



Staff Report

DISCUSSION AND DIRECTION REGARDING CONSTRUCTION TIME LIMITS ORDINANCE

Honorable Mayor and Council Members:

Summary

Construction projects that continue for a protracted period of time have become a regular feature of Belmont's residential neighborhoods and, on occasion, the commercial districts. As set forth in the California Building Code, a building permit is valid as long as measurable progress is made every 180 days, which is evidenced by an inspection by a jurisdictional building inspector. Consequently, unless the owner is motivated to complete the project, construction could continue indefinitely. This phenomenon is not unique to Belmont and in response to this trend municipalities have adopted ordinances that limit how long a given project is under construction. This memo seeks to clarify with the Council the specific issues associated with such an ordinance: length of time, monetary value of the project and associated fines for exceeding the time limits. This matter was previously discussed by Council at the June 26, 2007 meeting. From tonight's meeting staff will take Council's direction on whether to proceed with the specifics of a draft ordinance.

Background

Consistent with the rest of the San Francisco Bay Area, Belmont has experienced a large number of construction projects over the past decade. While this activity has expanded the housing stock and, in general, improved the appearance of its neighborhoods, it has also had adverse effects. Invariably the construction process brings noise, loss of on-street parking, unsightly job sites, stress on neighbors, impact on roads and other infrastructure, and in the event a project drags on, a disproportionate demand on staff's time relative to the fees collected. In reaction to these realities, municipalities such as San Bruno, Burlingame, Hillsborough, Atherton, Belvedere, and Ross have enacted ordinances that set deadlines for completion of construction based on the valuation of the project. In the event deadlines expire and the job is not finalized, daily fines are assessed.

Discussion

The time limits imposed by municipalities who have adopted such ordinances vary from city to city. All are tied to the project valuation, which is established by the building official pursuant to the California Building Code. Similarly, the fine schedule for failure to complete a project within the allotted time limits also varies. Below are two tables that provide a comparison between two cities, San Bruno and Hillsborough, for time limits and fine amounts.

Time Limit by Project Valuation	<u>San Bruno</u>	<u>Hillsborough</u>
Not over \$50,000	6 months from building permit issuance	9 months from building permit issuance 15 months for new construction
\$50,001 - \$500,000	12 months from building permit issuance (\$200,000.00 valuation)	12 months from building permit issuance 15 months for new construction
\$500,001 - \$1,000,000	18 months from building permit issuance	18 months from building permit issuance
\$1,000,001 - \$3,000,000	24 months from building permit issuance	24 months from building permit issuance (\$2,000,000.00 valuation)
over \$3,000,000	36 months from building permit issuance	36 months from building permit issuance

Time Periods After Failure to Complete	<u>San Bruno</u>	<u>Hillsborough</u>
30 day grace period	\$0	\$0
31 st day through 60 th day	\$200 per day	\$200 per day
61 st day through 120 th day	\$400 per day	\$400 per day
121 st day & every day thereafter	\$1000 per day Maximum \$250,000	\$1000 per day No maximum total

Extensions

Each city offers some sort of mechanism for extending the allotted time limits. For Hillsborough, extensions must be sought prior to commencement of construction and granted by the Planning Commission. For San Bruno, a one time 6-month extension may be granted by the building official if shown good cause. Additionally, San Bruno offers two methods for avoiding the fines that are tantamount to extensions: 1) establishing that circumstances beyond their control delayed construction, which must be requested in writing prior to permit expiration or 2) by entering into compliance agreement with a new mutually agreed upon construction deadline, which must be requested within 90-days of permit expiration. These alternatives seem to weaken the intent of the ordinance and create the possibility for endless negotiations.

Each ordinance details what constitutes reasons for delays that are outside the control of the owner. They include, but are not limited to: administrative appeals of the project filed by third parties; delays required by the unforeseen discovery of archeological remains on the building site; labor stoppages; acts of war or terrorism; and natural disasters. Reasons that are *not* beyond

the control of the owner are: winter rainy seasons; failure of the owner or his or her representatives to adequately protect the job site from damage due to the normal winter rainy season; failure of subcontractors to complete their work according to schedule; the use of custom and/or imported materials; the use of highly specialized subcontractors; significant, numerous, and/or late design changes; or by failure of materials suppliers to provide said materials in a timely manner.

Appeals

In the event time limits are exceeded and fines assessed or, in the case of San Bruno, an extension denied, each ordinance provides for an appeal process that involves a hearing in front of either the city council or an appeals board. Again, the hearing is restricted to reasons that are outside the control of the owner as defined above. Fines must be paid prior to the hearing.

Fiscal Impact

The fiscal impact of adopting an ordinance limiting construction time periods will be staff's involvement in education and communication of the requirements of the ordinance, monitoring time periods, collection of fines, and preparation of staff reports for hearings. The fine revenue has the potential to offset these costs.

Public Contact

This matter was placed on the agenda and posted as required by the California Government Code.

Recommendation

Staff recommends that the Council review the issues in this staff report and provide direction as detailed above.

Alternatives

1. Suspend any further development of such an ordinance.
2. Refer back to staff for additional information.

Attachments

- A. Ordinance Adding Chapters 15.26 and 15.30 to the Hillsborough Municipal Code
- B. Notice of Building Permit Time Limits from the City of San Bruno
- C. An Ordinance of the City of Belvedere Amending Sections 1.14.160 and 20.04.035 of the Belvedere Municipal Code Concerning Procedures for the Establishment, Imposition and Collection of Construction Time Limit Penalties

Respectfully submitted,

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PLEASE NOTE:

Attachments A,B & C are not included as part of this document - please contact the City Clerk's Office at (650) 595-7413 or the Community Development Department at (650) 595-7417 for further information on these attachments.