



PLANNING COMMISSION MEETING

Tuesday, March 27, 2012

6:30 p.m.

Council Chambers

2nd Floor City Hall

1300 NE Village Street

MEETING AGENDA

1. **CALL TO ORDER:** 6:30 p.m.
2. **CITIZENS WISHING TO SPEAK ON NON-AGENDA ITEMS**
3. **ELECTION OF CHAIR AND VICE CHAIR**
4. **WORK SESSION**
 - a) Minor Code Amendment Discussion (L. Nesbitt)
 - b) Dock Regulations Update (L. Nesbitt)
5. **STAFF UPDATES**
 - a) Economic Development
 - b) Parks
 - c) Community Development Activity
 - d) Natural Resource Code Project Update
6. **TENTATIVE AGENDA – April 10, 2012**
 - a) Public Hearing: Adoption of Ordinance 1-2012
 - b) Planning Commission Annual Report to City Council Discussion
 - c) Natural Resource Code Project Update
7. **ADJOURNMENT**

NEXT PLANNING COMMISSION MEETING IS APRIL 10, 2012

Planning Commission hearings are broadcast live on Cable Channel 22. Replays of the hearing are shown on Cable Channel 22, Saturday at 12:00pm and Monday at 2:00pm, and Cable Channel 30 Wednesday at 7:00pm. Further information is available on our web page at www.fairvieworegon.gov or by calling Devree Leymaster, Administrative Program Coordinator, 503-674-6202.

The meeting location is wheelchair accessible. A request for an interpreter for the hearing impaired or for other accommodations for person with disabilities should be made at least 48 hours before the meeting to: Devree Leymaster, 503-674-6202.



PLANNING COMMISSION STAFF REPORT

TO: Fairview Planning Commission

FROM: Lindsey Nesbitt, Senior Planner

DATE: March 27, 2012 Planning Commission Meeting

PROJECT NUMBER: 2012-6-ZC- 2012 Minor Code Amendments
Three minor code amendments to Section 19 of the Fairview Municipal Code.

Action Requested

Review proposed code amendments and provide feedback to staff at the March 27, 2012 Planning Commission Work Session.

Background Information

Staff is proposing three minor amendments to Section 19 of the Fairview Municipal Code.

Amendment 1 – Establish a two year time limit for land use decisions.

The code currently establishes approval time limits for the following application types:

Application Type	Time Limitation
Type I Development Review (building permit review)	1 year with 1 additional year extension
Lot line adjustments	60 days to file with the County and 15 days to return to City. May request 1 year extension.
Preliminary Plat	1 year with two additional 1 year extensions

Final Plat	60-days from city approval
Master Plan Developments	1 ½ years from Comprehensive Plan Approval

The following land use decisions do not have a specified expiration:

- Conditional Uses Permits
- Modifications to approved plans
- Riparian Buffer and Significant Environmental Concern Overlay (soon to be Natural Resource Permits)
- Site Design Review
- Street Vacation
- Telecommunication Facility Permits
- Variances

With the proposed language the land use applications that do not currently have a specified expiration date will be subject to a two year approval limitation. By adding the language to the Municipal Code a condition can be placed on land use applications stipulating an expiration to the approval.

The benefits of time limit clarify when a land use application decision expires. Currently, the city relies on case law and establishment of vested rights to determine whether or not a permit has expired. With clear language, the ambiguity that potentially could be associated with making this determination is eliminated. See Attachment 1, Section 1.

Amendment 2- DLCD Notice Requirements

The state statutes require the City to provide notice to the Department of Land Conservation and Development Commission (DLDC) of any Comprehensive Plan or land use regulation amendments. Previously a 45-day notice was required. However, in January 2012, the Land Conservation and Development Commission adopted a change in rule requiring a 35-day notice to DLCD prior to the first evidentiary.

Section 19.413.040 of the Municipal Code needs to be amended to reflect the notice requirement change from 45 days to 35 days. See Attachment 1, Section 2.

Amendment 3- Accessory structure minimum size limitations

The building code previously did not require permits for accessory structures 120 square feet in area or smaller and 10 feet or less in height. Section 19.30.110(G) mimicked this requirement by providing special setback exemptions for structures that were less than 120 square feet.

Years ago, the building code increased the exempted area for accessory structures from 120 square feet to 200 square feet. However, the municipal code was not amended at the same

time. Staff recommends a code amendment allowing reduced setbacks for accessory structures that are 200 square feet in area or less and less than 10 feet in height to be consistent with the building code as shown in Attachment 1.

Next Steps

Staff will revise the draft code based on feedback from the March 27, 2012 work session. Planning Commission adoption of the code is scheduled for April 10, 2012 and final adoption by the City Council is scheduled for May 16, 2012.

Attachments

1. Draft Code Language

Attachment 1

Draft Code Amendments

Deleted code language is shown below in ~~striketrough~~. New code language is shown in underline.

Section 1

Chapter 19.400

ADMINISTRATION OF LAND USE AND DEVELOPMENT REVIEW

Sections:

19.400.010 Introduction.

19.400.020 Decision-making authority.

19.400.030 Time Limit on Land Use Decisions for Approval

19.400.010 Introduction.

This article specifies application requirements and procedures for obtaining land use permits required for development within the city of Fairview. Table 19.413.050 provides permit and decision-making requirements for land use permit applications. (Ord. 6-2009 § 2 (Att. 1))

19.400.020 Decision-making authority.

This article shall be administered by the community development director or designee.

19.400.030 unless specified elsewhere in Title 19 of the Fairview Municipal Code, the time limit for approvals of all land use decisions shall expire after two years from date of final decision.

Section 2

19.413.040 Type IV procedures (legislative).

A. Type IV matters are considered initially by the planning commission with final decisions made by the city council. Type IV procedures apply to legislative matters and involve the following:

1. Zoning map amendments.
2. Development code text amendments.
3. Comprehensive plan text amendments.
4. Comprehensive plan map amendments.
5. Planned developments.
6. Park master plans.

7. Master plan adoption.

8. Annexations.

B. Required Hearings. A minimum of two hearings, one before the planning commission, and one before the city council, are required for all Type IV applications, except annexations where only a hearing by the city council is required.

C. Public Notification Requirements. Notice of public hearings shall be given by the city in the following manner:

1. At least 30 days, but not more than 40 days, before the date of the first hearing on an ordinance that proposes to amend the comprehensive plan or any element thereof, or to adopt an ordinance that proposes to rezone property, a notice shall be prepared in conformance with ORS 227.175 and mailed to:
 - a. Each owner whose property would be rezoned in order to implement the ordinance.
 - b. Any affected governmental agency.
 - c. Recognized neighborhood groups or associations affected by the ordinance.
 - d. Any person who requests notice in writing.
 - e. For a zone change affecting a manufactured home or mobile home park, all mailing addresses within the park, in accordance with ORS 227.175.
 - f. Any property owner affected by the zone changes where the change in regulations becomes more restrictive than the current regulations shall be notified.
 2. At least 10 days before the scheduled planning commission public hearing date, and 10 days before the city council hearing date, notice shall be published in a newspaper of general circulation in the city.
 3. Metro and the Department of Land Conservation and Development (DLCD) shall be notified in writing of proposed Comprehensive Plan and development code amendments at least ~~45~~ 35 days before the first public hearing at which public testimony or evidence will be received. The notice must be received by Department of Land Conservation and Development no later than 35 days prior to the first evidentiary hearing.
 4. Notifications for annexation shall follow the provisions of this chapter.
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Section 3

G. Accessory Uses and Structures. Accessory uses and structures are of a nature customarily incidental and subordinate to the principal use or structure on the same lot, except for accessory dwelling units. Typical accessory structures in the residential district include detached garages, sheds, workshops, greenhouses and similar structures. (For standards

applicable to accessory dwellings, please refer to subsection B of this section.) All accessory structures shall comply with all of the following standards:

1. **Primary Use Required.** An accessory structure shall not be allowed without another permitted use (e.g., as listed in Table 19.30.020.A) pre-existing or developed simultaneously.
2. **Restrictions.** A structure shall not be placed over an easement that prohibits such placement. No structure shall encroach into the public right-of-way.
3. **Compliance with Land Division Standards.** The owner may be required to remove an accessory structure as a condition of land division approval when removal of the structure is necessary to comply with setback standards.
4. **Buffering.** A minimum four-foot hedge or fence may be required to screen the accessory structure from dwellings on adjacent lots, unless a similar screen is provided or the distance to adjacent dwelling(s) is greater than 50 feet.
5. **Lot Coverage.** Existing lot coverage standards for the applicable district would apply.
6. **Accessory structures are allowed subject to the following standards:**
 - a. Accessory structures must comply with the setback requirements of the main building, except where specifically modified by this section.
 - b. Accessory structures ~~420~~ 200 square feet or smaller must be located behind the front facade of the main building, but may be placed on the site with zero side and/or rear setbacks if in compliance with the Oregon Building Codes.
 - c. No accessory structure shall be erected or maintained and no existing accessory structure shall be altered, modified, converted, enlarged or moved unless such accessory structure is located on the lot in conformance with the following:
 - i. No accessory structure shall be located in a required front yard, nor shall an accessory structure be constructed on a lot which lacks a principal building.
 - ii. If attached to the principal building they shall fulfill the same front, side and rear yard setbacks as required of the principal building.
 - iii. No accessory structure shall encroach onto an easement of record unless detached, portable and written permission has been granted by the entity which is the grantee under the easement.
 - iv. The maximum size of an accessory structure on a lot up to one acre in size is 1,000 square feet. Lots larger than one acre shall have no accessory building size limit except as provided elsewhere in this code. An accessory dwelling unit may be combined with a detached garage as a second level unit on a lot up to one acre in size, provided the floor area of the accessory dwelling unit does not exceed 800 square feet and the floor area of the garage, excluding the accessory unit, does not exceed 1,000 square feet.

v. No accessory structure may be located closer than six feet from any other structure unless constructed to conform with the Oregon Building Codes.

vi. Lot coverage requirements apply to all accessory structures.

vii. Accessory structures situated on a corner lot and detached from the main building shall have a minimum side yard setback of 10 feet, except for accessory structures where private vehicles are stored and have an entrance from the street side yard, where a minimum street side yard setback of 20 feet shall be required.

viii. All accessory structures attached to the principal building shall meet the requirements of the Oregon Building Codes.

d. Accessory structures larger than ~~420~~ 200 square feet must meet the following standards:

i. If located within five feet of the property line accessory structures shall be no more than 10 feet in height.

ii. If located at five feet or more, but less than the setback required for the principal structure, the building may be as tall as the main building or 20 feet in height, whichever is less.

iii. If located at a greater distance from the property line than the setback required for the principal building, the accessory structure may be as tall as the principal structure or 25 feet, whichever is less.

iv. Accessory structures 450 square feet or larger shall be constructed of materials that provide the same appearance, and be of a similar design to the main building.

