

RESOLUTION NO. P - 15 - 24

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF FOSTER CITY RECOMMENDING THAT THE CITY COUNCIL AMEND SECTION 17.06.180 WITHIN CHAPTER 17.06 "ADMINISTRATION, CONSTRUCTION AND ENFORCEMENT" AND SECTION 17.36.110 WITHIN CHAPTER 17.36, "PD PLANNED DEVELOPMENT COMBINING DISTRICT" OF TITLE 17, "ZONING" OF THE FOSTER CITY MUNICIPAL CODE TO ALLOW EXTENSIONS TO PLANNING ENTITLEMENTS AND FINDING THE AMENDMENTS EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) PURSUANT TO CEQA GUIDELINE SECTION 15061(B)(3) - RZ2024-0006

FOSTER CITY PLANNING COMMISSION

WHEREAS, on June 6, 2024, a Planning Commission Study Session was held to provide for public input and for the Planning Commission to review and discuss proposed amendments to Chapter 17.06 Administration, Construction and Enforcement; and

WHEREAS, section 17.06.180 of Foster City Municipal Code currently states in relevant part, "...No extensions of use permit, variances, or architectural reviews shall be considered or granted, except that use permits and variances issued in conjunction with a tentative subdivision map for a planned unit development would expire no sooner than the approved tentative map, or any extension thereof, whichever occurs later"; and

WHEREAS, section 17.36.110 Development schedule and extensions of Foster City Municipal Code currently states in relevant part, "...Extensions may be granted at the discretion of the planning commission, not to exceed a cumulative total of two years, in annual extensions not to exceed one year."; and

WHEREAS, time extensions for discretionary approved entitlements provide a mechanism for applicants to reasonably extend the expiration of planning entitlements; and

WHEREAS, the City desires to amend section 17.06.180 within Chapter 17.06 Administration, Construction and Enforcement to include a provision allowing for extensions to discretionary approved entitlements that are not being processed in conjunction with subdivision maps subject to the California Subdivision Map Act and Title 16 for extensions; and

WHEREAS, a Notice of Public Hearing was duly posted for consideration of the amendment to section 17.06.180 within Chapter 17.06 Administration, Construction and Enforcement of the Foster City Municipal Code, at the Planning Commission meeting on July 3, 2024; and

WHEREAS, the City desires to amend section 17.36.110 within Chapter 17.36 PD Planned Development Combining District to refer to section 17.06.180; and

WHEREAS, the Planning Commission of the City of Foster City has carefully reviewed and considered the staff report and all attachments thereto presented as part of the agenda for the public hearing regarding the proposed amendments to section 17.06.180 within Chapter 17.06 and Section 17.36.110 within Chapter 17.36 of Title 17, "Zoning," of the Foster City Municipal Code as referenced above including any and all timely submitted correspondence, all information submitted at or prior to the public hearing, and all public comment and testimony presented at the public hearing (collectively, the "Record").

NOW, THEREFORE BE IT RESOLVED that the Planning Commission, based on facts and analysis in the staff report, written and oral testimony, and exhibits presented, finds that:

1. The foregoing recitals are true and correct and are incorporated by reference into this action.
2. The proposed amendments are internally consistent with all other provisions of the General Plan and do not conflict with any of the previously adopted goals, policies, or programs of the General Plan.
3. The proposed amendments will not be detrimental to the public interest, convenience, and general welfare of the City.
4. The proposed amendments are exempt from CEQA Guideline Section 15061(b)(3) and consistent with Public Resources Code Section 21080.17.

BE IT FURTHER RESOLVED that the Planning Commission of the City of Foster City does hereby recommend that the City Council adopt an ordinance repealing and replacing section 17.06.180 within Chapter 17.06 Administration, Construction and Enforcement of Title 17, "Zoning" in its entirety, as contained in Exhibit A, and replacing section 17.36.110 within Chapter 17.36 PD Planned Development Combining District of Title 17 "Zoning" in its entirety, as contained in Exhibit B, attached hereto and incorporated herein and finding the amendments exempt from the California Environmental Quality Act.

PASSED AND ADOPTED as a Resolution by the Planning Commission of the City of Foster City at a Regular Meeting thereof held on July 3, 2024, by the following vote:

AYES, COMMISSIONERS: Bronitsky, Jagtiani, Pedro, Venkat and Chair Haddad

NOES, COMMISSIONERS:

ABSTAIN, COMMISSIONERS:

ABSENT, COMMISSIONERS:

Nicolas Haddad

Nicolas Haddad (Jul 10, 2024 00:21 PDT)

NICOLAS HADDAD, CHAIR

ATTEST:

Sofia Mangalam

SOFIA MANGALAM, SECRETARY

EXHIBIT A

Amendments to Chapter 17.06 ADMINISTRATION, CONSTRUCTION AND ENFORCEMENT

Sections:

- 17.06.010 Scope.
- 17.06.020 Exclusionary zoning.
- 17.06.030 Planning director.
- 17.06.040 Enforcement officer.
- 17.06.045 Applications—Completeness.
- 17.06.047 Applications—Deemed withdrawn after six months.
- 17.06.050 Use permit—Regulations generally.
- 17.06.060 Use permit—Application.
- 17.06.070 Use permit—Grant or denial.
- 17.06.080 Variance—Regulations generally.
- 17.06.090 Variance—Limitations.
- 17.06.100 Variance—Application.
- 17.06.110 Variance—Grant.
- 17.06.120 Hearing—Required.
- 17.06.130 Hearing—Notice.
- 17.06.140 Appeal period—Issuance.
- 17.06.150 Appeal procedures.
- 17.06.155 Reconsideration within one year.
- 17.06.160 Violation—Infraction.
- 17.06.170 Violation—Nuisance declaration—Abatement.
- 17.06.175 Violation—Penalty fees.
- 17.06.180 Expiration and Extensions.
- 17.06.190 Revocation—Generally.
- 17.06.200 Revocation—Procedure.

17.06.180 Expiration and Extensions.

A. Expiration.

1. Except as otherwise provided herein, Any use permit, variance, or architectural review approval granted in accordance with the terms of this title shall, without further action, become null and void if not used within two years from the date of approval thereof, or within any shorter or longer period of time specifically stated in the conditions of approval. However, within one year of the date on which the use permit, variance, or architectural review approval was originally granted and prior to the improvement or structure being constructed, the decision making body may review all conditions of approval attached to the original approval and, if it so determines, attach new conditions of approval which may be necessary due to receipt by the city of new information or changed circumstances affecting the property and/or project. Use permits, variances, or architectural reviews issued in conjunction with a tentative subdivision map would expire no sooner than the approved tentative map, or any extension thereof, whichever occurs later. Extensions of subdivision maps shall be considered in accordance with Title 16 of the Foster City Municipal Code.

B. Extensions.

1. Applications for extensions of time of any use permit, variance, architectural review, or other entitlement not issued in conjunction with tentative subdivision map may be filed prior to the expiration date of the use permit, variance, architectural review, or other entitlement and shall be processed in the following manner:

a. If the extension request(s) involves no changes to the original project approvals or conditions of the use permit, variance, architectural review or other entitlement, a maximum of two (2) one-year extensions may be granted for projects or entitlements described in this chapter upon written request and payment of the required fee.

b. Review and approval or denial of the extension of time shall be conducted by the Planning Director based on the findings in section 17.06.180(B)(2).

c. If the extension request(s) include changes to the project that affect its design or use or would result in changes to the original conditions of approval of the use permit, variance, architectural review, or other entitlement then those requests shall be reviewed and approved or denied by the Planning Commission.

2. Findings required. The decision-making body shall grant an extension if it finds that:

a. The approved project is still consistent with the City's General Plan and Zoning Ordinance; and,

b. The extension will not result in any new environmental impacts or an increase in severity of previously identified environmental impacts.

3. In granting an extension pursuant to this subsection, the decision-making body may modify or add new conditions of approval as deemed necessary to address potential impacts as a result of the extension.

EXHIBIT B

Amendments to Chapter 17.36 PD PLANNED DEVELOPMENT COMBINING DISTRICT

17.36.110 Development schedule and extensions.

An approval of a use permit in a PD district shall include a condition of approval that the use permit will expire two years from the date of approval, unless subject to time limits for a tentative map or development agreement. Extensions may be granted ~~at the discretion of the planning commission, not to exceed a cumulative total of two years, in annual extensions not to exceed one year~~ in accordance with Section 17.06.180 Expiration and Extensions.