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Via Email

Chairman Eli Spevak
Planning and Sustainability Commission Members
Bureau of Planning and Sustainability
City of Portland, Oregon
1900 SW 4th Ave, Suite 7100
Portland OR 97201
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Re: Amendment to the Expiration Date Extension Project

Dear Chairman Spevak and Commission Members,

Security Properties (“SP”) has final land use approval to develop two buildings within the Press Blocks. SP is seeking a clarification in the Expiration Date Extension Project that the Press Block land use approval will be extended under this legislative amendment project.

Specifically, on September 7, 2017, the City approved a Design Review proposal for a 3-building development under LU 16-273094 DZM AD (the “DZ Decision”). The full block located at 1621 SW Taylor will be developed with a residential building and a plaza building (the “Full Block”) and the half block located at 817 SW 17th Avenue has obtained a building permit and is under construction with an office building (the “Half Block”).

Under the current version of PCC 33.730.130.B, to avoid expiration of the DZ Decision for the residential building and the plaza building, the applicant was required to secure a building permit within three (3) years of the date of the final decision or by September 7, 2020.

In an effort to protect the significant investment in the planning and design process for these two buildings, the applicant filed a building permit and a full foundation permit application for City review and approval. Neither the complete building permit nor the foundation permit has been issued by the City.

The applicant has been informed by the City that the DZ Decision does not qualify for the extension offered under this Expiration Date Extension Project, presumably because the applicant has only filed for, but has not secured, building and foundation permits. No work has commenced on the full block.

The DZ Decision should qualify for the proposed extension for at least 2 reasons.

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First, the DZ Decision falls within the COVID-19 timeframe established under the amendment. The proposed amendment extends all land use approvals that became effective between July [xx], 2017 and January 1, 2021. The code commentary makes clear that projects approved in this window are all similarly situated and impacted by the economic downturn resulting from the COVID-19 pandemic. The DZ Decision was effective September 7, 2017, at least one month after the initial effective date of July [xx], 2017 proposed in the amendment. Thus, the DZ Decision should qualify for the extension under this amendment.

Second, like other similarly situated projects with approvals in the targeted timeframe, the project is not able to proceed to construction because of significant economic changes in the project's financing resulting from COVID-19. The project filed for building and foundation permits in an effort to preserve its approval. Again, no permits have been issued by the City. At the time the project filed for permits, the City had not yet conceived of, or proposed, the Expiration Date Extension Project. Certainly, the applicant should not receive less protection under the Extension Project simply because the applicant attempted to move forward and preserve its approval. Accordingly, the DZ Decision should be treated like any other land use approval that became effective between July [xx] 2017 and January 1, 2021. Because the DZ Decision effective date falls within this timeframe, the DZ Decision should be extended to January 1, 2024.

Further, the full block has not commenced construction and therefore this extension will not leave the site in any interim condition that creates any health, safety or aesthetic issues. Other than simply applying for permits, there does not appear to be any other justifications for distinguishing the DZ Decision from all other decisions that will be permitted the extension relief under this amendment project.

Lastly, the proposed amendment should be clarified to ensure that the extension applies to land use reviews approved between July [xx], 2017 and January 1, 2021. While the code commentary under PCC 33.730.130 clearly establishes this timeframe, the proposed code amendment changes the initial date for qualifying land use reviews from July [xx], 2017 to "the effective date of this ordinance." That effective date will likely be a date in July of 2020, depending on when the amendment project is reviewed by the City Council. We seek clarification that the initial date for qualifying projects is actually in July of 2017 and not July of 2020.

Thank you for your consideration of this request.



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