

City of Hesperia

STAFF REPORT



DATE: September 8, 2022

TO: Planning Commission

FROM: Rachel Molina, Assistant City Manager

BY: Ryan Leonard, Senior Planner

SUBJECT: Appeal to the Planning Commission (APP22-00002); Applicant Pacific Communities Builder; APNs: 3046-011-06

RECOMMENDED ACTION

It is recommended that the Planning Commission adopt Resolution No. PC-2022-17, denying appeal APP22-00002 and upholding the Development Review Committee (DRC) denial of a second extension of time for Tentative Tract No. 16505 (TTE22-00003).

BACKGROUND

Proposal: On June 29, 2022, the DRC denied an application for a second extension of time for TT-16505. The DRC denied the extension of time for the reasons that are listed below in this staff report. Although the applicant is requesting that the Planning Commission grant this appeal to overturn the DRC's denial, the Planning Commission is precluded from granting an extension of time.

Current General Plan, Zoning and Land Uses: The project is located at the southeast corner of Muscatel Street and Afton Avenue. The site is within Single Family Residential (R1) zone. The surrounding land is designated as noted on Attachment 1. The property is currently vacant. The land to the west, east, and south are vacant. The land to the north on the opposite side of Muscatel Street consists of single-family residences (Attachment 2).

Project Approval Timelines:

- On December 9, 2008, the Planning Commission approved TT-16505 to subdivide 5 gross acres into 17 single-family residential lots. The smallest lot was 7,202 square feet, the largest lot was 13,337 square feet and the average lot size was 8,522 square feet. TT-16505 was approved for 3 years and was set to expire on December 19, 2011.
- In 2009, 2011, and 2013 the California Legislature passed assembly bills automatically extending the expiration dates of tentative maps. These automatic extensions amounted to 6 years of automatic State extensions. The automatic extensions are in addition to multiple City discretionary extensions that are allowed by the Subdivision Map Act. The Subdivision Map Act allows the City to extend a tentative tract map for a maximum of 6 total years. The 6 years is a cumulative total, and the extensions of time may be broken up into multiple increments.
- On January 10, 2018, the DRC approved the first extension of time for TT-16505 that extended the tract for an additional 3 years.

- In 2020 the California Legislature passed Assembly Bill AB-1561 that granted an 18-month extension to residential entitlements that were otherwise due to expire before the end of 2021. AB-1561 was enacted as a result of the ongoing economic and administrative challenges created by the Covid-19 pandemic. Table 1 provides the chronological order of the entitlements for this project.

Table 1: Timeline of the Project Entitlement

Land Use Entitlement Activity	Approval Date	Effective Date	Denial Date	Expiration Date	Length of Extension
Tentative Tract No. 16505	12/09/2008	12/19/2008		12/19/2011	-
Assembly Bill 333; AB-208; AB-116	6 years of automatic State extensions			12/19/17	6 years
TTE17-00019	01/10/2018			12/19/2020	3 years
Assembly Bill 1561	18-month automatic State extension			06/19/2022	18 months

ISSUES/ANALYSIS

In September 2020, the applicant submitted grading plans and improvement plans to the Engineering Division for plan check. The grading plan and improvement plans were reviewed and returned to the applicant on 5 separate occasions, with each plan check containing various corrections. In June of 2022 the 5th plan check was returned to the applicant with corrections. City staff then informed the applicant that TR-16505 was determined to have officially expired.

On June 16, 2022, the applicant submitted an application for an extension of time. On June 29, 2022, the Development Review Committee denied the extension (Attachment 3) on the basis that the request was in conflict with Measure N. Ballot Measure N was approved by City voters in November 2020. Measure N made changes to the City General Plan, Main Street and Freeway Corridor Specific Plan, and City Municipal Code. Among other things, Measure N modified City Municipal Code Section 17.08.040 (E) to state that “no extensions of time are allowed for residential subdivisions.” Measure N was approved by a majority of voters and therefore may only be amended by a subsequent ballot measure. *As a result, there is no mechanism in the Development Code that authorizes an approval process for any extensions of time. Furthermore, the Development Code may not be modified to allow for such an approval process.*

The Planning Commission does not have the authority to approve any discretionary extensions of time, nor do they have the authority to authorize an amendment to the Development Code to allow for such an approval process.

CONCLUSION

The Planning Commission does not have the authority to overturn the DRC denial of Tentative Tract Extension TTE22-00003. The Planning Commission must uphold the DRC’s denial of a second extension of time for Tentative Tract No. 16505.

ALTERNATIVE(S)

1. Refer this item to the City Council.

ATTACHMENTS

1. General Plan Map
2. Aerial Photo
3. DRC Denial Letter
4. Resolution No. PC-2022-17