

SULTAN PLANNING BOARD AGENDA COVER SHEET

ITEM NO: A-1

DATE: April 6, 2010

SUBJECT: Set a Public Hearing - Permit Extensions and Impact Fee Payments

CONTACT PERSON: Deborah Knight, City Administrator

ISSUE:

The issue before the Planning Board is to set a Public Hearing for April 20, 2010 to amend the Sultan Municipal Code Development Regulations 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:

Per City Council direction to the Planning Board on March 11, 2010, amend 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.

Direct Staff to set a Public Hearing on April 20, 2010 to consider proposed Amendments to the Sultan Municipal Code.

SUMMARY:

This issue was a discussion item at City Council meetings on January 28, 2010, February 11, 2010 and March 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/PUD’s, 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. Attachment B outlines proposed changes to the Sultan Municipal Code:

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 (Note – there are no active Short-Plats at this time)
4. SMC 16.28.350 – Term of Preliminary Plat approval including those connected to PUD’s
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 (PUD’s).

The Ordinance would not apply to expired Preliminary or Final PUD’s/Plats or Preliminary or Final PUD’s/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 was unsuccessful in advancing ESSB 3067 which would have required 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.

Next Steps

City Staff recommend the Planning Board direct Staff to set a Public Hearing on April 20, 2010 to consider proposed Amendments to the Sultan Municipal Code.

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

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. The Planning Board and City Council need 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 (PUD's) 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.
3. Direct Staff to set a Public Hearing on April 20, 2010 to consider proposed amendments to the Sultan Municipal Code.

ATTACHMENTS:

- A – March 11, 2010 Council Meeting Minutes
- B - Proposed Amendments to Sultan Municipal Code
- C - Master Builders Association Permit Extension Ordinances

16.10.150 Expiration of preliminary PUD.

A. For preliminary PUD approvals for which a master phasing plan has not also been approved pursuant to SMC [16.10.040](#), an applicant shall file an application for a final PUD approval with the city within 12 months from the date of preliminary PUD approval by the city council. This period shall automatically be tolled for any period of time during which a court appeal is pending.

B. The hearing examiner may authorize one additional 12-month extension for filing a final PUD application if the hearing examiner finds that such extension is consistent with the approval criteria required for each project and that no new information or change in circumstances justifies changing the city's previous preliminary PUD approval.

1. Effective until July 1, 2012, a one-time, 24-month time extension may be granted by the Hearing Examiner in lieu of or in addition to the one-time 12-month extension following the procedures set forth in 16.10.150 (A) for any unexpired preliminary PUD approved prior to July 1, 2010, provided, however, that no more than one-time extension may be valid at any time for a preliminary PUD. Further provided, in no case shall more than two-time extensions be granted to any preliminary PUD. The extension shall be calculated from the expiration date of any previously approved time extension.

2. In order to receive the extension, the applicant shall submit a written request for a developer agreement and extension to the community development director at least ninety days (90-days) prior to the date upon which the preliminary PUD would otherwise expire. Upon receipt of a written extension request, the community development director shall notify the applicant in writing of the expiration of the initial 12-month extension and the granting of the 24-month extension including the date on which this extension expires. Failure to submit an extension request prior to the expiration date of the preliminary PUD shall result in the preliminary PUD being deemed expired.

C. A phasing plan shall accompany the master plan, for developments where a general master plan for the entire project provides for the project to be constructed in phases. The phasing plan shall describe the general boundaries of each phase and the expected date at which a detailed site plan or subsequent preliminary and final PUD application for that phase of the development will be submitted; provided, however, no project to be developed in phases may exceed five years from the time the master plan is approved until the final phase is submitted. The hearing examiner, as a condition of preliminary PUD or master plan approval, may calculate the amount of time until completion and may also set a schedule for completion of the various phases; such time period may never exceed five years. The time period will be calculated based on the size, location, and development potential of the area, and the need for utility and service extensions for the proposed project and other projected developments in the area.

D. If a final PUD is not filed within the time periods provided in this section, the preliminary PUD approval shall expire, the PUD overlay zoning shall be removed from

the official zoning map of the city and the property shall revert to the underlying “fallback” zoning shown on the official zoning map. (Ord. 1051-09 § 1; Ord. 793-02 § 1)

16.10.200 Expiration of final PUD.

If no construction has begun in the final PUD within 24 months from the approval of the final PUD and recording of the final PUD plan and associated documents, the final PUD approval shall expire and the PUD overlay zone on the official zoning map shall be removed; provided, however, the city council, upon recommendation of the community development director and a showing of good cause by the applicant, may extend for a maximum of two periods of 12 months each the period for commencing construction. Each request for a time extension shall be accompanied by a nonrefundable fee as set forth in the fee schedule to cover the costs of processing the request. The city council may impose conditions on any extension request to implement the current development regulations and related requirements in effect at that time. (Ord. 1051-09 § 1; Ord. 793-02 § 1)

1. Effective until July 1, 2012, a one-time, 12-month time extension may be granted by the City Council in lieu of or in addition to the two periods of 12-month extensions following the procedures set forth in 16.10.200 for any unexpired final PUD approved prior to July 1, 2010, provided, however, that no more than one-time extension may be valid at any time for a final PUD. Further provided, in no case shall more than three-time extensions be granted to any final PUD. The extension shall be calculated from the expiration date of any previously approved time extension.

2. In order to receive the one-time 12-month extension in 16.10.200(1), the applicant shall submit a written request for a developer agreement and extension to the community development director at least ninety days (90-days) prior to the date upon which the final PUD would otherwise expire. Upon receipt of a written extension request, the community development director shall notify the applicant in writing of the expiration of the initial 12-month extension(s) and the granting of the 12-month extension in 16.10.200 (1) including the date on which this extension expires. Failure to submit an extension request prior to the expiration date of the final PUD shall result in the final PUD being deemed expired.

16.28.210 Compliance with conditions of approval.

All conditions for approval shall be met by the applicant within one year or the short subdivision shall be deemed expired. Sale, lease, or transfer of land within the subdivision shall not be completed until all conditions of approval have been met. (Ord. 1051-09 § 1; Ord. 840-04 § 1; Ord. 630 § 2[16.10.010(1)(a) (vii)(o)], 1995)

1. Effective until July 1, 2012, a one-time 24-month time extension may be granted by the community development director in lieu of or in addition to the one-year granted to complete all conditions of approval as set forth in 16.28.210 for any unexpired short subdivision approved prior to July 1, 2010, provided however, that no more than one-time extension may be valid at any time for a short subdivision. In no case shall more than one time extension be granted to any short subdivision. The extension shall be calculated from the expiration date.
2. In order to receive the one-time 24-month extension in 16.28.210(1), the applicant shall submit a written request for an extension to the community development director at least ninety days (90-days) prior to the date upon which the short subdivision would otherwise expire. Upon receipt of a written extension request, the community development director shall notify the applicant in writing of the expiration of the initial 12-month extension and the granting of the 24-month extension in 16.10.210 (1) including the date on which this extension expires. Failure to submit an extension request prior to the expiration date of the short subdivision shall result in the short subdivision being deemed expired.

16.28.350 Term of preliminary plat approval.

A. Approval of preliminary plat shall be effective for five years from the date of approval unless extended by the hearing examiner as provided for herein.

B. Upon written application therefor^e by the applicant or his successor, and filed with the city at least 30 days prior to the expiration of approval, the hearing examiner may extend approval for not more than one additional one-year period, if, in the opinion of the hearing examiner, the applicant has attempted in good faith to submit the final plat within the five-year period in accordance with preliminary plat approval procedures contained herein.

C. Nothing contained herein shall prohibit the applicant, during the effective life of the preliminary plat approval, from developing his or her subdivision and requesting final approval by divisions; provided, that no deviation from the general scheme of the preliminary plat as approved may be permitted in any manner other than by the procedures set out herein governing the approval of preliminary plats. (Ord. 1051-09 § 1; Ord. 840-04 § 1; Ord. 815-03 § 2; Ord. 630 § 2[16.10.010(1)(b)(v) (a)], 1995)

1. Effective until July 1, 2012, a one-time, 24-month time extension may be granted by the Hearing Examiner in lieu of or in addition to the one-time 12-month extension following the procedures set forth in 16.28.350 for any unexpired preliminary plat approved prior to July 1, 2010, provided, however, that no more than one-time

extension may be valid at any time for a preliminary plat. Further provided, in no case shall more than two-time extensions be granted to any preliminary plat. The extension shall be calculated from the expiration date of any previously approved time extension.

2. In order to receive the one-time 24-month extension in 16.28.350(1), the applicant shall submit a written request for a developer agreement and extension to the community development director at least ninety days (90-days) prior to the date upon which the preliminary plat would otherwise expire. Upon receipt of a written extension request, the community development director shall notify the applicant in writing of the expiration of the initial 12-month extension and the granting of the 24-month extension in 16.28.350(1) including the date on which this extension expires. Failure to submit an extension request prior to the expiration date of the preliminary PUD shall result in the preliminary PUD being deemed expired.

16.112.060 Collection of impact fees.

The impact and administrative fees imposed under this code and identified in the city of Sultan's current fee schedule shall be due and payable at the time of issuance of a building permit for the development or issuance of an installation permit for a manufactured home or building. (Ord. 820-03 § 1; Ord. 630 § 2[16.13.060], 1995)

1. Prior to July 1, 2012, at the time of issuance of any single family residential building permit for a lot within a PUD, subdivision or short-subdivision that is being constructed for resale, the applicant may elect to record a covenant against the title to the property that requires payment of park and transportation impact and administrative fees imposed under this code prior to the issuance of the certificate of occupancy for the unit.

Under no circumstances will a building permit be issued under 16.112.060(1) until proof of the recorded covenant is accepted by the community development director, which acceptance will not be unduly withheld. Furthermore, the permitted unit shall not be occupied or a certificate of occupancy issued until the impact and administrative fees are paid in full. The applicant will pay the impact fee rate in effect at the time of payment.