


TO: BOARD OF DIRECTORS
FROM: BRUCE BUEL 
DATE: AUGUST 7, 2009

**AGENDA ITEM
E-3
AUGUST 12, 2009**

DISCUSS INTENT-TO-SERVE EXTENSION AND EXPIRATION PROVISIONS

ITEM

Discuss revisions to District Code regarding extension of intent-to-serve letters expiration deadlines [PROVIDE POLICY DIRECTION]

BACKGROUND

In May 2009, Greg Nester requested that NCSD relax the time limits on Intent-to-Serve Letters in response to the current economic situation. Your Board agreed to monitor this issue and to discuss possible changes once the Board of Supervisors took action on their building permits. The Board of Supervisors, on July 28, 2009 adopted the attached ordinance extending the term of existing permits through December 31, 2010.

Also attached is a recital of relevant NCSD regulations compiled by District Legal Counsel. Staff has observed that very few projects are ready for Board approval within the current three year term (two years initially with one one-year extension), even when the economy is healthy. Most projects either pay fees to secure a will-serve letter or re-apply for a new Intent-to-Serve Letter. There are about ten active projects at this time.

The Board could amend the code to provide more time (four years instead of three) for all projects, extend the term for those projects in process or do nothing.

FISCAL IMPACT

Development of this draft did use previously budgeted staff time and legal consulting cost.

RECOMMENDATION

Staff recommends that the Board discuss the situation and the options and provide policy guidance.

ATTACHMENTS

- County Ordinance Amending Building Permit Term Provisions
- Excerpts from NCSD Code.

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**COUNTY OF SAN LUIS OBISPO BOARD OF SUPERVISORS
AGENDA ITEM TRANSMITTAL**

| | | | | | |
|--|--|-----------------------------------|---|--|---|
| (1) DEPARTMENT Planning and Building | | (2) MEETING DATE July 28, 2009 | | (3) CONTACT/PHONE Cheryl Journey / 781-1314 | |
| (4) SUBJECT Amendments to Title 19 of the County Code to provide time extensions for issuance of construction permits. | | | | | |
| (5) SUMMARY OF REQUEST At today's meeting your board is to hold a public hearing and take final action by adopting the attached ordinance for the proposed amendments. These items were introduced on July 21, 2009. The item is now before you for final approval and adoption. | | | | | |
| (6) RECOMMENDED ACTION It is recommended that the Board of Supervisors: 1. Adopt the attached ordinance amendment (Attachment A) to Title 19 of the County Code to allow time extensions for issuance of Construction permits. | | | | | |
| (7) FUNDING SOURCE(S) Department Budget | | (8) CURRENT YEAR COST N/A | | (9) ANNUAL COST N/A | |
| (10) BUDGETED? <input type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A | | | | | |
| (11) OTHER AGENCY/ADVISORY GROUP INVOLVEMENT (LIST): None | | | | | |
| (12) WILL REQUEST REQUIRE ADDITIONAL STAFF? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes, How Many? _____ <input type="checkbox"/> Permanent <input type="checkbox"/> Limited Term <input type="checkbox"/> Contract <input type="checkbox"/> Temporary Help | | | | | |
| (13) SUPERVISOR DISTRICT(S) <input type="checkbox"/> 1st, <input type="checkbox"/> 2nd, <input type="checkbox"/> 3rd, <input type="checkbox"/> 4th, <input type="checkbox"/> 5th, <input checked="" type="checkbox"/> All | | | (14) LOCATION MAP <input type="checkbox"/> Attached <input checked="" type="checkbox"/> N/A | | (15) Maddy Act Appointments Signed-off by Clerk of the Board |
| (16) AGENDA PLACEMENT <input type="checkbox"/> Consent <input checked="" type="checkbox"/> Hearing (Time Est. 45 minutes_) <input type="checkbox"/> Presentation <input type="checkbox"/> Board Business (Time Est. _____) | | | (17) EXECUTED DOCUMENTS <input type="checkbox"/> Resolutions (Orig + 4 copies) <input type="checkbox"/> Contracts (Orig + 4 copies) <input checked="" type="checkbox"/> Ordinances (Orig + 4 copies) <input type="checkbox"/> N/A | | |
| (18) NEED EXTRA EXECUTED COPIES? <input type="checkbox"/> Number: _____ <input type="checkbox"/> Attached <input checked="" type="checkbox"/> N/A | | | (19) APPROPRIATION TRANSFER REQUIRED? <input type="checkbox"/> Submitted <input type="checkbox"/> 4/5th's Vote Required <input checked="" type="checkbox"/> N/A | | |
| (20) OUTLINE AGREEMENT REQUISITION NUMBER (OAR) _____ | | | (21) W-9 <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes | | (22) Agenda Item History <input type="checkbox"/> N/A Date 7/21/09 _____ |
| (23) ADMINISTRATIVE OFFICE REVIEW <i>OL Vincent Marin</i> | | | | | |



SAN LUIS OBISPO COUNTY
DEPARTMENT OF PLANNING AND BUILDING

VICTOR HOLANDA, AICP
DIRECTOR

TO: BOARD OF SUPERVISORS

FROM: CHERYL JOURNEY, CHIEF BUILDING OFFICIAL, PLANNING AND BUILDING DEPARTMENT

VIA: KAMI GRIFFIN, ASSISTANT DIRECTOR, PLANNING AND BUILDING DEPARTMENT

DATE: JULY 28, 2009

SUBJECT: Amendments to Title 19 of the County Code to provide time extensions for issuance of Construction permits.

RECOMMENDATION

It is recommended that the Board of Supervisors:

1. Adopt the attached ordinance amendment (Attachment A) to Title 19 of the County Code to allow time extensions for issuance of Construction permits.

DISCUSSION

At today's meeting your board is to hold a public hearing and take final action by adopting the attached ordinance for the proposed amendments. These items were introduced on July 21, 2009. The item is now before you for final approval and adoption.

The following ordinance is recommended for adoption today:

LRP2008-00014 – Amendments to Title 19 of the County Code to extend time issuance of Construction permits.

Background

On December 11, 2007, your Board approved amendments to Title 19 to adopt the latest editions of the California construction codes with local amendments to the referenced codes. The County is mandated to comply and abide by the building codes adopted by the State of California. The December 2007 code adoption included local modifications that allowed a construction permit for structures 1,000 square feet or larger to be valid for three years after issuance. The ordinance currently limits an applicant to 360 days from submittal of an application to issuance of the Construction Permit, except that the Building Official is authorized to grant one time extension for an additional period not to exceed 180 days. This has become problematic for some applicants as they are unable to acquire financing in this 1½ year time period.

The current economic times have made it more difficult for applicants to acquire financing within the existing timeframes set by the California Building Code and County Construction Code, Title 19. These

976 OSOS STREET, ROOM 300 • SAN LUIS OBISPO • CALIFORNIA 93408 • (805) 781-5600

EMAIL: planning@co.slo.ca.us • FAX: (805) 781-1242 • WEBSITE: <http://www.sloplanning.org>

proposed amendment, if approved, would provide applicants additional time for issuance of a construction permit beyond what is currently allowed by Title 19. Although there is a great deal interest in expediting relief to numerous applicants who may be under financial strain, because the California Building Code and County's ordinances are specific regarding the length of time a permit is valid, a modification to these time limits must be in the form of ordinance amendments.

Proposed Amendment

Section 105.3.2 of the 2007 California Building Code allows the Building Official to administratively grant one or more extensions to a building permit. Adoption of the proposed amendment will authorize the Building Official to administratively extend building permits until December 31, 2010. This amendment would allow for all applications for a permit for any proposed work submitted after January 1, 2008 to be eligible for an additional time extension until December 31, 2010. A Request for Application Extension form must be submitted for approval by the Building Official. The fee for an application extension would be set through the ordinance at \$66.50. Applications submitted after November 1, 2002 and prior to January 1, 2008 are eligible for an additional time extension until December 31, 2010. A Request for Application Extension and Application Expiration Policy form(s) must be submitted for approval by the Building Official. The Application Expiration Policy form contains current code requirements that the applicant will need to incorporate into their project as a condition of time extension. The fee for an application extension would be set in the ordinance at \$399.00. For applications submitted on or after January 1, 2011, the standard rules as currently adopted in the ordinance would apply.

These additional time extensions are to address the temporary downturn in the construction industry and to allow applicants additional time to acquire financing. The proposal is not intended to continue indefinitely. The ending date of December 31, 2010 has been chosen based on the anticipated adoption dates of the next cycle of State Building Codes. It is anticipated that the updated California Building Codes will become effect January 1, 2011.

Applications submitted between November 1, 2002, and prior to January 1, 2008, were subject to the 2001 California Building Code (based on the 1997 Uniform Building Code) and as such, were approved using the regulations of that code. If the county were to simply allow an extension of time to 2011, this would mean that a structure would be constructed using a code that is now 14 years old. So, for these applications, the applicant will need to incorporate current code requirements in order to qualify for an extension.

The amendment as proposed address the issue of compliance with current county and state regulations through requiring that permits submitted under the 2001 California Building Code (based on the 1997 UBC) meet requirements of the current 2007 California Building Code (based on the 2006 IBC), including our local amendments.

Technical Summary

The proposed amendment will add two exceptions to section 19.02.020(e) relating to time extensions for issuance of construction permits.

OTHER AGENCY INVOLVEMENT / IMPACT

This amendment has been reviewed by County Counsel.

FINANCIAL CONSIDERATIONS

The costs of processing a county initiated amendment are absorbed by the Planning and Building Department's operating budget. There is no effect.

RESULTS

Adoption of these ordinances will allow the amendments to become effective 30 days from the final action today. Denial will mean that the proposed amendments will not become effective. Adoption of these proposed amendments will forward the communitywide result of a prosperous community as it will provide for extended time frames for applicants to acquire financing and receive construction permits for improvements to their parcels.

Attachments

- Attachment A -- Adopting Ordinance for Proposed Amendment to Title 19
- Attachment B - Application Extension Policy
- Attachment C - Request for Application Extension
- Attachment D - Illustrated Text Changes for Proposed Amendment to Title 19

ATTACHMENT A

EXHIBIT _____

ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE 19 OF THE SAN LUIS OBISPO COUNTY CODE, THE BUILDING AND CONSTRUCTION ORDINANCE, SECTION 19.02.020e RELATING TO TIME EXTENSIONS FOR ISSUANCE OF CONSTRUCTION PERMITS

The Board of Supervisors of the County of San Luis Obispo ordains as follows:

SECTION 1: Section 19.02.020e of the Building and Construction Ordinance, Title 19 of the San Luis Obispo County Code, is hereby amended as follows:

e. Amend Appendix Sections 105.3.2 and to read as follows:

105.3.2 Time limitation of application. An application for a permit for any proposed work shall be deemed to have been abandoned 360 days after the date of filing, unless a permit has been issued; except that the building official is authorized to grant one extension of time for an additional period not exceeding 180 days. If a delay in issuing the permit has been caused by a public agency having jurisdiction over the permit, the building official may grant one additional extension not exceeding the length of that delay. In order to renew action on an application after expiration, the applicant shall resubmit plans and pay a new plan review fee.

Exception #1:

An application for a permit for any proposed work submitted after January 1, 2008 is eligible for an additional time extension until December 31, 2010. A Request for Application Extension form must be submitted for approval by the building official. The fee for an application extension shall be \$66.50 (one half of the hourly fee as adopted in fee schedule). Applications submitted after January 1, 2011 will be subject to the time limitations set forth above in section 105.3.2.

Exception #2:

An application for any proposed work submitted after November 1, 2002 and prior to January 1, 2008 is eligible for an additional time extension until December 31, 2010. A Request for Application Extension and Application Expiration Policy form(s) must be submitted for approval by the building official. The Application Expiration Policy form contains current code requirements that the applicant shall incorporate into their project as a condition of time extension. The fee for an application extension shall be \$399.00 (three hours of the hourly fee as adopted in the fee schedule). Applications submitted on or after January 1, 2011 will be subject to the time limitations set forth above in section 105.3.2.

SECTION 2. This project is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. It can be seen with certainty that there is no possibility for this project may have a significant effect on the environment, therefore, the activity is not subject to CEQA. [Reference: State CEQA Guidelines sec. 15061(b)(3), General Rule Exemption]

SECTION 3. If any section, subsection, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of a court of competent jurisdiction, such decision shall not affect the validity or constitutionality of the remaining portion of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and each section, subsection, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

SECTION 4: This ordinance shall take effect and be in full force on and after 30 days from the date of its passage hereof. Before the expiration of 15 days after the adoption of this ordinance, it shall be published once in a newspaper of general circulation published in the County of San Luis Obispo, State of California, together with the names of the members of the Board of Supervisors voting for and against the ordinance.

INTRODUCED at a regular meeting of the Board of Supervisors held on the twenty-first day of July, 2009, and PASSED AND ADOPTED by the Board of Supervisors of the County of San Luis Obispo, State of California, on the _____ day of _____, 2009, by the following roll call vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAINING:

Chairman of the Board of Supervisors,
County of San Luis Obispo,
State of California


ATTEST:

County Clerk and Ex-Officio Clerk
of the Board of Supervisors
County of San Luis Obispo, State of California

[SEAL]

ORDINANCE CODE PROVISIONS APPROVED
AS TO FORM AND CODIFICATION:

WARREN R. JENSEN
County Counsel

By: 
Deputy County Counsel

Dated: 7/9/09

**ATTACHMENT B
APPLICATION EXTENSION POLICY**

If your permit, PMT 200 _____, was applied for prior to 1/1/2008, was not issued and is due to expire you may extend your application until 12/31/2010, with the following conditions:

1. Pay a fee equal to \$399.00
2. Procure updated Fire Plan by authorized jurisdiction.
3. Agree to comply with the following list of code upgrades:

GFCI required for receptacle outlets within 6 feet of laundry and utility sinks. 210.8 (A)(7)

AFCI circuit breakers are required to be combination type. 210.12 (B)

At least one receptacle is required within 3 feet of each bathroom sink or basin. 210.52 (D)

At least one exterior GFCI protected outlet is required at the front and the rear of a dwelling. 210.52 (E)

Conduits and fittings in wet or damp locations are required to be rain tight. 225.22 & 312.2 (A)

Conductors exposed to sun light must be listed for sunlight exposure. 310.8 (D)

Wildland / Urban Interface ~. Must use approved ignition resistant construction methods for roofs, attic vents, eaves, gutters, windows with one tempered pane, doors, walls and decks. 2007 CBC 7A -

The minimum guard height is 42" for all occupancies

Ext. private residential stairs require handrails on both sides.

Egress windows - 44" is measured from the floor to the bottom of the clear opening.

Health Dept. approval for potability is required PRIOR to final occupancy

Mechanical ventilation is required for rooms containing bathtubs, showers, or similar bathing fixtures

Bath Tub Waste Openings in framed construction over crawl spaces at or below the first floor shall be protected by installation of approved metal collars or metal screens securely fastened to adjoining structure with openings no greater than 1/2 inch in least dimension. CPC 313.12.4

Maximum Water Temperature for bath tubs and showers to be 120 degrees. Water heater settings are not considered a suitable control. CPC 418.8

Water Test - Plastic drain/waste/vent pipe shall be tested with water only. CPC 712.1

Couplers - Right left couplers are no longer permitted in concealed places. CPC 1211.3.2

Gas Pipe Test - Test pressure is 1-1/2 times working pressure with a minimum of 3 psi for a duration of 10 minutes. Test Gauge shall have a range such that the high end does not exceed 5 times test pressure (15 psi). CPC 1214.3.1

Sediment Traps are required on gas line outlets CPC 1214.3.2, 1212

I (owner) agree to the above conditions _____ Date _____
Print Name _____

**ATTACHMENT C
REQUEST FOR APPLICATION EXTENSION**

Permit Number: _____ Type of Project: _____

Name on Permit: _____

Project Address: _____

Mailing Address: street: _____ city: _____

state: _____ zip code: _____

Notice to Permit Holder:

In accordance with the San Luis Obispo County Building and Construction Ordinance, Title 19 of the San Luis Obispo County Code, permit **applications** shall expire by limitation if the application is not issued within 360 days from the date of application.

The building official may grant an extension of time to a person holding a valid permit application upon written request stating the reasons for not continuing the application process.

Requesting: Application date extension to _____ or December 31, 2010

State reasons for time extension request: _____

Print your name - _____ Signature - _____

Date: _____

Note: **Issued** permits over 1000.s.f. have 3 years to complete. All others get 1 year to complete unless the result of a code enforcement case - then 6 months to complete.

Official use only:

Time extension approved to: Date _____ By: _____

Time extension not approved: _____ By: _____

Reason for denial: _____

ATTACHMENT D
MODIFICATIONS TO TITLE 19

EXHIBIT _____

ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE 19 OF THE SAN LUIS OBISPO COUNTY CODE, THE BUILDING AND CONSTRUCTION ORDINANCE, SECTION 19.02.020e RELATING TO TIME EXTENSIONS FOR ISSUANCE OF CONSTRUCTION PERMITS

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e. Amend Appendix Sections 105.3.2 and to read as follows:

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Exception #2:

An application for any proposed work submitted after November 1, 2002 and prior to January 1, 2008 is eligible for an additional time extension until December 31, 2010. A Request for Application Extension and Application Expiration Policy form(s) must be submitted for approval by the building official. The Application Expiration Policy form contains current code requirements that the applicant shall incorporate into their project as a condition of time extension. The fee for an application extension shall be \$399.00 (three hours of the hourly fee as adopted in the fee schedule). Applications submitted on or after January 1, 2011 will be subject to the time limitations set forth above in section 105.3.2.

SECTION 2. This project is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. It can be seen with certainty that there is no possibility for this project may have a significant effect on the

environment, therefore, the activity is not subject to CEQA. [Reference: State CEQA Guidelines sec. 15061(b)(3), General Rule Exemption]

SECTION 3. If any section, subsection, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of a court of competent jurisdiction, such decision shall not affect the validity or constitutionality of the remaining portion of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and each section, subsection, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

SECTION 4: This ordinance shall take effect and be in full force on and after 30 days from the date of its passage hereof. Before the expiration of 15 days after the adoption of this ordinance, it shall be published once in a newspaper of general circulation published in the County of San Luis Obispo, State of California, together with the names of the members of the Board of Supervisors voting for and against the ordinance.

INTRODUCED at a regular meeting of the Board of Supervisors held on the _____ day of _____, 2009, and PASSED AND ADOPTED by the Board of Supervisors of the County of San Luis Obispo, State of California, on the _____ day of _____, 2009, by the following roll call vote, to wit:

AYES:

NOES:

ABSENT: None

ABSTAINING: None

Chairman of the Board of Supervisors,
County of San Luis Obispo,
State of California

ATTEST:

County Clerk and Ex-Officio Clerk
of the Board of Supervisors
County of San Luis Obispo, State of California

[SEAL]

ORDINANCE CODE PROVISIONS APPROVED
AS TO FORM AND CODIFICATION:

WARREN R. JENSEN
County Counsel

By: _____
Deputy County Counsel

Dated: _____

**NIPOMO COMMUNITY SERVICES
DISTRICT, CALIFORNIA**

**Codified through
Ordinance No. 2009-112, passed April 22, 2009.
(Supplement No. 4)**

**NIPOMO COMMUNITY SERVICES DISTRICT,
CALIFORNIA 1994**

**A Codification of the General Ordinances of
Nipomo Community Services District**

Title 3 WATER SERVICE SYSTEM

3.05.070 Application for intent-to-serve letters, will-serve letters and termination.

The following procedures, are in addition to other district rules and regulations relating to intent-to-serve letters and will-serve letters, and shall apply to all applications for intent-to-serve letters and will-serve letters approved by the district:

A. Application shall be made on district's application for intent-to-serve letter or will-serve letter form. In order to be considered for an intent-to-serve letter or will-serve letter applications shall contain a verification that applicant has submitted the proposed project for initial review to the county planning and building department.

B. Intent-to-serve letters shall automatically terminate on the first to occur:

1. Failure of the applicant to provided district with written verification, within two hundred forty calendar days of the date the

intent-to-serve letter is issued, that the county has deemed the county's project application to be complete; or

2. Two years. However, applicant shall be entitled to a one-year extension upon proof of reasonable due diligence in processing the project.

(Ord. No. 2007-106, § 2(Exh. A), 6-13-2007)

3.04.051 Payment of connection fees and capacity charges.

Except as provided in Section 3.04.052, below, the applicant shall pay the water capacity charges (including supplemental water capacity charges), sewer capacity charges, reimbursement charges (if applicable), meter fee and account set-up fee, collectively "Fees for Connection" as follows:

A. The applicant shall make a non-refundable deposit ("Deposit") at the time the district issues a will-serve letter in an amount equal to the then calculated fees for connection.

B. The fees for connection shall be calculated and owing as of the date the district sets the water meter(s) to serve the affected property from which the amount of the deposit shall be deducted.

C. The district will set water meter(s) upon proof of a building permit from the County of San Luis Obispo and that the District has accepted improvements to be dedicated to the district, if applicable.

"Except where the applicant has either completed well improvements to be dedicated to the district and has development plans that have been approved by the district, paid all fees and charges based on said approved development plans, and has been issued a will-serve letter, or has development plans that have been approved by the district, paid all fees and charges based on said approved development plans, and has been issued a will-serve letter,

the calculation of payment of "fees for connection" referenced in Section B, above, shall apply to all properties where a water meter has not been set by the district."

(Ord. No. 2005-105, § 4, 10-26-2005; Ord. No. 2009-112, § 2, 4-22-2009)

3.04.052 Payment of connection fees and capacity charges for commercial development.

For commercial projects developed on commercially-zoned properties within the district, the applicant shall pay the water capacity charges (including supplemental water capacity charges), sewer capacity charges, reimbursement charges (if applicable), meter fee and account set-up fee (collectively "Fees for Connection") as follows:

A. For commercial projects that do not meet the requirements of subparagraph B, below, the payment provisions of Section 3.04.051 shall apply.

B. For commercial projects under a single application for a final map, developed on two or more parcels, where one or more of the parcels requires a 1.5 inch or larger water meter, the following payment provisions shall apply.

1. The applicant shall make a non-refundable deposit ("Deposit") at the time the district issues a will-serve letter in an amount equal to the total project fees for connection minus ninety percent of the water capacity charges attributed to supplemental water.

2. The remaining ninety percent of the project's supplemental water deposit shall be due and payable on the first of the following to occur:

- a. Sale of any one of the parcels;
- b. Applicant's request to set the first water meter at any one parcel; or
- c. Eighteen months from the date the will-serve letter is issued.

3. Prior to issuing the will serve letter, applicant shall provide district, to the satisfaction of district legal counsel, the following:

a. A recordable document referencing Applicant's obligation for payment of Fees for Connection as outlined in this subparagraph B; and

b. A subordination agreement.

C. The fees for connection shall be calculated and owing as of the date the district sets the first water meter(s) to serve the project from which the amount of the deposit shall be deducted.

D. The district will set water meter(s) upon proof of a building permit from the County of San Luis Obispo and that the district has accepted improvements to be dedicated to the district, if applicable.

(Ord. No. 2009-112, § 3, 4-22-2009)