

Memorandum

Date: May 30, 2024

To: West Linn Planning Commission

From: Aaron Gudelj, Associate Planner

Subject: 2024 Code Process Amendments Work Session #2 – Extensions of Approval

At its June 5, 2024 meeting, the Planning Commission (PC) will hold a second work session to discuss proposed code amendments addressing how the City processes an extension of approval (CDC Chapter 99.325). Extensions of approval are one of the four “Code Process Concepts” that staff were directed by City Council to work on with the PC and develop draft code amendments for adoption. The Planning Commission last discussed extensions of approval code amendments at its April 3, 2024 work session.

The goals of the June 5th work session are:

1. Recap the April 3rd discussion and confirm PC direction.
2. Discuss additional questions regarding the proposed code amendments.
3. Ask clarifying questions and/or request additional information.
4. Provide feedback on proposed code amendments.

The tentative schedule to review and adopt the four “Code Process Concepts” is as follows:

Meeting Date	Meeting Type	Anticipated Agenda
06/05/2024	PC Work Session	<ul style="list-style-type: none"> ▪ Appeal process for Land Use Decisions (Draft Code Review) ▪ Extensions of Approval (Draft Code Review)
07/17/2024	PC Work Session	<ul style="list-style-type: none"> ▪ Appeal Process for Land Use Decisions (Final Code Review) ▪ Extensions of Approval (Final Code Review) ▪ Home Occupation Permits (Draft Code Review)
08/07/2024	PC Work Session	<ul style="list-style-type: none"> ▪ Home Occupation Permits (Final Code Review) ▪ Expedited Land Divisions (Draft Code Review)
08/21/2024	PC Work Session	<ul style="list-style-type: none"> ▪ Expedited Land Divisions (Final Code Review)
09/18/2024	PC Work Session	<ul style="list-style-type: none"> ▪ Final Code Amendment Package Review
10/16/2024	PC Public Hearing	<ul style="list-style-type: none"> ▪ Code Amendment Package Hearing
11/04/2024	CC Work	<ul style="list-style-type: none"> ▪ Recommended Code Amendment Package Review

	Session	
11/18/2024	CC Work Session	▪ Recommended Code Amendment Package Review
12/09/2024	CC Public Hearing	▪ Code Amendment Package Hearing

Work Session 1 Recap (Extensions of Approval - April 3, 2024)

At it April 3, 2024 meeting the Planning Commission had an initial discussion on the extensions of approval process. Five questions were presented to the Planning Commission. Below are the questions and the initial direction from the Planning Commission. Staff drafted code amendment language (attached) based on this feedback. Staff were also directed to research how other jurisdictions process extension requests. A table of results is found after the questions.

- 1) *Should the City require approval of the extension prior to the expiration of the original approved application? This would mean if the applicant does not receive approval prior to the expiration date, the entitlement would be expired, and a new application submitted.*
 - a. *This format requires an applicant to submit an extension application a minimum of a couple months ahead of the expiration date for Staff to deem the application is complete, schedule a public hearing date if required, and account for a potential appeal.*

Planning Commission Feedback – Require approval of the extension prior to expiration of original approval.

- 2) *Should the expiration of an extension approval (currently two years) be tied to the original expiration date (moot point if #1 above is implemented) or the date of approval under the current process/policy? This was an issue when a granted extension was appealed and the final decision was not rendered until almost four months later.*

Planning Commission Feedback – No discussion as this is a moot point given feedback on question 1.

- 3) *Should the City limit the number of extensions permitted and if yes, what should be the maximum number?*

Planning Commission Feedback – Staff drafted code language to allow one extension, but there was brief discussion to allow a second extension if an applicant demonstrates extraneous circumstances. Staff is looking for final direction on this question.

- 4) *Should the length of extension remain at two years or would an increase to three years make sense, especially if the number of extensions permitted were capped in #3 above?*

Planning Commission Feedback – An approved extension should remain good for two years.

5) Should the City process an extension application as a staff decision if there are no proposed modifications, regardless of the original decision-maker? This would potentially help avoid issues around timing if the extension were required to be approved prior to the expiration as discussed in #1 above.

Planning Commission Feedback – No clear direction was given. Based on staff research of other jurisdictions, staff drafted code allowing Director approval if no changes to the original approval are proposed. If modifications are proposed, the applicant would be required to conduct a pre-application meeting, neighborhood meeting, and approval authority of the extension would be with the decision-making body from the original approval. Staff is looking for final direction on this question.

At its April 3, 2024 meeting the Planning Commission expressed the desire to better understand local jurisdictions and how they process extensions of approval. Below is a snapshot of current appeal processes amongst some neighboring jurisdictions for reference.

Neighboring Jurisdictions Extensions of Approval Process

Jurisdiction	Number Allowed	Length	Modifications Allowed	Approval Authority	Prior to Expiration	Code Section
Oregon City	None	n/a	n/a	n/a	n/a	Chapter 17.50.200
Tigard	1	2 years	No	Staff	Yes	Chapter 18.745
Milwaukie	Unlimited	2 years	No	Staff	Yes	Chapter 19.908
Wilsonville	3	1 year	No	Staff	Yes	Section 4.023
Gladstone	1	1 year	No	Staff	Yes	Chapter 17.66 Chapter 17.32 Chapter 17.34
Tualatin	1	1 year	No, only applies to plat recording	Staff	Yes	TDC 36.210

Conclusion

Staff seeks a continued discussion from the Planning Commission on extensions of approval and feedback on the proposed DRAFT code. If appropriate, Staff will return with a final draft Code for final review on July 17, 2024 at the regularly scheduled Planning Commission meeting.

If you have questions about the meeting or materials, please feel free to contact Aaron Gudelj (agudelj@westlinnoregon.gov – 503-742-6057). As always, please submit questions before the meeting to increase the efficiency and effectiveness of the discussion as it allows staff to prepare materials and distribute them for your consideration.

Attachment 1
EXISTING West Linn Community Development Code
Section 99.325 Extensions of Approval

~~99.325 EXTENSIONS OF APPROVAL~~

~~A. An extension may be granted by the original decision making body by an additional two years from the effective date of approval pertaining to applications listed in CDC 99.060(A), (B), (C), (D) or (E), as applicable, upon finding that:~~

- ~~1. The applicant has demonstrated 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 (A)(2) of this section, in conformance with any applicable limits on modifications to approvals established by the CDC.~~

~~B. Repealed by Ord. 1675.~~

~~C. Repealed by Ord. 1675.~~

~~D. Repealed by Ord. 1635.~~

~~E. Extension procedures.~~

~~1. The application for extension of approval with modifications to the original approval may be submitted only after a pre-application meeting under CDC 99.030(B). If no modifications are made to the original approval, a pre-application conference is not required.~~

~~2. The application for extension of approval with modifications to the original approval shall satisfy the neighborhood meeting requirements of CDC 99.038 for those cases that require compliance with that section. If no modifications are made to the original approval, no neighborhood meeting is required.~~

~~3. Applications for extensions must be submitted along with the appropriate deposit to the Community Development Department.~~

~~4. Notice of the decision shall be issued consistent with CDC 99.080.~~

~~5. The decision shall not become effective until resolution of all appeal periods, including an opportunity for City Council call up pursuant to this chapter. (Ord. 1589 § 1 (Exh. A), 2010; Ord. 1621 § 25, 2014; Ord. 1635 § 43, 2014; Ord. 1675 § 57, 2018; Ord. 1745 § 1 (Exh. A), 2023)~~

Attachment 2
DRAFT West Linn Community Development Code
Section 99.325 Extensions of Approval

99.325 Extensions of Approval

A. Purpose.

The purpose of this chapter is to provide an appropriate and efficient review process for extending the time period during which land use approvals are valid and may be utilized.

B. Applicability

This chapter applies to all approved land use applications that are subject to expiration but have not yet expired.

C. General Provisions

1. An approved land use application is eligible for one extension.
2. An extension application must be approved by the decision-making authority prior to the expiration date of the original approval, including resolution of all appeal periods.
3. If an extension is approved, the expiration date for the original approval is extended an additional 2 years from the effective date of the original approval.

D. Approval Process

1. If the extension application does not propose modification to the original approval, the assigned approval authority is the Planning Director, as provided in Section 99.060(A).
2. If the extension application proposes modifications of the original approval or any conditions of approval, the extension application shall comply with amendment procedures set forth in CDC Section 99.120, and CDC Section(s) 55.050 and CDC Section 85.085 when applicable.
3. An application for extension of approval with modifications to the original approval shall satisfy the neighborhood meeting requirements of CDC 99.038, if a neighborhood meeting was required of the original application. If no modifications are proposed to the original approval, no neighborhood meeting is required.
4. If the original approval included multiple applications, a single extension application may include all applications associated with the original approval.

E. Approval Criteria

The approval authority will approve an extension application when all of the following criteria are met:

1. The applicant has provided evidence that a good faith effort was made to utilize the approval within the specified time period or the need for the extension is the result of conditions or circumstances outside the control of the applicant or property owner; and
2. If the original application included a transportation impact study, a natural resources report, geotechnical report, and/or tree inventory report an updated report must be provided with the extension application that shows no significant changes on or near the development site have occurred that would affect the conclusions and recommendations

of the existing report(s). A letter from a recognized professional satisfies this criterion if it states that conditions have not changed since the approval of the original application and no new analysis is warranted.

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