



# ***Atascadero City Council***

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## **Staff Report – Community Development Department**

### **Dormant Building Permit Applications Time Extensions Follow-up Report**

#### **RECOMMENDATION:**

Council direct staff to develop a Phase II Dormant Building Permit program consistent with staff's program outline in Alternative 2.

#### **REPORT-IN-BRIEF:**

In September of 2008, Council approved a one-time-only dormant building permit application program that would extend the life of a dormant project application beyond the timeframes provided for in our Atascadero Municipal Code. It was determined that the downturn in the economy had a substantial impact on these projects, and since many of these projects owed fees for services rendered in the form of plancheck fees, it was in the City's interest and the community's interest to recoup outstanding plancheck fees and retain the viability of these proposed projects.

#### **DISCUSSION:**

Background: Between the years 2000 and 2005 the City did not require a pre-plancheck fee to be paid at the time of project application submittal due to limitations with the City's permitting system. During this time, complete plancheck fees were collected at the time of permit issuance, along with permit fees. While the economy was sound, and most projects were issued as soon as review was complete, this process worked well. Since the downturn in the economy, financing has dried up, and the City developed a backlog of more than 458 permit applications that became dormant (no activity for more than 180 days). Many of these projects appeared to be heading toward bankruptcy and foreclosure, and more projects were reaching or surpassing their expiration timeframes. As a result the City was concerned that over \$586,000± in outstanding plancheck fees might not be collected.

In an effort to extend the life of these projects and recoup as much of the plancheck fee backlog as possible, staff proposed a one-time-only permit application extension program, that would keep projects active beyond what is provided for in the Municipal Code in exchange for payment of services rendered (outstanding plancheck fees).

Last year, the Council approved the program which provided for an additional extension on building permit applications until June 30, 2010, if fees for outstanding plancheck were paid in full by February 28, 2009. Program participants would not be required to pick up their building permits for construction until June 30, 2010.

Beginning in September of 2008, staff sent letters to owners of 458 permit applications, explaining the program, including information specific to their permit applications and the outstanding fees due to the City. The letter further explained that this is a one-time-only opportunity, and that failure to take part in this program would result in cancellation of their applications, and all remaining outstanding fees would be forwarded to collections.

This dormant permit program generated significant interest, and eventually the owners of 36 projects covering 214 permits paid outstanding plancheck fees to the City in the amount of \$211,660.68.

Analysis: The dormant permit program was successful. More than \$200,000 in outstanding plancheck fees were collected, and the participating developers have until June 30, 2010 to pick up their permits and proceed with their projects. However, there are still 292 permit applications that remain in backlog, with \$374,000 remaining in outstanding plancheck fees.

The projects with the most potential for viability have taken advantage of the dormant permit program, and the owners/investors/receivers are pleased with having this opportunity. Most of the remaining projects are already in foreclosure, are now owned by investors unfamiliar with the development industry, or are otherwise in such financial difficulty that even coming up with the funds required to pay for services already provided is not practical.

## **ALTERNATIVES:**

### **Alternative 1 – Expire Permits and Send Fees to Collections**

The City Council could direct staff to follow the guidelines of the dormant permit application program and cancel all expired dormant permit applications. These remaining permits were eligible for our one-time-only permit application extension program, but did not reply or pay outstanding fees by the stated deadline. The outstanding balance of \$374,000 would be forwarded to a collection agency. Since many of these permits belong to bankruptcy entities, collection of these fees will be difficult.

## **Alternative 2 – Develop a Phase II Program Requiring Permits to Meet Current Code**

Under this option staff would place all dormant project application files on hold until June 30, 2010. If an applicant wanted to proceed with one of these projects within that timeframe, they would pay all outstanding plancheck fees, and redesign the structures and accessible site improvements to meet current California Building Code requirements, and proceed with the project under typical timeframes stated in our AMC. This option would allow all existing fees, planning, fire and public works reviews and approvals to remain intact, and the structures would ultimately be built under current code requirements.

The benefit of this option is that would allow time for bankrupt projects to be transferred to new owners and allow the City of collect outstanding plan check fees in the future. This process would provide an additional opportunity for an investor or developer to move forward on a project that has been through an extensive review process, while protecting the investments of those who bought into our original dormant application extension program. This option would also ensure that structures designed under previous code requirements would be evaluated and upgraded to current code requirements consistent with State and local regulations.

### **Program Summary:**

1. Place all remaining, previously listed dormant permit applications, in a special file drawer until June 30, 2010.
2. Any owner wishing to proceed with any of these expired dormant application projects must, pay all outstanding plan review fees AND submit revised plans, support documents and/or reports to upgrade the structures and any accessible site improvements to current the 2007 CBC requirements prior to June 30, 2010.
3. Applicant will pay additional plan review fees based on consultant invoices (likely \$500 - \$750 for sfr, and \$2000 - \$3500 for commercial building).
4. Once all outstanding plan review fees have been paid, and modified plans and support docs are submitted for review, applicant will be on typical processing timeframes (pick up and return corrected plans within six months, and start work within six months of permit issuance, with one one-time-only application and/or permit extension).
5. The main benefit for developers is to keep all planning, on and off site improvements, fire department approvals, and fees, such as original plan review fees, development impact fees, and permit fees based on the original time of submittal. The only new, additional fees will be the review of code upgrades, which will be done at the current hourly rate.

**Alternative 3 – Refer Back to Staff for Additional Analysis**

If the Council is interested in exploring any additional options, this item should be referred back to staff for additional analysis. Staff is very concerned that any new program must be more restrictive than the Phase I program, otherwise Phase I participants may request switching to the Phase II rules and petition to have their plan check fees refunded. Due to the technical, financial and legal ramifications of this issue, staff should analyze any proposed changes prior to Council action.

**FISCAL IMPACT:**

Alternatives 1 and 2 have minimal additional costs to the City. Both alternatives have the potential of collecting outstanding fees that are due to the City and therefore the program is expected to be revenue positive.