



City of Fayetteville, Arkansas

113 West Mountain Street
Fayetteville, AR 72701
(479) 575-8323

Legislation Text

File #: 2024-1692

ADM-2024-0002: Administrative Item (Amend UDC Chapter 166 - Development): Submitted by CITY OF FAYETTEVILLE STAFF. The request is for an amendment to UDC Chapter 166.20 – Expiration of Approved Plans and Permits. The proposed code change would adjust extension requirements for approved plans.

AN ORDINANCE TO AMEND §166.20 EXPIRATION OF APPROVED PLANS AND PERMITS OF THE UNIFIED DEVELOPMENT CODE TO EXTEND THE TIME FOR DEVELOPERS TO REQUEST ADMINISTRATIVE PROJECT EXTENSIONS FROM 12 MONTHS TO 18 MONTHS

WHEREAS, § 166.20 **Expiration of Approved Plans and Permits** of the Unified Development Code currently authorizes staff to approve a one-year project extension administratively, provided that the project complies with all applicable zoning and development requirements adopted after the project's original approval and the request is submitted before the initial one year project expiration, and further authorizes the Planning Commission to grant extensions of up to three years from the project approval date; and

WHEREAS, staff has received an increasing number of requests for one-year extensions from the Planning Commission in recent years as a result of applicants narrowly missing their one year window to request an administrative extension; and

WHEREAS, the purpose of this amendment is to allow a one year project extension to be granted administratively by the Zoning and Development Administrator as long as the request is submitted within 18 months of the original approval.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby repeals subsection (B) Time Limit in § 166.20 *Expiration of Approved Plans and Permits* of the Unified Development Code and enacts a new subsection (B) as shown in Exhibit A attached hereto and made a part hereof.



MEETING OF FEBRUARY 20, 2024

TO: Mayor Jordan and City Council

THRU: Susan Norton, Chief of Staff
Jonathan Curth, Development Services Director
Jessica Masters, Development Review Manager

FROM: Gretchen Harrison, Senior Planner

SUBJECT: **ADM-2024-0002: Administrative Item (Amend UDC Chapter 166 - Development): Submitted by CITY OF FAYETTEVILLE STAFF. The request is for an amendment to UDC Chapter 166.20 – Expiration of Approved Plans and Permits. The proposed code change would adjust extension requirements for approved plans.**

RECOMMENDATION:

City staff and the Planning Commission recommend approval of an amendment to Unified Development Code Chapter 166.20 - Expiration of Approved Plans and Permits to allow all project extensions requested within 18 months of a project's original approval to be reviewed and granted administratively.

BACKGROUND:

In 2002, the City Council adopted Chapter 166.20 of the Unified Development Code (UDC) which required all previously approved plans and permits to comply with current ordinance. The amendment established a typical one-year time limit for future plan and permit approvals, which allowed applicants to submit a request for a one-year extension to the Planning Commission. In 2008, an amendment to that ordinance was passed which allowed staff to approve one-year extensions administratively, provided that the project complies with all applicable zoning and development requirements that were adopted after the project's original approval. It also allowed applicants who missed their deadline to request an administrative extension to request a one-year extension from the Planning Commission as long as it occurred within 18 months of the project's original approval. In addition, the amendment gave applicants the ability to request a second one-year extension from the Planning Commission to extend their project's approval for a second year, allowing an approval period of three total years.

The purpose of this amendment is to allow extensions requested within 18 months of a project's original approval to be reviewed and granted administratively by the City's Zoning and Development Administrator. Currently, and as noted above, an applicant has the ability to request a one-year extension administratively so long as their request is submitted prior to the project's initial expiration. If an applicant misses their deadline to request an administrative extension, then they have the ability to request a one-year extension from the Planning Commission so long as their request is submitted within the next six months. The allowance for a one-year extension from the Planning Commission within 18 months of a project's original approval was established as a way to give applicants additional time to extend their project's approval without having to resubmit their project in its entirety. However, staff has received an increasing number of requests for one-year extensions from the Planning Commission in recent years as a result of applicants narrowly missing their window to request an administrative extension. Reasons for these requests range widely, from extend worksite

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shut-downs due to COVID and supply chain issues, to volatile financing and extended periods of project reviews subsequent to Planning approval. City records indicate that staff processed six such requests in 2021, four in 2022, and 14 in 2023. All 14 requests that were processed in 2023 were approved by the Planning Commission with 10 of those items being placed on the consent agenda.

All extension requests, whether reviewed by the Zoning and Development Administrator or the Planning Commission, are evaluated under the same general criteria. For an extension to be approved, an applicant must show good cause why all required tasks could not reasonably be completed within the typical one year time limit and demonstrate that their plans are substantially the same as those that were originally approved. Since all project extensions are reviewed similarly and requests that are submitted to the Planning Commission require additional time and resources, taking at least four weeks to process and requiring completion of public notification, staff recommends UDC Chapter 166.20 be amended to allow all one-year extensions requested within 18 months of a project's original approval to be reviewed and granted administratively. Allowing those extensions to be approved administratively would reduce the amount of time and resources needed to process those requests from applicants who are usually close to completing their required tasks, and subsequently reduce the amount of time needed to process any permits associated with their project.

DISCUSSION:

At the January 22, 2024 Planning Commission meeting, a vote of 9-0-0 forwarded the proposed amendment to City Council with a recommendation of approval. Commissioner Madden made the motion and Commissioner Payne seconded it. Commissioners unanimously supported the proposal and offered little comment on it. No public comment was offered at the meeting.

BUDGET/STAFF IMPACT:

N/A

ATTACHMENTS: SRF (#3), Proposed Ordinance Amendment - Exhibit - A (#4), Proposed Ordinance Amendment in Strikeout (#5), Planning Commission Staff Report (#6)

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TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Gretchen Harrison, Senior Planner

MEETING DATE: January 22, 2024 (updated with results)

SUBJECT: **ADM-2024-0002: Administrative Item (Amend UDC Chapter 166 - Development):** Submitted by CITY OF FAYETTEVILLE STAFF. The request is for an amendment to UDC Chapter 166.20 – Expiration of Approved Plans and Permits. The proposed code change would adjust expiration requirements for approved plans.

RECOMMENDATION:

Staff recommends forwarding **ADM-2024-0002** to the City Council with a recommendation of approval.

RECOMMENDED MOTION:

*“I move to forward **ADM-2024-0002** to the City Council with a recommendation of approval.”*

BACKGROUND:

In 2002, the City Council adopted Chapter 166.20 of the Unified Development Code (UDC) which required all previously approved plans and permits to comply with current ordinances and established a typical one-year time limit for future plan and permit approvals. The ordinance also allowed applicants to submit a request for a one-year extension to the Planning Commission to extend their project’s approval for up to one additional year. In 2008, an amendment to that ordinance was passed which allowed staff to approve one-year extensions administratively, provided that the project complies with all applicable zoning and development requirements that were adopted subsequent to the project’s original approval. It also allowed applicants who missed their deadline to request an administrative extension, prior to the date of the project’s expiration, to request a one-year extension from the Planning Commission within 18 months of the project’s original approval. In addition, the amendment gave applicants the ability to request a second one-year extension from the Planning Commission to extend their project’s approval for a second year, allowing an approval period of up to three years.

DISCUSSION:

The purpose of this amendment is to allow extensions requested within 18 months of a project’s original approval to be reviewed and granted administratively by the City’s Zoning and Development Administrator. Currently, an applicant has the ability to request a one-year extension administratively so long as their request is submitted prior to the project’s initial expiration. If an applicant misses their deadline to request an administrative extension, then they have the ability to request a one-year extension from the Planning Commission so long as their request is submitted within the next six months. The allowance for a one-year extension from the Planning Commission within 18 months of a project’s original approval was established as a way to give

applicants additional time to extend their project’s approval without having to resubmit their project in its entirety. However, staff has received an increasing number of requests for one-year extensions from the Planning Commission in recent years as a result of applicants narrowly missing their window to request an administrative extension. City records indicate that staff processed six such requests in 2021, four in 2022, and 14 in 2023. All 14 requests that were processed in 2023 were approved by the Planning Commission with 10 of those items being placed on the consent agenda.

All extension requests, whether reviewed by the Zoning and Development Administrator or the Planning Commission, are evaluated under the same general criteria. For an extension to be approved, an applicant must show good cause why all required tasks could not reasonably be completed within the typical one year time limit and demonstrate that their plans are substantially the same as those that were originally approved. Since all project extensions are reviewed in a similar manner and requests that are submitted to the Planning Commission require additional time and resources, taking at least four weeks to process and requiring completion of public notification, staff recommends UDC Chapter 166.20 be amended to allow all one-year extensions requested within 18 months of a project’s original approval to be reviewed and granted administratively. Allowing those extensions to be approved administratively would reduce the amount of time and resources needed to process those requests from applicants who are usually close to completing their required tasks, and subsequently reduce the amount of time needed to process any permits associated with their project. Proposed Unified Development Code changes are attached as clean text and as strikethrough.

RECOMMENDATION: Staff recommends forwarding ADM-2024-0002 to the City Council with a recommendation of approval.

PLANNING COMMISSION ACTION:			
Required	<u>YES</u>		
Date: <u>January 22, 2024</u>	<input type="checkbox"/> Tabled	<input checked="" type="checkbox"/> Forwarded with a recommendation of approval	<input type="checkbox"/> Denied
Motion: <u>Madden</u>			
Second: <u>Payne</u>			
Vote: <u>9-0-0</u>			

BUDGET/STAFF IMPACT:

None

ATTACHMENTS:

- Proposed Ordinance, Clean
 - §166.20 – Expiration Of Approved Plans And Permits
- Proposed Ordinance, Strike-through
 - §166.20 – Expiration Of Approved Plans And Permits

166.20 Expiration Of Approved Plans And Permits

- (A) *Applicability.* The provisions of this section apply to all of the following plans and permits:
- (1) Preliminary plats;
 - (2) Planned zoning district developments;
 - (3) Conditional uses;
 - (4) Large-scale developments;
 - (5) Lot splits;
 - (6) Physical alteration of land (grading)/storm water, drainage, and erosion control (drainage) permit;
 - (7) Tree preservation plans; and
 - (8) Floodplain development permits.
- (B) Time Limit.
- (1) Tasks to Be Completed. All of the above-enumerated plans and permits are conditioned upon the applicant accomplishing the following tasks within one (1) year from the date of approval:
 - (a) For any renovation or new construction, receive all building permits for the project; and/or,
 - (b) For a Planned Zoning District, comply with the approved phasing plan; and/or
 - (c) For a lot split, record a deed or survey at the Washington County Circuit Clerk's Office, stamped for recordation by the City Planning Division; and/or,
 - (d) Receive a business license; and/or,
 - (e) Receive all permits and approvals required by city, county, state, and federal regulations to complete construction of the development or project.
 - (2) Administrative Extension Within One (1) Year. Prior to the expiration of the one (1) year time limit, an applicant may request the Zoning and Development Administrator to extend the period to accomplish the tasks by up to one (1) additional year. The applicant has the burden to show good cause why the tasks could not reasonably be completed within the normal one (1) year limit. Extensions that are not permitted administratively may be requested of the Planning Commission within ten (10) days of the final administrative decision.
 - (3) Planning Commission Extension Within Eighteen (18) Months. Should an applicant miss the deadline to request an administrative extension, within eighteen (18) months of the date of approval the applicant may request the Planning Commission to extend the period up to one (1) additional year from the original date of approval, subject to the burden of showing good cause as described in this section.
 - (4) Planning Commission Extension. Prior to the expiration of any allowed extension period (maximum of two (2) years from the date of original approval), an applicant may request the Planning Commission to extend the period to accomplish the tasks by up to one (1) additional year, if the plans and permits are substantially the same as those originally approved. The applicant has the burden to show good cause why the tasks could not reasonably be completed within the normal one (1) year limit and the permitted extension period. Extensions beyond three (3) years from the original date of approval shall not be permitted.
 - (5) Ordinance Amendments. To receive approval of an extension, the applicant shall comply with all applicable zoning and development requirements that have been adopted subsequent to the original project approval. Projects that must be substantially modified to meet new code requirements are subject to Ch. 166.05(F) Modifications.

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- (6) Variances. Variances from applicable zoning and development requirements that have been adopted subsequent to the original project approval shall be reviewed by the Planning Commission prior to approval of the extension.
 - (7) Expiration. If the required task(s) are not completed within one (1) year from the date of approval or during an allowed extension period, all of the above-enumerated plans and permits shall be rendered null and void.
- (C) Three (3) Year Time Limit.
- (1) Tasks to Be Complete. All of the above-enumerated plans and permits are also conditioned upon the applicant completing the project and receiving final inspection approval and/or a final Certificate of Occupancy permit within three (3) years from the date of issuance of a building permit or receipt of all permits and approval required to complete construction of the project.
 - (2) Extensions. Prior to the expiration of the three (3) year time limit, an applicant may request the Planning Commission to extend the three (3) year period to complete the project by up to two (2) additional years. The applicant has the burden to show good cause why the project could not reasonably be completed within the three (3) year time limit.
 - (3) Expiration. If the applicant fails to meet the requirements of subsection (C)(1) within three (3) years from the date of issuance of a building permit/receipt of all permits and approval required or during an allowed extension period, all of the above-enumerated plans and permits shall be rendered null and void.

(Ord. No. 5155, 7-15-08); Ord. No. 5425, 8-2-11; Ord. No. 6446 , §8(Exh. C), 6-15-21)

166.20 Expiration Of Approved Plans And Permits

- (A) *Applicability.* The provisions of this section apply to all of the following plans and permits:
- (1) Preliminary plats;
 - (2) Planned zoning district developments;
 - (3) Conditional uses;
 - (4) Large-scale developments;
 - (5) Lot splits;
 - (6) Physical alteration of land (grading)/storm water, drainage, and erosion control (drainage) permit;
 - (7) Tree preservation plans; and
 - (8) Floodplain development permits.
- (B) Time Limit.
- (1) Tasks to Be Completed. All of the above-enumerated plans and permits are conditioned upon the applicant accomplishing the following tasks within one (1) year from the date of approval:
 - (a) For any renovation or new construction, receive all building permits for the project; and/or,
 - (b) For a Planned Zoning District, comply with the approved phasing plan; and/or
 - (c) For a lot split, record a deed or survey at the Washington County Circuit Clerk's Office, stamped for recordation by the City Planning Division; and/or,
 - (d) Receive a business license; and/or,
 - (e) Receive all permits and approvals required by city, county, state, and federal regulations to complete construction of the development or project.
 - ~~(2) Administrative Extension Within One (1) Year. Prior to the expiration of the one (1) year time limit, an applicant may request the Zoning and Development Administrator to extend the period to accomplish the tasks by up to one (1) additional year. The applicant has the burden to show good cause why the tasks could not reasonably be completed within the normal one (1) year limit. Extensions that are not permitted administratively may be requested of the Planning Commission within ten (10) days of the final administrative decision.~~
 - ~~(3) Planning Commission Administrative Extension Within Eighteen (18) Months. Should an applicant miss the deadline to request an administrative extension, within eighteen (18) months of the date of approval, the, an applicant may request the Planning Commission Zoning and Development Administrator to extend the period to accomplish the tasks by up to one (1) additional year from the original date of approval, subject to the burden of showing good cause as described in this section. The applicant has the burden to show good cause why the tasks could not reasonably be completed within the normal one (1) year limit. Extensions that are not permitted administratively may be requested of the Planning Commission within ten (10) days of the final administrative decision.~~
 - (43) Planning Commission Extension. Prior to the expiration of any allowed extension period (maximum of two (2) years from the date of original approval), an applicant may request the Planning Commission to extend the period to accomplish the tasks by up to one (1) additional year, if the plans and permits are substantially the same as those originally approved. The applicant has the burden to show good cause why the tasks could not reasonably be completed within the normal one (1) year limit and the permitted extension period. Extensions beyond three (3) years from the original date of approval shall not be permitted.

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- (54) Ordinance Amendments. To receive approval of an extension, the applicant shall comply with all applicable zoning and development requirements that have been adopted subsequent to the original project approval. Projects that must be substantially modified to meet new code requirements are subject to Ch. ~~166.05(F)~~166.01(D) Modifications.
 - (65) Variances. Variances from applicable zoning and development requirements that have been adopted subsequent to the original project approval shall be reviewed by the Planning Commission prior to approval of the extension.
 - (76) Expiration. If the required task(s) are not completed within one (1) year from the date of approval or during an allowed extension period, all of the above-enumerated plans and permits shall be rendered null and void.

(C) Three (3) Year Time Limit.

- (1) Tasks to Be Complete. All of the above-enumerated plans and permits are also conditioned upon the applicant completing the project and receiving final inspection approval and/or a final Certificate of Occupancy permit within three (3) years from the date of issuance of a building permit or receipt of all permits and approval required to complete construction of the project.
- (2) Extensions. Prior to the expiration of the three (3) year time limit, an applicant may request the Planning Commission to extend the three (3) year period to complete the project by up to two (2) additional years. The applicant has the burden to show good cause why the project could not reasonably be completed within the three (3) year time limit.
- (3) Expiration. If the applicant fails to meet the requirements of subsection (C)(1) within three (3) years from the date of issuance of a building permit/receipt of all permits and approval required or during an allowed extension period, all of the above-enumerated plans and permits shall be rendered null and void.

(Ord. No. 5155, 7-15-08); Ord. No. 5425, 8-2-11; Ord. No. 6446 , §8(Exh. C), 6-15-21)