



City of Prineville
DEPARTMENT OF PLANNING & COMMUNITY DEVELOPMENT
STAFF REPORT & PLANNING COMMISSION RECOMMENDATION

Hearing Date: November 24, 2009

Staff: Scott Edelman, Senior Planner

Topic: Amendment to Code of Ordinances to allow additional extensions of land use decisions during times of economic distress

Discussion:

The Prineville Code currently allows a maximum of three one-year extensions of a land use decision. The first extension, if granted, does not impose any additional criteria beyond the conditions stated in the original land use decision. The second and third extensions are only granted if criteria have not changed. In practice, the city has allowed such extensions when criteria have changed as long as the applicant updates the project to meet current criteria.

Generally, three extensions are sufficient to meet the needs of developers without overly burdening the city with tracking and reserving capacity in public facilities. However, the current economic situation has caused many developments to be put on hold indefinitely. For the most part, the land use decisions from the past several years that are still active (meaning project approved but not completed) were applied for and approved under different economic expectations than developers face today.

Therefore, staff is proposing to amend the Code to allow additional time to complete projects. Three options were presented to the Planning Commission for discussion:

Option 1: Allow City Council to pass a resolution declaring a period of economic emergency and authorizing the Planning Director to grant additional extensions within a stated timeframe. The City of Bend has recently implemented a similar policy.

Option 2: Authorize the Planning Commission to grant additional extensions on a case-by-case basis based on general economic conditions. The City of Sisters is in the process of implementing a similar policy.

Option 3: Grant a blanket extension on all active applications to a specific date (such as June 30, 2011). This would extend all applications without the developers having to apply for an extension; however, it would also limit the ability of the city to require projects to be updated to current city standards and/or collect outstanding project fees. The City of Redmond has implemented a similar policy.

Planning Commission Recommendation:

The Planning Commission shall hold a public hearing on the proposed amendment at their regular meeting on November 17. The Commissioners favored Option 2, however, they stated that their role as a land use body should not include matters that have more to do with economic conditions. Therefore, the Planning Commission unanimously voted to recommend Option 2, but with the City Council as the reviewing body rather than the Planning Commission.

ATTACHMENT:

Proposed Ordinance Amending Chapter 153, Section 259 of the Prineville Code

*Note: For the sake of preserving resources, only Section 259 is included in Council packets. At the time of the second reading, the entire amended Chapter 153 will be provided to the Mayor only. For the first reading, the Council Packet includes a color-coded version of the changes. At the second reading, the color-coding shall be removed and only the adopted text will be shown.

City of Prineville

ORDINANCE NO. 1166

AN ORDINANCE AMENDING CHAPTER 153, SECTION 259 OF THE CITY OF PRINEVILLE CODE OF ORDINANCES

WHEREAS, the current Prineville Code limits land use approvals to three one-year extensions beyond the original approval; and

WHEREAS, there are times when general economic conditions are such that additional extensions may be necessary to allow projects to be completed without an unnecessary burden being placed on a developer to re-apply for a previously approved land use; and

WHEREAS, there is currently a development (Tom McCall Subdivision, Phase II) which has a third extension that expires December 15, necessitating this ordinance to be passed by emergency, with two readings by Council but making it effective immediately upon the second reading;

THEREFORE, THE PEOPLE OF THE CITY OF PRINEVILLE ORDAIN AS FOLLOWS:

1. Chapter 153, Section 259 of the Code of Prineville is amended to read as follows:

§153.259 LIMITATIONS ON APPROVALS

- 153.259.010** Expiration of approval
- 153.259.020** Initiation of use
- 153.259.030** Modification of approval
- 153.259.040** Transfer of permit
- 153.259.050** Revocation of approvals

(Ord. 1057, passed 3-24-98; Am. Ord. 1104, passed 5-13-03, Am. Ord. 1137, passed 11-26-2006)

§153.259.010. Expiration of approval.

A. Scope.

1. Except as otherwise provided herein, this section shall apply to and describe the duration of all approvals of land use permits provided for under the City of Prineville Land Development Ordinance and the various zoning ordinances administered by City of Prineville.

2. 153.259.010 does not apply to:

a. Those determinations made by declaratory ruling or expiration determinations, that involve a determination of the legal status of a property, land use or land use permit rather than whether a particular application for a specific land use meets the applicable standards of the zoning ordinance. Such determinations, whether favorable or not to the applicant or landowner, shall be final, unless appealed, and shall not be subject to any time limits.

b. Quasi-judicial map changes.

B. Duration of Approvals.

1. Except as otherwise provided under this section or under applicable zoning ordinance provisions, a land use permit is void one year after the date the discretionary decision becomes final if the use approved in the permit is not initiated within that time period.

2. Except as otherwise provided under applicable ordinance provisions, preliminary approval of plats or master plans shall be void after one year from the date of preliminary approval, unless the final plat has been submitted to the Planning Department for final approval within that time period, or an extension is sought under 153.259.010(C), or the preliminary plat or master plan approval has been initiated as defined herein.

3. In cases of a land use approval authorized under applicable approval criteria to be completed in phases, each phase must be initiated within one year of completion of the prior phase, if no timetable is specified.

C. Extensions.

1. The Planning Director may grant one extension of up to one year for a land use approval or a phase of a land use approval, regardless of whether the applicable criteria have changed, if:

- a. An applicant makes a written request for an extension of the development approval period;
- b. The request, along with the appropriate fee, is submitted to the City prior to the expiration of the approval period;
- c. The applicant states reasons that prevented the applicant from beginning or continuing development or meeting conditions of approval within the approval period; and
- d. The City determines that the applicant was unable to begin or continue development or meet conditions of approval during the approval period for reasons for which the applicant was not responsible, including, but not limited to, delay by a state or federal agency in issuing a required permit.

e. All fees charged to the project have been paid.

2. Up to two additional one-year extensions, may be granted under the above criteria by the Planning Director or his/her designees ~~where applicable criteria for the decision have not changed.~~ with the condition that all plans be brought up to current city standards, including Land Use and Zoning Code requirements and Standards and Specifications.

3. Any additional extensions beyond the three allowed under 1 and 2 above may only be approved by City Council. Such extensions shall be based on the following:

a. All requirements listed for extensions under 1 (a), (b), (c), (e) and 2 above are met.

b. Council determines that, due to unforeseen general economic conditions, reasonable expectations for developing the project in a given timeframe have changed since the date of the original approval. General economic conditions refer to citywide (or broader) conditions, not the specific economic situation of the applicant.

c. The applicant demonstrates that a substantial effort has been made to move the project forward. Evidence of substantial effort shall be evaluated at the discretion of the Council and may include planning, engineering, architectural design, bonding for or construction of public improvements, or other similar demonstrations of economic commitment.

D. Procedures.

1. A determination of whether a land use has been initiated shall be processed as a declaratory ruling.

2. Approval of an extension granted under DCC 153.259.010(c) is an administrative decision, is not a land use decision described in ORS 197.015 and is not subject to appeal as a land use decision and shall be processed under 153.250 as a development action, except to the extent it is necessary to determine whether the use has been initiated.

E. Effect of Appeals. The time period set forth in 153.259.010(B) shall be tolled upon filing of an appeal to LUBA until all appeals are resolved.

2. An emergency is declared to exist and this Ordinance shall go into effect immediately upon passage.

Passed by the City Council this _____ day of December, 2009

Signed by the Mayor this _____ day of December, 2009

Mike Wendel, Mayor

ATTEST:

Steve Forrester, City Manager/Recorder