

SULTAN CITY COUNCIL AGENDA ITEM COVER SHEET

ITEM NO: D-2

DATE: March 11, 2010

SUBJECT: Economic Stimulus – Permit Extensions and Impact Fee Payments

CONTACT PERSON: Deborah Knight, City Administrator

ISSUE:

The issue before the city council is to provide direction to staff on next steps to implement short-term changes to the city's zoning and land division codes to offer relief and economic stimulus during the recession.

STAFF RECOMMENDATION:

Direct staff to work with the planning board to make recommended amendments the Sultan Municipal Code to allow:

1. An additional 2-year extension to "active" preliminary and final plats and planned unit developments (PUDs) set to expire in 2010/2011 with approval of a developer agreement.
2. Applicants for a single-family residential building permit for a lot within a subdivision or short subdivision prior to July 1, 2012, to record a covenant with the assessor against the title before permit issuance to allow the applicant to pay park and transportation impact fees at certificate of occupancy.

SUMMARY:

This issue was a discussion item on January 28, 2010 and February 11, 2010. The city council considered a number of different issues relating to park impact fees, transportation impact fees and utility connection fees. The council gave policy direction in two areas:

1. Allow additional 2-year extension to "active" preliminary plats/PUDs, set to expire in 2010/2011, with council approval of a developer agreement. This action will provide time for the housing market to continue to recover and potentially for the developer to build homes or market the property to another builder.
2. Implement a short-term (2 year) pilot project during which time the city would allow developers to postpone payment of park impact fees (\$3,175) and

transportation impact fees (\$5,272) for single family residential homes until certificate of occupancy. Impact fees would be due at building permit application unless the builder records a covenant (lien) with the assessor prior to permit issuance.

The policy would sunset on June 30, 2012 unless the council took action to extend the sunset date or make the change permanent.

The proposed policy could affect five code sections:

1. SMC 16.10.150 – Expiration of preliminary Planned Unit Development (PUD)
2. SMC 16.10.200 – Expiration of final PUD
3. SMC 16.28.210 – Compliance with conditions of approval for a short-plat (no active short-plats, will not apply)
4. SMC 16.28.350 – Term of preliminary plat approval including those connected to PUDs
5. SMC 16.112.060 – Collection of impact fees

DISCUSSION:

Affected Developments

The proposal is to limit the changes to active preliminary and final plats/ and Planned Unit Developments (PUDs).

The ordinance would not apply to expired preliminary or final PUDs/plats or preliminary or final PUDs/plats filed after either a date specific (e.g. January 1, 2010) or the effective date of the ordinance as recommended by the planning board

The proposed ordinance would not apply to the most recently approved preliminary PUD extension which will expire on April 10, 2010 unless the applicant files the necessary final PUD materials as described in SMC 16.10.150.

The proposed ordinance would not apply to the most recently filed application for a PUD, accepted by the city in November 2009, since the applicant has not completed the necessary steps for a preliminary PUD. The PUD is not yet considered “active” since it has not received council approval.

State Legislative Efforts

The Master Builders Association has been advancing ESSB 3067 requiring cities in King and Snohomish counties that collect impact fees to allow residential builders to require homebuyers to pay the impact fees at closing vs. builders paying when applying for a permit. As amended in a Senate Committee, it also relieves escrow companies of liability if the fees aren't paid. The status of the bill was uncertain at the time this agenda cover was prepared for the city council. Attachment B is an Everett Herald article from Thursday, March 3, 2010 on the proposed measure.

Next Steps

City staff recommend the city council move the issue, as framed by the council, to the planning board to develop specific language within the development code and seek public input as outlined in the city's public participation procedures.

Since this is a proposed change to the development regulations, the city will need to issue a State Environmental Policy Act (SEPA) determination. A SEPA determination requires a review by the Department of Commerce followed by a 60-day comment period.

BACKGROUND:

This discussion is focused on short-term changes to the city's code for economic stimulus. This is not a discussion of vesting impact fees or transportation credits for frontage improvements.

In 2009, the City of Sultan addressed plat extensions needed to keep projects active during the economic downturn by negotiating and approving developer agreements. The council approved planned unit development (PUD) extensions for Caleb Court and Greens Estates. The city is working with the Hammer bankruptcy attorney to extend the Hammer PUD. The Vodnick project manager was contacted about extending the preliminary PUD approval but never responded.

By entering into a developer agreement, the council is not setting precedent that all other developments will be automatically extended. The developer agreement mechanism provides the developer an opportunity to validate compliance with the code standards as provided by in the Sultan Municipal Code.

In response to the present economic conditions, other cities in the region have been adopting short-term revisions to zoning and land division codes to offer relief and economic stimulus during the recession.

Attachment A is a table prepared by the Master Builders Association of King and Snohomish Counties summarizing permit extension ordinances.

The City of Sammamish also addressed the point of collection for impact fees. In lieu of the current impact fee payment schedule where 100% of the fees are due at building permit issuance, any fees remaining to be paid at time of issuance of the permit for the lot could be deferred until sale of the lot or residence, with the fee paid through escrow. The builder records a covenant with the assessor prior to permit issuance.

The council should note that each of the reported ordinances has a "sunset" date. Meaning, the ordinances are specifically designed to address the current recession. The economic stimulus ordinances are not intended as a permanent change to the city's

code. Adopted building permit extensions, plat extensions and the timing of impact fee payments at certificate of occupancy expire in December 2010 or December 2011.

FISCAL IMPACT:

There are pros and cons associated with the decision to adopt a permit extension or the point at which impact fees are collected. This is the reason why the vast majority of the cities have adopted short-term changes necessary to stimulate the economy.

The intent of adopting these types of ordinances is to provide short-term relief and get homebuilders and developers moving again. This is balanced against the need to ensure that in the long-run, after the economy has recovered – the requirement to move projects along and not tie up land and staff resources is necessary.

City staff have some specific concerns about tracking the payment of impact fees through certificate of occupancy. Council needs to ensure whatever system is adopted can be efficiently implemented by city staff with a minimum level of paperwork for both the developer and the city.

A decision by the city council to fundamentally change the land division code should be carefully considered and analyzed prior to implementation.

RECOMMENDED ACTION:

1. An additional 2-year extension to active preliminary and final plats and planned unit developments (PUDs) set to expire in 2010/2011 with approval of a developer agreement.
2. Applicants for a single-family residential building permit for a lot within a subdivision or short subdivision prior to July 1, 2012, to record a covenant with the assessor against the title before permit issuance to allow applicants to pay park and transportation impact fees at certificate of occupancy.

ATTACHMENTS:

A – Master Builders Association Permit Extension Ordinances

B – Everett Herald Article (3/3/2010) Fees: Cities Oppose Measure

Master Builders Association of King & Snohomish Counties
Economic Stimulus – Permit Extension Ordinances
Last Updated: 2/19/2010

County	Permit Extensions	Short Plats	Plats	Passage Date	Effective Date	Sunset Date	Notes	GA Manager
King County	Also includes 1-year extension for building permits.	Extension to 7-years	Extension to 7-years	5/11/09	Now in effect	12/31/11	Applies to permits approved between 12/1/03-1/1/10	David
Snohomish County	Short Plat and Subdivision extensions approved. Building permit extension ordinance forthcoming.	Up to 3-year extension	Up to 3-year extension	6/3/09	Now in effect	12/31/2010	Upon request once fees are paid	Mike
	Bond Reform Passed			8/26/09	Now in effect	None	Performance and Warranty Bonds Lowered from 150% to 110%	Mike
Snohomish County	Building Permit Extensions			2010		12/31/2010	Council action January of 2010	Mike
Pierce County	2-year extension for active building permits, vesting rights, land use, subdivision, and other development applications & approvals.	2-year extension	2-year extension	12/2/08	1/1/09	7/1/09	Requests must be submitted between 1/1/09 and 6/30/09	Pierce County MBA

SC - Cities	Permit Extensions	Short Plats	Plats	Passage Date	Effective Date	Sunset Date	Notes	GA Manager
Bothell	Plats, building, grading, CUP, PUD, bond rate changes. Retroactive to June 1, 2008, sunsets December 31, 2010 Part of 2009 Comp Plan Docket	12- month extension	12- month extension	7/21/09	6/1/08 (retroactive)	12/31/10	Critical area bonds reduced from 5 years down to 3 years.	Jennifer
Edmonds	Building Permits now valid for 360 days + 360 day extension. Looking at permanently removing landscaping bonds, extending design review and reducing parking standards.	Extend design review from 18 to 30 months or allow two 1-year extensions	-	10/28/08	11/7/08	11/7/10	Building permit progress inspections waved when extension is requested	Jennifer
Everett	Extended short plats + binding site plans to 5 years + 1 year extension. Previously, both short plats and binding site plans were only valid for 3 years, with no extension.	5 + 1	5 + 1	11/25/09	Now in effect	-	11/9/09 1 st reading 11/25/09 final action	Jennifer
Everett	Process II + III Land Use Approvals now valid for 24 months + two 1-year extensions.	-	-	3/4/09	3/24/09	12/31/11	Must request in writing within first 24 months	Jennifer
Lynnwood	Applies to ADU, CUP, design review, variance and short	2+1-year	valid 5 years	2/8/2010	2/		Request by 3/30/2010	Jennifer

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	plats.	extension						
Mill Creek	Mayor has expressed support.	In progress	In progress	tbd	tbd	tbd	7/28/09 study session	Jennifer
Monroe	3-year plat extensions and 2-year zoning code extensions. Council to discuss reactivating expired permits 1/5/2010	3- year extension	3- year extension	8/4/09	9/06/09	9/6/10	Must request in writing	Jennifer
Snohomish	Planning Commission voted for extensions at 12/2 meeting. Proposed 3 year extension for plats + short plats.	3-yearly extensions	3-yearly extensions	2/2/2010	Now in effect	1/1/2013	Request 60-150 days prior to expiration	Jennifer
Sultan	Mayor expressed support, MBA sent examples. Currently city reviews each expiring plat on a case-by-case basis.	Case by case	Case by case	-	-	-		Jennifer
Marysville	Plats, short plats, building permits and conditional use permits all included.	Proposed 36-month extension	Proposed 36-month extension	7/27/09	Now in effect	12/31/11	Passed Planning Commission 6-23-09	Mike
Marysville	School Impact Fees – Discount Rate increased to 50%			12/15/09	Now In effect	None	Passed City Council 6-1	Mike
Arlington	Impact Fee Deferral – Change from application to building permit. MBA advocating even later – point of sale						Currently at Council Workshop level	Mike

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KC - Cities	Permit Extensions	Short Plats	Plats	Passage Date	Effective Date	Sunset Date	Notes	GA Manager
Auburn	Previously, a building permit was good for two years with no possibility to extend that time. Two years remains the time a building permit is viable, but now six-month extensions will be allowed through a request in writing after two years.	Administrative	Administrative	Sept	Oct	-	Upon Request	Garrett
Federal Way	Extensions approved to 5-years with potential to extend further	9 units or less	Complete	Oct	Oct	-	SEPA thresholds raised to state maximums Traffic impact fees collected at sale	Garrett
Kent	2-year extension, automatic; 4-years total	2-year extension, automatic; 4-years total	Currently 4 years total	4/09	4/09	12/31/10	Kent wants to implement projects with new development standards. The 4-year total remains, vesting done next year.	Garrett
Renton	2-year extension, automatic	2-year extension, automatic	Building permit extension on request; administrative	3/09	3/09	-	Upon request	Garrett
Seattle	Administrative for most extensions. Council approved extensions to all Master Use Permits in August from 3 to 6 years upon request.	Administrative	Upon request, once fees are paid	8/09	9/09	1/1/2011	Master Use Permits extended to 5 years	Garrett
Issaquah	Administratively extending building permits through 2009	1-year extension	1-year extension	4/6/2009	Now in Effect	None	Permanently adds an optional one year extension to Issaquah's development code	David
Kirkland	Building and grading permits & applications	Discussing, no draft language written yet	Discussing, no language written yet	4/7/09	Now in Effect	None	Good for building permits approved 9/1/06 - 1/1/10 & LSM permits approved 9/1/07 - 1/1/10	David
Redmond	Building permits are being extended administratively, no ordinance needed to extend	2-year extension	X	6/2/09	Now in effect	12/2/09	Emergency ordinances extended plats to 7	David

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							years and moved point of collection of impact fees to cover inspection. These changes have gone to public hearing and are fully implemented.	
Kenmore	Building Permits extended by 1 year by ordinance	2-year extension	2-year extension	11/23/09	Late November, 2009	N/A	This ordinance applies to all preliminary plats and permits that were active (not expired) on the date of passage of the ordinance.	David
Sammamish	Addresses point of collection for Impact Fee's	N/A	N/A	7/21/09	Now in effect	12/30/09	Park and Transportation Impact fees can now be collected at point-of-sale if an agreement is signed by the builder and city. Fees will be paid out of the proceeds of the sale.	David
Sammamish	Building permits granted one 12 month extension and permits that have expired up to 18 months ago reestablished	Permanent 2-year extension	Valid for 7-years	3/17/09	Now in effect	None	Good for all plats, short plats and bldg permits approved 1/1/04-1/1/10	David
Newcastle	Proposal to extend preliminary plats, approved engineering permits and change point of collection of impact fees to final inspection or Certificate of Occupancy	2-year extension	2-year extension	2/2/2010	Now in effect	12/31/10	Passed council 7-0	David
Kirkland	We've discussed a proposal to move Impact Fee collection to point-of-sale with elected officials.						Would be based on the Sammamish ordinance	David

To spur construction, builders seek delay to pay impact fees

By *Jerry Cornfield*

Herald Writer

March 3, 2010 OLYMPIA — An effort by a powerful builders group to spur construction of homes in Snohomish and King counties is running into opposition from cities and out of time in the Legislature.

The Master Builders Association of King and Snohomish Counties wants state law changed to allow developers to wait to pay required fees for parks, roads and schools until after selling a new home rather than when permits to build it are obtained.

A bill trying this out in Snohomish and King counties as a pilot program easily cleared the House of Representatives last month.

But it is languishing in the Senate and in danger of dying Friday. That's fine with opponents who have stepped up the pressure on senators who must pass the bill in some form by 5 p.m. Friday when it would expire.

"From a city perspective, this is not a good venture," said Marysville Mayor Dennis Kendall.

"The reason we collect those fees is to be sure work is done prior to the completion of the houses. If we don't get that money upfront, we'll have to pay. I don't have the money to, say, put in sidewalks before houses are built so they won't get done."

Builders say they don't have the money either.

Today a builder is required to fork out hundreds and maybe thousands of dollars in fees per home before a spade of dirt is turned.

In the recession, as credit tightened, many developers can't afford the fees and don't build, said Scott Hildebrand, director of public policy for the association. By pushing back the payments due date, development activity could accelerate and bring cities the benefit of jobs and tax revenues that are not now occurring, he said.

"At its heart, it really is an economic development bill," he said. "People will have to do things a little differently, but I don't think it will be a big burden."

Sen. Jean Berkey, D-Everett, helped advance the legislation into the Senate Rules Committee where it has sat the past week.

"Construction has grounded to a halt. To me, this was an opportunity where we can try to help the construction industry," she said.

Leaders of Everett, Marysville and Arlington, a handful of school districts, and the Association of Washington Cities are staunchly opposed. They need those fees to make improvements such as paving roads, installing stoplights, creating parks and making school improvements.

The amount at stake varies as fees charged by Snohomish County and each city charges differ.

Everett, for example, levies only a road fee of \$900 for a single-family dwelling. In Marysville there is a traffic fee of \$6,300 and parks fee of \$1,200. The city also collects money on behalf of three school districts. Last year, Marysville garnered a total of \$1.5 million in fees, two-thirds of which went to the schools.

Kendall noted many cities don't have the money and would have to wait months for receipt of the fees.

Civic leaders also worry about the potential difficulty of tracking down the money if it is not paid.

The intent of the bill is for the fees to be recorded as a lien or covenant on a title and paid at the time of closing. Cities and counties aren't typically notified of escrow closures and would need to monitor the transactions to make sure they get their money.

"Our opposition is largely based on the fact that we do not have the ability to track these covenants on a parcel by parcel basis," Arlington assistant city administrator Kristin Banfield wrote in a letter to state legislators.

"This legislation would require us to modify our permitting system at a significant cost, which given our current budget constraints would be difficult to fund," she wrote.

City officials said they could become collection agents and wind up in court to extract payment from delinquent builders, title companies or home buyers, whoever is identified as the responsible party in the bill.

State law already allows cities and counties do this if they choose, and the city of Sammamish has been trying it out. Hildebrand said it's been going well in that city.

Rep. Dan Kristiansen, R-Monroe, who voted against the bill, said there's not been enough activity in Sammamish to determine if this change in the law is merited.

"Why would we put a mandate out there if we don't know if it works," he said. "If you do it wrong, it's going to be a problem."

The proposed legislation is House Bill 3067.