

Cooper Mountain Community Plan

EXHIBIT 10.4

Proposed Beaverton Code Amendments

- Commentary is for information only.
- Proposed new language is underlined.
- Proposed deleted language is ~~stricken~~.
- Language that has been skipped is indicated by “***”

Commentary:

This section proposes amendments to add decision expiration time periods for new applications created for Cooper Mountain. The proposed amendments also:

- Add phased Design Review Three projects to the 5-year expiration time period because phased development usually takes longer to complete than non-phased development.
- Revise the expiration time period for Planned Unit Developments, regardless of phasing, to five years from the two-year time period in the existing code. Planned Unit Developments usually are larger, more complex projects that take longer to process and complete. The five-year timeframe is more realistic.
- Remove the THPRD Annexation Waiver from the list because that application and section are proposed for deletion.
- Propose that expiration extensions are not available for applications related to the Resource overlay. See Section 50.93.
- Reorganize application lists in this section to alphabetize the application names.

DEVELOPMENT CODE OF THE CITY OF BEAVERTON

CHAPTER 50 - PROCEDURES

50.90. Expiration of a Decision.

1. Except as otherwise specifically provided in a specific decision or in this Code, a final decision made pursuant to this Chapter shall expire automatically on the following schedule unless the approval is enacted either through construction or establishment of use within the specified time period.
 - A. Five ~~(5)~~ years from the effective date of decision where phasing of the development is proposed:
 - ~~Planned Unit Development (Section 40.15.15.4.)~~
 - Design Review Three (Section 40.20.15.3.)

Preliminary Fee Ownership Subdivision (Section 40.45.15.7.)

Preliminary Subdivision (Section 40.45.15.5.)

Replat Two (Section 40.45.15.3.)

B. Five years from the effective date of decision:

Planned Unit Development (Section 40.15.15.6.)

B.C. Three (3) years from the effective date of decision:

Middle Housing Land Division (Section 40.45.15.10)

C.D. Two (2) years from the effective date of decision:

Accessory Dwelling Unit (Section 40.05.15.1.)

Alteration of a Landmark (Section 40.35.15.1.)

~~Commercial Timber Harvest (Section 40.90.15.4.)~~

~~Conditional Use (Section 40.15.15.4.)~~

Cooper Mountain Tree Plan One (Section 40.91.15.3.)

Cooper Mountain Tree Plan Two (Section 40.91.15.4.)

Cooper Mountain Tree Plan Three (Section 40.91.15.5.)

Demolition of a Landmark (Section 40.35.15.3.)

Design Review Two (Section 40.20.15.2.)

Design Review Three (Section 40.20.15.3.)

~~Single-Detached and Middle Housing Design Review One (Section 40.21.15.1.)~~

~~Single-Detached and Middle Housing Design Review Two (Section 40.21.15.2.)~~

~~Single-Detached and Middle Housing Design Review Three (Section 40.21.15.3.)~~

Downtown Design Review Two (Section 40.23.15.2.)

Downtown Design Review Three (Section 40.23.15.3.)

Emergency Demolition of a Landmark (Section 40.35.15.2.)

Expedited Land Division (Section 40.45.15.9.)

Final Land Division (Section 40.45.15.8.)

Food Cart Pod (Section 40.32.15.2.)

Housing Adjustment (Section 40.10.15.5)

Land Division Housing Plan Amendment (Section 40.45.15.11.)

Major Adjustment (Section 40.10.15.2.)

Major Adjustment - Affordable Housing (Section 40.10.15.4.)

Major Modification of a Conditional Use (Section 40.15.15.24.)

Mass Shelter (Section 40.65.15.1.)

Minor Adjustment (Section 40.10.15.1.)

Minor Adjustment - Affordable Housing (Section 40.10.15.3.)

Minor Modification of a Conditional Use (Section 40.15.15.12.)

~~Planned Unit Development (Section 40.15.15.4.) when there is no phasing to the development~~

New Conditional Use (Section 40.15.15.5.)

Preliminary Fee Ownership Partition (Section 40.45.15.6.)

Preliminary Fee Ownership Subdivision (Section 40.45.15.7.) when there is no phasing to the development

Preliminary Partition (Section 40.45.15.4.)

Preliminary Subdivision (Section 40.45.15.5.) when there is no phasing to the development

Property Line Adjustment (Section 40.45.15.1.)

Public Transportation Facility (Section 40.57.15.1.)

Replat One (Section [40.45.15.2.](#))
Replat Two (Section [40.45.15.32.](#)) when there is no phasing to the development
~~Mass Shelter (Section [40.65.15.1](#))~~
~~Resource Overlay - Development (Section [40.70.15.1.](#))~~
~~Resource Overlay - Alternative Review (Section [40.70.15.4.](#))~~
~~Single-Detached and Middle Housing Design Review One (Section [40.21.15.1.](#))~~
~~Single-Detached and Middle Housing Design Review Two (Section [40.21.15.2.](#))~~
~~Single-Detached and Middle Housing Design Review Three (Section [40.21.15.3.](#))~~
Tree Plan One (Section [40.90.15.1.](#))
Tree Plan Two (Section [40.90.15.2.](#))
Tree Plan Three (Section [40.90.15.3.](#))
~~THPRD Annexation Waiver (Section [40.93.15](#))~~
Variance (Section [40.95.15.1.](#))
Wireless Facility One (Section [40.96.15.1.](#))
Wireless Facility Two (Section [40.96.15.2.](#))
Wireless Facility Three (Section [40.96.15.3.](#))
Zero Side Yard Setback for a Proposed Non-Residential Land Division (Section [40.30.15.1.](#))

~~D-E.~~ One (1) year from the effective date of the decision:

~~Cooper Mountain Tree Removal One (Section [40.91.15.1.](#))~~
~~Cooper Mountain Tree Removal Two (Section [40.91.15.2.](#))~~

Design Review Compliance Letter (Section [40.20.15.1.](#))
Downtown Design Review Compliance Letter (Section [40.23.15.1.](#))
Food Cart Pod Modification (Section [40.32.15.1.](#))
Home Occupation One (Section [40.40.15.1.](#))
Home Occupation Two (Section [40.40.15.2.](#))
Loading Determination (Section [40.50.15.1.](#))
Parking Requirement Determination (Section [40.55.15.1.](#))
Shared Parking (Section [40.55.15.2.](#))
Sidewalk Design Modification (Section [40.58.15.](#))
Signs (Section [40.60.15.1.](#))
Use of Excess Parking (Section [40.55.15.3.](#))

~~E-F.~~ 365 days from the effective date of the decision:

Legal Lot Determination (Section [40.47.15](#))

~~F-G.~~ No expiration date:

Director's Interpretation (Section [40.25.15.1.](#))
Discretionary Annexation Related Zoning Map Amendment (Section [40.97.15.4.](#))
Legislative Zoning Map Amendment (Section [40.97.15.2.](#))
Non-Discretionary Annexation Related Zoning Map Amendment (Section [40.97.15.3.](#))
Quasi-Judicial Zoning Map Amendment (Section [40.97.15.1.](#))
~~Resource Overlay - Boundary Correction Type 1 (Section [40.70.15.2.](#))~~
~~Resource Overlay - Boundary Correction Type 2 (Section [40.70.15.3.](#))~~
Street Vacation (Section [40.75.15.1.](#))
Text Amendment (Section [40.58.15.1.](#))
[ORD 4265; October 2003] [ORD 4332; January 2005] [ORD 4388; May 2006] [ORD 4397; August 2006]

[ORD 4487; August 2008] [ORD 4498; January 2009] [ORD 4584; June 2012] [ORD 4662; September 2015]
[ORD 4758; March 2019] [ORD 4799; January 2021] [ORD 4822; June 2022] [ORD 4838; March 2023]

2. The effective date of the decision for Type 1, Type 2, Type 3, or Expedited or Middle Housing Land Division applications, which do not require an ordinance adoption, shall be the date that the city's written decision is dated and mailed, unless appealed. If a Type 1, Type 2, Type 3, or Expedited or Middle Housing Land Division application is appealed, the effective date of the decision shall be the date of the appellate decision making authority's signed land use order is dated and mailed. The effective date of decision for a Type 4 or Type 3 application requiring ordinance adoption is thirty (30) calendar days after the City Council votes to approve or deny the ordinance, unless an emergency is declared in which case the ordinance is effective immediately upon signature of the Mayor. [ORD 4822; June 2022]
3. For a project that contains multiple applications approved concurrently, the expiration date for all these applications shall be on the latest expiration date. [ORD 4782; April 2020]
4. A decision shall expire according to Section 50.90.1 unless one of the following occurs prior to the date of expiration:
 - A. An application for an extension is filed pursuant to Section 50.93.; or
 - B. The development authorized by the decision has commenced as defined herein.
 1. The use of the subject property has changed as allowed by the approval;
 2. In the case of development requiring construction, a construction permit has been issued and substantial construction pursuant thereto has taken place; or
 3. In the case of development authorized to be done in phases, each phase must be commenced within the time specified in the approval, or within two (2) years of completion of the prior phase if no time is specified.
 4. The 45 day to five (5) year time begins from the effective date of the decision. Appeal of a decision to LUBA does not extend the time.
5. Because of the COVID-19 crisis, the time period for final decisions to expire shall be tolled from March 13, 2020 until December 31, 2021. For purposes of this section, "toll" means to stop the running of the time period, resulting in an automatic time extension. [ORD 4805; August 2021]

[ORD 4224, 09/19/2002; ORD 4265, 10/09/2003; ORD 4302, 06/10/2004; ORD 4332, 01/01/2005; ORD 4365, 10/20/2005; ORD 4388, 05/18/2006; ORD 4397, 08/10/2006; ORD 4430, 04/19/2007; ORD 4487, 08/21/2008; ORD 4498, 01/15/2009; ORD 4584, 06/01/2012; ORD 4662, 09/11/2015; ORD 4758, 03/22/2019; ORD 4782, 04/17/2020; ORD 4799, 01/08/2021; ORD 4805, 08/20/2021; ORD 4822, 06/30/2022; ORD 4838, 03/09/2023]

Effective on: 3/9/2023

50.93. Extension of a Decision.

1. An application to extend the expiration date of a decision made pursuant to the Development Code may be filed only before the decision expires as provided in Section 50.90. or before the decision expires as provided in the appropriate subsection of the specific application contained in CHAPTER 40 (Applications). [ORD 4584; June 2012]
2. The following land use decisions are not subject to extensions of time: Director's Interpretation (Section 40.25.), Home Occupation (Section 40.40.), Expedited Land Division (Section 40.45.15.9.), Preliminary Middle Housing Land Division (Section 40.45.15.10.), Loading Determination (Section 40.50.), Parking Requirement Determination (Section 40.55.15.1.), Shared Bicycle Parking (Section 40.54.15.2.), ~~Use of Excess Parking (Section 40.54.15.3.)~~, Sign (Section 40.60.), Resource Overlay - Boundary Correction Type 1 (Section 40.70.15.2.), Resource Overlay - Boundary Correction Type 2 (Section 40.70.15.3.), Temporary Mobile Sales (Section 40.80.15.1.),

Temporary Non-Mobile Sales (Section 40.80.15.2.), and all Zoning Map Amendment (Section 40.97.) applications. [ORD 4544; July 2010] [ORD 4822; June 2022]

3. A land use decision may be extended no more than two (2) times.
4. Extension of a land use decision for an application not listed in Section 50.93.2. may be granted for a period of time not to exceed two (2) years, will be subject to a Type 2 review procedure, and must be found to be consistent with the approval criteria listed in Section 50.93.6. [ORD 4544; July 2010]
5. Extension requests shall provide mailed public notice to those parties identified in Section 50.40.2. In addition, the notice shall be mailed to the parties of record contained in the initial land use decision and any prior extension of time decision. [ORD 4544; July 2010]
6. In order to approve an extension of time application, the Director shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied: [ORD 4365; October 2005] [ORD 4809; September 2021]
 - A. It is not practicable to commence development within the time allowed for reasons beyond the reasonable control of the applicant.
 - B. There has been no change in circumstances or the applicable regulations or Statutes likely to necessitate modification of the decision or conditions of approval since the effective date of the decision for which the extension is sought.
 - C. The previously approved land use decision is not being modified in design, use, or conditions of approval.

[ORD 4483; June 2008]

[ORD 4224, 09/19/2002; ORD 4365, 10/20/2005; ORD 4483, 06/05/2008; ORD 4532, 04/01/2010; ORD 4544, 07/22/2010; ORD 4584, 06/01/2012; ORD 4809, 09/16/2021; ORD 4822, 06/30/2022]

Effective on: 6/30/2022