

CITY OF SANTA ROSA
CITY COUNCIL

TO: MAYOR AND CITY COUNCIL
FROM: JESSICA JONES, SUPERVISING PLANNER
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
SUBJECT: APPEAL OF ZONING CODE APEAL DEADLINE
DETERMINATION

AGENDA ACTION: RESOLUTION

RECOMMENDATION

It is recommended by the Planning and Economic Development Department and the City Clerk's Office that the Council, by resolution, uphold the City Clerk's determination to not accept an untimely Appeal Form and deny an Appeal of the Zoning Code appeal deadline determination following the Planning Commission's action on the Penstemon Place residential project.

EXECUTIVE SUMMARY

On January 27, 2022, the Planning Commission adopted a Mitigated Negative Declaration and approved a Hillside Development Permit, Conditional Use Permit and Tentative Map for the 59-unit Penstemon Place project located at 2574, 2842 and 2862 Linwood Avenue. Zoning Code Section 20-62.030(B)(1) requires that appeals of a decision by the Planning Commission shall be filed within 10 calendar days after the date of the decision. On February 9, 2022, an appeal of the Planning Commission's January 27, 2022 decision was received by the City Clerk's office, which was two days after the appeal deadline. On February 10, 2022, a letter was sent to the appellant notifying him that the Appeal could not be accepted. On February 17, 2022, an Appeal of the appeal deadline determination was submitted to the City by the appellant pursuant to Municipal Code Section 1-20.020, which allows appeals of a decision by a City official within 15 days of the date of decision.

BACKGROUND

On January 27, 2022, the Planning Commission unanimously adopted a Mitigated Negative Declaration and approved a Hillside Development Permit, Conditional Use Permit and Tentative Map for the Penstemon Place project.

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On February 9, 2022, an appeal of the Planning Commission's January 27, 2022 decision was received.

On February 10, 2022, a letter was sent to the appellant notifying him that the Appeal was untimely and could not be accepted.

On February 17, 2022, pursuant to Santa Rosa Municipal Code Section 1-20.020, an Appeal of the appeal deadline determination was received and accepted by the City.

PRIOR CITY COUNCIL REVIEW

None.

ANALYSIS

The appellant has provided the following grounds for appeal in his February 17, 2022 Appeal form:

1. No information about the deadline for appeals was included in the neighborhood signs notifying the public of the Planning Commission hearing on January 27, 2022; and
2. Planning staff gave the appellant incorrect information about the appeals process before the appellant filed the Appeal on February 9, 2022.

The following provides staff's response to both grounds for appeal:

As noted above, on January 27, 2022, the Planning Commission approved the Penstemon Place project, which is a 59-unit, single-family residential project located in southeast Santa Rosa.

Zoning Code Sections 20-62.030(A) and (B)(1) state the following with regard to the filing of appeals (see Attachment 5):

“20-62.030 Filing and processing of appeals.

A. Eligibility. Any action by the Director, Zoning Administrator, DRB, CHB, or the Commission in the administration or enforcement of the provisions of this Zoning Code may be appealed by any aggrieved person in compliance with this Chapter. (See Table 5-1 (Review Authority) in Division 5 (Land Use and Development Permit Procedures).

B. Timing and form of appeal.

1. *General appeals. Appeals shall be submitted in writing, and filed with the Department on a City application form within 10 calendar days after*

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the date of the decision. The time limit will extend to the following business day where the last of the specified number of days falls on a day that the City is not open for business.”

The final day to appeal decisions made by the Planning Commission on January 27, 2022 was February 7, 2022 (because the 10th calendar day fell on a Sunday the final day to appeal was extended to Monday, February 7). The appellant submitted an Appeal form to the City on February 9, 2022, two days after the appeal deadline.

While information on the appeal period was not included on the Public Hearing sign posted on the project site, it was included on the Public Hearing notice that was mailed to property owners and occupants of properties within 600 feet of the project site (see Attachment 6). Staff has confirmed that the Public Hearing notice was mailed to the appellant’s residence. Information regarding the appeal process and deadlines, and the fact that the appeal information was included on the mailed Public Hearing notice, was provided to the appellant by staff prior to his Appeal submittal on February 9, 2022.

It should also be noted that Zoning Code Section 20-62.030(B)(1) specifies that appeals shall be “on a City application form”. The form submitted by the appellant on February 7, 2022 is not a City form. The correct City appeal form, which is included as Attachment 4 to this staff report, includes the following statement, which was omitted from the form that the applicant submitted:

“Appeals shall be submitted in writing.....on a City application form within 10 calendar days after the date of the decision. The time limit will extend to the following business day where the last of the specified number of days falls on a day that the City is not open for business.”

FISCAL IMPACT

Action on this Appeal will not impact the General Fund.

ENVIRONMENTAL IMPACT

The requested Appeal of the appeal deadline determination is exempt from the provisions of California Environmental Quality Act (CEQA) under CEQA Guidelines Section 15061(b)(3) and 15378 in that there is no possibility that the implementation of this action may have significant effects on the environment, and that no further environmental review is required.

BOARD/COMMISSION/COMMITTEE REVIEW AND RECOMMENDATIONS

None.

NOTIFICATION

All noticing for the Public Hearing of an Appeal of the appeal deadline determination was done in compliance with Zoning Code Chapter 20-66, including a mailed Notice of Public Hearing (Notice) to the appellant, a published one-eighth page advertisement of the Notice in the Press Democrat, a physical copy of the Notice posted at City Hall's noticing kiosk, and an electronic copy of the Notice posted on the City's website. While the original Appeal request was specific to the Penstemon Place project site, this Appeal of the determination regarding the City's Zoning Code appeal deadline is broad and not specific to a project site. As a result, there is no on-site sign requirement and no site-specific mailing radius, which is why the larger, one-eighth page advertisement in the Press Democrat was prepared.

ATTACHMENTS

- Attachment 1 – Appeal Form, Received February 9, 2022
- Attachment 2 – Letter Rejecting Appeal Application, Dated February 10, 2022
- Attachment 3 – Appeal Form, Received February 17, 2022
- Attachment 4 – City of Santa Rosa Appeal Form
- Attachment 5 – Zoning Code Chapter 20-62, Appeals
- Attachment 6 – Public Hearing Notice Postcard
- Attachment 7 – Municipal Code Chapter 1-20, Appeals Before City Council
- Resolution

CONTACT

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