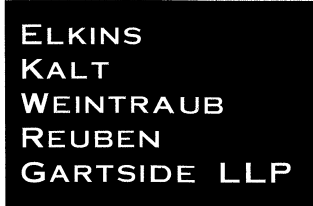


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July 11, 2011

VIA E-MAIL AND OVERNIGHT EXPRESS

Councilmember Ed Reyes, Chair
Councilmember Jose Huizar
Councilmember Paul Krekorian
Planning and Land Use Management Committee
Los Angeles City Council
200 N. Spring Street
Room 395
Los Angeles, California 90012

Attn: Michael Espinosa (michael.espinosa@lacity.org)

Re: **Planning and Land Use Management Committee Meeting, July 12, 2011**
Agenda Item No. 1

Council File No. 11-1140 (CPC-2010-1485-CA): Proposed Ordinance Amending Los Angeles Municipal Code Provisions Concerning Expiration and Utilization of Approvals and Harmonizing Review of Multi-Approval Projects

Dear Chairman Reyes and Councilmembers Huizar and Krekorian:

This firm represents numerous property owners, real estate developers, investors, and applicants for land use approvals throughout the City of Los Angeles (the "City") and we commend the Department of City Planning ("Planning Department") for its diligent and thorough effort to update, clarify and harmonize key provisions of the Los Angeles Municipal Code ("LAMC") pertaining to the utilization, expiration, and review of land use approvals. The code amendments contained in the proposed ordinance, prepared under Case No. CPC-2010-1485-CA (the "Ordinance"), will advance the City's objectives of providing clear and consistent procedures for the processing and review of projects requiring multiple approvals, reducing delay, and synchronizing and clarifying code language concerning the expiration and utilization of land use approvals. By providing increased regulatory certainty and enhancing the climate for economic development and urban revitalization in Los Angeles, these amendments will encourage investment and promote improved quality-of-life and broad economic prosperity for Los Angeles residents.

In light of these objectives, we propose the following modifications to provide additional clarification and consistency to the Ordinance.

I. UTILIZATION & EXPIRATION OF APPROVALS– LAMC §12.25

A. Ordinance § 8 (amending LAMC § 12.25-D.1(a)). The Ordinance proposes to amend the LAMC to establish a clear and consistent three-year, standard expiration date for land use approvals, while also granting an automatic extension for those approvals, originally set to expire beginning in July 2008, that have been jeopardized by the recessionary economic climate of the last three years. However, the Ordinance contains unnecessary conditional language purporting to limit the application of the automatic three-year extension to only those approvals that had not “previously qualified” for one-time extensions under prior City ordinances that addressed multi-approval projects.¹ Accordingly, we recommend the following modifications to the proposed amendment of LAMC § 12.25-D.1(a), to eliminate unnecessary conditional language and clarify the provision’s scope (additions are underlined, deletions are struck):

(a) the expiration period of any approval by the Zoning Administrator, Director of Planning, an Area Planning Commission, or the City Planning Commission as initial decision-makers, pursuant to the provisions of Chapter 1 of this Code or any ordinance adopted pursuant to Chapter 1 of this Code, shall automatically be increased by 36 months if such approval has expired or ~~may expire~~ has an original expiration date on or after July 15, 2008 and before January 1, 2014 ~~and if such approval had not previously qualified for a one time extension of time pursuant to Ordinance Nos. 180,647 and/or 181,269; and~~

B. Ordinance § 8 (amending LAMC § 12.25-D.2). The Ordinance proposes to amend the LAMC to provide a clear and consistent standard in defining what constitutes the “utilization” of a land use approval. In order to provide regulatory certainty, encourage economic investment and development, and codify existing City policy, we recommend the following modifications to the proposed amendment of LAMC § 12.25-D.2:

Utilization. An approval shall be considered utilized for the entire subject property when a valid permit from the Department of Building and Safety

¹ Ordinance No. 180,647 (approved in April 2009) and No. 181,269 (approved in August 2010) each provided for automatic extensions of varying lengths for subdivision approvals (tract maps and parcel maps) and Quasi-judicial approvals granted in conjunction with subdivision approvals, depending on the expiration date of the map.

has been issued for any building or structure on the subject property pursuant to such approval, and construction work has begun and been carried on diligently without substantial suspension or abandonment of work. An approval not requiring permits for construction or alteration from the Department of Building and Safety shall be considered utilized when operations of ~~the use~~ any authorized use have commenced.

II. PROJECTS REQUIRING MULTIPLE APPROVALS - LAMC §12.36

A. Ordinance § 13 (amending LAMC § 12.36-C). The Ordinance contains a comprehensive overhaul of the complex LAMC provisions concerning projects that require multiple land use approvals (the “Multiple Approvals Provisions”), which clarifies and streamlines the processing, review and appeal procedures for such projects. However, in order for a project applicant to avail itself of the benefits of the new procedures established by the Multiple Approvals Provisions, the Ordinance requires that multiple entitlement applications must be filed “at the same time”.

As a practical matter, applicants are often required to revise entitlement applications following detailed, post-submittal review and input by the Planning Department staff member specifically assigned to a project. Such revisions may include requests for additional approvals that are necessary for full project implementation. Furthermore, based on evolving application review and submittal practices at the City’s various public counters, it is foreseeable that an applicant would be required to submit applications at multiple locations, thereby preventing the applicant from applying for all required approvals “at the same time.” The proposed language also implies that an applicant must file all applications reasonably necessary to complete a project in all cases, even in those cases where the applicant is not seeking the benefit of the new Multiple Approvals Provisions. This potential interpretation would create practical difficulties for some applicants and would be inconsistent with the stated intent of the proposed revision.²

To address these practical concerns, as well as the importance of ensuring the efficient utilization of Planning Department personnel and resources, it would be in the interest of sound public policy to allow all entitlement requests submitted prior to the notice of public hearing to benefit from the Multiple Approvals Revision. Accordingly,

² As stated on page 8 of the Planning Department Recommendation Report, “the proposed ordinance introduces a filing requirement, stipulating that all applications must be filed concurrently for projects to benefit from Multiple Approvals provisions.” (Emphasis added.)

we recommend the following modifications to the proposed amendment of LAMC § 12.36-C:

Filing Requirement. ~~If an applicant files for a project that requires two or more approvals, then t~~The procedures set forth in this section shall govern, subject to Charter Section 245, regarding appeals if: (a) a project requires two or more approvals; and (b) Applicants shall file applications at the same time for all approvals reasonably related and necessary to complete the project are filed concurrently. The procedures and time limits set forth in this section shall only apply to multiple applications filed concurrently for one project. For the purposes of this section, "concurrently" shall mean any time prior to the mailing of a notice of public hearing for any approval required for a project.

B. Ordinance § 13 (amending LAMC § 12.36-I). The Ordinance also simplifies and synchronizes the formerly disparate expiration dates for multiple land use approvals in order to increase regulatory certainty and decrease the administrative strain on Planning Department personnel. However, even greater clarification and benefits would result from expressly indicating that the Multiple Approvals Revision applies to eligible Quasi-judicial approvals granted within the last six years and any extension of the same. Accordingly, we recommend the following modifications to the proposed amendment of LAMC § 12.36-I:

Expiration. Notwithstanding any other provisions of this Code, the following shall apply to all approvals granted on or after July 1, 2005:

1. Any Quasi-judicial Approval granted in conjunction with a Legislative Approval shall expire with the Legislative Approval, not to exceed six years.
2. Any Quasi-judicial Approval granted in conjunction with a Subdivision Approval shall expire with the Subdivision Approval, including time extensions granted pursuant to Article 7 of this Code. ~~The expiration period of such Quasi-judicial Approvals may be extended with the Subdivision Approval pursuant to Article 7 of this Code.~~
3. Any Legislative Approval granted in conjunction with a Subdivision Approval ~~may be extended for the full time limit of~~ shall expire with the Subdivision Approval, including time extensions granted pursuant to Article 7 of this Code, ~~for the purpose of recordation of an approved map.~~

Planning and Land Use Management Committee, Los Angeles City Council
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We greatly appreciate your consideration of the suggested revisions to the Ordinance described above and welcome the opportunity to discuss them further with Planning Department Staff or the committee if any questions arise.

Very truly yours,



JOHN M. BOWMAN
Elkins Kalt Weintraub Reuben Gartside LLP

JMB:cjl

cc: Charlie Rausch, Department of City Planning (via email)
Tanner Blackman, Department of City Planning (via email)
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Amy Brothers, Esq., Deputy City Attorney (via email)