



Oregon

John A. Kitzhaber, M.D., Governor

Department of Land Conservation and Development

635 Capitol Street NE, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Director's Office Fax (503) 378-5518

Main Fax: (503) 378-6033

Web Address: <http://www.lcd.state.or.us>



NOTICE OF ADOPTED AMENDMENT

June 14, 2012

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

FROM: Plan Amendment Program Specialist

SUBJECT: City of Portland Plan Amendment
DLCD File Number 001-12

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. The submitted ordinance was adopted by the City of Portland on June 1, 2012, per ORS 197.615 (3) and DLCD did not notify within five working days of receipt, any persons who requested notification.

Appeal Procedures*

DLCD DEADLINE TO APPEAL:

Acknowledged under ORS Sections 197.615, 197.625, and 197.830 (9)

This amendment was submitted to DLCD for review 35 days prior to adoption. Pursuant to ORS 197.625 if no notice of intent to appeal is filed within the 21-day period set out in ORS 197.830 (9), the amendment to the acknowledged comprehensive plan or land use regulation or the new land use regulation shall be considered acknowledged upon the expiration of the 21-day period.

Under ORS 197.830 (9) a notice of intent to appeal a land use decision or limited land use decision shall be filed not later than 21 days after the date the decision sought to be reviewed becomes final.

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 ADOPTED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAN IT WAS MAILED TO DLCD.**

Cc: Douglas Hardy, City of Portland
Gordon Howard, DLCD Urban Planning Specialist
Anne Debbaut, DLCD Regional Representative

<paa> YA



FORM 2

DLCD

Notice of Adoption

This Form 2 must be mailed to DLCD within **5-Working Days after the Final Ordinance is signed** by the public Official Designated by the jurisdiction and all other requirements of ORS 197.615 and OAR 660-018-000

In person electronic mailed

DATE
S
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M
P

DEPT OF
JUN 01 2012
For Office Use Only
LAND USE REGULATION
AND DEVELOPMENT

Jurisdiction: **Portland** Local file number: **N/A**
 Date of Adoption: **5/16/2012** Date Mailed: **6/1/2012**
 Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? Yes No Date: **2/29/2012**
 Comprehensive Plan Text Amendment Comprehensive Plan Map Amendment
 Land Use Regulation Amendment Zoning Map Amendment
 New Land Use Regulation Other:

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".
 In 2009, Council extended the timelines for land use reviews, expecting that the economy would recover. Because Oregon's economy has not recovered, this project further extends expiration dates for all land use review approvals except Final Plats for land divisions. We are also changing the date for an automatic adjustment to dollar thresholds and placing a maximum time limit on Final Plat applications.

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

Plan Map Changed from: **N/A** to: **N/A**
 Zone Map Changed from: **N/A** to: **N/A**
 Location: **N/A** Acres Involved: **0**
 Specify Density: Previous: **N/A** New: **N/A**

Applicable statewide planning goals:

- 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19

Was an Exception Adopted? YES NO

Did DLCD receive a Notice of Proposed Amendment...

- 35-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. 001-12 (19207) [17071]

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

Multnomah County
Metro

Local Contact: **Douglas Hardy** Phone: (503) 823-7816 Extension:
Address: **1900 SW 4th Avenue, Suite 5000** Fax Number: - -
City: **Portland** Zip: **97201-** E-mail Address:
douglas.hardy@portlandoregon.gov

ADOPTION SUBMITTAL REQUIREMENTS

This Form 2 must be received by DLCD no later than 5 working days after the ordinance has been signed by the public official designated by the jurisdiction to sign the approved ordinance(s) per ORS 197.615 and OAR Chapter 660, Division 18

1. This Form 2 must be submitted by local jurisdictions only (not by applicant).
2. When submitting the adopted amendment, please print a completed copy of Form 2 on light green paper if available.
3. Send this Form 2 and one complete paper copy (documents and maps) of the adopted amendment to the address below.
4. Submittal of this Notice of Adoption must include the final signed ordinance(s), all supporting finding(s), exhibit(s) and any other supplementary information (ORS 197.615).
5. Deadline to appeals to LUBA is calculated **twenty-one (21) days** from the receipt (postmark date) by DLCD of the adoption (ORS 197.830 to 197.845).
6. In addition to sending the Form 2 - Notice of Adoption to DLCD, please also remember to notify persons who participated in the local hearing and requested notice of the final decision. (ORS 197.615).
7. Submit **one complete paper copy** via United States Postal Service, Common Carrier or Hand Carried to the DLCD Salem Office and stamped with the incoming date stamp.
8. Please mail the adopted amendment packet to:

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

9. **Need More Copies?** Please print forms on 8½ -1/2x11 green paper only if available. If you have any questions or would like assistance, please contact your DLCD regional representative or contact the DLCD Salem Office at (503) 373-0050 x238 or e-mail plan.amendments@state.or.us.

<http://www.oregon.gov/LCD/forms.shtml>

Updated December 30, 2011

ORDINANCE No. 185333

*Amend the Zoning Code to extend the expiration date for land use approvals, add expiration timeline for final plats, and change the effective date of automatic adjustments to dollar thresholds (Ordinance; amend Title 33)

The City of Portland Ordains:

Section 1. The Council finds:

General Findings

1. Title 33, Planning and Zoning, specifies when approved land use decisions expire. Typically, if a building permit is not issued within three years of the final land use decision, the land use decision expires.
2. Title 33 also states that the preliminary plan approval for a land division expires if a final plat application has not been submitted within three years of the final decision on the preliminary plan.
3. Given the current economic climate, applicants with approved land use decisions are unable to proceed forward with their projects, generally due to a weak real estate market and challenges with project financing. In stable economic conditions, development projects typically can meet the existing expiration periods identified in the Zoning Code. However, projects that would otherwise have proceeded to completion in a better economy are now delayed, and face the expiration of their approvals. Once expired, these projects must go through the entire land use review process again at substantial cost and further delay. This cost and delay could further slow the City's economic recovery. Additionally, conducting such land use reviews for a second time would divert limited City staff resources from other priority projects. Extending the expiration period for approved land use decisions expedites Portland economic recovery by allowing these approved projects to proceed to the building permit review process.
4. In recognition of these economic difficulties, City Council in May 2009 amended the Zoning Code to extend the time in which applicants were required to obtain a building permit or submit a final plat application following an approved land use decision (Ordinance # 182810). For land use decisions approved between May 27, 2006 and December 30, 2008, the amendment allowed applicants until June 30, 2012 to obtain a building permit. For land use decisions approved during the same period that involved a preliminary plan approval for a land division, the amendment allowed applicants until June 30, 2012 to submit a final plat application. The City Council unanimously adopted this amendment.
5. The financial markets have improved somewhat since City Council considered the 2009 ordinance, and financial lending on development projects appears to be loosening. However, as the City's real estate conditions slowly begin to rebound, there are still many

projects that are at risk of losing their land use approvals if a building permit is not issued or a final plat application is not submitted by the June 30, 2012 expiration date.

6. The proposed amendment to Title 33 will extend the timelines for land use approvals for an additional two year period (see Exhibit A, Section I). Limiting the proposed extension to an additional two years acknowledges that the existing timelines in Title 33 are intended to better ensure that regulations and policies that were applied at the time of land use approval continue to be valid at the time the project is built. The proposed amendment respects the value of the existing timeframes in the Zoning Code, while acknowledging the difficult economic climate supports extending these timelines for a limited period.
7. The proposed amendment also establishes a maximum time limit on when applicants for a final plat application must provide *all* requested information, or complete all steps toward meeting outstanding application requirements. Under current zoning requirements, a final plat application generally becomes void if it has been inactive for 180 days from the date the Bureau of Development Services (BDS) sent a letter to the applicant requesting additional information or identifying outstanding requirements. If the applicant provides *any* of the requested information, or addresses *any* of the outstanding requirements, the application is extended an additional 180 days. With no maximum time limit on when *all* requested information must be provided, or when *all* steps toward meeting outstanding application requirements are completed, final plat applications are allowed to languish indefinitely. As a result, BDS planners have “active” final plat applications dating from the 1990s, which are still vested under the old Title 34 Land Division code. The proposed amendment will require that unless *all* requested information or outstanding requirements for final plat applications is provided within three years of the initial request from the BDS, the final plat application will be voided. This better ensures that applications are reviewed against more current regulations, and allows limited BDS staff and resources to focus on truly active final plat applications.
8. The proposed amendment also addresses an ongoing administrative issue related to the automatic adjustments to the dollar thresholds identified in the Zoning Code. These dollar thresholds are changed annually, with the change based on the annual national average of the Construction Cost Index, published in the second January issue of the Engineering News-Record. The Zoning Code currently requires that these changes in dollar threshold be reflected in the Zoning Code by February 1 of each year. The February 1 date does not allow the Bureau of Planning and Sustainability (BPS) staff adequate time to make the changes and distribute the Zoning Code update package. The proposed amendment extends the date by which the dollar threshold changes must be reflected in the Code by one month, allowing BPS staff the needed time to incorporate such changes.

Findings on Statewide Planning Goals

9. State planning statutes require cities to adopt and amend comprehensive plans and land use regulations in compliance with state land use goals. Only the state goals addressed below apply.
10. **Goal 1, Citizen Involvement**, requires the provision of opportunities for citizens to be involved in all phases of the planning process. The preparation of these amendments has provided numerous opportunities for public involvement:
 - On February 29, 2012, a notice of the proposed amendment was mailed to the Department of Land Conservation and Development. The notice summarized the proposed amendment, identified applicable statewide planning goals, and included text for the proposed amendment.
 - On March 13, 2012, a notice announcing the Planning and Sustainability Commission public hearing on this proposed amendment was mailed to all neighborhood associations and district coalitions, applicants who have a land use approval that will expire shortly, and other interested persons.
 - A notice of the hearing was published in the March/April 2012 issue of the *Plans Examiner*, a bi-monthly BDS publication intended to inform the building-design and construction community.
 - Information on the proposed amendment and scheduled hearing was posted on both the BDS and BPS websites.
 - The proposal was discussed at the February 2012 Development Review Advisory Committee (DRAC). DRAC is a citizen advisory body, representing those with interests in the outcome of policies, budgets, regulations, and procedures that affect development review processes. DRAC voted to support the amendment.
 - On April 10, 2012, the Planning and Sustainability Commission held a hearing to discuss and take testimony on the proposed amendments. Staff presented the proposal and public testimony was received. The Planning and Sustainability Commission closed the hearing and voted to recommend that City Council adopt the amendment.
 - On April 20, 2012, a notice announcing the City Council public hearing on the proposed amendment was mailed to those who provided testimony at the Planning Commission hearing.
11. **Goal 2, Land Use Planning**, requires the development of a process and policy framework that acts as a basis for all land use decisions and assures that decisions and actions are based on an understanding of the facts relevant to the decision. The amendment supports this goal as development of the recommendations followed established City procedures for legislative actions.

12. **Goal 9, Economic Development**, requires the provision of adequate opportunities for a variety of economic activities vital to public health, welfare and prosperity. The proposed amendment supports this goal by providing additional time for projects previously approved through the land use review process to continue through to completion. Without the extensions to the expiration periods that are proposed in the amendment, projects approved through the land use review process would not be able to move forward. The time delay and additional costs associated with reviewing these projects a second time through a subsequent land use review procedure would further hamper the City's ability to weather the current economic downturn.
13. **Goal 10, Housing**, requires provision for the housing needs of citizens of the state. The proposed amendment is supportive of this goal. Many of the previously approved land use reviews that will be expiring in the near future include projects that expand the City's housing stock, or provide potential housing development sites (in the case of residential land division cases). Allowing these approvals to expire will delay these new housing opportunities. See also findings for Portland Comprehensive Plan Goal 4 (Housing), and Metro Title 1.
14. **Goal 11, Public Facilities and Services**, requires planning and development of a timely, orderly, and efficient arrangement of public facilities and services to serve as a framework for development. While the proposed amendment will extend the expiration date for some land use approvals by as much as five years, these approved projects will still be subject to the City's rules and regulations regarding public facilities and services that are in effect at the time the applicant submits the building permit application. As such, the City's most current rules and regulations on public facilities and services will still be applied to projects.
15. **Goal 12, Transportation**, requires provision of a safe, convenient, and economic transportation system. The Oregon Transportation Planning Rule (TPR) was adopted in 1991 and amended in 1996 and 2005 to implement State Goal 12. The TPR requires certain findings if the proposed regulation will significantly affect an existing or planned transportation facility. The proposed amendment is consistent with this goal as it does not change the policy or intent of any of the existing regulations pertaining to transportation.

Findings on Metro Urban Growth Management Functional Plan

16. The following element of the Metro Urban Growth Management Functional Plan is relevant and applicable to the proposed Zoning Code amendment:
17. **Title 1, Requirements for Housing and Employment Accommodation**, requires that each jurisdiction contribute its fair share to increasing the development capacity of land within the Urban Growth Boundary. This requirement is to be generally implemented through citywide analysis based on calculated capacities from land use designations. The proposed amendment facilitates achieving the goals of this title by ensuring that land use decisions that approved residential and commercial development are not forced to expire due to the current economic situation. The proposed amendment provides land use applicants the opportunity to pursue building permit applications (and subsequent land use review

approvals) that are needed for these projects to be a reality and to contribute to the City's economic health and expanding residential base.

Findings on Portland's Comprehensive Plan Goals

18. The City's Comprehensive Plan was adopted by the Portland City Council on October 16, 1980, and was acknowledged as being in conformance with the statewide planning goals by the Land Conservation and Development Commission on May 1, 1981. On May 26, 1995, the LCDC completed its review of the City's final local periodic review order and periodic review work program, and reaffirmed the plan's compliance with statewide planning goals.
19. The following goals, policies, and objectives of the Portland Comprehensive Plan are relevant and applicable to the proposed Zoning Code amendment.
20. **Goal 1, Metropolitan Coordination**, calls for the Comprehensive Plan to be coordinated with federal and state law and to support regional goals, objectives and plans. In general, the amendment is consistent with this goal because they do not change policy or intent of existing regulations relating to metropolitan coordination and regional goals.

Policy 1.4, Intergovernmental Coordination, requires continuous participation in intergovernmental affairs with public agencies to coordinate metropolitan planning and project development and maximize the efficient use of public funds. The amendment supports this policy because other government agencies were notified of this proposal and given the opportunity to comment. These agencies include Metro, Multnomah County Planning, and the Oregon Department of Land Conservation and Development.

21. **Goal 2, Urban Development**, calls for maintaining Portland's role as the major regional employment and population center by expanding opportunities for housing and jobs, while retaining the character of established residential neighborhoods and business centers.

The amendment supports this goal by allowing projects that have been approved through the City's public land use review process to proceed to development despite the current economic conditions. The amendment provides applicants with additional time to receive a building permit (or apply for subsequent needed land use reviews). Without the extension, commercial and residential projects that would enhance the City's role as an employment and population center would be stopped or delayed.

22. **Goal 4, Housing**, calls for enhancing Portland's vitality as a community at the center of the region's housing market by providing housing of different types, density, sizes, costs and locations that accommodates the needs, preferences, and financial capabilities of current and future households. The proposed Zoning Code amendment supports this goal by extending the expiration date of approved land use actions, many of which include housing development. See also findings for Statewide Planning Goal 10, Housing.
23. **Goal 5, Economic Development**, calls for the promotion of a strong and diverse economy that provides a full range of employment and economic choices for individuals and families in all parts of the city. The proposed amendment supports this goal by providing additional

time for projects approved through the land use review process to continue through to completion. Without the limited extensions to the expiration periods that are proposed in the amendment, projects approved through the land use review process would not be able to move forward. The time delay and additional costs associated with reviewing these projects a second time through a subsequent land use review procedure would further hamper the City's ability to weather the current economic downturn.

24. **Goal 9, Citizen Involvement**, calls for improved methods and ongoing opportunities for citizen involvement in the land use decision-making process, and the implementation, review, and amendment of the Comprehensive Plan. This project followed the process and requirements specified in Chapter 33.740, Legislative Procedure. The amendments support this goal for the reasons found in the findings for Statewide Planning Goal 1, Citizen Involvement.
25. **Goal 10, Plan Review and Administration**, includes several policies and objectives. Policy 10.10, Amendments to the Zoning and Subdivision Regulations, directs that amendments to the zoning and subdivision regulations should be clear, concise, and applicable to the broad range of development situations faced by a growing, urban city. The proposed amendment is consistent with this policy by making the Zoning Code more flexible in dealing with the current economic downturn. Because existing regulations provide no opportunity for an applicant to request an extension of the expiration period for a land use approval or related land use action, development projects that will contribute to a growing City will not be possible, or will be significantly delayed. The proposed amendment provides the additional time necessary to allow these projects to proceed.
26. **Goal 12, Urban Design**, calls for enhancing Portland as a livable city, attractive in its setting and dynamic in its urban character by preserving its history and building a substantial legacy of quality private developments and public improvements for future generations. The proposed amendment is intended to allow those projects that have received approval through the land use review process, often through the Design Review process, to proceed to construction and contribute to the City's urban vitality.

185333

NOW, THEREFORE, the Council directs:

- a. Adopt Exhibit A, the *Land Use Review Extensions Project II Recommended Draft*, dated April 23, 2012;
- b. Amend Title 33, Planning and Zoning, as shown in Section II of Exhibit A, *Land Use Review Extensions Project II Recommended Draft*, dated April 23, 2012; and
- c. Adopt the report as further findings and as legislative intent.

Section 2. If any section, subsection, sentence, clause, phrase, diagram, designation, or drawing contained in this Ordinance, or the plan, map or code it adopts or amends, is held to be deficient, invalid or unconstitutional, that shall not affect the validity of the remaining portions. The Council declares that it would have adopted the plan, map, or code and each section, subsection, sentence, clause, phrase, diagram, designation, and drawing thereof, regardless of the fact that any one or more sections, subsections, sentences, clauses, phrases, diagrams, designations, or drawings contained in this Ordinance, may be found to be deficient, invalid or unconstitutional.

Section 3: The Council declares an emergency exists because further delay in extending the expiration dates will affect additional applicants, costing them time and money, and further slowing Portland's economic recovery; therefore, this Ordinance shall be in full force and effect from and after its passage by the Council.

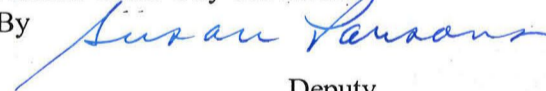
Passed by the Council: MAY 16 2012

Mayor Sam Adams
Commissioner Dan Saltzman

LaVonne Griffin-Valade

Auditor of the City of Portland

By



Deputy

Prepared by:
Douglas Hardy, Bureau of Development Services
March 23, 2012

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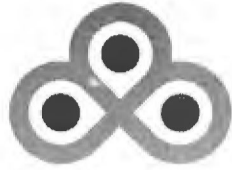
Agenda No. **185333**
ORDINANCE NO.
Title

*Amend the Zoning Code to extend the expiration date for land use approvals, add expiration timeline for final plats, and change the effective date of automatic adjustments to dollar thresholds (Ordinance; amend Title 33, Planning and Zoning).

INTRODUCED BY Commissioner/Auditor: Mayor Sam Adams; Commissioner Dan Saltzman	CLERK USE: DATE FILED <u>MAY 03 2012</u>
COMMISSIONER APPROVAL Mayor—Finance and Administration - Adams <i>[Signature]</i> Position 1/Utilities - Fritz Position 2/Works - Fish Position 3/Affairs - Saltzman <i>[Signature]</i> Position 4/Safety - Leonard	LaVonne Griffin-Valade Auditor of the City of Portland By: <i>[Signature]</i> Deputy
BUREAU APPROVAL Bureau: Planning and Sustainability Bureau Head: Susan Anderson <i>[Signature]</i>	ACTION TAKEN: MAY 09 2012 <i>Rescheduled to MAY 16 2012 2 P.M.</i> <i>Time Certain</i>
Prepared by: Jessica Richman Date Prepared: April 26, 2012	
Financial Impact & Public Involvement Statement Completed: <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/>	
Portland Policy Document If "Yes" requires City Policy paragraph stated in document. Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
Council Meeting Date May 9, 2012	
<input checked="" type="checkbox"/> City Attorney Approval: required for contract, code, easement, franchise, comp plan, charter <i>KS Beaumont</i>	

AGENDA
TIME CERTAIN <input checked="" type="checkbox"/> Start time: 3:00 pm Total amount of time needed: 30 minutes (for presentation, testimony and discussion)
CONSENT <input type="checkbox"/>
REGULAR <input type="checkbox"/> Total amount of time needed: _____ (for presentation, testimony and discussion)

FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:		
		YEAS	NAYS
1. Fritz	1. Fritz	<input checked="" type="checkbox"/>	
2. Fish	2. Fish	<input checked="" type="checkbox"/>	
3. Saltzman	3. Saltzman	<input checked="" type="checkbox"/>	
4. Leonard	4. Leonard	<input checked="" type="checkbox"/>	
Adams	Adams	<input checked="" type="checkbox"/>	




Bureau of Planning and Sustainability
Innovation. Collaboration. Practical Solutions.

Certificate of Mailing

I hereby certify that on June 1, 2012, I mailed a correct copy of Form 1, DLCD Notice of Proposed Amendment, with the Land Use Review Extensions Project II Recommended Draft to the following persons by first class mail at the post office at Portland, Oregon.

Name	Address
Plan Amendments Specialist	Dept. of Land Conservation & Development 635 Capitol Street, Suite 150 Salem, Oregon 97301-2540
Paulette Copperstone, Compliance Coordinator	Land Use Planning Department Metro 600 NE Grand Avenue Portland, OR 97232-2736
Stuart Farmer	Multnomah County Land Use Planning 1600 SE 190 th Ste 116 Portland OR 97233

 6-1-2012
Joan Hamilton Date
Management Assistant
Bureau of Planning and Sustainability



City of Portland, Oregon | Bureau of Planning and Sustainability | www.portlandonline.com/bps
1900 SW 4th Avenue, Suite 7100, Portland, OR 97201 | phone: 503-823-7700 | fax: 503-823-7800 | tty: 503-823-6868

Printed on 100% post-consumer waste recycled paper.

Land Use Review Extensions Project II

Recommended Draft

April 23, 2012

ADOPTED

Land Use Review Extensions Project II was adopted without change by City Council on May 16, 2012.

Ordinance#: 185333

Effective: May 16, 2012



City of Portland, Oregon
Bureau of Development Services
Land Use Services

FROM CONCEPT TO CONSTRUCTION

Dan Saltzman, Commissioner
Paul L. Scarlett, Director
Phone: (503) 823-7300
Fax: (503) 823-5630
TTY: (503) 823-6868
www.portlandoregon.gov/bds



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City of Portland, Oregon
Sam Adams, Mayor • Susan Anderson, Director



The Bureau of Development Services and the Bureau of Planning and Sustainability are committed to providing equal access to information and hearings. If you need special accommodation, please call 503-823-7700, the City's TTY at 503-823-6868, or the Oregon Relay Service at 1-800-735-2900.

For more information about this project please contact:

Douglas Hardy, Senior City Planner
Portland Bureau of Development Services
1900 SW 4th Avenue, Suite 5000
Portland, Oregon 97201-5380
Phone: 503-823-7816
Email: Douglas.Hardy@PortlandOregon.gov

A digital copy of this report can be found at:
<http://www.portlandonline.com/bps/LURextension>



Bureau of Planning and Sustainability
Division of City Planning, Department of Administration

Portland Planning and Sustainability Commission

André Baugh, Chair

Michelle Kudd, Vice Chair

Howard Shapiro, Vice Chair

Karen Gray

Gary Oxman

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Bill Sherman

Mike Houck

Chela Smith

Lai-Lan O'Valles

Irma Valdez

April 20, 2012

Mayor Adams and Portland City Council
Portland City Hall
1121 SW 4th Avenue
Portland, OR 97204

Subject: Land Use Review Extensions Project II

Dear Mayor Adams and City Commissioners:

On April 10, 2012, the Portland Planning and Sustainability Commission held a hearing and unanimously approved the Land Use Review Extensions Project II. Staff proposed three amendments to the Zoning Code, which are explained in the *Recommended Draft*.

The most time-sensitive of the amendments is the proposal to extend the expiration date of a limited set of land use reviews and land division preliminary plans by two years. A previous ordinance, adopted by City Council in 2009, extended the expiration dates to June 2012. Because of the continued struggling real estate market and limited lending, some applicants have been unable to proceed with their development plans. The proposed amendment, to further extend land use approvals for a limited period, is one tool the City can use to eliminate barriers to Portland's economic recovery.

The Planning and Sustainability Commission received testimony in support of the amendments and unanimously recommends that City Council:

- Adopt the ordinance;
- Adopt the report titled *Land Use Review Extensions Project II: Recommended Draft*; and
- Amend the Zoning Code as shown in the report.

We thank you for your consideration of our recommendation.

Sincerely,

André Baugh
Chair



City of Portland, Oregon | Bureau of Planning and Sustainability | www.portlandonline.com/bps
1300 SW 4th Avenue, Suite 7100, Portland, OR 97204 | phone: 503-823-7700 | fax: 503-823-7800 | tly: 503-823-6868

Portland 100 Year Anniversary 1852-2012

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Acknowledgements

Portland City Council

Sam Adams, *Mayor*
Nick Fish, *Commissioner*
Amanda Fritz, *Commissioner*
Randy Leonard, *Commissioner*
Dan Saltzman, *Commissioner*

Portland Planning and Sustainability Commission

André Baugh, *Chair*
Howard Shapiro, *Vice-Chair*
Michelle Rudd, *Vice-Chair*
Karen Gray
Don Hanson
Mike Houck
Lai-Lani Ovalles
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Jill Sherman
Chris Smith
Irma Valdez

Bureau of Planning and Sustainability

Sam Adams, *Mayor, Commissioner-in-charge*
Susan Anderson, *Director*

Bureau of Development Services

Dan Saltzman, *Commissioner-in-charge*
Paul Scarlett, *Director*

Project Staff

Bureau of Planning and Sustainability

Sandra Wood, *Supervising Planner*
Jessica Richman, *Senior City Planner*

Bureau of Development Services

Rebecca Esau, *Principal Planner*
Douglas Hardy, *Senior City Planner*
Marisol Caron, *Senior City Planner*

I. Report

The Land Use Review Extension Project II project addresses three issues related to the administration of the Zoning Code (City Title 33, Planning and Zoning).

1. **Land Use Review Extension.** The Portland Zoning Code contains regulations that specify when land use approvals expire. Most land use approvals expire if a building permit for the project is not issued within three years of the final land use decision, while Preliminary Plan approvals for land divisions expire if a final plat application is not submitted within three years of the final decision on the Preliminary Plan.

Because of the condition of the economy, many applicants who have received land use approvals have found it difficult to proceed within the timelines set out in the Zoning Code. Once expired, these projects have to go through the entire land use review process again at substantial cost and further delay. This cost and delay could further slow the City's economic recovery.

In 2009, City Council extended the expiration dates to June 30, 2012 for land use reviews approved between May 27, 2006 and December 31, 2008. At the time, it was expected the economy would have recovered by mid-2012. Because Oregon's economy has yet to recover, **this project proposes to extend expiration dates an additional two years to mid-2014.**

Land use reviews approved after December 31, 2008 are not covered by the extension currently in the code, and expire three years after approval. Because of the timing of this project, some of the land use reviews approved in early 2009 will expire by the time the approvals are further extended by this proposal. We are not legally able to "resuscitate" approvals that have expired, and so have drafted the regulations to recognize this gap.

For example, a conditional use approved on January 2, 2008 would normally have expired on January 2, 2011. Under the amendments adopted in 2009, the conditional use now expires on June 30, 2012. The amendments proposed with this project will further extend that expiration date to June 30, 2014. However, a conditional use approved on January 2, 2009 will have expired on January 2, 2012. Because it has already expired, the amendments proposed with this project will not affect it. If the amendments proposed with this report are adopted by emergency ordinance to take effect immediately, the gap—the time during which approvals will expire—will be slightly more than four months¹.

2. **Final Plat Expiration.** After an application for a final plat has been submitted, the Bureau of Development Services sends a letter to the applicant that identifies missing information and outstanding requirements that must be completed prior to final plat approval. If the applicant provides *any* of the requested information or completes steps towards meeting the outstanding requirements, the application is extended and is not voided. There is no ultimate time limit by which *all* the missing information and outstanding requirements must be addressed. There are a number of final plats that have been "in process" for more than five years, and some for far longer than that². **This proposal will place a maximum period of three years from the date the letter is sent for the applicant to provide all missing information and address outstanding requirements.** This will apply only to final plat applications submitted after this amendment is adopted—it will not be retroactive.

¹ Based on the 536 land use applications reviewed by BDS in 2011, the four-month gap will affect approximately 178 approvals.

² There are 56 final plats still "under review" that were submitted before the end of 2009. Of those 56, 19 (34%) are at least five years old, and an additional 29 (52%) are at least four years old. There are 5 plats from the 1990s, and the oldest plat was submitted in 1993—for a preliminary plan approved in 1985.

3. **Date of Automatic Adjustments to Dollar Thresholds.** The Zoning Code requires automatic adjustments to certain dollar thresholds in the Code every year. The changes happen on February 1 and are based on figures published in the second January issue of the Engineering News-Record (ENR). The time between the second January issue of the ENR and February 1 can create difficulties for staff preparing the updates to the Code, so **this proposal would change the date the automatic dollar thresholds are adjusted to March 1.**

Recommendation of the Planning and Sustainability Commission

The Planning and Sustainability Commission recommends that City Council:

- Adopt this report;
- Amend the Zoning Code as shown in this report; and
- Adopt the ordinance.

II. Amendments to Zoning Code

RECOMMENDED ZONING CODE LANGUAGE

Language to be **added** is underlined
Language to be **deleted** is shown in ~~strikethrough~~

AMEND CHAPTER 33.730, QUASI-JUDICIAL PROCEDURES

33.730.130 Expiration of an Approval

A. Expiration of unused land use approvals issued prior to 1979. [No change.]

B. When approved decisions expire.

1. Land use approvals, except as otherwise specified in this section, expire if:
 - a. Generally.
 - (1) Within 3 years of the date of the final decision a City permit has not been issued for approved development; or
 - (2) Within 3 years of the date of the final decision the approved activity has not commenced.
 - b. Exception. Final decisions that became effective between May 27, 2006 and December 31, 2008 or between *three years before the effective date of this regulation* and June 30, 2011 expire if a City permit has not been issued for approved development or the approved activity has not commenced by June 30, 2012~~14~~.
2. Zoning map and Comprehensive Plan map amendments do not expire.
3. Conditional Use Master Plans and Impact Mitigation Plans expire as specified in Chapters 33.820 and 33.848, or in the plans themselves.
4. Multiple developments.
 - a. Generally. Where a site has received approval for multiple developments, and a City permit is not issued for all development within 3 years of the date of the final decision, the approval does not expire but no additional development may occur without another review. All conditions of approval continue to apply. Examples of multiple developments include phased development and multi-building proposals.
 - b. Exception. On sites where the final decisions became effective between May 27, 2006 and December 31, 2008 or between *three years before the effective date of this regulation* and June 30, 2011, and a City permit is not issued for all development by June 30, 2012~~14~~, the approval does not expire but no additional development may occur without another review. All conditions of approval continue to apply.
5. Planned Developments. Where a Planned Development (PD) has been approved, and a building permit is not issued for all development within 10 years of the date

RECOMMENDED ZONING CODE LANGUAGE

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Language to be **deleted** is shown in ~~strikethrough~~

of the final decision, the approval does not expire but no additional development may occur without another review. All conditions of approval continue to apply.

6. Preliminary plans.
 - a. Generally. Approved preliminary plans for land divisions expire if within 3 years of the date of the final decision an application for approval of Final Plat has not been submitted.
 - b. Exception. Final decisions on preliminary plans that became effective between May 27, 2006 and December 31, 2008 or between *three years before the effective date of this regulation* and June 30, 2011, expire if an application for approval of Final Plat has not been submitted by June 30, 20~~12~~14.
7. Final Plats. Final Plats expire if they are not submitted to the County Recorder to be recorded within 90 days of the final decision.
8. Large industrial sites. Where the Preliminary Plan is approved under the provisions of Chapter 33.664, Review of Land Divisions on Large Sites in Industrial Zones, the following applies:
 - a. Generally.
 - (1) The approved Preliminary Plan expires if within 3 years of the final decision an application for approval of a Final Plat for part or all of the site has not been submitted.
 - (2) Applications for approval of a Final Plat for the entire site must be submitted within 5 years of the date of final approval of the Preliminary Plan. Where Final Plat approval has not been requested for portions of the site within this time limit, the Preliminary Plan approval does not expire, but can no longer be used as a basis for Final Plats; all conditions continue to apply, but no new lots may be created without another Preliminary Plan Review.
 - b. Exception. Final decisions for Preliminary Plans that became effective between May 27, 2006 and December 31, 2008 or between *three years before the effective date of this regulation* and June 30, 2011 expire if an application for approval of a Final Plat for part or all of the site has not been submitted by June 30, 20~~12~~14. Where Final Plat approval has not been requested for portions of the site within this time limit, the Preliminary Plan approval does not expire, but can no longer be used as a basis for Final Plats; all conditions continue to apply, but no new lots may be created without another Preliminary Plan Review.
9. Staged Final Plats. Where the Preliminary Plan is approved under the provisions of Sections 33.633.200 through .220, Staged Final Plats, the following applies:
 - a. Application for approval of a Final Plat for part or all of the site.
 - (1) Generally. The approved Preliminary Plan expires if within 3 years of the final decision an application for approval of a Final Plat for part or all of the site has not been submitted.

RECOMMENDED ZONING CODE LANGUAGE

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Language to be **deleted** is shown in ~~strikethrough~~

- (2) Exception. Final decisions for Preliminary Plans that became effective between May 27, 2006 and December 31, 2008 or between [three years before the effective date of this regulation] and June 30, 2011 expire if an application for approval of a Final Plat for part or all of the site has not been submitted by June 30, 201~~2~~14.
- b. Applications for approval of a Final Plat for the entire site. Applications for approval of a Final Plat for the entire site must be submitted within 5 years of the date of submittal of the first Final Plat application. Where Final Plat approval has not been requested for portions of the site within this time limit, the Preliminary Plan approval does not expire, but can no longer be used as a basis for Final Plats; all conditions continue to apply, but no new lots may be created without another Preliminary Plan Review.
10. Land use approvals in conjunction with a land division. Land use approvals reviewed concurrently with a land division do not expire if they meet all of the following. This includes Planned Unit Developments (PUDs) and Planned Developments (PDs) reviewed in conjunction with a land division. This also includes amendments made to land use approvals where the original approval was reviewed concurrently with a land division:
- a. The decision and findings for the land division specify that the land use approval was necessary in order for the land division to be approved;
- b. The final plat of the land division has not expired; and
- c. Development or other improvements have been made to the site. Improvements include buildings, streets, utilities, grading, and mitigation enhancements. The improvements must have been made within 3 years of approval of the final plat. For final plats approved between May 27 2006 and December 31, 2008 or between [three years before the effective date of this regulation] and June 30, 2011, the improvements must have been made by June 30, 201~~2~~14.
11. Land use approvals in conjunction with a Planned Unit Development (PUD) or Planned Development (PD). Land use approvals reviewed concurrently with a PUD or PD do not expire if they meet all of the following. If the PUD or PD is as described in Paragraph B.5, the land use approvals reviewed in conjunction with the PUD or PD do not expire, but no additional development may occur without another review.

Land use approvals reviewed in conjunction with a PUD or PD and a land division are subject to Paragraph B.10 rather than the regulations of this paragraph:

- a. The decision and findings for the PUD or PD specify that the land use approval was necessary in order for the PUD or PD to be approved;
- b. The PUD or PD has not expired;
- c. Development or other improvements have been made to the site. Improvements include buildings, streets, utilities, grading, and mitigation enhancements. The improvements must have been within 3 years of final

RECOMMENDED ZONING CODE LANGUAGE

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Language to be **deleted** is shown in ~~strikethrough~~

approval of the PUD or PD. For a PUD or PD receiving final approval between May 27, 2006 and December 31, 2008 ~~or between [three years before the effective date of this regulation]~~ and June 30, 2011, the improvements must have been made by June 30, 2012~~14~~.

12. Expedited Land Divisions. Land Divisions reviewed through the Expedited Land Division procedure in 33.730.013, are subject to the regulations of ORS 197.365 through .375. When the regulations of ORS 197.365 through .375 conflict with the regulations of this section, the regulations in ORS supercede the regulations of this section.

C and D. [No change.]

AMEND CHAPTER 33.663, FINAL PLATS

33.663.110 Voiding of Final Plat Application

A. Generally. An application for Final Plat review will be voided where:

1. The Director of BDS has sent written comments to the applicant, requesting additional information or identifying outstanding requirements that must be completed prior to final plat approval; and
2. The final plat review has remained inactive for 180 days from the date the Director's letter was mailed. The plat is considered inactive if the applicant has not provided any of the requested information, or completed steps toward meeting any of the outstanding requirements for final plat approval; or
3. It has been more than three years from the date the Director's written comments were mailed, even if the plat has been active. This paragraph applies to applications for Final Plat Review submitted after [the effective date of this regulation].

B. Exception. For final plat applications that were submitted before December 31, 2009, the 180 day period identified in A.2, above, is extended to 365 days. This exception applies only to applications that have not expired or been voided as of May 27, 2009.

AMEND CHAPTER 33.700, ADMINISTRATION AND ENFORCEMENT

33.700.075 Automatic Changes to Specified Dollar Thresholds

The sections listed below include dollar thresholds. These thresholds will be increased or decreased each year on ~~February~~ March 1. The change will occur automatically, and the new dollar amount will be placed in the Zoning Code without being subject to the procedures for amending the Zoning Code. The change will be based on the annual national average of the Construction Cost Index (CCI), as published in the second January issue of the Engineering News-Record.

A. and B. [No change.]

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