

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

ORDINANCE NO. 1137

Amending County Land Use Code, Plans and Maps to Adopt Portland's Recent Land Use Code, Plan and Map Revisions Related to Extend for a Limited Period the Expiration Date for Approved Land Use Decisions and Related Land Use Actions in Compliance with Metro's Functional Plan and Declaring an Emergency

The Multnomah County Board of Commissioners Finds:

- a. The Board of County Commissioners (Board) adopted Resolution A in 1983 which directed the County services towards rural services rather than urban.
- b. In 1996, Metro adopted the Functional Plan for the region, mandating that jurisdictions comply with the goals and policies adopted by the Metro Council.
- c. In 1998, the County and the City of Portland (City) amended the Urban Planning Area Agreement to include an agreement that the City would provide planning services to achieve compliance with the Functional Plan for those areas outside the City limits, but within the Urban Growth Boundary and Portland's Urban Services Boundary.
- d. It is impracticable to have the County Planning Commission conduct hearings and make recommendations on land use legislative actions pursuant to MCC 37.0710, within unincorporated areas inside the Urban Growth Boundary for which the City provides urban planning and permitting services. The Board intends to exempt these areas from the requirements of MCC 37.0710, and will instead consider the recommendations of the Portland Planning Commission and City Council when legislative matters for these areas are brought before the Board for action as required by intergovernmental agreement (County Contract #4600002792) (IGA).
- e. On February 12, 2009, the Board amended County land use codes, plans and maps to adopt the City's land use codes, plans and map amendments in compliance with Metro's Functional Plan by Ordinance 1130.
- f. Since the adoption of Ordinance 1130, the City's Planning Commission recommended land use code, plan and map amendments to the City Council through duly noticed public hearings.
- g. The City notified affected County property owners as required by the IGA.
- h. The City Council adopted the land use code, plan and map amendments set out in Section 1 below and attached as Exhibits 1 through 3. The IGA requires that the County adopt these amendments for the City planning and zoning administration within the affected areas.

Multnomah County Ordains as follows:

Section 1. The County Comprehensive Framework Plan, community plans, rural area plans, sectional zoning maps and land use code chapters are amended to include the City land use code, plan and map amendments, attached as Exhibits 1 through 3, effective on the same date as the respective Portland ordinance:

Exhibit No.	Description	Date
1	Ordinance to extend for a limited period the expiration date for approved land use decisions and related land use actions amending the Code Chapters 33.730.050, 33.730.130 and 33.663.110 (PDX Ord. #182810)	5/27/09
2	Portland Planning Commission Report 0506091 Title 33 Ordinance Exhibit 1	3/13/09
3	Title 33 Attachment A	3/13/09

Section 2. In accordance with ORS 215.427(3), the changes resulting from Section 1 of this ordinance shall not apply to any decision on an application that is submitted before the applicable effective date of this ordinance and that is made complete prior to the applicable effective date of this ordinance or within 180 days of the initial submission of the application.

Section 3. In accordance with ORS 92.040(2), for any subdivisions for which the initial application is submitted before the applicable effective date of this ordinance, the subdivision application and any subsequent application for construction shall be governed by the County's land use regulations in effect as of the date the subdivision application is first submitted.

Section 4. Any future amendments to the legislative matters listed in Section 1 above, are exempt from the requirements of MCC 37.0710. The Board acknowledges, authorizes and agrees that the Portland Planning Commission will act instead of the Multnomah Planning Commission in the subject unincorporated areas using the City's own procedures, to include notice to and participation by County citizens. The Board will consider the recommendations of the Portland Planning Commission when legislative matters for County unincorporated areas are before the Board for action.

Section 5. An emergency is declared in that it is necessary for the health, safety and general welfare of the people of Multnomah County for this ordinance to take effect concurrent with the City code, plan and map amendments. Under section 5.50 of the Charter of Multnomah County, this ordinance will take effect in accordance with Section 1.

FIRST READING AND ADOPTION:

June 11, 2009



BOARD OF COUNTY COMMISSIONERS,
FOR MULTNOMAH COUNTY, OREGON

Ted Wheeler, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By Sandra N. Duffy
Sandra N. Duffy, Assistant County Attorney

SUBMITTED BY:

M. Cecilia Johnson, Director, Department of Community Services

EXHIBIT LIST FOR ORDINANCE

1. Ordinance to extend for a limited period the expiration date for approved land use decisions and related land use actions amending the Code Chapters 33.730.050, 33.730.130 and 33.663.110 (**PDX Ord. #182810**).
2. Portland Planning Commission Report 0506091 Title 33 Ordinance Exhibit1.
3. Title 33 Attachment A

Prior to adoption, this information is available electronically or for viewing at the Multnomah County Board of Commissioners and Agenda website (www.co.multnomah.or.us/cc/WeeklyAgendaPacket/). To obtain the adopted ordinance and exhibits electronically, please contact the Board Clerk at 503-988-3277. These documents may also be purchased on CD-Rom from the Land Use and Transportation Program. Contact the Planning Program at 503-988-3043 for further information.

ORDINANCE No. 182810 As Amended

*Amend Title 33, Planning and Zoning, to extend for a limited period the expiration date for approved land use decisions and related land use actions (Ordinance; amend Code Chapters 33.730.050, 33.730.130 and 33.663.110)

The City of Portland Ordains:

Section 1. The Council finds:

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 decision on the preliminary plan. Additionally, for final plat applications, if the Bureau of Development Services (BDS) has requested additional information from the applicant and the information is not submitted within 180 days of when the request was made, the application is voided.
3. Title 33 also specifies that pre-application conferences, which must be attended by applicants prior to submitting a Type III land use review application, expire if the land use review application is not submitted within one year of when the pre-application conference was held.
4. In the current economic climate, applicants are not pursuing, or have delayed requesting, building permits for development, and the number of commercial and residential building permit applications submitted for review to the BDS has decreased significantly. In April 2008, the number of building permit applications (for any type of development) submitted to BDS declined 22 percent compared to April 2007. By the end of 2008, building permit applications were down nearly a third compared to the previous year. Residential permits showed an even sharper decline. In April 2008 there was a 57 percent decline in the number of permit applications submitted for new residential development compared to the number of such permit applications submitted in April 2007. By December 2008, there were 64 percent fewer applications submitted for new residential development than that seen in December 2007. Similarly, applications for land use reviews are down an estimated 36 percent from FY 2006/2007 to FY 2008/2009.
5. 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 City staff resources from other priority projects.
6. The proposed amendment to Title 33 (Planning and Zoning) will extend the timelines for land use approvals and related actions for a limited period of time (Attachment A of Exhibit 1). By limiting the proposed extension to a limited period, the amendment 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 (or considered at the pre-application conference) continue to be valid at the time the project is built. The longer the period between approval and actual construction, the greater the chance regulations and policies will change. Additionally, substantive changes in the neighborhood surrounding the site are more likely to occur with longer expiration periods. The proposed amendment respects the value of the existing timeframes in the Zoning Code, but acknowledges that the current economic downturn supports extending these timelines for a limited period for this rare event.

Findings on Statewide Planning Goals

7. 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.
8. **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 5, 2009, 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 February 20, 2009, notice announcing the Planning Commission public hearing on this proposed amendment was mailed to all neighborhood associations and district coalitions, applicants who have attended a pre-application conference within the past year, applicants who have a land use approval that will expire shortly, and other interested persons.
 - A notice of the hearing was published in *The Oregonian*, and an article appeared in the *Daily Journal of Commerce*. Notice was also published in the March/April 2009 issue of the *Plans Examiner*, a bi-monthly BDS publication intended to inform the building-design and construction community.
 - Information was posted on the websites of both the Bureau of Development Services and the Bureau of Planning and Sustainability.
 - The proposal was discussed at the Regulatory Improvement Stakeholder Advisory Team (RISAT) meeting on March 5, 2009. RISAT membership includes representatives from neighborhoods, housing providers, developers, the business community, and City bureaus.
 - On March 24, 2009, the Planning Commission held a hearing to discuss and take testimony on the proposed amendment. Staff presented the proposal and public testimony was received. Planning Commission closed the hearing, but as there was not a quorum, the vote on the proposed amendment was delayed until April 14, 2009.
 - On April 14, 2009, the Planning Commission voted unanimously to recommend that City Council adopt the staff recommendation for the proposed code amendment (Exhibit 1).
 - On April 22, 2009, notice announcing the City Council public hearing on the proposed amendment was mailed to those who provided testimony at the Planning Commission hearing, and all district coalitions.

9. **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.
10. **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 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 to City's ability to weather the current economic downturn.
11. **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.
12. **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 three 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.
13. **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

14. The following element of the Metro Urban Growth Management Functional Plan is relevant and applicable to the proposed Zoning Code amendment:
15. **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

16. 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.
17. The following goals, policies, and objectives of the Portland Comprehensive Plan are relevant and applicable to the proposed Zoning Code amendment.
18. **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.

19. **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.

20. **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.
21. **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 to City's ability to weather the current economic downturn.

22. **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.
23. **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.
24. **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.

NOW, THEREFORE, the Council directs:

- a. Adopt the memorandum from the Bureau of Development Services and the Bureau of Planning and Sustainability to the Planning Commission, dated March 13, 2009, which outlines the purpose for the proposed Zoning Code amendment (Exhibit 1); and
- b. Amend Title 33, Planning and Zoning, as shown in Attachment A of Exhibit 1.

Section 2: The Council declares an emergency exists because there should be no delay in the implementation of the proposed amendment; therefore, this Ordinance shall be in full force and effect seven days from its passage by the Council.

Passed by the Council: **MAY 20 2009**

Mayor Sam Adams
Commissioner Randy Leonard

Prepared by:
Douglas Hardy, Bureau of Development Services
April 23, 2009

LaVonne Griffin-Valade
Auditor of the City of Portland
By



Deputy



EXHIBIT 1

MEMORANDUM

Date: March 13, 2009

To: Portland Planning Commission

From: Douglas Hardy, Senior Planner
Bureau of Development Services/Land Use Services Division

Jessica Richman, Senior Planner
Bureau of Planning and Sustainability

Re: Proposed Amendment to the Zoning Code: Extension of Expiration Date for
Land Use Approvals and Related Actions

This memo outlines a proposed amendment to the Zoning Code to extend the expiration date for land use review approvals and related actions, explains the purpose of the amendment, and details the alternatives considered. The Bureau of Planning and Sustainability and the Bureau of Development Services worked together on this project, bringing it forward on a compressed timeline that limited opportunities for in-depth analysis and public discussion, but tried to provide for those to the extent possible.

THE PROBLEM

Portland, like the rest of the state and nation, is facing a significant economic downturn that has directly affected the construction industry. The impacts are reflected in a variety of economic indicators at the state and local level. Housing starts, a freeze in the credit markets, significant decreases in construction employment, and a large decline in the number of applications for building permits and land use reviews are all indicators of the state of our economy.¹

¹ According to the March 2009 *Oregon Economic and Revenue Forecast*, prepared by the Oregon Office of Economic Analysis, housing starts in the State of Oregon declined 48% between 2008 and the peak in 2006-2007, with housing starts estimated to drop another 47% between 2008 and 2009. The decline in housing starts, in combination with a freezing up of the credit markets, has resulted in a 9.2% reduction in the State's construction employment in 2008, with a projected decline of 16% in 2009. The Oregon Office of Economic Analysis forecasts declines in construction employment to continue well into 2010.

The local construction picture reflects that of the State. In April 2008, the number of building permit applications for any type of development submitted to BDS declined 22% compared to April 2007. By the end of 2008, building permit applications were down nearly a third compared to the previous year. Permits for new residential development showed an even sharper decline, with a 57% decrease in the number of such permits submitted compared to the number submitted in April 2007. By December 2008, there were 64% fewer permits for new residential development submitted than that seen in December 2007. Similarly, applications for land use reviews are down 36% from FY 2006/2007 to FY 2008/2009.

Most land use approvals (such as conditional uses, adjustments, land divisions, etc.) and related land use actions expire if a building permit is not issued by a specified deadline or, in some cases, if an application for a land use review is not submitted. These expirations are causing problems for applicants; the problems are directly related to the current economic climate.

The four types of timelines that are causing problems are:

- ❑ *Land Use Review Approvals* expire if a building permit for the project is not issued within three years of the final land use decision.
- ❑ *Pre-Application Conferences*, which are required before submitting many land use review applications, expire one year after the conference is held.
- ❑ *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.
- ❑ *Final Plat Applications* expire if information requested by the City is not submitted within 180 days of the request.

ANALYSIS/IMPACT ASSESSMENT

An impact assessment is conducted for legislative projects to identify and evaluate positive and negative impacts of regulations that are proposed. The impact assessment follows the procedures outlines in the Bureau of Planning and Sustainability's Model Impact Assessment Process.

Issues and Desired Outcomes

The purpose of this project and the proposed amendment is to directly address the current economic downturn by extending the expiration period for land use approvals and related land use actions.

In stable economic conditions, development projects typically can meet the deadlines in the current 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 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. Additionally, conducting such land use reviews for a second time would divert City staff resources from other priority projects.

The goal of the proposed extension is to allow sufficient time for approved projects to weather the current market situation, while also limiting the length of the extension so that conditions and regulations considered at the time of the approval remain valid.

Approaches Considered

More than a dozen solutions were discussed. We finally focused on three principal Zoning Code amendment approaches that we thought would best achieve the desired outcome.

- ❑ *Option 1: Extend the expiration date for land use review approvals and related land use actions for a limited period of time.* The existing expiration periods in the Zoning Code are intended to better ensure that regulations and policies that were applied at the time of land use approval (or considered at the pre-application conference) continue to be valid at the time the project is built. The longer the period between approval and actual construction, the greater the chance regulations and policies will change. Additionally, substantive changes in the neighborhood surrounding the site are more likely to occur with longer expiration periods; the neighborhood characteristics are often considered during land use approvals. Option 1 respects the value of the existing timeframes in the Zoning Code, but acknowledges that the current economic downturn supports extending these timelines for a limited period for this rare event.
- ❑ *Option 2: Permanently change the expiration period for land use review approvals and related land use actions.* This option would change the expiration for all land use review approvals, without a sunset date. For example, land use review approvals would expire in five years instead of three, pre-application conferences would be valid for two years instead of one, and so on. The most significant difference between Option 1 and Option 2 would be that the extensions allowed under Option 2 would be permanent, with no sunset date.

The extensions proposed under Option 2 would not be limited to the current economic downturn, but would be based on a conclusion that the existing timelines are inadequate. We felt that a conclusion this broad would require more analysis and public discussion, as would exploration of the impacts of further delaying the application of new rules and regulations to previously approved projects.

- ❑ *Option 3: Extend the expiration periods on a case-by-case basis if standards or discretionary approval criteria are met.* Option 3 would allow individual applicants to request an extension of the expiration period on a case by case basis. This approach acknowledges that there may be reasons beyond the current economic downturn to consider extensions. Before 1991, Portland had such a process; approvals were generally good for two years, and an additional year could be requested. Because such extensions were always granted, the code was amended to allow approvals to be valid for three years, and deleted the extension process. Many jurisdictions in the Metro area have an extension process. However, they also initially approve land use reviews and related actions for a period of one or two years, and then allow for a one-year extension.

Developing meaningful standards or discretionary criteria for an extension was of concern to us; we would have to develop standards or criteria that would be able to address the positive or negative impacts of granting an extension, that would not be so broad that they would always result in approval, but would not be so narrow that they wouldn't address a wide range of possible situations. We would also need to create a new process for these requests, which would require additional discussions with permitting/service bureaus, and additional consideration of budget impacts. Without

greater input from applicants, neighbors, and those who would review the requests, those goals cannot be met.

The considerable public discussion that is needed to pursue this approach—and the time that would take—in combination with the immediate need to implement extensions for current land use approvals affected by the economic situation, were factors we considered in not recommending Option 3.

Public Involvement

- ❑ On February 5, 2009, 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 February 20, 2009, notice announcing the Planning Commission public hearing on this project and the availability of this memo was mailed to all neighborhood associations and district coalitions, applicants who have attended a pre-application conference within the past year, applicants who have a land use approval that will expire shortly, and other interested persons.
- ❑ A notice of the hearing was published in *The Oregonian*, and an article appeared in the *Daily Journal of Commerce*. Notice was also published in the March/April 2009 issue of the *Plans Examiner*, a bi-monthly BDS publication intended to inform the building-design and construction community.
- ❑ Information was posted on the websites of both the Bureau of Development Services and the Bureau of Planning and Sustainability.
- ❑ The proposal was discussed at the Regulatory Improvement Stakeholder Advisory Team (RISAT) meeting on March 5, 2009. RISAT membership includes representatives from neighborhoods, housing providers, developers, the business community, and City bureaus.

STAFF RECOMMENDATION

Staff of the Bureau of Development Services and the Bureau of Planning and Sustainability recommend Option 1. We ask that the Planning Commission recommend that City Council adopt this memo and amend the Zoning Code to implement Option 1, as shown in Attachment A.

Option 1 extends the expiration date for a limited period of time, and covers only those land use approvals and related land use actions that are most affected by the current economic climate. Generally, these are instances where the applications were filed before the economic downturn. How the proposed Code language would affect the different timelines is summarized below:

- ❑ *Land Use Review Approvals:* Projects that received a land use approval between April 2006 (or three years prior to adoption of this Code amendment) and December 31, 2008 would have until June 30, 2012 to get a building permit for the approved project. The 2012 date was chosen to balance several factors. Staff wanted to pick a date far

enough in the future to allow time for the economy to recover, after which the applicant must secure financing, prepare building plans, and receive a building permit. On the other hand, land use approvals are vested in the zoning regulations in place on the date of initial approval; we did not want to unreasonably delay implementation of newer regulations that might apply to these projects.

- ❑ *Preliminary Plans:* Similar to the timeline identified above, preliminary plans for a land division that received approval between April 2006 and December 31, 2008 would have until June 30, 2012 to file an application for Final Plat approval.
- ❑ *Pre-Application Conferences:* We recommend breaking the expiration approach into two periods. This allows pre-application conferences to remain valid through the duration of the economic downturn while not extending the timeframe to the point where information provided at the conference is outdated.
 - Pre-application conferences held during 2009 would be valid for two years.
 - Pre-application conferences held between April 1, 2007, and December 31, 2008, would be valid until December 31, 2010. We chose the April 2007 date because conferences held that month would have expired in April 2008, which marked the beginning of a substantial decline in applications for land use reviews and building permits.
- ❑ *Final Plat Applications:* For those submitted before December 31, 2009, the applicant would have a year to submit information requested by BDS. This would apply only to applications that have not expired or been voided.

Staff of the Bureau of Development Services and the Bureau of Planning and Sustainability also ask that the Planning Commission direct staff to continue to refine the recommended language as necessary.

**ATTACHMENT A:
Proposed Amendments to the Zoning Code**

Language to be added to the Zoning Code is underlined. Language to be deleted is shown in ~~strike-through~~.

**CHAPTER 33.730
QUASI-JUDICIAL PROCEDURES**

33.730.050 Pre-Application Conference

A - F. [No Change]

G. Time limit.

1. Generally. A pre-application conference is valid for ~~up to~~ one year. If more than one year has elapsed between the date of the pre-application conference and the date the land use review application is submitted, a new pre-application conference is required.
2. Exceptions.
 - a. Pre-application conferences held between April 1, 2007, and December 31, 2008 are valid through December 31, 2010. If a land use review application is not submitted by December 31, 2010, a new pre-application conference is required.
 - b. Pre-application conferences held between January 1, 2009, and December 31, 2009, are valid for two years. If more than two years has elapsed between the date of the pre-application conference and the date the land use review application is submitted, a new pre-application conference is required.

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

- Attachment A: Proposed Amendments to Zoning Code*
Extension of Expiration Date for Land Use Approvals and Related Actions
- March 13, 2009 Page 2

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 [three years before the effective date of this regulation] and December 31, 2008, expire if an application for approval of a Final Plat for part or all of the site has not been submitted by June 30, 2012. 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.
 2. Exception. Final decisions for Preliminary Plans that became effective between [three years before the effective date of this regulation] and December 31, 2008, expire if an application for approval of a Final Plat for part or all of the site has not been submitted by June 30, 2012.
 - 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 ~~three~~ 3 years of approval of the final plat. For final plats approved between [three years before the effective date of this regulation] and December 31, 2008, the improvements must have been made by June 30, 2012.
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 ~~three~~ 3 years of final approval of the PUD or PD. For a PUD or PD receiving final approval between [three years before the effective date of this regulation] and December 31, 2008, the improvements must have been made by June 30, 2012.
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.

**CHAPTER 33.663
FINAL PLATS**

33.663.110 Voiding of Final Plat Application

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

- A. 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
- B.** ~~The applicant has not provided the requested information within 180 days of the date the Director's letter was mailed.~~
- 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.
- B. Exception.** For final plat applications that were submitted before December 31, 2009, the 180 day period identified in B.2, above, is extended to 365 days. This exception applies only to applications that have not expired or been voided as of [effective date of this regulation].