

# 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 (APP22-00004); Applicant Pacific Communities Builder; APNs: 0405-052-03 & 27 thru 30

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### RECOMMENDED ACTION

It is recommended that the Planning Commission adopt Resolution No. PC-2022-19, denying appeal APP22-00004 and upholding the Development Review Committee (DRC) denial of a third extension of time for Tentative Tract No. 17655 (TTE22-00005).

### BACKGROUND

**Proposal:** On August 10, 2022, the DRC denied an application for a third extension of time for TT-17655. 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 on the southwest corner of Verde Avenue and Topaz Avenue. The site is within the Low Density Residential (LDR) and Office Park zones of the Main Street and Freeway Corridor Specific Plan. The surrounding land is designated as noted on Attachment 1. The property is currently vacant. Single-family residences exist to the east. The properties to the north, south and west are vacant (Attachment 2).

### Project Approval Timelines:

- On June 17, 2008, the City Council approved a zone change to change the zoning from RR 2 ½ to R1 in conjunction with TT-17655 to subdivide 20 gross acres into 118 single-family residential lots. The Small Lot Subdivision Ordinance requires a minimum lot size of 3,000 square feet and an average lot size of not less than 4,500 square feet. The smallest lot within the subdivision is 3,948 square feet, the average lot size is 4,542 square feet, and the largest lot is 9,009 square feet in area. Only two lots are over 7,200 square feet. TT-17243 was approved for 3 years and was set to expire on March 25, 2011.

It should be noted that the existing zoning for a portion of the tract is Office Park (OP). The OP zoning is likely due to a mapping error and will be corrected in the future to reflect LDR zoning.

- 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 June 29, 2016, the DRC approved the first extension of time for TT-17655 that extended the tract for an additional 2 years.
- On September 04, 2019 the DRC approved a second extension of time for TT-17655 that extended the tract for an additional 3 years. 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. 17655	06/17/2008	07/31/2008		07/31/2011	-
Assembly Bill 333; AB-208; AB-116	6 years of automatic State extensions			07/31/17	6 years
TTE16-00011	06/29/2016			07/31/2019	2 years
TTE19-00008	09/04/2019			07/31/2022	3 years

## ISSUES/ANALYSIS

In March of 2022, 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 with corrections. The applicant attempted to submit revised plans shortly after the July 31<sup>st</sup> expiration date but was told by the City that TR-17655 was determined to have officially expired.

On July 27, 2022, the applicant submitted an application for an extension of time. On August 10, 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 TTE22-00005. The Planning Commission must uphold the DRC's denial of a third extension of time for Tentative Tract No. 17655.

## **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-2022-19