



MEMO

Community & Economic Development Department

DATE: 09/24/15

TO: Chairman Riggle and City Planning Commission Members

FROM: Jay Eastman, Interim City Planner

RE: Agenda Item No. 10; Time Limits for Modular/Temporary Structures

This item was scheduled for the September 17, 2015 Planning Commission meeting. However, the September meeting was cancelled; therefore this item was rescheduled without discussion to October 8, 2015.

Background

At their August 11, 2015 meeting the City Council heard an appeal from an applicant of a Conditional Use Permit (CUP) (P15-0265). The applicant's CUP request was to expand the enrollment of an existing preschool at 8172 Magnolia Avenue; to add two new modular structures; and to modify a previous CUP approval to extend the length of time the four existing modular structures could remain on the property. Although the CUP was approved by the Planning Commission, the applicant was not in agreement with one of the conditions of approval. Specifically, that condition was a requirement that the modular structures be removed in five (5) years. The applicant/appellant requested a ten (10) year duration, stating that a ten (10) year loan was obtained from the State to cover the cost the modulars.

The City Council heard the item and upheld the appeal, thereby changing the Planning Commission's five (5) year time limit to ten (10) years. In doing so the Council directed staff to discuss with the Planning Commission the "standard" condition for modular structures, and to work towards reasonable accommodations for uses and entities that justify special consideration. As an example, the Council expressed that pre-schools which provide for low income households, such as the appellants, operate on a limited budget and provides a necessary public service. As such, the Council indicated support for the appellant's use, whereas they might not be as supportive of a for-profit business that does not provide a public benefit.

On September 3, 2015 the Planning Commission directed staff to agendaize the topic for discussion.

Discussion

As was conveyed when Case P15-0265 was presented to the Planning Commission on July 9, 2015, it is the practice for Planning staff to include, as a standard condition for all proposals with modular structures, that the structures be removed or replaced with permanent buildings within five (5) years of approval.

This standard condition is recommended for all proposals that include modular structures, as the Commission has previously expressed concern that modulars are not typically constructed

for longevity, and they do not provide as significant of an investment in a community as would a permanent structure. Based on the recollection of City staff, this standard condition originated with modular trailers at Kaiser Hospital, which went before the Planning Commission as a revised Conditional Use Permit. Those trailers were conditioned for removal within 5 years, which they were. Staff subsequently adopted this direction when conditioning administrative cases, and recommendations to the Planning Commission.

It is important to clarify that the duration limitation for modular structures is not part of the Municipal Code ("codified"); rather it is a standard practice implemented during the review and approval of discretionary projects.

Staff does not recommend adopting a Code amendment to limit the duration of modular structures, as it could eliminate the flexibility that may be necessary to address unique circumstances, including the reasonable accommodation the City Council is now asking the Commission to consider. Furthermore, codifying a time limit would require a thorough analysis of the existing Code to ensure all circumstances are vetted, so that there is no possibility of regulatory conflicts; and it would require the creation of language to define the type and size of modular buildings, permitting requirements and locations, and potentially a myriad of other circumstances.

Staff recommends that the Commission consider the framework under which a standard condition would be applied or drafted when a discretionary action is considered. Staff would recommend that the Commission consider criteria such as:

- Maximum duration for modular structures;
- Justification for granting longer durations of time;
- Considerations for granting an extension of time already authorized. Such considerations may include quality of maintenance during initial time limit, frequency of use/occupancy during initial time limit, financial constraints, complaints from residents, or Code violations;
- Visibility from public rights-of-ways or adjacent properties;
- Proximity to residential properties, including buffering distances, actual residential structures vs. residential zoning, and perspectives related to the type of residential (i.e., single family vs. multi-family);
- The value of nonprofit business vs. for profit, as well as the types of non-profits if applicable;
- Criteria that might frame a uses impact/benefit on the public's "health, safety or welfare"; and
- Appropriateness of the structure for the intended use.

To be clear, the criteria listed above is not intended to be all inclusive; but rather a suggested starting point for Commission discussion. Furthermore, staff is not suggesting that all the criteria above be incorporated in a policy framework, as some of the criteria may not be significant or worthwhile when considering the issue as a whole. Additionally, staff suggests that the Commission identify a framework with as few "criteria" as necessary to equitably apply a standard condition; as the more criteria applied, the more complicated and convoluted the "policy" becomes.

Should you have any questions, please do not hesitate to contact me directly at (951) 826-5264.