of \$1,122.50.

DISCUSSION:

The Act provides that prior to the expiration of any tentative map a subdivider is entitled to file a final map for recording with the County if it conforms to the approved tentative map and certain mandatory requirements. Except for special circumstances specified in the Act, a tentative map expires 24 months after its approval unless extensions are granted by the local agency. Such extensions may not exceed a total of six years. Under the terms of County Ordinance Code Title 17 Divisions of Land, extensions may be granted by the Planning Commission upon application by the subdivider prior to the expiration date.

Starting in 2008, the Legislature passed six bills that amended the Act to give subdividers extensions for tentative maps that met certain criteria. The legislation included:

- a) Senate Bill (SB) 1185 (Lowenthal) (Statutes of 2008, Chapter 124), Section 66452.21, which granted an automatic one-year extension;
- b) Assembly Bill (AB) 333 (Fuentes) (Statutes of 2009, Chapter 18), Section 66452.22, which granted an automatic two-year extension;
- c) AB 208 (Fuentes) (Statutes of 2011, Chapter 88), Section 66452.23, which granted an automatic two-year extension;
- d) AB 116 (Bocanegra) (Statutes of 2013, Chapter 62), Section 66452.24, which granted an automatic two-year extension;
- e) AB 1303 (Gray) (Statutes of 2015, Chapter 751), Section 66452.25, which granted an automatic two-year extension; and,
- f) AB 2973 (Gray) (Statutes of 2018, Chapter 830), Section 66452.26, which allows a discretionary extension of up to 24 months, provided the project meets the requirements related to project approval date and extension filing date according to Section 66452.25 of the Act.

The last, is pertinent to the TTM No. 5943 and states the following:

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, that was approved on or after January 1, 2006, and not later than July 11, 2013, that relates to the construction of single or multifamily housing, and for which the expiration date was extended pursuant to Section 66452.25, and that has not expired on or before the effective date of the act that added this section, may be extended by the legislative body for up to 24 months.

On July 21, 2011, the Planning Commission (Attachment A), recommended approval (8 to 0, one Commissioner absent) of Amendment Application (AA) No. 3779, rezoning a 10.88-acre portion of three parcels totaling 151.32 acres from the AL-20 (Limited Agricultural, 20-acre minimum parcel size) and the R-1-B (c)(m) (Single-Family Residential, 12,500-square foot minimum parcel size, Conditional, Mountain Overlay) Zone Districts to the R-2 (c)(m) (Low Density Multiple-Family Residential, 6,600-square foot minimum parcel size, Conditional, Mountain Overlay) Zone District to allow a planned unit development consisting of 58 single-family residential lots. Concurrent with the rezoning action, the Planning Commission recommended approval of TTM No. 5943 and Classified Conditional Use Permit (CUP) No. 3237 based on a determination that the required CUP findings could be made. Subsequently, on August 30, 2011, the Board of Supervisors approved (5 to 0) the rezoning of the subject 10.88 acres including approval of TTM No. 5943 and CUP No. 3237. Please note that Attachment A, which includes the August 30, 2011 Agenda Item No. 13, has a clerical error in which the Board Action date was certified as October 30, 2011; the correct date was August 30, 2011, which sets the life of TTM No. 5943. CUP No. 3237 is considered integral to the approval of TTM No. 5943 and its life runs with the map.

TTM No. 5943 would have originally expired on August 30, 2013, however, AB 208 granted an automatic two-year extension resulting in a new expiration date of August 30, 2015. Subsequently, AB 116 granted an automatic two-year extension for the TTM resulting in a new expiration date of August 30, 2017. Finally, AB 1303, effective October 10, 2015, granted another automatic two-year extension resulting in a new expiration date of August 30, 2019. The recommended action complies with AB 2973, allowing an up to 24-month discretionary extension, pursuant to Act, Section 66462.26 with your Board's approval, thereby extending the expiration date to August 30, 2021.

On July 17, 2019, the Applicant applied for a 24-month extension to complete a final tract map under Act, Section 66452.26, prior to the expiration of TTM on August 30, 2019. According to the Applicant (Attachment B), the extension is necessary to allow time for the housing market to recover and attain a domestic water supply for the subdivision.

Environmental Assessment (Initial Study No. 5981) was prepared for the TTM under the provisions of the California Environmental Quality Act (CEQA), resulting in a determination that the previously certified Environmental Impact Report (EIR) for the Bretz Mountain Specific Plan remains adequate for the project.

Section 15162 of the CEQA Guidelines state that once an EIR and/or Mitigated Negative Declaration (MND) has been certified for a project, no subsequent EIR or MND shall be prepared unless: (1) substantial changes are proposed to the project; (2) substantial changes occur with respect to the circumstances under which the project is undertaken; or (3) new information of substantial importance is presented, which was not known and could not have been known at the time the previous EIR or MND was adopted.

Department of Public Works and Planning staff routed the extension request to county departments and responsible agencies per the provisions of Section 15162 and did not receive any comments or information that the circumstances noted in the above were present. Therefore, it has been determined that no further CEQA documentation is required for the extension request.

In considering the recommended action, your Board should recognize that TTM No. 5943 falls within the requirements of Section 66452.26, since it was originally approved on or after January 1, 2006 and before July 11, 2013, and did receive an extension under Section 66452.25, which authorized a legislative two-year extension of tentative tract maps in counties meeting certain criteria pertaining to below mean income and high unemployment levels, and with a higher than median poverty status. The County fell within these demographic parameters.

Department staff recommends approval of a 24-month discretionary extension for TTM No. 5943, based on the factors cited in the analysis above. Approval of the extension will extend the expiration date to August 30, 2021.

If your Board does not recommend extension to exercise TTM No. 5943, either of the following motions would be appropriate:

- Move deny the extension; or
- Move to approve the extension for a period of less than 24 months, stating the extension length.

REFERENCE MATERIAL:

BAI #13, August 30, 2011

ATTACHMENTS INCLUDED AND/OR ON FILE:

Attachments A - B
On file with Clerk - Resolution

CAO ANALYST:

Sonia M. De La Rosa