



Hood River County Community Development

Planning, Building Codes, Code Compliance, Economic Development & GIS

601 State Street, Hood River OR 97031

ERIC WALKER, DIRECTOR
(541) 387-6840 • plan.dept@co.hood-river.or.us

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To: County Planning Commission

From: Eric Walker, Director

RE: Zoning Code Revisions (Permit Approval Periods and Time Extensions)

I. Background

In 2016, the County Board of Commissioners adopted various amendments to the County Zoning Ordinance, including new provisions for permit approval periods and time extensions. These amendments were suggested by staff with the intention of creating a clear and expedited process to evaluate such requests. The criteria that were adopted essentially mimicked the process and policies that had been used historically, but up to that point, not yet codified in the Ordinance.

Since adopting these provisions, the County Planning Department has received three appeals related to permit extensions that have highlighted certain issues with the current provisions. In response, the Planning Commission suggested that staff prepare potential text amendments to the Ordinance for consideration, which are attached to this summary.

On August 12, 2020, the Planning Commission held a work session to consider draft ordinance language. The Planning Commission generally supported the draft ordinance with some minor tweaks. A few questions remain regarding final language, but the Planning Commission was generally supportive of the draft, subject to public input. As a result, a virtually identical copy of the draft ordinance is being provided with many of the same questions and issues highlighted. In addition to the ordinance, as requested, a chart is attached that outlines the current approval and extension periods by zone and suggests certain changes. The chart also includes four related questions and staff's recommendation.

II. Issues:

There are four main components related to the proposed ordinance revisions:

(1) How long should initial approval periods and subsequent time extensions be good for?

Permit approval periods in the farm and forest zones are set by the State in ORS 215.417(1) and OAR 660-033-0140(1). These timelines are 4 years for certain dwelling permits and two years for

most all other permits. Outside of resource zones, approval periods are not mandated by the State, although most counties follow a similar timeline as the State of two years for an initial approval period. This is not, however, universal. For instance, Marion County only gives a 1-year initial approval period, while Coos County gives 5 years.

During its August 12th work session, the Planning Commission generally supported allowing a permit outside of a resource zone to remain valid for up to four years, but were not in full agreement about whether the ordinance should allow an initial 2 year approval with the opportunity for an “automatic” 2-year extension (as currently proposed) or just allow 4 years as part of an initial approval with no “automatic” extension. This issue remains and will need to be decided as part of this process.

Overall, the issue 2+2 or 4 really boils down to personal preference. Arguably, the primary advantage of maintaining the existing 2-year approval period with an automatic 2-year extension is it may encourage the quicker completion of projects. The primary advantages of an initial 4-year approval period are it will reduce the number of extension requests that staff will need to process (*although it is a revenue source*) and will provide some greater flexibility in stretching out projects, especially in cases when property changes hands.

(2) How many extensions should be allowed and under what circumstances?

Like permit approval periods, permit extensions in the farm and forest zones are set by the State in ORS 215.417(2) through (3) and OAR 660-033-0140(2) through (4). In other zones, the County has the flexibility to set their own timelines and criteria for permit extensions. Most jurisdictions allow one or two years and the opportunity for more than one extension if certain criteria are met. The criteria used by other Oregon counties for granting an extension varies, although most contain language, similar to the State’s language, that ties permit extensions (especially multiple extensions) to factors outside an applicant’s control and to changes to the criteria involved.

Staff is current recommending that an initial 2-year extension be granted with limited, non-discretionary approval criteria. The review would be ministerial and “automatic” if requested in writing and on time. Additional extensions would be subject to discretionary standards, which would involve some level of discretion and be open to appeal.

(3) How does an applicant obtain final land use approval?

Most applications are “tentatively approved” subject to meeting various conditions of a permit. For instance, a conditional use permit for a nonfarm dwelling may be tentatively approved, but the applicant will still not be eligible for a building permit for the home until certain requirements are completed, such as obtaining septic approval, recording a deed restriction, and providing a final site plan.

The Planning Department recently had a situation where an applicant filed for a building permit for an approved Lot-of-Record dwelling in advance of the expiration date, but it took a few weeks to process the building permit. A neighbor questioned the County’s issuance of a building permit when the current zoning code language (Section 1.130.A.) says a permit expires “unless a building permit has been *issued*.” Part of the proposed language hopes to address this type of situation and to better codify the Planning Department’s practice of considering a permit valid as long as it is timely submitted and not actually issued.

(4) How does an applicant maintain their permit once final land use approval has been obtained?

The validity of a land use permit after the approval period ends depends on whether the use involves a structure that requires a building permit or not. If the use does not involve a structure, then it is considered final once all applicable conditions are met and the use is appropriately established. If it involves a building, then it will remain valid as long as a building permit is properly obtained, and all building timelines are met up to the point of obtaining final building occupancy.

As part of the August 12th work session, the Planning Commission requested that staff clarify what is meant by “appropriately established” in cases when a subsequent building permit is not required. In response, staff modified the proposed language under Sections 1.130(D)(2) by clarifying that a use becomes established “by initiating activities authorized under the permit.” For example, if the project involved the selling of fruit (*aka farm stand*) that did not involve the use of a building, the County would consider the use “appropriately established” as soon as the applicant demonstrates compliance with all applicable permit conditions and opens the stand and starts selling fruit.

IV. Recommendation

Based on the above information, together with the additional details incorporated as part of the attached chart and draft ordinances, staff suggests that the Planning Commission recommend to the County Board of Commissioners approval of the proposed ordinance amendments related to permit approval period and time extensions.