



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

02/09/2010

TO: Subscribers to Notice of Adopted Plan
or Land Use Regulation Amendments

FROM: Plan Amendment Program Specialist

SUBJECT: City of West Linn Plan Amendment
DLCD File Number 001-09

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A Copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Wednesday, February 24, 2010

This amendment was submitted to DLCD for review prior to adoption pursuant to ORS 197.830(2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

***NOTE:** THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS MAILED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAT IT WAS MAILED TO DLCD. AS A RESULT, YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.

Cc: Peter Spir, City of West Linn
Gloria Gardiner, DLCD Urban Planning Specialist
Jennifer Donnelly, DLCD Regional Representative

<paa> Y

FORM 2

DLCD NOTICE OF ADOPTION

This form must be mailed to DLCD within 5 working days after the final decision
per ORS 197.610, OAR Chapter 660 - Division 18

(See reverse side for submittal requirements)

DEPT OF

FEB 03 2010

LAND CONSERVATION
AND DEVELOPMENT

Jurisdiction: CITY OF WEST LINN Local File No.: CDC-09-04
(If no number, use none)

Date of Adoption: JAN. 11, 2010 Date Mailed: FEB. 3 2010
(Must be filled in) (Date mailed or sent to DLCD)

Date the Notice of Proposed Amendment was mailed to DLCD: FEB. 24, 2009

Comprehensive Plan Text Amendment Comprehensive Plan Map Amendment

Land Use Regulation Amendment Zoning Map Amendment

New Land Use Regulation Other: _____

(Please Specify Type of Action)

Summarize the adopted amendment. Do not use technical terms. Do not write ASee Attached.≡

PROVIDE DEVELOPERS AND OTHER APPLICANTS WITH APPROVED
OPPORTUNITY
LAND USE DECISIONS / TO APPLY FOR A TWO-YEAR EXTENSION
OF THAT APPROVAL GIVEN CURRENT ECONOMIC
DOWNTURN

Describe how the adopted amendment differs from the proposed amendment. If it is the same, write ASame.≡ If you did not give notice for the proposed amendment, write AN/A.≡

SAME

Plan Map Changed from: — to _____

Zone Map Changed from: — to _____

Location: APPLIES CITY WIDE Acres Involved: _____

Specify Density: Previous: _____ New: _____

Applicable Statewide Planning Goals: 2/LANDUSE PLANNING 10/HOUSING

Was an Exception Adopted? Yes: _____ No:

DLCD File No.: 001-09 (17361) [15970]

Did the Department of Land Conservation and Development receive a notice of Proposed

Amendment **FORTY FIVE (45) days prior to the first evidentiary hearing.** Yes: No:

If no, do the Statewide Planning Goals apply. Yes: No:

If no, did The Emergency Circumstances Require immediate adoption. Yes: No:

Affected State or Federal Agencies, Local Governments or Special Districts: _____

Local Contact: PETER SPIR Area Code + Phone Number: 503-723-2539

Address: 22500 SALAMO ROAD City: WEST LINN, OR

Zip Code+4: 97068 Email Address: PSPIR@WESTLINNOREGON.GOV

ADOPTION SUBMITTAL REQUIREMENTS

This form **must be mailed** to DLCD **within 5 working days after the final decision**
per ORS 197.610, OAR Chapter 660 - Division 18.

1. Send this Form and TWO (2) Copies of the Adopted Amendment to:

**ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540**

2. Submit **TWO (2) copies** the adopted material, if copies are bounded please submit **TWO (2) complete copies** of documents and maps.
3. Please Note: Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the ANotice of Adoption is sent to DLCD.
6. In addition to sending the ANotice of Adoption to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can copy this form on to 8-1/2x11 green paper only ; or call the DLCD Office at (503) 373-0050; or Fax your request to:(503) 378-5518; or Email your request to Larry.French@state.or.us - ATTENTION: PLAN AMENDMENT SPECIALIST.

**ORDINANCE NO.1589
WEST LINN, OREGON**

AN ORDINANCE CREATING A PROCEDURE TO ALLOW TWO-YEAR EXTENSIONS TO APPROVED LAND USE DECISIONS

WHEREAS, applicants must complete the improvements required by the original land use approval within three years of the approval date or the approval is voided; and

WHEREAS, the past 18 months have seen the collapse of the housing market, the unwillingness of lending institutions to provide loans to construct improvements such as roads and utilities necessary for final platting land divisions; and

WHEREAS, many cities in the Metro area allow extensions for land use approvals under specific circumstances; and

WHEREAS, in November, 2008 the City Council directed that staff process a review of the Community Development Code to determine if allowing for extension for local land use approvals was of value to the City; and

WHEREAS, by allowing extensions for land use approvals the City can maintain an inventory of approvals that can be activated early during the upturn of the economy rather than require staff and the local approval authorities to duplicate their effort by performing a repeat review of applications; and

WHEREAS, the City can require review of those approvals for which an extension is requested to determine if there are errors, omissions or facts which were misinterpreted during the initial review of the application or where regulations have been adopted by the City since the initial approval vested, and require errors, omissions, and misrepresentations to be corrected and new regulations to be applied; and

WHEREAS, the City of West Linn provided legislative notice pursuant to Community Development Code Chapter 98; and

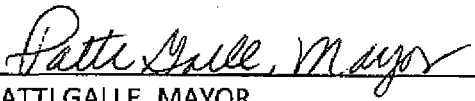
WHEREAS, the West Linn Planning Commission held a public hearing on May 20, 2009 and a meeting on October 7, 2009 and recommended approval of amendments to allow a two-year extension subject to specific criterion; and

WHEREAS, the City Council held public hearings on December 14, 2009 and January 11, 2010, and determined that allowing for extension for local land use approvals is of value to the City and subsequently adopted findings of fact and conclusions justifying its decision as identified in Exhibit B (attached hereto).

NOW, THEREFORE, THE CITY OF WEST LINN ORDAINS AS FOLLOWS:

Section 1: The West Linn Community Development Code is hereby amended to read as identified in Exhibit A (attached hereto).

PASSED AND APPROVED THIS 11th DAY OF JANUARY 2010.


PATTI GALLE, MAYOR

ATTEST:


TINA LYNCH, CITY RECORDER

APPROVED AS TO FORM:

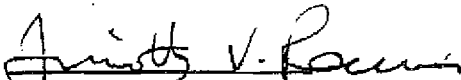

City Attorney

Exhibit A

99.060 APPROVAL AUTHORITY

This section explains the authority of Planning Director, Planning Commission, City Council, and Historic Review Board as it relates to quasi-judicial and legislative action.

PLANNING DIRECTOR AUTHORITY

- A. The Planning Director shall have the authority to:
 - 1. Approve, deny, or approve with conditions, ~~applications for~~ the following ~~development~~ applications.

- u. Extensions of approval when the Planning Director acted as the initial decision making authority**

PLANNING COMMISSION AUTHORITY

- B. The Planning Commission shall have the authority to:
 - 2. Approve, deny, or approve with conditions, the following applications:

- l. Extensions of approval when the Planning Commission acted as the initial decision making authority.**

HISTORIC REVIEW BOARD AUTHORITY

- D. The Historic Review Board shall have the authority to approve, deny, or approve with conditions, applications for the following development applications.

- 8. Extensions of approval when the Historic Review Board acted as the initial decision making authority.**

99.080

NOTICE

Land Use Action	Type of Notice
Amendment or Modification of Application or Permit	Same as original application
Appeal or Review of Decision	A
Boundary Change:	Special
Code Interpretation	Notice to parties requesting the interpretation
Comprehensive Plan:	
Map Amendment	A
Plan/Code Text Amendment (Legislative Action)	A***
Conditional Use	A
Design Review:	
Class I	B
Class II	A
Determination of Unlisted Use	No Notice
Enlarge or Alter Non-Conforming Use/Structure:	
Commercial or Industrial	A
Single-Family Residential	B
Erosion and Sediment Control Permit	No Notice
Expedited Land Division	per state statute requirements
Extensions of Approvals	Same notice as original application
Flood Management Area	B**
Final Plat and Partition Plat	No Notice
Historic District:	
Amendments	A
Demolition	A
New Home Construction	B
Major Renovations or Additions	B
Minor Renovations or Additions	B
Construction of non-exempt accessory structures/ garages	B
Home Occupation:	No Notice
Lot Line Adjustment	No Notice
Minor Partition	A
Planned Unit Development	A
Revocation of Approval	A
Sidewalk Use Permit	No Notice
Sign Permit	No Notice
Subdivision	A
Temporary Use Permit:	
60 days or less; 60-day extension	No Notice
Over 60 days, up to 1 year	A
Tualatin River Setback:	
Uses permitted outright & not subject to design review	No Notice
Uses permitted outright & subject to design review	B
Uses requiring conditional use permit & design review	A
Street Vacations	(per state statute requirements)
Variances:	
Class I (involves a small change with minor or no effect)	B
Class II (involves a significant change from code requirements)	A
Water Resource Area Permit (NDW)	A**
Willamette River Greenway:	
Development Permit	A**
Uses requiring conditional use permit & design review	A**
Zone Change	A

**Plus COE/DSL is notified

***Plus DLCD notice

99.330 REVOCATION OF APPROVALS - FAILURE TO FULFILL CONDITIONS

- A. Conditions of approval shall be fulfilled within the time limit set forth in the decision; or, by specific provisions in this code; or, if no time limit is set forth, within three years, **unless an extension is granted per CDC Section 99.325.** Failure to fulfill any condition of approval within the time limitations provided will be grounds for revocation of approval after notice and an opportunity to be heard as an administrative action as provided in Section 99.330. Alternately, the Planning Director shall pursue compliance through Section 106.000.

99.325 EXTENSIONS OF APPROVAL

- A. The Planning Director may grant an extension from the effective date of approval of two (2) years pertaining to applications listed in Section 99.060.A upon finding that:**
- 1. the applicant has demonstrated, and staff and the Planning Commission concur, that the application is in conformance with applicable CDC provisions and relevant approval criteria enacted since the application was initially approved; and**
 - 2. there are no demonstrated material misrepresentations, errors, omissions, or changes in facts that directly impact the project, including, but not limited to, existing conditions, traffic, street alignment and drainage; or**
 - 3. the applicant has modified the approved plans to conform with current approval criteria and remedied any inconsistency with Subsection 2, in conformance with any applicable limits on modifications to approvals established by the CDC.**
- B. The Planning Commission may grant an extension from the effective date of approval of two (2) years pertaining to applications listed in Section 99.060.B, consistent with subsections 99.325 A (1-3).**

C. The Historic Review Board may grant an extension from the effective date of approval of two (2) years for applications listed in Section 99.060.D, consistent with subsections 99.325 A (1-3).

D. Eligibility for extensions.

1. Only those applications approved between July 1, 2006 and December 31, 2009 shall be eligible for an extension.
2. Any application eligible for an extension under Subsection D(1) that would expire by June 30, 2010 shall be exempt from expiration pending a decision regarding the extension application, provided that a complete application and deposit fee has been submitted to the Planning Director prior to that date. However, the extension shall begin on the date that the application's initial approval lapsed.

E. Extension Procedures.

1. The application for extension of approval may be submitted only after a preapplication meeting under 99.030.B.
2. The application shall satisfy the neighborhood meeting requirements of 99.038 for those cases that require compliance with that section.
3. Applications for extensions must be submitted along with the appropriate deposit to the Planning Department.
4. Applications for extensions will be processed if the initial approval lapses prior to issuance of a decision, consistent with 99.325D(2).
5. Notice of the decision shall be issued consistent with Section 99.080.
6. The decision shall not become effective until resolution of all appeal periods, including an opportunity for City Council call-up pursuant to this chapter.

24.030 EXPIRATION OR EXTENSION OF APPROVAL

~~If no substantial construction~~ **the final plat has not been recorded with the County** ~~has occurred~~ within three years from the date of approval of the ~~final plat or~~ development plan, the application shall be null and void **unless an extension is granted per CDC Section 99.325. If an extension is granted, the final plat must be recorded with the County before the extension lapses.**

28.080 TIME LIMIT ON APPROVAL

A. Approval of a protection area permit shall be void if

1. Substantial work (e.g. piling installation etc) is not completed within three years of the approval date, **unless an extension is granted per CDC Section 99.325.**

55.040 EXPIRATION OR EXTENSION OF APPROVAL

If substantial construction has not occurred within three years from the date of approval of the development plan, the approved proposal will be void, **unless an extension is granted under CDC Section 99.325.**

56.040 EXPIRATION OR EXTENSION OF APPROVAL

If substantial construction, as defined in CDC chapter 2, has not occurred within three years from the date of approval of the development plan, the approved proposal will be void **unless an extension is granted under CDC Section 99.325.**

58.110 EXPIRATION OR EXTENSION OF APPROVAL

If substantial construction has not occurred within three years from the date of approval of the development plan, the approved proposal will be void, unless an extension is granted per CDC Section 99.325.

60.010 PURPOSE

The purpose of this chapter is to provide standards and procedures under which conditional uses may be permitted, enlarged, or altered if the site is appropriate and if other conditions can be met.

~~A. The Planning Commission may approve an application subject to a specific time period, at the termination of which there will be a renewal hearing. The decision at the renewal hearing shall be based on the factors in B1 and B2 below.~~

~~B. Approval of a conditional use shall be void after one year or such lesser time as the approval may specify, unless substantial construction pursuant thereto has taken place. The Planning Commission after a public hearing as provided by Section 99.060(B) may extend authorization for an additional period not to exceed one year, on request and a finding that:~~

~~1. There have been no changes in the facts on which the approval was based; and,~~

~~2. There have been no changes in the policy or applicable standards on which the approval was based.~~

60.040 TIME LIMIT ON A CONDITIONAL USE APPROVAL

Approval of a conditional use by the Commission shall be void after three years, unless an extension is granted per CDC Section 99.325

75.040 TIME LIMIT ON A VARIANCE

Approval of a variance shall be void after three years unless substantial construction pursuant thereto has taken place unless an extension is granted per CDC Ch. 99.

85.090 EXPIRATION OR EXTENSION OF APPROVAL

~~If the~~ The final plat has not been map shall be submitted to the Planning Director and recorded with the County within three years from the date of approval of the tentative plan, or as approved under CDC Section 99.325. If the final plat is not recorded by that time, the approval expires.

85.110 STAGED DEVELOPMENT

The applicant may elect to develop the site in stages. Staged development shall be subject to the provisions of Section 99.125. However, notwithstanding the provisions of Section 99.125, in no case shall the time period for final platting and recording all stages with the County be greater than five years without re-filing the application.

89.010 SUBMISSION OF SUBDIVISION OR PARTITION PLAT

- A. Within ~~one year~~ **three years** after approval of the tentative plan **and after the completion of all granted extensions**, the developer shall cause the final plat, or any part thereof, to be surveyed and a final plat prepared by a licensed land surveyor and submitted to the Planning Director in conformance with:

Exhibit B

FINDINGS OF FACT FOR PROPOSED AMENDMENTS (CDC-09-04):

This section of the report addresses the required contents pursuant to Section 98.040(A)(2)(b) of the Community Development Code. The required subheadings appear in enlarged bold type.

1. The facts found relevant to the proposal and found by the Director to be to be true:

The relevant facts and the rationale for the proposed changes are found below and were the basis for the adoption of the amendments in Exhibit A.

1. People with approved land use applications in West Linn generally had three years from date of approval to either submit final platting, in the case of land divisions, or initiate substantial construction in the case of design review or other non land-division applications. If they did not meet the deadline, the applications were voided and the applicant must re-apply.

2. The problem was defined by the fact that the pre-2008 economic environment was a period of great growth and development but the post-2008 economic environment has, thanks to the recession and housing industry collapse, seen many developers delaying the platting of subdivision plans. Some of these approved plans were in danger of expiring. Developers testified that banks will not even consider loans on subdivisions. And even if they could get a loan to build the required infrastructure necessary for final platting, there is scant incentive given the oversupply of recently completed homes and empty platted lots on the market. The tight credit market means many prospective buyers are no longer qualified to buy homes, while others are fearful of incurring debt. These conditions resulted in approximately 20 land use approvals that have recently been voided or will be voided in 2010.

3. Certainly there is debate regarding how long the recession will persist. Current unemployment levels are below the August peak of 12.5%; however the number of available jobs has declined. David Cooke, an Oregon Employment Department economist, stated in an October 13, 2009 "Oregonian" article that the state lost 10,300 jobs in September 2009 and the slight decline to 11.5% unemployment does not factor in discouraged workers who have ceased looking for work. Economics is an inexact field of endeavor. It is not possible to accurately forecast when the recession and associated hardships will end.

4. The purpose of the proposed code amendments is to provide people who have approved land use applications the opportunity to apply for a two-year extension in light of the current economic recession. An extension would allow extra time for people

to secure funding and proceed with the approved project, hopefully, in an improved financial environment.

5. Under the former regulations, a voided approval meant that the applicant would have to re-apply: to start from scratch. Where no codes or regulations have changed, reviewing and deciding upon the exact same application that they approved earlier constituted a waste of Planning Commission and city staff time. In addition, it needlessly expends the applicant's resources and requires citizens to once again attend public hearings and meetings. There was no credible evidence presented at the hearings that such an exercise would serve the public interest given the proposed approval criterion that would be required for extensions.

6. A two-year extension was seen by the Planning Commission and City Council as a reasonable and responsible way to allow developers extra time to complete their projects. Other cities are ahead of West Linn on that score in that they already identified the problem then adopted and codified solutions.

7. While not all cities offer longer extensions, it is clear that for those cities who have decided to take action, there are sufficient economic grounds to justify the case for extensions. Those cities include Lake Oswego, Portland, Wilsonville, Tualatin, Hillsboro, Beaverton, Gresham, Salem with a modal average approval and extension period of five years.

8. The adopted amendments will allow two-year extensions for land use approvals for Design Review, Planned Unit Development, Land Division, Variance, Conditional Use Permit, Water Resource Area, Willamette and Tualatin River Protection, Willamette Falls Drive Commercial Overlay Chapters as well as Chapter 99: Procedures.

9. The Planning Commission endorsed the proposed extensions and recommended approval to the West Linn City Council (WLCC).

10. WLCC heard testimony that described the current hardships and reached consensus that providing the opportunity for extension was an appropriate response. The WLCC acknowledged that Oregon Revised Statutes (ORS) 92.285 prohibits retroactive ordinances. Thus, the city cannot simply increase the approved time to five years. Instead the city must offer an extension. Such extensions are themselves land use approvals and, as such, approval criteria is required.

11. WLCC adopted a version with a de novo hearing to allow extensions. The approval criterion asks whether there were errors, omissions, and misinterpretations of Community Development Code (CDC) by earlier decision making bodies and applies new CDC and other regulations passed since the application was vested. The burden of proof is on the applicant to demonstrate continued compliance, or the ability to comply

through minor modifications, with current CDC approval criteria. Failure to do so means denial of the extension request.

2. The Statewide Planning Goals adopted under ORS Chapter 197 found to be applicable and the reasons why any other goal and rule is not applicable to the proposal:

Goal 1: Citizen Involvement

The proposed amendments will require review by the initial decision making authority which may include the Planning Commission or Historic Review Boards, both of which require public notice and hearings for citizen input. Decisions by the Planning Director require public notice and opportunities for citizen input. All decisions may be appealed to City Council for further hearings and citizen involvement.

Goal 2: Land Use Planning

Goal 2 requires that the City establish a factual basis for its decisions and assure that such decisions are coordinated with the appropriate governmental agencies. These findings and the oral and written testimony submitted into the record provide the factual base for this legislative decision. The City has coordinated its decision in this matter with appropriate governmental agencies in accordance with the Comprehensive Plan (which has been acknowledged by the State Land Conservation and Development Commission). Further, the City provided notice of the application and hearing to the State Department of Land Conservation and Development (pursuant to ORS 197.610) and to other affected governmental agencies (pursuant to CDC 98.070.C.1.a). The City can find that its review and approval of the application is consistent with Goal 2."

Goal 5: Open Spaces, Scenic and Historic Areas and Natural Resources

The critical part of the amendment is that the applicant must be able to demonstrate that the extension will be in agreement with all CDC and other regulations that have been passed since the land use application was initially approved. There have been significant changes relating to protection of water resource areas (natural drainageways and wetlands), the Tualatin and Willamette River. It is expected that this criterion will have a significant effect upon extension applications. Some will be able to meet the environmental standards outright or by minor modification. Others will not and will be denied.

Goal 9: Economic Development

One of the reasons justifying the two-year extension was economic. By extending the qualified approved land use applications, these amendments will have the positive effect of allowing development to go ahead when economic conditions are more favorable in terms of recapturing initial investment costs and realizing some reasonable profit in the future. The process also avoids the cost and redundancy of time wasting re-application.

Goal 10: Housing

Providing the opportunity for approved development permit applications to get an extension hastens the development and construction of new subdivisions and housing once the market conditions are more favorable. Thus, for the public, a greater number of housing options will be made available in the short to middle term.

Goal 12: Transportation

Goal 12 is primarily implemented by the Oregon Transportation Planning Rule ("TPR"), which requires that a local government impose mitigation measures when an amendment to a land use regulation would "significantly affect an existing or planned transportation facility." OAR 660-012-0060(1). Under the TPR, an amendment to a land use regulation will significantly affect a transportation facility when it would: (1) Change the functional classification of an existing or planned facility (or standards implementing a functional classification system); or (2) As measured at the end of the applicable planning period, allow land uses or development that would result in levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility or would reduce performance of the facility below the minimum performance standard (or below existing conditions, if already below the applicable performance standard). The City Council finds that adoption of the ordinance will not impact any streets, roads, travel patterns, or approved levels of development. Therefore, adoption of the ordinance will not significantly affect any transportation facilities. This statement does, however, recognize that new regulations and transportation plans may be adopted in the years after the initial land use application approval period which would have to be addressed by applicants for extensions.

The proposed amendments have no impact on any of the other Statewide Planning Goals.

3. Any federal or state statutes found applicable:

None

4. The Metropolitan Service District plans and rules found to be applicable:

None

5. Those portions of the Comprehensive Plan found to be applicable, and if any portion of the plan appears to be reasonably related to the proposals and not applied, the reasons why such portions are not applicable:

Goal 1: Citizen Involvement

Policy 4: Provide timely and adequate notice of proposed land use matters to the public to ensure that all citizens have an opportunity to be heard on issues and actions that affect them.

The proposed amendments will require review by the initial decision making authority which may include the Planning Commission or Historic Review Boards, both of which require public notice and hearings for citizen input. Decisions by the Planning Director require public notice and opportunities for citizen input. All decisions may be appealed to City Council for further hearings.

Goal 5: Open Spaces, Scenic and Historic Areas and Natural Resources

Within that chapter are goals 2 and 3 of the Natural Environment subsection.

2. *Protect sensitive environmental features such as steep slopes, wetlands, and riparian lands, including their contributory watersheds.*

3. *Preserve trees in park lands, natural areas, and open space wherever possible.*

The critical part of this amendment is that the applicant must be able to demonstrate that the extension will be in agreement with all CDC and other regulations that have been passed since the land use application was initially approved. There have been significant changes relating to protection of water resource areas (natural drainageways and wetlands), the Tualatin and Willamette River. It is expected that this criterion will have a significant effect upon extension applications. Some will be able to meet the environmental standards outright or by minor modification. Others will not and will be denied.

Goal 9: Economic Development

The main reason justifying the two year extension was economic. By extending the qualified approved land use applications for two years, these amendments will have the positive effect of allowing development to go ahead when economic conditions are more favorable in terms of recapturing existing investment costs and realizing some profit. The process also avoids the cost and redundancy of time wasting re-application.

Goal 10: Housing

Providing the opportunity for approved development permit applications to get an extension hastens the development and construction of new subdivisions and housing once the market conditions are more favorable. Thus for the public, a greater number of housing options will be made available by the extension process in the short to middle term.

6. Those portions of the implementing ordinances relevant to the proposal; and if provisions are not considered, the reasons why such portions of the ordinances were not considered:

Since the proposed amendments are to the City's implementing ordinances, this section is not relevant.

7. An analysis relating the facts found to be true by the Director to the applicable criteria and a statement of the alternatives:

- A. It was found that the problem began with the 2008 recession, the banking and housing industry collapse, plus dramatic increases in unemployment.
- B. In that environment, developers reported that banks will not even consider loans on subdivisions. And even if they could get a loan to build the required infrastructure necessary for final platting, there was scant incentive given the oversupply of recently completed homes and empty platted lots on the market. The tight credit market meant many prospective buyers were no longer qualified to buy homes, while others were fearful of incurring debt. Thus, City Council found that there was neither the investment capitol nor incentive for applicants of approved land use applications to proceed towards completion of their projects.
- C. Approved land use applications generally had three years from date of approval to either submit final platting in the case of land divisions or initiate substantial construction in the case of design review or other non land-division applications. If they did not meet the deadline, the applications were voided and the applicant must re-apply.
- D. The economic conditions led to numerous applications either become void after West Linn's approval period of three years expired. Specifically, 20 land use approvals were found to have recently been voided or will be voided in 2010.
- E. Under the former regulations, a voided approval meant that the applicant would have to re-apply: to start from scratch. Where no codes or regulations have changed, reviewing and deciding upon the exact same application that they approved earlier constituted a waste of Planning Commission and city staff time. In addition, it needlessly expends the applicant's resources and requires citizens to once again attend public hearings and meetings. There is no credible evidence presented, at either Planning Commission or City Council hearings, that such an exercise would serve the public interest.
- F. The solution was to amend the Community Development Code (CDC) to provide the opportunity for individuals with approved land use applications to apply for a two-year extension. An extension would allow extra time for people to secure funding and proceed with the approved project in an improved financial environment. This solution was found to be consistent with numerous other cities in the Metro area which had recently approved similar legislation.

G. It was found that a two-year extension was a reasonable and responsible way of allowing developers extra time to complete their projects.

H. While it was acknowledged that not all cities offer longer extensions, it is clear that for those cities who have decided to take action, there are sufficient grounds to justify the case for extensions. Those cities include Lake Oswego, Portland, Wilsonville, Tualatin, Hillsboro, Beaverton, Gresham, and Salem with a modal average extension period of five years.

Survey of other cities

City	Period approval is valid, including extensions
Gresham	5-7 years w/ inactive status and phased
Lake Oswego	1 year + unlimited 1-year extensions
Portland	5 years (6+ years to record plat)
Wilsonville	5 years
Tigard	2.5 years
Salem	5 years
Oregon City	2 years
Milwaukie	1.5 years
Beaverton	6 years
Tualatin	2 years (blanket extension to mid-2012 for design review)
Hillsboro	2 years + unlimited/unspecified extensions
West Linn	3 years

I. The adopted amendments will allow two-year extensions for land use approvals for Design Review, Planned Unit Development, Land Division, Variance, Conditional Use Permit, Water Resource Area, Willamette and Tualatin River Protection, Willamette Falls Drive Commercial Overlay Chapters as well as Chapter 99: Procedures.

J. The Planning Commission endorsed the proposed extensions and recommended approval to the City Council.

K. City Council heard testimony that described the current hardships and reached consensus that providing the opportunity for extension was an appropriate response. Countervailing testimony in opposition to the extensions was noted. Specifically, testimony was heard that the approvals that could potentially be extended were processed during a period where numerous staff errors had occurred. Another individual testified that public cost would be increased as a result of allowing extensions of land use approvals. However, the majority of City Council found that the approval criterion for extensions would ensure that all land use applications receiving extensions would be required to demonstrate compliance with current regulations, including the CDC. Also, the majority finding determined that in the event of errors or omissions in

the original review of the application, the extension would be denied if they were not corrected. Further, applicants would be charged the cost of processing their applications for extensions.

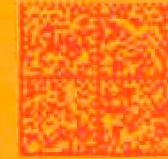
L. Thus, the City Council considered a motion to allow two year extensions in a de novo hearing format. The motion also required that the approval criterion ask whether there were errors, omissions, and misinterpretations of CDC by earlier decision making bodies and applies new CDC and other regulations passed since the application was vested. The burden of proof is on the applicant to demonstrate continued compliance, or the ability to comply through minor modifications, with current CDC approval criteria. Failure to do so means denial of the extension request. The majority vote by City Council affirmed these findings and the amendments were approved.



City of
**West
Linn**

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