



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

04/22/2009

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

FROM: Larry French, Plan Amendment Program Specialist

SUBJECT: City of Sisters Plan Amendment
DLCD File Number 002-09A

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: Monday, May 04, 2009

This amendment was not submitted to DLCD for review prior to adoption Pursuant to OAR 660-18-060, the Director or any person is eligible to appeal this action to LUBA under ORS 197.830 to 197.845.

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: Eric Porter, City of Sisters
Gloria Gardiner, DLCD Urban Planning Specialist

<paa> N

PROF 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

In Person electronic mailed

DEPT OF

APR 15 2009

LAND CONSERVATION AND DEVELOPMENT

DATE STAMP

For DLCD Use Only

Jurisdiction: **City of Sisters**

Local file number: **TA 09-01**

Date of Adoption: **4/9/2009**

Date Mailed: **4/10/2009**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Select one** Date:

- | | |
|---|---|
| <input type="checkbox"/> Comprehensive Plan Text Amendment | <input type="checkbox"/> Comprehensive Plan Map Amendment |
| <input checked="" type="checkbox"/> Land Use Regulation Amendment | <input type="checkbox"/> Zoning Map Amendment |
| <input type="checkbox"/> New Land Use Regulation | <input type="checkbox"/> Other: |

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

Changes to three portions of the Development Code to allow longer approval durations, and to allow one year additional extension (over and above the 1 year extension allowance in the current code). This amendment requires the removal of newly adopted table 2.1.110C, which created a conflict with two other sections of code that were amended by this action.

Does the Adoption differ from proposal? No, no explanation is necessary

Plan Map Changed from: **N/A**

to:

Zone Map Changed from: **N/A**

to:

Location: **N/A**

Acres Involved:

Specify Density: Previous: **N/A**

New:

Applicable statewide planning goals:

- | | | | | | | | | | | | | | | | | | | |
|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 | 18 | 19 |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

Was an Exception Adopted? YES NO

Did DLCD receive a Notice of Proposed Amendment...

45-days prior to first evidentiary hearing?

Yes No

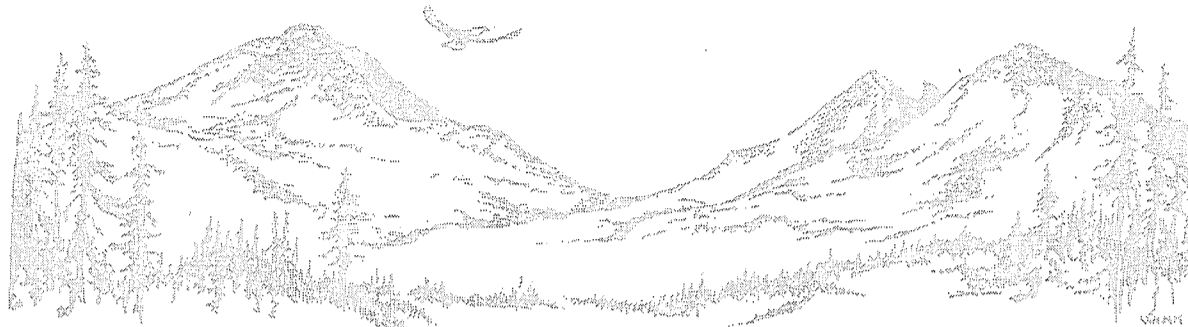
If no, do the statewide planning goals apply?

Yes No

If no, did Emergency Circumstances require immediate adoption?

Yes No

DLCD FILE No. 002-09A (17427)[15477]



AGENDA

SISTERS CITY COUNCIL

520 E. Cascade Avenue
Sisters, OR 97759

April 9, 2009

7:00 p.m. CITY COUNCIL REGULAR MEETING

- I. CALL TO ORDER/PLEDGE OF ALLEGIANCE**
- II. VISITOR COMMUNICATIONS-** *This is the time provided for individuals wishing to address the Council, at the Council's discretion, regarding issues that are not already on the agenda. Citizens who wish to speak should sign up prior to the beginning of the meeting on the sign-up sheet at the podium. Please use the microphone and state your name and address at the time the Council calls on you to speak.*
- III. CONSENT AGENDA**
 - A. Minutes
 1. March 26, 2009 – Regular Meeting
 - B. Bills to Approve
 1. April Accounts Payable
- IV. ACCOUNTS PAYABLE NOT ON THE CONSENT AGENDA**
 - A. April Accounts Payable
- V. STAFF REPORTS**
 - A. Eileen Stein - City Manager
 - B. Lisa Young – Finance Director
 - C. Captain Tim Edwards - Deschutes County Sheriff's Department

*This agenda is also available via the Internet at www.ci.sisters.or.us
The meeting location is accessible to persons with disabilities. Requests for an interpreter for the hearing impaired or for other accommodations for persons with disabilities should be made at least 48 hours before the meeting by calling Kathy Nelson, City Recorder, at the number below.
Light refreshments or meal may be served.*

520 E. Cascade ☐ P. O. Box 39, Sisters, OR 97759 ☐ (541) 323-5213

VI. COUNCIL BUSINESS

- A. Discussion and Consideration of Ordinance No. 385:** AN ORDINANCE OF THE CITY OF SISTERS ADOPTING AMENDMENTS TO THE CITY OF SISTERS DEVELOPMENT CODE TO AMEND THE TIME AND DURATION FOR PERMIT APPROVALS AND EXTENSIONS – *E. Porter*
- B. Discussion and Consideration of Resolution No. 2009-08:** A RESOLUTION OF THE CITY OF SISTERS AMENDING THE CITY OF SISTERS FEE SCHEDULE MODIFYING OVERNIGHT CAMPGROUND AND HOME OCCUPATION FEES – *B. Grimm/E. Porter*
- C. Discussion and Consideration of Resolution No. 2009-09:** A RESOLUTION AMENDING THE RULES FOR THE OVERNIGHT PARK – *B. Grimm*
- D. Discussion and Consideration of Resolution No. 2009-10:** A RESOLUTION APPROVING A BORROWING TO FINANCE STREET AND SIDEWALK IMPROVEMENTS – *L. Young/B. Grimm*
- E. Discussion and Consideration of a Motion** to Approve a Transfer of Funds to the Bank of the Cascades Business Money Market Sweep Service – *L. Young*

VII. OTHER BUSINESS

VIII. MAYOR/COUNCILOR COMMENT

- A. Committee Reports

IX. ADJOURN

SISTERS URBAN RENEWAL AGENCY

7:45 p.m. (approximate) URBAN RENEWAL AGENCY BOARD MEETING

- I. CALL TO ORDER**
- II. VISITOR COMMUNICATION**
- III. AGENCY BUSINESS**
 - A. Minutes
 - 1. February 26, 2009 – Regular Meeting
 - B. Discussion and Consideration of Resolution No. URA 2009-02:** A RESOLUTION APPROVING A BORROWING TO FINANCE STREET AND SIDEWALK IMPROVEMENTS – *L. Young/B. Grimm*
- IV. ADJOURN**



Sisters City Council Agenda Item Summary

Meeting Date: April 9, 2009

Staff: Eric Porter

Type: Regular Meeting

Dept: CDD

Subject: File No. TA 09-01; Code Update – Approval Durations and Extensions

Action Requested: Adoption of Ordinance No. 385, **AN ORDINANCE OF THE CITY OF SISTERS ADOPTING AMENDMENTS TO THE CITY OF SISTERS DEVELOPMENT CODE TO AMEND THE TIME DURATION FOR PERMIT APPROVALS AND EXTENSIONS.**

Background. On February 5, 2009, the Planning Commission was asked to consider amending approval and extension of time durations for single and phased developments within the Development Code. This request came about following a series of inquiries from developers to allow longer approval and extension durations due to the economic downturn, and due to the difficulty that a number of developers were having financing their projects.

The Planning Commission was not able to come to a decision on the night of February 5th, and the hearing was continued to March 10th. In the interim, the City Council adopted an emergency change to the Development Code that allowed extended approval durations for specific development (Table 2.2.110C); this was a stopgap measure that will be superseded by this code amendment (assuming it's approved). Table 2.2.110C is found in Attachment C.

PC's Recommendation. The Planning Commission has now fully formulated its recommended code changes, which are before the City Council tonight, and are as follows;

- **Change no. 1** - Remove table **2.2.110C** as found in Attachment B, Exhibit A. This will allow approval durations and extensions to be addressed in the appropriate sections of the Code.
- **Change no. 2** - Amend section **4.2.300, Development Review Approval Criteria**, as stated in Attachment B, Exhibit A.
- **Change no. 3** - Amend section **4.2.800, Development in Accordance with Permit Approval**, as stated in Attachment B, Exhibit A.
- **Change no. 4** - Amend section **4.3.120, Land Divisions and Lot Line Adjustments**, as stated in Attachment B, Exhibit A.

Financial Impact. There may be some lost Planning fee revenue tied to approving longer approval durations, as well as some potentially foregone property tax revenue associated with allowing longer approval durations and longer potential time extensions. The exact amount of lost General Fund and SDC fee revenues associated with sewer, water, streets and parks is impossible to predict.

Option 1 – *Adopt the Ordinance as proposed.*

Option 2 – *Adopt the Ordinance as amended by the City Council.*

Option 3 – *Take no action.*

Staff's Recommendation: **Option 1.**

Attachment(s):

A: Ordinance No. 385, **AN ORDINANCE OF THE CITY OF SISTERS ADOPTING AMENDMENTS TO THE CITY OF SISTERS DEVELOPMENT CODE TO AMEND THE TIME DURATION FOR PERMIT APPROVALS AND EXTENSIONS**

B: Planning Commission Resolution No. 2009-05

Concurrence: CM: _____ A&F: _____ PW: _____ CDD: _____

ORDINANCE NO. 385

AN ORDINANCE OF THE CITY OF SISTERS ADOPTING AMENDMENTS TO THE CITY OF SISTERS DEVELOPMENT CODE TO AMEND THE TIME DURATION FOR PERMIT APPROVALS AND EXTENSIONS

WHEREAS, the City of Sisters adopted the Development Code for the City of Sisters on June 28, 2001, by Ordinance No. 324; and

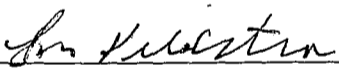
WHEREAS, the Sisters Planning Commission held a public hearing on March 10, 2009, and adopted Planning Commission resolution no. (PC) 2009-05, which finds that certain revisions, clarifications and amendments to the City of Sisters Development Code are necessary in order to provide longer approval time frames and extension durations which in turn will facilitate orderly and beneficial development within the City of Sisters; and

WHEREAS, the City Council held a public hearing on April 9, 2009 on the proposed Development Code amendment and determined that the amendment meets all applicable approval criteria, including all notice requirements, and that the ordinance will benefit the City of Sisters.

NOW, THEREFORE, the City Council of the City of Sisters ordains as follows:

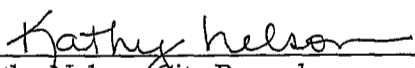
1. The Sisters Development Code is amended as provided in the attached Exhibit A, which is incorporated into this Ordinance by reference.

PASSED by the Common Council of the City of Sisters this 9th day of April, 2009 and APPROVED by the Mayor of the City of Sisters.



Lon Kellstrom, Mayor

ATTEST:



Kathy Nelson, City Recorder



**ATTACHMENT B - A RESOLUTION OF THE PLANNING COMMISSION
OF THE CITY OF SISTERS
STATE OF OREGON
PLANNING COMMISSION RESOLUTION PC 2009-05**

THE CITY OF SISTERS PLANNING COMMISSION DOES HEREBY FIND AND RESOLVE THAT:

WHEREAS, the City's planning staff has indicated that there is a need to consider amending the City of Sisters Development Code; and,

WHEREAS, the changes proposed to the Development Code affect the time limits allowed in land use decisions; and,

WHEREAS, in accordance to the provisions found in the Sisters Development Code Table 4.1.200 and Section 4.1.160, the proposed Comprehensive Plan amendments are processed as a Type IV application; and,

WHEREAS, the Department of Land Conservation and Development (DLCD) was contacted by city staff, and indicated to staff that no 45-day notice would be needed prior to the first evidentiary hearing in this matter; and,

WHEREAS, after due notice, a public hearing on the proposed Code update was held before the Sisters Planning Commission on February 5th, 2009 and was continued until March 10, 2009 at which time findings were reviewed, witnesses were heard and evidence was received by the Planning Commission.

NOW THEREFORE, BE IT RESOLVED that the Planning Commission hereby recommends that the City Council of the City of Sisters adopt Text Amendment TA 2009-01 regarding approval durations and time extensions subject to the following exhibits:

1. **Exhibit A – Code Changes Recommended by the Planning Commission**
2. **Exhibit B – Support Findings dated March 4, 2009**

NOW, THEREFORE, BE IT FURTHER RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF SISTERS THAT A RECOMMENDATION OF APPROVAL OF CHANGES TO THE DEVELOPMENT CODE IS HEREBY FORWARDED TO THE SISTERS CITY COUNCIL.

THE FOREGOING PLANNING COMMISSION RESOLUTION IS HEREBY ADOPTED THIS 10th DAY OF MARCH 2009.

Members of the Commission: Gentry, Holzman, Debari, Goertzen, Humphreys, Protas and Tewart

| | |
|---|-----|
| AYES: Gentry, Holzman, Debari, Humphreys and Tewart | (5) |
| NOES: | (0) |
| ABSENT: Guertzen, Protas | (2) |
| ABSTAIN: | (0) |

Signed:

David Gentry, Chairperson

EXHIBIT A – PROPOSED CHANGES TO THE DEVELOPMENT CODE

I. Change no. 1. Remove table 2.2.110C which states the following;

Table 2.2.110.C
Approval Durations and Extensions in the Commercial and Highway Commercial Zones

- (a) **Single phased development.** All single phased development subject to the provisions of this chapter shall have an approval duration of up to two years following land use approval.
- (b) **Multiple phased development.** The CDD Director may at his / her discretion allow projects to be phased based on the size, scale and number of commercial buildings associated with a project, and / or the number of lots involved with the project. Approval durations for multiple-phased projects shall be two (2) years for phase one, and two years for subsequent phases up to a total of eight (8) years for all phases, including any extensions. In no case shall any approval exceed 8 years, including any extensions issued for the project.
- (c) **Extensions.** At the discretion of the CDD Director or designate, a single one-year extension may be granted. An additional one-year extension may be granted at the discretion of the original Hearings Body, however in no case shall any extension granted exceed the eight-year time limit established in (b) above.

II. Change no. 2. Amend section 4.2.300, **Development Review Approval Criteria**, as follows.

- 3. If a building permit has not been issued within ~~one~~ two (2) years of Site and/or Development Review approval, or if development of the site is in violation of the approved plan or other applicable codes, then the approval shall be null and void and a new application shall be required.

III. Change no. 3. Amend section 4.2.800, **Development in Accordance with Permit Approval**, as follows.

- B. **Approval Period - General.** Development Review and Site Design Review approvals shall be effective for a period of ~~one~~ two (2) years from the date of approval for a single-phased development, and up to two (2) additional years for all subsequent phases. In no case however shall any approval exceed 4 years for single phase development, including extensions, and 6 years for multi phased development, including extensions, from the original approval date. The approval shall lapse if:
 - 1. A building permit has not been issued within ~~a one-year~~ the time period stated herein; or
 - 1. Construction on the site is in violation of the approved plan.
- C. **Single-Phased Project Extension.**
 - 1. The Community Development Director or designee ~~shall~~ may, upon written request by the applicant, grant ~~an~~ a single one-year extension per project ~~of the approval period not to exceed one year~~; provided that:
 - a. No changes are made on the original approved site design review plan;
 - b. The applicant can show intent of initiating construction on the site within the ~~one-year~~ extension period;
 - c. There have been no changes to the applicable Code provisions on which the approval was based. If there have been changes to the applicable Code provisions and the expired plan does not comply with those changes, then the extension shall not be granted; in this case, a new site design review shall be required; ~~and~~
 - d. The applicant demonstrates that failure to obtain building permits and substantially begin construction within ~~one~~ two years of site design approval was beyond the applicant's control.
 - 2. **Additional Extension by Original Decision-Making Body.** The original decision-making body may or may not grant ~~an~~ a single additional one-year extension at their discretion, ~~provided the reason for the extension is beyond the control of the developer (i.e., market constraints)~~. In no case however shall extensions combined with original approval durations exceed four years for single phased development from the original approval date.

D. Phased Development. Phasing of development may be approved with the Site Design Review application, subject to the following standards and procedures:

1. **Approval Procedures and Durations**.

- a. A phasing plan shall be submitted with the Site Design Review application.
- b. The Community Development Director or designee shall approve a time schedule for developing a site in phases, but in no case shall the total time period for all phases be greater than 2 years from the original date of approval for the first phase, and 2 additional years from the original date of approval for all subsequent phases without reapplying for site design review.
- c. Approval of a phased site design review proposal requires satisfaction of all of the following criteria:
 - i. The public facilities required to serve each phase are constructed in conjunction with or prior to each phase;
 - ii. The development and occupancy of any phase dependent on the use of temporary public facilities shall require City Council approval. Temporary facilities shall be approved only upon City receipt of bonding or other assurances to cover the cost of required public improvements, in accordance with Section 4.2.4. A temporary public facility is any facility not constructed to the applicable City or district standard, subject to review by the Public Works Director or designee;
 - iii. The phased development shall not result in requiring the City or other property owners to construct public facilities that were required as part of the approved development proposal; and
 - iv. An application for phasing may be approved after Site Design Review approval as a modification to the approved plan, in accordance with the procedures for minor modifications (Chapter 4.6).

~~2. **Extensions**.~~

- ~~a. In no case shall extensions combined with original approval durations for phased developments exceed four years for the first phase, and six years for subsequent phases within the development.~~

2. **Extensions**.

- a. The Community Development Director or designee shall may, upon written request by the applicant, grant an a single one-year extension per project of the approval period not to exceed one year; provided that:
 - i. No changes are made on the original approved site design review plan;
 - ii. The applicant can show intent of initiating construction on the site within the one year extension period;
 - iii. There have been no changes to the applicable Code provisions on which the approval was based. If there have been changes to the applicable Code provisions and the expired plan does not comply with those changes, then the extension shall not be granted; in this case, a new site design review shall be required; and
 - iv. The applicant demonstrates that failure to obtain building permits and substantially begin construction within one two years of site design approval was beyond the applicant's control.
- b. **Additional Extension by Original Decision-Making Body**. The original decision-making body may or may not grant an a single additional one-year extension at their discretion, provided the reason for the extension is beyond the control of the developer (i.e., market constraints). In no case however shall extensions combined with original approval durations exceed four years for single phased development, and six years from the original approval date for subsequent phases within a multiple-phased development.

IV. Change no. 4. Amend section 4.3.120, Land Divisions and Lot Line Adjustments, as follows.

4.3.120 Approvals Process

C. Preliminary Plat Approval Period – Single Phased Development. Preliminary plat approval shall be effective for a period of 3 two (2) years from the date of approval for single-phased land divisions. The preliminary plat shall lapse if a final plat has not been submitted within a 2-year period.

~~E.~~ D. Preliminary Plat Approval Period – Multi Phased Development.

1. The City may approve a time schedule for developing a subdivision in phases, but in no case shall the actual construction time period (i.e., for required public improvements, utilities, streets) for any partition or subdivision phase be greater than two years for the first phase, and up to two additional years for all subsequent phases from the original approval date without reapplying for a preliminary plat. In no case however shall approval durations exceed six years from the original approval date (including extensions) for any phase of a multiple phase development.
 2. The criteria for approving a phased land division proposal are:
 - a. Public facilities shall be constructed in conjunction with or prior to each phase;
 - b. The development and occupancy of any phase dependent on the use of temporary public facilities shall require City Council approval. Temporary facilities shall be approved only upon City receipt of bonding or other assurances to cover the cost of required permanent public improvements, in accordance with Section 4.3.180. A temporary public facility is any facility not constructed to the applicable City or district standard;
 - c. The phased development shall not result in requiring the City or a third party (e.g., owners of lots) to construct public facilities that were required as part of the approved development proposal; and
 - d. The application for phased development approval shall be reviewed concurrently with the preliminary plat application and the decision may be appealed in the same manner as the preliminary plat.
- Ⓓ. **E. Modifications and Extensions.** The applicant may request changes to the approved preliminary plat or conditions of approval following the procedures and criteria provided in Chapter 4.6 - Modifications.
1. The Community Development Director or designee may ~~shall~~, upon written request by the applicant and payment of the required fee, grant a total of one extension of the approval period not to exceed one year per project; provided that:
 - a. Any changes to the preliminary plat follow the procedures in Chapter 4.6;
 - b. The applicant has submitted written intent to file a final plat within the one-year extension period;
 - c. An extension of time will not prevent the lawful development of abutting properties;
 - d. There have been no changes to the applicable Code provisions on which the approval was based. If such changes have occurred, a new preliminary plat application shall be required; and
 - e. The extension request is made before expiration of the original approved plan.
 2. **Additional Extension by Original Decision-Making Body.** The original decision-making body may or may not grant ~~an~~ a single additional one-year extension at their discretion, ~~provided the reason for the extension is beyond the control of the developer (i.e., market constraints).~~ In no case however shall extensions combined with original approval durations exceed four years for single phased development from the original approval date, and six years for subsequent phases within a multiple-phased development from the original approval date.

City of Sisters
Attn: Eric Porter
520 E. Cascade Ave.
Sisters, OR 97759



DLCD
Attn: Larry French
Community Services Division
635 Capitol Street NE, Suite 150
Salem, OR 97301-2540