

SUBJECT: ZONE TEXT AMENDMENTS REGARDING ENTITLEMENT  
PERMIT TIME LIMITS, EXTENSIONS, & AMENDMENTS

INITIATED BY: DEPARTMENT OF COMMUNITY DEVELOPMENT  
(Stephanie DeWolfe, AICP, Director)  
(John Keho, AICP, Assistant Director)  
(Bianca Siegl, Long Range & Mobility Planning Manager)  
(Georgia Sheridan, AICP, Senior Planner)

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### STATEMENT ON THE SUBJECT

The Planning Commission will hold a public hearing to consider text changes to the Zoning Ordinance related to entitlement permit time limits, extensions, and amendments to approved projects.

### RECOMMENDATION

Staff recommends that the Planning Commission hold the public hearing, consider all pertinent testimony, and adopt the following:

- 1) Draft Resolution No. PC 15-1123: **“A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF WEST HOLLYWOOD, RECOMMENDING TO THE CITY COUNCIL APPROVAL OF ZONE TEXT AMENDMENT 2015-002 TO MODIFY ENTITLEMENT PERMIT TIME LIMITS AND EXTENSIONS, CITYWIDE, WEST HOLLYWOOD, CALIFORNIA.”** (EXHIBIT A)

### BACKGROUND

The following text changes in this amendment will create a more orderly and consistent Zoning Ordinance and improve the entitlement process. The proposed zone text changes –

- 1) Modify the time limit for entitlement permit(s) and extensions;
- 2) Limit the number of allowed extensions for entitlement permit(s); and
- 3) Modify the time limit for major amendment(s) to approved projects.

#### *Entitlement Process Today*

Currently, entitlement permits are valid for two years. Projects that need more time to begin construction and become vested may apply for an extension of up to two additional years. There are currently no limits to the number of extensions that applicants may request for entitlement permits. Hence, there is no explicit time limit for entitlement permits. This has resulted in some entitled projects remaining on the “planning books” for many years with no sign of beginning construction and developing the approved project. Entitled but significantly delayed projects can:

- Distort the environmental analysis for other projects seeking entitlements, which must account for entitled (but unbuilt) projects in their environmental impact analysis and growth projections;
- Result in mitigation measures for approved projects that are out of sync with the project's impacts when construction finally begins;
- Artificially inflate land values in the area, which may deter future development opportunities;
- Allow vacant land to remain undeveloped, which can contribute to blight; and
- Increase the possibility that projects will not meet current code standards when built, defeating the City's regulatory goals.

In addition to requesting permit extensions, under the current Zoning Ordinance, applicants may apply for major amendments to approved projects, further extending the entitlement permit period. Currently, there is no limit to the number of major changes that an approved project may request through amendments to approved projects. This standard can result in approved projects that change significantly over time, such that the final project does not relate to the original project that was approved by the City's decision-making bodies. The community has expressed an interest in a more predictable entitlement process with clear standards that can be applied consistently to all projects for a transparent approval process.

*Proposed changes*

To improve the entitlement process, staff proposes a series of related text changes to the Zoning Ordinance, which will –

- a) Increase the initial time period for entitlement permits from two years to three years to reduce time, resources and paperwork related to extension requests to accommodate common construction problems and/or finance issues that may delay the start date of a project;
- b) Provide more time for applicants to request an extension by eliminating the 30-day advance notification requirement;
- c) Limit the number of extensions for entitlement permits to two (2) one-year extensions;
- d) Require major amendments to be filed within the initial three year entitlement permit period; and
- e) Limit the extension period for major amendments to approved projects to one (1) year; (currently, there is no clear time limit for major amendments in the Zoning Ordinance).

Hence, if an approved project is not vested (i.e. under construction) with a maximum of six (6) years from the entitlement approval date (including any extensions and/or amendments), the project will be required to apply for new entitlements permits. A new permit application would trigger new fees and a formal project review to evaluate and update project features, impacts, and mitigation measures, and would be subject to any changes to the Zoning Ordinance as of the re-application date.

The changes (summarized in a table below) would bring the City's entitlement permit time limits and extensions in line with the time limits of other cities in the Southern California area (see Exhibit B). In total, the proposed changes would provide a maximum of six years for entitlement permits to become vested, which is on the lenient end of the spectrum for surrounding cities.

*Table 1: Summary of Changes to Entitlement Permit Time Limits & Extensions*

	<b>Time Limits per Current Zoning Ordinance</b>	<b>Proposed Time Limits</b>
Initial Entitlement Period	2 years	3 years
Entitlement Permit Extension Period	2 years	1 year
Number of Allowed Permit Extensions	Unlimited	2 extensions
Major Amendment to Approved Project	Not clearly defined	1 year (must be requested during initial entitlement period)

*How This Applies to Ongoing Projects*

Current projects that are within their initial two-year entitlement period would be allowed to apply for an extension so that their entitlement permit time limit is consistent with the proposed three-year entitlement period. Current projects that have an entitlement extension would be allowed to request one additional extension. The extensions for ongoing projects would assure that approved entitlement permits do not receive less time than projects under the proposed zone text changes.

*Exceptions to Time Limits*

Approved projects with Development Agreements (legal documents between the City and the developer) will not be subject to the standard entitlement permit limits as the terms of the Development Agreement dictate the length of the entitlement period. Where state law provides for a longer entitlement period than the City's standard (such as subdivision map extensions), the state law will govern the permit time limit. Should the City of West Hollywood experience an economic downturn, earthquake, or some over event that significantly impacts development opportunities, the City may choose to grant a temporary entitlement permit extension to approved projects to protect entitlements. For example, the City of Los Angeles granted permit extensions to projects approved during the Great Recession.

Public Notice

A legal notice was published in the Beverly Press and West Hollywood Independent on April 2, 2015. In addition to the noticing required by the Municipal Code, the Planning Division noticed all of the West Hollywood neighborhood groups on April 2, 2015.

California Environmental Quality Act (CEQA)

The miscellaneous cleanup items clarifying existing language in the Zoning Ordinance are Categorical Exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15061 and 15321. Section 15061 states that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to

CEQA. Section 15321 explains that “actions by regulatory agencies to enforce or revoke a lease, permit, license, certificate, or other entitlement for use issues, adopted, or prescribed by the regulatory agency or enforcement of a law, general rule, standard or objective, administered or adopted by the regulatory agency” are categorically exempt. The zone text changes are categorically exempt as they are primarily procedural and do not authorize any changes to the physical environment.

#### Planning Commission Long-Range Planning Subcommittee

The proposed zone text amendments were discussed by the Long-Range Planning Subcommittee on February 19, 2014. The Commissioners were supportive of the zone text changes.

#### Public Comment & Correspondence

Staff presented the proposed changes to the West Hollywood Chamber of Commerce Board meeting on February 17, 2015 and the Government Affairs Committee on March 10, 2015, as well as a special meeting on April 1, 2015. The members were generally supportive of the proposed changes and requested multiple extensions (rather than the one one-year extension, which was originally suggested by staff). They also advocated for the Director to have the authority to approve extensions to streamline the approval process, and stated an interest in a “catch all” clause to allow additional extensions for extenuating circumstances and would like a tolling period for permits while any extensions are being considered. Based on these discussions, staff modified the proposed text changes to recommend two (2) one-year extensions. The Director would have the authority to grant the first extension. The second extension request would go to the original review body for approval. Staff will work with the City Attorney on assuring that entitlement permits are not stopped and remain valid while extension requests are pending.

## **EXHIBITS**

- A. Draft Resolution No. PC 15-1123
- B. Entitlement Permit Time Limits in Other Cities

# Memo

To: West Hollywood Planning Commission  
From: Georgia Sheridan, AICP, Senior Planner  
cc:  
Date: April 13, 2015  
Re: **Amended Resolution No. PC 15- 1123**  
**Item 11.C - Zone Text Amendment – Entitlements**

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Attached is amended Resolution No. PC 15-11223 for Item 11.C regarding proposed zone text changes in the West Hollywood Zoning Ordinance related to entitlement permit time limits, extensions, and major amendments to approved projects.

The revised Resolution clarifies a few word choices from the original proposal and makes the following two changes:

- 1) Includes new text in Section 1 to clarify that the time period needed to process and approve a permit extension is “tolled” (i.e. not included in the extension period for a project); and
- 2) Moves language originally included in Section 1 of the Resolution to Section 3 (uncodified ordinance language) regarding time limits for ongoing projects that were approved prior to the adoption of the proposed ordinance. Per the direction of the City Attorney, this type of language is more appropriately placed in an uncodified section of the ordinance.

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## RESOLUTION NO. PC 15-1123

### **A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF WEST HOLLYWOOD, RECOMMENDING TO THE CITY COUNCIL APPROVAL OF ZONE TEXT AMENDMENT 2015- 002 TO MODIFY ENTITLEMENT PERMIT TIME LIMITS AND EXTENSIONS, CITYWIDE, WEST HOLLYWOOD, CALIFORNIA.**

The Planning Commission for the City of West Hollywood hereby finds, resolves, and orders as follows:

SECTION 1. The City of West Hollywood initiated amendments to the Zoning Ordinance, Article 19 of the Municipal Code to modify entitlement permit time limits and extensions.

SECTION 2. A public hearing was duly noticed for the Planning Commission meeting of April 16, 2015 by publication in the Beverly Press newspaper, the West Hollywood Independent Newspaper, required state and local agencies, and the City website and by announcement on City Channel 6 by April 2, 2015.

SECTION 3. This proposed text changes to the City's Municipal Code are categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15061 and 15321. Section 15061 states that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. Section 15321 explains that "actions by regulatory agencies to enforce or revoke a lease, permit, license, certificate, or other entitlement for use issues, adopted, or prescribed by the regulatory agency or enforcement of a law, general rule, standard or objective, administered or adopted by the regulatory agency" are categorically exempt. The zone text changes are categorically exempt as they are procedural in nature.

SECTION 4. The Planning Commission of the City of West Hollywood hereby finds that Zone Text Amendment 2015-0002 is consistent with the Goals and Policies of the General Plan, specifically Policy LU-1, which states that the City should "maintain an urban form and land use pattern that enhances quality of life and meets the community's vision for its future." A more clear Zoning Code will help the City meet these goals. In addition, limits to permit extensions helps assure that approved projects are not significantly extended such that when built they are inconsistent with updated City codes and goals.

SECTION 5. Based on the foregoing, the Planning Commission of the City of West Hollywood hereby recommends approval to the City Council of Zoning Text Amendment 2015-0002, which is attached hereto as Attachment A.

**PASSED, APPROVED AND ADOPTED** by the Planning Commission of the City of West Hollywood at a regular meeting held this 16<sup>th</sup> day of April, 2015 by the following vote:

AYES: Commissioner:

NOES: Commissioner:

ABSENT: Commissioner:

ABSTAIN: Commissioner:

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ROY HUEBNER, CHAIRPERSON

ATTEST:

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BIANCA SIEGL, PLANNING MANAGER  
LONG RANGE AND MOBILITY PLANNING

*Decisions of the Planning Commission are subject to appeal in accordance with the procedures set forth in West Hollywood Municipal Code Chapter 19.76. Any action to challenge the final decision of the City of West Hollywood made as a result of the public hearing on this application must be filed within the time limits set forth in Code of Civil Procedure Section §1094.6.*



# Attachment A

## ZONE TEXT AMENDMENT 15-0002 WEST HOLLYWOOD MUNICIPAL CODE SECTIONS TO BE MODIFIED

(New text indicated with underlining, deleted text with strikethrough.)

**Section 1.** Subsections 19.62.030.A and 19.62.030.C of Section 19.62.030 in Chapter 19.62 of Title 19 of the West Hollywood Municipal Code is amended to read as follows:

### **19.62.030 Permit Time Limits and Extensions.**

A. *Permit Time Limits.* To ensure continued compliance with the provisions of this chapter, each approved permit or entitlement shall expire ~~two~~ three years from its effective date set by Section 19.62.020, or other date specified in the permit or entitlement, if the use has not been established on the site. These time limits do not apply to temporary use or special event permits, which shall specify their effective date within the approved permit. Time extensions may be granted in compliance with subsection (C), below. The remaining time left on the permit shall also be tolled from the time that an extension request is submitted until the review authority makes a final decision on the request.

If the use authorized by a permit or entitlement has not been established within the required time, and a time extension is not granted, the permit or entitlement shall be deemed void. These time limits shall be tolled while any action, claim or proceeding to attack, set aside or void a permit is pending before any court of law. A case is "pending" from the day the action, claim or proceeding is filed with any court until the court enters its ultimate disposition of the case, such as entry of an order, judgment or final decision, or issuance of remittitur, whichever action occurs last.

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C. *Extensions of Time.* The applicant may request ~~an~~ no more than two extensions of the permit expiration date by filing a written request for an extension ~~no later than thirty days~~ before the expiration of the permit or entitlement, together with the filing fee required by the city's Fee Resolution. The permittee has the burden of proof to establish, with substantial evidence, the justification for extension of the permit or entitlement. The review authority may grant an extension for a period of time that is deemed commensurate with the justification for the extension presented by the applicant, but in no event for more than ~~two~~ one (1) year per extensions, ~~unless conditions of approval authorize longer extensions.~~

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**Section 2.** Section 19.62.070 in Chapter 19.62 of Title 19 of the West Hollywood Municipal Code is amended to read as follows:

**19.62.070 Amendments to an Approved Project.**

An approved development or new land use shall be established only as specified by the approved land use permit, and subject to any conditions of approval. An applicant may request, in writing, to amend the approved permit, and shall furnish appropriate supporting materials and an explanation of the reasons for the request.

A. Minor changes may be approved, modified, or denied by the Director. Major changes shall be approved, modified or denied by the original review authority.

B. The Director shall determine whether a proposed change is major or minor. The determination that the change is major depends on whether the proposal may result in:

1. Significant impacts to the surrounding neighborhood;
2. Significant environmental impacts;
3. A change to the approved use or a significant change to project design;
4. A change to the basis on which the environmental determination for the project was made; or
5. A change to the basis upon which the review authority made the findings for approval of the project.

A major change request shall be processed in the same manner as the original permit or entitlement and shall be submitted before a permit's original expiration date, and not during any periods of extension (see Section 19.62.030.A). Notwithstanding 19.62.030.C, upon approval of a major change request, the review authority may extend the permit expiration date for one (1) additional year for the major change, provided that the total permit period shall not exceed six (6) years total, including any approved extensions.

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**Section 3.** Notwithstanding the provisions in Section 19.62.030.C, the following rules apply to projects approved before adoption of this ordinance. The applicant may request one (1) two-year time extension for permits that were issued two years prior to [insert ordinance effective date], provided that in no event shall the permit time limit exceed five (5) years total. Permits approved prior to [insert ordinance effective date] that have already received one or more extensions may request one (1) additional one-year extension.

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**EXHIBIT B**

**Comparison of Entitlement Permit Time Limits and Extensions**

City	Initial Period (Years)	Extension Period (Years)	# of Extensions	Total Period (Years)	Code Section
West Hollywood	2	2	Unlimited	Unlimited	19.62.030 Permit Time Limits and Extensions.
Santa Monica	2 or 2.5 for Coastal Zone; 3 for 100% Affordable Hsg or 3.5 for Coastal Zone	1 for Residential; 0.5 for Non Residential	1	3	9.04.06.020 Vested right.
Glendale	2	1	0	3	Chapter 30.41 Permit Implementation, Time Limits and Extensions
Culver City	1	1		2	17.595.015 Effective Date of Permits or Entitlements
Beverly Hills	3	1	2	5	10-3-207 Time of Exercise of Rights
Pasadena	2 for RS District; 3 for Other	1	1 for RS District; 2 for Other Districts	3-5	17.64.040 Time Limits and Extensions
City of Los Angeles	3 years* *Extended during recession	tbd	tbd	6	Ordinance No. 182106

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