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ORDINANCE NO. 1546

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, AMENDING TITLE 17 OF THE CITY OF SAN CLEMENTE MUNICIPAL CODE TO REDUCE THE COST AND TIME REQUIRED TO PROCESS TIME EXTENSIONS

WHEREAS, on October 4, 2011, the City Council initiated Zoning Amendment 11-470, to reduce the cost and time required to process time extensions of previously approved projects, when conditions of approval are not changed or insignificant changes are proposed, and no code or policy changes are proposed that substantially affect previously approved project; and

WHEREAS, the Zoning Amendment changes the review authority and time deadline regulations in Section 17.12.150 and Section 17.12.160 of Title 17 that relates to the expiration of approvals and time extensions; and

WHEREAS, the proposed code amendments are not defined as a project pursuant to California Environmental Quality Act (CEQA) Public Resources Code Section 21065, therefore the request is not subject to CEQA; and

WHEREAS, on November 16, 2011, the Planning Commission held a duly noticed public hearing on the subject application, and considered evidence presented by City staff, the applicant, and other interested parties, and recommended the City Council approve Zoning Amendment 11-470; and

WHEREAS, on 12/20/11, the City Council held a duly noticed public hearing on the subject application, and considered evidence presented by City staff, the applicant, and other interested parties.

NOW, THEREFORE, the City Council of the City of San Clemente hereby resolves as follows:

Section 1: The proposed code amendments are not defined as a project pursuant to California Environmental Quality Act (CEQA) Public Resources Code Section 21065, therefore the request is not subject to CEQA.

Section 2: With respect to this ordinance, the City Council finds as follows:

- A. The proposed amendments will be consistent with the General Plan and applicable Specific Plans, in that the proposed amendments are consistent with Implementation Measure I.1.8 of the Land Use Element, "*thresholds for review should be revised to reflect the potential impacts of a project based on the type of use, size, locations, trips generated, infrastructures demands, or other appropriate criteria.*" The proposed amendments will reduce the number of time extension applications that are subject to a discretionary review process when previously approved projects do not change or

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when amended conditions of approval are required, but amended applications continue to meet design guidelines, General Plan policies, development standards, required findings, and do not have adverse impacts to surrounding properties or the environment that were not previously considered and addressed.

- B. The proposed amendments will not adversely affect the public health, safety, and welfare, in that the proposed amendments are not expected to cause a direct or indirect physical change in the environment, as the amendments do not change land use or development regulations that are adopted to ensure land uses compatibly function with each other and are designed according to General Plan policies.

Section 3: Section 17.16.150 of the Code of the City of San Clemente is hereby amended in its entirety to read as follows:

17.12.150 Expiration of approvals.

- A. Expiration of an Approved Application. An application approved in accordance with this title shall be deemed to have expired, when either of the following occur:
 - 1. When the activity permitted by the approved application is not commenced, as defined in subsection B of this section, Commencement of a Permitted Activity, within the time period specified in the approval, or within three (3) years if no time is specified. The time period during which a project must be commenced starts on the effective date of a decision approving a project, as defined in Section 17.12.130, Effective Date of Decision of an Action, of this Chapter.
 - 2. When the activity permitted by the approved application has lapsed, as defined in subsection C of this section, Lapse of a Permitted Activity.
- B. Commencement of a Permitted Activity. An activity permitted by an approved application shall be deemed to have commenced on the following dates:
 - 1. For an activity requiring the issuance of a Building Permit, on the date that the Building Permit is issued for that development;
 - 2. For an activity not requiring the issuance of a Building Permit, on the date the use becomes operational and/or opens for business at such location.
- C. Lapse of a Permitted Activity. An activity permitted by an approved application shall be deemed to have lapsed at the following times:
 - 1. For an activity for which a Building Permit has been issued, but construction has not been completed, at such time that the Building Permit expires in accordance with the applicable sections of the Uniform Building Code as amended and adopted by the City;

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2. For an activity that has become operational or opened for business, one (1) year after the date the activity ceases operation and/or the business closes at such location;
3. For an activity engaged in the sale of alcohol for on- or off-site consumption and conforming to the use requirements of this title (including but not limited to the requirements to obtain such discretionary approvals as indicated in Section 17.28.040, or per the use tables in Chapters 17.32 through 17.48 of this title) at such time as conforming use has been discontinued for more than ninety (90) consecutive calendar days, and thus is rebuttably presumed to have been abandoned.
 - a. Where the discontinuance is for the purpose of repair, maintenance and aesthetic improvement, being conducted pursuant to building permits, the use shall not be considered lapsed until such discontinuance is for a period in excess of one hundred eighty (180) days.

D. Renewal of an Expired Application. Any approved application which has been allowed to expire shall be subject to the filing of a new application pursuant to Chapter 17.16, Applications, of this title.

Section 4: Section 17.16.160 of the Code of the City of San Clemente is hereby amended to read in its entirety as follows:

17.12.160 Extension of time.

A. Authority. An extension of time may be issued for approved applications described in Chapter 17.16, Applications, of this title.

B. Submittal of Extension Requests.

1. Time Limits on Submitting Extension Requests. Unless otherwise provided by State law, extension requests for approved applications described in Chapter 17.16, Applications, of this title shall only be considered if the written request for the extension is filed with the City Planner prior to the approved application's expiration date.
2. Method of Request. Requests for extensions shall be made in writing and shall State the reasons why an extension is needed.

C. Review Authority.

1. The Community Development Director shall be the final decision authority for time extensions, if both of the following criteria applies to a request:
 - a. The Community Development Director determines there have been no code or policy changes that would substantially affect the application.
 - b. The Community Development Director determines the original conditions of

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approval will apply to the proposed time extension or the Community Development Director determines amended conditions of approval, that differ from the original approval, are required, but the proposed time extension meets all of the follow criteria:

- i. The proposed changes are not expected to be of significant concern to the decision making authority that took action on the original application and to the general public.
 - ii. The proposed project and conditions of approval do not have an adverse impact on surrounding properties or the environment that were not previously considered and addressed by the original decision making authority.
 - iii. The proposed project continues to meet the required findings for approval.
 - iv. The proposed project continues to comply with development standards.
 - v. The proposed project continues to be consistent with applicable design guidelines and policies of the General Plan and Specific Plan, if applicable.
2. If the Community Development Direction determines a time extension request does not meet the criteria of subsection 1, then the Community Development Director shall forward the time extension request to the decision making authority that approved the original application.

D. Circumstances Under Which Extensions May Be Granted. An extension of the approval of a project may be granted if the current findings for the specific type of permit can be made.

E. Time Duration of Extension. Time extensions shall be valid for two years unless stipulated otherwise.

Section 5: A New Section 17.12.190 entitled, One Time Extension, is hereby added to the code to read in its entirety as follows:

Sec. 17.12.190 One Time Extension

All unexpired approved applications for which the activity permitted by the approved application has not commenced, as defined in subsection B of Section 17.12.150, which were approved by the City prior to January 1, 2012, are hereby extended for 1 calendar year from the date they would have otherwise expired under this Title.

Section 6: The City Council approves Zoning Amendment 11-470, an ordinance amending Section 17.12.150 and Section 17.12.160 of the City of San Clemente Municipal Code, subject to the above Findings.

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Section 7: The City Clerk shall certify to the passage of this ordinance and cause the same to be published as required by law, and the same shall take effect as provided by law.

APPROVED AND ADOPTED this ____ day of _____.

ATTEST:

City Clerk of the City of
San Clemente, California

Mayor of the City of San
Clemente, California

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STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss.
CITY OF SAN CLEMENTE)

I, JOANNE BAADE, City Clerk of the City of San Clemente, California, hereby certify that Ordinance No. _____ having been regularly introduced at the meeting of _____, was again introduced, the reading in full thereof unanimously waived, and duly passed and adopted at a regular meeting of the City Council held on the _____ day of _____, _____, and said ordinance was adopted by the following vote:

AYES:

NOES:

ABSENT:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of San Clemente, California, this _____ day of _____, _____.

CITY CLERK of the City of
San Clemente, California

APPROVED AS TO FORM:

CITY ATTORNEY

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