



City Council Agenda Item

City Council Meeting Date: September 17, 2019

TO: Jim Throop, City Manager

FROM: Anne Schneider, Building Division Contract Plans Examiner
a_schneider@ci.lompoc.ca.us

SUBJECT: Appeal of Building Permit Application Expiration For Construction of Rental Unit at 204 North C Street (B2016-0407)

Recommendation:

Staff recommends the City Council:

- 1) Hold a public hearing;
- 2) Deny the appeal of building permit application expiration for construction of rental unit at 204 North C Street (B2016-0407); or
- 3) Provide alternate direction.

Background:

On August 4, 2016, the City Building Department received a building permit application from Gary Hulse (applicant) for construction of a rental unit at 204 North C Street (Attachment 1) (Project). The following corrections were requested by City Departments on the specified dates:

| | | |
|-----------------|-------------------------|----------------|
| August 8, 2016 | Electric Department | (Attachment 2) |
| August 9, 2016 | Public Works Department | (Attachment 3) |
| August 10, 2016 | Lompoc Fire Department | (Attachment 4) |
| August 11, 2016 | Planning Division | (Attachment 5) |

JAS Pacific, consultant at that time, completed the plan check for the Project. Plan check corrections were issued August 8, 2016 (Attachment 6).

The applicant never submitted corrections to his plans or responses to the corrections and plan check requests, and the permit application expired after 180 days on February 6, 2017. An expiration notice was sent to the applicant on December 13, 2017, as a courtesy.

The applicant recently appealed to City Council to allow the Project to move forward with a particular footings design. The City Council denied that appeal on August 6, 2019 because they found the applicant's 2016 application had expired in 2017.

Following that denial, on August 13, 2019, the Community Development Director reached out to the applicant to provide assistance in regards to the City Council's direction (Attachment 7). However, the applicant had already submitted a second appeal directly to the City Attorney (Attachment 8), appealing the Building Department's determination in 2017 that his building permit application had expired. Notice of hearing on this second appeal was timely served on the applicant (Attachment 9).

Discussion:

California State Building Code section 105.3.2 states the following in regards to the time limitation of application:

An application for a permit for any proposed work shall be deemed to have been abandoned 180 days after the date of filing, unless such application has been pursued in good faith or a permit has been issued; except that the building official is authorized to grant one or more extensions of time for additional periods not exceeding 90 days each. The extension shall be requested in writing and justifiable cause demonstrated.

Applicant's Building Permit application number B2016-0407 expired on February 6, 2017, 180 days after receipt of the application, due to lack of activity. A time extension was not requested by the applicant, however, if it had been, then the 90-day extension would have expired on May 8, 2018. There was no substantive activity on the application, as required. If the Project had continued activity, such as responses to the correction notices, or requests for periodic inspections, then the building official would have granted automatic extensions, as needed. A written notice of expiration is routinely provided by staff, however, it is not a requirement of the Building Code, and lack of receipt of such notice does not affect the permit's expiration for lack of activity.

Fiscal Impact:

This appeal has no direct fiscal impact, but to provide a true accounting of staff time utilized to research and prepare response to such appeal the following summary is detailed below:

| Staff Person | Hours | Rate | Total |
|--|-------|-------|-------|
| Building Official | 1.5 | \$208 | \$312 |
| Community Development Director | 3.0 | 103 | 309 |
| City Attorney Consultation | 2.0 | 185 | 370 |
| Total Cost for Appeal Review/Council Report Prep | | | \$991 |

The applicant paid fees for building plan check of \$645.94 and fire plan check of \$198.75 on August 9, 2016. The appellant has not been charged a fee for this, or the prior, appeal.

The prior appeal heard by City Council on August 6, 2019, cost the City \$1,500 in staff time.

Conclusion:

The permit application expired, and the times that *could* have been extended *if* the appellant had followed the processes that the Building Code describes also expired, over a year ago. Staff recommends the City Council deny the appeal and direct the applicant to apply for a new Building Permit ensuring he complies with the current Building Code. Respectfully submitted,

Anne Schneider, Building Division Contract Staff

APPROVED FOR SUBMITTAL TO THE CITY MANAGER:

Christie Alarcon, Community Development Director

APPROVED FOR SUBMITTAL TO THE CITY COUNCIL:

Jim Throop, City Manager

- Attachments:
- 1) Building Permit Application
 - 2) Electric Corrections
 - 3) Public Works Corrections
 - 4) Lompoc Fire Corrections
 - 5) Planning Corrections
 - 6) Building Corrections
 - 7) Email from Community Development Director
 - 8) Appeal to City Attorney
 - 9) Notice of Hearing to Applicant