

Extensions Policy

The Planning and Development Department has created this policy to establish procedures and guidelines, and provide direction, in relation to Extension Requests for previous City plan approvals, in accordance with the authority granted under the Zoning, Subdivisions and One-Family Residential Detached Condominiums Ordinances. The Policy's standards are designed to accommodate reasonable requests for additional time extensions where unforeseen conditions have arisen, but to discourage attempts to vest development rights for purposes of sale or speculation or where there has been a lack of due diligence in proceeding with developing a project.

City Approvals expire within a reasonable time to protect the public interest and welfare and to allow for ordinance and policy changes. The City acknowledges that circumstances can change a developer's situation, and it has liberally approved extensions. However, numerous extension requests may indicate a lack of fidelity, and staff should carefully scrutinize extension requests for development projects where several extension requests have already been requested and authorized.

Site Plans, Plats and Site Condo Plans are effective for one year from the date of Planning Commission or City Council approval and will be evaluated annually. There can be changes to the environment, infrastructure needs, the City's Master Plan and Ordinances that make a project subject to re-review. Staff is responsible for evaluating the written extension requests and determining whether the applicant has provided reasonable justification for the extension. Staff must verify whether the applicant is meeting all conditions of the existing approval and examine any issues related to the public interest that may be affected. Staff will differentiate between instances where unforeseen conditions have delayed project development as opposed to failure to pursue a project plan with diligence and good faith. Subsequent to July 1, 2008 if an applicant has not received a Land Improvement Permit by the one-year expiration date, an Extension may be applied for that complies with the following:

- The applicant still owns the subject property or is able to legally represent the owner (the same criteria for site plan submittal can be used to confirm this criteria is met); and
- The current landowner has no outstanding indebtedness to the City related to the project, including that all taxes, assessments and water and sewer charges, if any, are paid and up to date; and all applicable escrows are in good standing.

At its discretion and for good cause and due diligence shown, the Planning Commission may recommend approval of a one-year extension, which can be subject to conditions. The Planning Commission may recommend denial of the extension if the plans are found to be inconsistent with the original plans, one of the above criteria is not met, or the applicant has not demonstrated diligence and good faith in meeting the development schedule. Denial of an extension request must be supported by findings. The extension in development period for any phase of development will be assumed to extend to any future development phases by the same length of time, unless specifically stated otherwise with the first approval of extension.

If an applicant has not received a Land Improvement Permit by the two-year expiration date, a second Extension may be applied for that complies with the first Extension criteria and with submittal of the following:

A letter (template attached) that indicates the site will be brought into conformance with all current City regulations prior to any subsequent approvals. This would require the applicant to acknowledge that new requirements must be met and that it may impact the approved site plan or may even require a revised site plan approval before receiving a second extension. This allows the applicant to be granted an extension without having to go through a full review process.

Extensions requested beyond two must comply with the following:

- All necessary and underlying development approvals have not expired (e.g., Subdivision Plats, Site Condo Plans or Conditional Land Use approvals); and,
- The applicant still owns the subject property or is able to legally represent the owner (the same criteria for site plan submittal can be used to confirm this criteria is met); and
- The current landowner has no outstanding indebtedness to the City related to the project, including that all taxes are paid and up to date; all applicable escrows are in good standing; and all required bonds related to the site are in good standing; and
- There have been no repeated failures to comply with the permit or environmental regulations; and
- There are no outstanding citations for violations of the building or environmental code or other land development regulations which are not being satisfactorily resolved; and
- The plans address all necessary and underlying development standards that have been modified; and

If extensions have been granted previously, the record of those extensions and the degree of effort made by the applicant to meet any commitments must be demonstrated. Other factors to consider when making a good cause determination may include:

Litigation, such as right of way disputes that must be resolved;

Illness of the principal owner if directly related to the person's ability to pursue development of the project;

Financial problems encountered by the owner, if associated with development and not the speculative value of the product planned after completion;

Nature and scope of the project;

Local development patterns and local economic conditions.

All requests for extensions must be in writing. Such application shall be made by the owner of the land on which the development activity is occurring or will be occurring, and be received prior to the expiration of the prior approval, provided that continuous good faith efforts have been made to complete the development. The applicant will be provided a template to submit with the request for an extension, which includes the following:

- Name of applicant
- File Number
- Contact Information
- Date of Original Site Plan Approval
- Extension(s) to date
- Brief explanation of reason for Extension request
- A description of efforts made since the approval or last extension was granted
- Dates any construction was started (for phased projects)

During the period between the date of the expiration and the scheduled Planning Commission meeting at which the extension request is to be considered, no activity may occur on the subject development.

If an extension has been approved, the applicant shall be notified in writing of the approval and the new expiration date. If any provisions of the extension are violated, or if the extension expires without another request in writing, the City reserves the right to rescind the approval.

This policy is used to guide and ensure consistency in the administration of rules pertaining to extensions and should be considered a formal administrative regulation.

*Dated July 1, 2009
Rochester Hills*