



AGENDA MEMORANDUM

Public Hearing for the Planning Commission Meeting of April 14, 2021

DATE: April 7, 2021

TO: Al Raymond, Director of Development Services

FROM: Mark Orozco, Engineering Associate, Development Services
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**Appeal from a Staff Determination of Plat Expiration
as a Result of Insufficient Progress on Construction of Improvements
Westwood Heights Unit 4- Final Plat (19PL1096)**

REQUEST:

The applicant is appealing a Staff determination that the Westwood Heights Unit 4- Final Plat (19PL1096) has expired as a result of insufficient progress on construction of improvements. If the Planning Commission approves appeal this will extend the plat to May 13, 2021. This represents a 6-month extension from November 13, 2020 being the 2nd Planning Commission approved plat extension.

BACKGROUND:

The final plat expired on November 13, 2020. An expired plat must be resubmitted to Development Services for processing as a new plat. An extension was granted by Planning Commission on May 27, 2020 extending the plat to November 13, 2020. Prior to expiration date of November 13, 2020, staff received a request for a 2nd time extension. The plat expired on November 13, 2020. The UDC provides that a plat expiration may be appealed to Planning Commission within 30 days of notification of a plat expiration.

The applicant asserts the following:

- Due to setbacks and financial burden caused from the COVID-19 pandemic, many of the contractors and engineers were unable to safely meet the previous extension.
- The applicant is requesting to extend the plat expiration to allow for commencement within 6 months.
- An application for Reimbursement to Construction was not complete.

Zoning: The subject property is zoned "RS-6" Single-Family 6 District.

Timeline: A timeline of events relevant to this request is summarized below:

Event	Date
Plat Application Received	8-20-2019
Planning Commission Plat Approval Date	11-13-2019
Letter sent to applicant and consultant, informing of 6-month Expiration Date of Approved Plat on 11/13/2019	11-18-2019
6-Month Expiration Date of Approved Plat ⁽¹⁾ This is the deadline to satisfy <u>ONE</u> of the following: (i) have improvements ⁽²⁾ in place, and record the plat, <u>OR</u> ; (ii) initiate construction of improvements and have substantial progress continue, <u>OR</u> (iii) provide a financial guarantee to the City for improvements construction).	5-13-2020
Applicant's Consultant Communicates with City Staff and request a Plat Extension	5-6-2020
1 st Plat Extension approved by Planning Commission	5-27-2020
6-Month Extension of Expiration Date of Approved Plat	11-13-2020
Applicant Communicates with City Staff and request a 2 nd Plat Extension; Plat extension not placed on PC agenda (Five business days prior to Planning Commission was November 4, 2020)	11-7-2020
Plat expired	11-13-2020
Applicant's Communicates with City Staff about Determination that Plat Expired as a Result of Insufficient Progress	3-9-2021
Applicant Submits Request for Appeal of Staff Determination of Plat Expiration	3-25-2021

Notes:

- (1) Plat Expiration is discussed in Unified Development Code (UDC) Section 3.8.5.F (for Final Plats) and UDC Section 3.11.5 (for Replats without Vacation).
- (2) "Improvements" are: A. Streets (including but not limited to pavement, curb and gutter, and sidewalks); B. Water system; C. Wastewater system; D. Storm water system; E. Public open space; and F. Permanent monument markers. (UDC Section 8.1.4).

Plat Expiration per UDC Section 3.8.5.F. The requirements regarding plat expiration per UDC Section 3.8.5.F (Final Plat Expiration) are stated in the table below, with Staff findings for each provision:

UDC Section 3.8.5.F Requirements	Staff Finding
1. If improvements are not in place or construction initiated on said improvements within six months of such plat approval, the final plat shall expire, unless the improvements are secured by a developer's financial guarantee.	Improvements are not in place. Construction has not been initiated. Complete construction plans were submitted and approved by the deadline (per UDC Section 8.1.4). Release Letter authorizing initiation of construction was issued by Staff on December 15, 2020. Staff has not received the developer's financial guarantee.
2. A final plat shall not expire if construction has been initiated and substantial progress continues toward completion of the improvements.	Construction has not been initiated. Substantial progress is neither initiated nor continuing.
3. A determination that a plat has expired as a result of insufficient progress may be appealed to the Planning Commission within 30 days of notification that the plat has expired.	Plat has expired as a result of insufficient progress. The Applicant's appeal of this determination was not submitted in a timely manner nor within 30 days of notification that the plat has expired.
4. An expired plat must be resubmitted to Development Services for processing as a new plat.	Due to the plat expiring, the applicant must resubmit a new plat to Development Services.
5. The applicant may submit a written request for a time extension of six months. Such request shall be submitted <i>no later than five business days prior to the last scheduled meeting of the Planning Commission immediately prior to the date of the expiration of said plat.</i>	The plat expired Tuesday, November 13, 2020.

STAFF RECOMMENDATION:

Staff recommends denial of the appeal. The applicant can resubmit a plat application and associated public improvements. The applicant had paused his application for trust fund reimbursement because he indicated he was getting updated cost estimates for public improvements. Additionally, he indicated that he would not be ready to begin work until November 2021. During the preparation of this appeal, City staff confirmed with the applicant's engineer the information listed above.

LIST OF SUPPORTING DOCUMENTS:

- Applicant's Letter Request to Appeal Determination of Plat Expiration, and, Request for Extension of Plat Expiration Date, Dated 3/25/2021
- Approval Letter from Staff to Applicant, Dated 5/27/2020