

**SANTA CRUZ COUNTY PLANNING DEPARTMENT POLICY/ORDINANCE
INTERPRETATION**

Interpretation No.: DP-01 (Discretionary permit – when exercised)

Effective Date: 4/7/08

Originally Issued: N/A

Question:

When is a discretionary permit exercised?

**Applicable Ordinance Section(s)
And/or General Plan/LUP Policy(ies)**
18.10.132(b) – Development Permit Expiration

INTERPRETATION:

Exercising discretionary permits differs for projects that require a building permit and for those that do not.

For discretionary permits where no building permit is required, the discretionary permit is considered exercised when the conditions of approval are adequately met and the use commences within the time limitation imposed by the discretionary permit.

For discretionary permits that also require building permit(s), the discretionary permit is considered exercised when the building permit for the primary structure of the project is obtained within the time limitation of the discretionary permit.

The following language should be included in the discretionary permit conditions of approval:

1. For development permits for which no building permit is required.

Please note: This permit expires two years from the effective date listed below unless the conditions of approval are complied with and the use commences before the expiration date.

2. For development permits for which building permits are required.

Please note: This permit expires two years from the effective date listed below unless a building permit (or permits) is obtained for the primary structure described in the development permit (does not include demolition, temporary power pole or other site preparation permits, or accessory structures unless these are the primary subject of the development permit). Failure to exercise the building permit and to complete all of the construction under the building permit, resulting in the expiration of the building permit, will void the development permit.

3. For development permits that include phased construction of structures for which building permits are required.

Please note: This permit expires two years from the effective date listed below unless a building permit is obtained for the first phase of the project consisting of one of the primary structures described in the development permit (does not include demolition, temporary power pole or other site preparation permits, or accessory structures unless these are the primary subject of the development permit). Failure to exercise the building permit and to complete all of the construction under the building permit, resulting in the expiration of the building permit, will void the development permit.

Reason:

The timing of the implementation of development permits and the expiration of the permit has always been a problem. The current practice is that the development permit is exercised after the building permit is issued and the first ‘milestone’ inspection is completed, usually the foundation inspection. Often, developers obtain their building permits but do not get their foundation inspection before the expiration of their development permit. At that point, we are in a position to hold up any future building inspection until a new development permit is obtained (technically, it’s too late to apply for a time extension). This can take weeks or months.

Through the years, it has always been difficult to administer and enforce this requirement. The language controlling the expiration of development permits is found in County Code Section 18.10.132(b), which states the following:

(b) Development Expiration

A Development Permit shall expire and become void two years following the date it becomes effective unless:

- 1. The Planning Director establishes a longer time period for permits requiring a residential building permit allocation, in which case the Development Permit will run with the residential building permit allocation; or*
- 2. The permit is renewed pursuant to Section 18.10.133; or*
- 3. A longer or shorter time period is specified by conditions of the permit; or*
- 4. A Building Permit for the project is obtained and construction is commenced prior to the expiration date and diligently pursued toward completion; or*
- 5. In cases where a Building Permit is not required, the use allowed by the Development Permit is commenced in compliance with permit conditions prior to the expiration date.*

Fortunately, the ordinance does provide enough flexibility to address this issue. By invoking subsection (b) 3, the Approving Body can establish, as a condition of the development permit, a specific expiration date and implementing action.

This alternative to the current practice will be implemented by modifying the language in the various forms and templates used by the Development Review Section. In the long run, it will make the processing of the transition from development permit to building permit much clearer.

Tom Burns, Planning Director

Date

18.10.132(b)