



# STAFF REPORT

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**Meeting Type:** City Council  
**Meeting Date:** May 20, 2024  
**From:** Kelly O'Neill Jr., Development Services Director  
**Subject:** Ordinance 2024-09: Land Use Approval Extension Ordinance (File No. 24-020)

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## **DECISION TO BE MADE:**

Whether to adopt an ordinance to allow land use approval extensions.

## **BACKGROUND / CONTEXT:**

In the interest of mitigating, to the extent possible, the impacts of the current sanitary sewer moratorium and consent decree on developments (for which applications for land use approval were submitted prior to the establishment of the initial moratorium, and which are currently approved), staff developed the proposed approval extension ordinance. Although the City is working diligently to address the underlying causes of the sanitary sewer moratoria, the ultimate duration of the moratoria remains unknown. The City recognizes that property owners who submitted applications for land use approval prior to the initial moratorium invested significant resources into those approvals and the land use approvals for several of these projects now run the risk of expiring.

It would be fair and equitable to allow for the extension of the expiration date of those land use approvals in order to allow those developments to proceed through construction to the extent possible under the consent decree and development moratoria. Allowing extension of such approvals will stimulate responsible and needed development activity in the city to the extent possible under the consent decree and moratoria, help address the state's current housing crisis, enable property owners to recoup their investments, and avoid the staff time necessary to review these projects again if land use approvals were to expire and if new approvals were required.

## **KEY CONSIDERATIONS / ANALYSIS:**

An owner whose property has received land use approval based on an application that was submitted prior to October 3, 2022 may apply for and be granted a one-year extension of the expiration date of such approval. If approved, one year will be added to the current expiration date of the land use approval. This extension is in addition to any other extension that may be available under the Sandy Municipal Code. The Development Services Director will review and approve an extension request pursuant to a Type I process under Sandy Municipal Code section [17.12.10](#).

On April 22, 2024, the Planning Commission held a legislative hearing, received public testimony, and discussed a few modifications to the ordinance that could be considered. Based on testimony it was the Planning Commission's understanding that some of the developments with approval may need a two-

year extension to satisfy their lenders and to construct the project. In response to the testimony and Planning Commission's stated desire to create an equitable and just process, staff provided a few options to allow developers to request a two-year extension. The Planning Commission liked the options as presented by staff and requested that staff and the City Attorney add an additional section to the draft ordinance for a two-year extension option.

### Two Ordinance Options

The 'unmodified' ordinance that was originally presented to the Planning Commission is the ordinance being presented in the legislative hearing, but staff and the City Attorney have prepared some modifications based on feedback from the Planning Commission which the City Council can consider. The modifications are in the 'alternative' ordinance and are in Section 2.

The modified 'alternative' ordinance includes the following:

The period of the extension described in Section 1 shall be two years rather than one year if requested by the applicant and the request meets at least one of the following additional criteria:

1. The applicant submits a letter from a third-party lender or other third-party source of project financing stating that an extension period of two years is necessary in order for the third party to agree to finance the development.
2. The land use approval is for a complex development, defined for purposes of this Section 2 as a development which will consume more than thirty (30) ERUs, calculated as set forth in the consent decree for the City of Sandy entered in the U.S. District Court for the District of Oregon on September 11, 2023, and based on:
  - a. For land use decisions where a specific number of ERUs can be calculated based on the terms and conditions of the approval (e.g. unit count, unit type, approved use), the number of ERUs so calculated.
  - b. For all other land use decisions, 1 ERU per lot or parcel, excluding lots and parcels which are dedicated or restricted to use as open space, common areas, water quality facilities, or similar.

Any land use approval which receives a two-year extension under this Section 2 shall be ineligible for modification under Section 17.90.80 of the City of Sandy Development Code for a period of three (3) years commencing on the date the extension application is submitted, unless such modification reduces the number of ERUs associated with the project, as calculated pursuant to this Section 2.

### Further Information

An application for extension will need to include a completed Land Use Application Form, payment of fees in the amount of \$530, and a written narrative. Notice of this proposed ordinance was provided to the Department of Land Conservation and Development on March 6, 2024, published in the Sandy Post on April 10, 2024, and staff also sent email notice to affected developers. As of publication of this staff report the City received one letter of support (Attachment A) for this extension ordinance. This extension ordinance is a legislative amendment and has been reviewed for conformance to its applicable Statewide Planning goals as included in the ordinance findings, including Goals 1, 2, 10, 11, and 12.

**RECOMMENDATION:**

Staff recommends that the City Council review Ordinance No. 2024-09 and the associated findings, conduct a legislative public hearing, and adopt the ordinance.

If the City Council wishes to include the modifications from Section 2 of the 'alternative' ordinance (the two year extension), then the City Council could include the addition of Section 2 in the motion to approve the reading of the ordinance.

**SUGGESTED MOTION LANGUAGE:**

"I move to approve the first reading of Ordinance 2024-09 *[including the 'Section 2' language from the alternative ordinance].*"

**LIST OF ATTACHMENTS / EXHIBITS:**

- Ordinance No. 2024-09 for adoption of Land Use Approval Extension
  - Exhibit A. Ordinance No. 2024-09 Findings
- 'Alternative' Ordinance No. 2024-09 with the addition of Section 2.
- Attachment A. Letter from Next Adventure
- Attachment B. Letter from Garrett Stephenson
- Attachment C. Letter from SGS Development
- Presentation Slides