

CITY OF SULTAN
WASHINGTON
ORDINANCE NO. 1084-10

AN ORDINANCE OF THE CITY OF SULTAN, WASHINGTON, ADOPTING AMENDMENTS TO SULTAN MUNICIPAL CODE (SMC) 16.10.150, 16.28.210 and 16.28.350 LAND USES, PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, pursuant to the provisions of state law, Chapter 35A.63 of the Revised Code of Washington (RCW) and chapter 36.70A RCW, the Sultan City Council has adopted the Sultan Municipal Code (SMC), including Title 16, which regulates development; and

WHEREAS, as a result of the current downturn in the local economy, a diminishing number of new residential units are being built, which adversely impacts the City's housing stock, local economy and revenue for governmental services, and

WHEREAS, unless the City acts, the housing market may continue to languish and adverse consequences of decreased revenues, abandoned projects, and underutilized land will occur; and

WHEREAS, a need exists to amend Title 16 to afford more flexibility to applicants on the timing of the expiration of preliminary and final plat and planned unit development approvals; and

WHEREAS, the planning board held a public hearing on April 20, 2010 to take comment on the proposed amendments to Title 16 and;

WHEREAS, the City Council finds the proposed amendments to the Sultan Municipal Code to be consistent with and to implement the intent of the Comprehensive Plan; and

WHEREAS, the City Council has concluded that it is in the interest of the public health, safety and welfare to adopt this ordinance;

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF SULTAN, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. Sections 16.10.150, 16.28.210, and 16.28.350 are hereby amended to read as set forth in Attachment "A" hereto.

Section 2. Applicability.

(1) This ordinance shall apply to all active PUD and preliminary and short subdivision approvals. For the purposes of this ordinance, "active PUD and preliminary and short subdivision approvals" shall mean those PUD and preliminary and short subdivision proposals

that have been approved by the City Council and have not expired prior to the effective date of this ordinance.

(2) Public notice given prior to the effective date of this ordinance for any pending development permit application shall remain valid for such permit application.

(3) This ordinance shall not otherwise affect the vesting date for any application as provided for under state law.

Section 3. Severability.

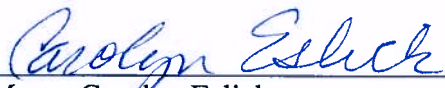
The above "Whereas" clauses of this ordinance constitute specific findings by the Council in support of passage of this ordinance. If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of the ordinance or the application of the provision to other persons or circumstances is not affected.

Section 4. Effective Date.

This ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication.

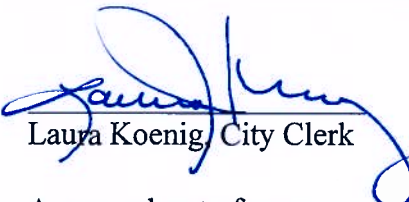
ADOPTED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE 22nd DAY OF July , 2010.

CITY OF SULTAN



Mayor Carolyn Eslick

ATTEST/AUTHENTICATED:



Laura Koenig, City Clerk

Approved as to form:



Margaret King, City Attorney

Published: August 20, 2010

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.

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

E. Provisions for Temporary Extension of Preliminary PUD Approvals:

1. Effective until July 1, 2012, a one-time, 24-month extension of preliminary PUD approval may be granted by the Hearing Examiner in lieu of or in addition to the one-time 12-month extension authorized in 16.10.150 B. This extension shall be reviewed following the procedures set forth in 16.10.150 (B).

2. This provision is available to and only to developments which have a current valid unexpired preliminary PUD approval granted prior to July 1, 2010.

3. No more than one (1) extension may be valid at any time for a preliminary PUD.

4. In no case shall more than two extensions be granted to any preliminary PUD.

5. An extension granted under provision 16.10.150 E shall be calculated from the expiration date of any previously approved time extension.

6. The applicant for an extension under this provision 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 preliminary PUD would otherwise expire. Failure to submit an extension request prior to the expiration date of the preliminary PUD shall result in the preliminary PUD being deemed expired. Applications for an extension under this provision shall consist of the following:

a. A statement making the case for extension, specifically addressing the short-term economic issues, and the long-term economic viability of the project.

b. A statement acknowledging that the preliminary plat approval expires at the end of the extension without appeal or recourse for additional extensions.

c. A statement acknowledging that the City, as a condition of the extension, has the right to require the developer to enter into a Development Agreement as provided by state law to insure that the form and function of the extended Preliminary PUD approval meets the requirements of the City of Sultan land development standards as provided in SMC Title 12, Title 14, Title 16, Title 17, and the City's published Engineering Standards Document.

d. A draft Development Agreement agreed to by the Developer and the City shall be a required component of the application packet forwarded to the Hearing Examiner.

e. If the City and the Developer cannot come to agreement on the provisions of a Developer Agreement as required in item "d." above, the City shall prepare a set of findings and proposed Developer Agreement conditions that, in the City's opinion, should be included as a condition(s) of the extension.

f. Payment of the Hearing Examiner Fee in the amount set forth in the then-applicable City of Sultan Annual Fee Schedule.

8. Upon receipt of a written extension request, the community development director shall schedule review of the application with the Hearing Examiner as provided in 16.10.150 B. The Applicant, the City, and the public shall be allowed to present brief verbal statements at a hearing according to provisions of SMC 2.26.090 through 2.26.120.

9. To approve an extension, the Hearing Examiner shall find that the proposed extension is supported by the information presented for review, and that the Draft Developer Agreement, or City-proposed conditions for extension are appropriate. Approval of any extension under this provision shall include specific recitation of any conditions required to bring the subject Preliminary PUD into conformance with City development standards as described in Section 16.10.150 E. 6. c. above.

10. If the extension is approved by the Hearing Examiner, 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.

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.

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

E. Provisions for Temporary Extension of Preliminary PUD Approvals:

1. Effective until July 1, 2012, a one-time, 24-month extension of preliminary PUD approval may be granted by the Hearing Examiner in lieu of or in addition to the one-time 12-month extension authorized in 16.10.150 B. This extension shall be reviewed following the procedures set forth in 16.10.150 (B).

2. This provision is available to and only to developments which have a current valid unexpired preliminary PUD approval granted prior to July 1, 2010.

3. No more than one (1) extension may be valid at any time for a preliminary PUD.

4. In no case shall more than two extensions be granted to any preliminary PUD.

5. An extension granted under provision 16.10.150 E shall be calculated from the expiration date of any previously approved time extension.

6. The applicant for an extension under this provision 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 preliminary PUD would otherwise expire. Failure to submit an extension request prior to the expiration date of the preliminary PUD shall result in the preliminary PUD being deemed expired. Applications for an extension under this provision shall consist of the following:

a. A statement making the case for extension, specifically addressing the short-term economic issues, and the long-term economic viability of the project.

b. A statement acknowledging that the preliminary plat approval expires at the end of the extension without appeal or recourse for additional extensions.

c. A statement acknowledging that the City, as a condition of the extension, has the right to require the developer to engage in construction of a Development Agreement as provided by state law to insure that the form and function of the extended Preliminary PUD approval meets the requirements of the City of Sultan land development standards as provided in SMC Title 12, Title 14, Title 16, Title 17, and the City's published Engineering Standards Document.

d. A draft Development Agreement agreed to by the Developer and the City shall be a required component of the application packed forwarded to the Hearing Examiner.

e. If the City and the Developer cannot come to agreement on the provisions of a Developer Agreement as required in item "d." above, the City shall prepare a set of findings and proposed Developer Agreement conditions that, in the City's opinion, should be included as a condition(s) of the extension.

f. Payment of the Hearing Examiner Fee as provided by the City of Sultan Annual Fee Schedule.

8. Upon receipt of a written extension request, the community development director shall schedule review of the application with the Hearing Examiner as provided in 16.10.150 B. The Applicant, the City, and the public shall be allowed to present brief verbal statements at a hearing according to provisions of SMC 2.26.090 through 2.26.120.

9. To approve an extension, the Hearing Examiner shall find that the proposed extension is supported by the information presented for review, and that the Draft Developer Agreement, or City-proposed conditions for extension are appropriate. Approval of any extension under this provision shall include specific recitation of any conditions required to bring the subject Preliminary PUD into conformance with City development standards as described in Section 16.10.150 E. 6. c. above.

10. If the extension is approved by the Hearing Examiner, 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.

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)

A. Provisions for Temporary Extension of Time to Meet Conditions of Short Plat Approval:

1. Effective until July 1, 2012, a one-time, 24-month extension of the time to comply with conditions of approval required by the City in approval of a short subdivision may be granted by the community development director. This extension shall be added to the one-year period required in 16.28.210 above. This extension shall be reviewed following the procedures set forth in this Section.
2. This provision is available to and only to developments which have a current valid unexpired short subdivision approval prior to July 1, 2010.
3. No more than one (1) extension may be issued for compliance with conditions of approval for a short subdivision.
4. An extension granted under this section shall expire any previously granted extension. The 24-month extension granted by this section shall be the only valid extension and shall be the final extension granted to a development.
5. The applicant for an extension under this provision 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 approval would otherwise expire. Failure to submit an extension request prior to the expiration date of the short subdivision shall result in the short subdivision being deemed expired. Applications for an extension under this provision shall consist of the following:
 - a. A statement making the case for extension, specifically addressing the short-term economic issues, and the long-term economic viability of the project.
 - b. A statement acknowledging that the preliminary plat approval expires at the end of the extension without appeal or recourse for additional extensions.
 - c. A statement acknowledging that the City, as a condition of the extension, has the right to require the developer to enter into a Development Agreement as provided by RCW 36.70B.170 to insure that the form and function of the short subdivision approval meets the requirements of the City of Sultan land development standards as provided in SMC Title 12, Title 14, Title 16, Title 17, and the City's published Engineering Standards Document.
 - d. A draft Development Agreement agreed to by the Developer and the City shall be a required component of the application packet.
6. Upon receipt of a written extension request, the community development director shall review the application.
7. To approve an extension, the community development director shall find that the proposed extension is supported by the information presented for review, and that the Draft Developer Agreement. Approval of any extension under this provision shall include specific recitation of any conditions required to bring the subject short subdivision into conformance with City development standards as described in Section 16.28.210 A. 5. c. above.

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 therefore 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)
- D. Provisions for Temporary Extension of Preliminary PUD Approvals:
1. Effective until July 1, 2012, a one-time, 24-month extension of preliminary PUD approval may be granted by the Hearing Examiner in lieu of the one-time 12-month extension authorized in 16.28.350 B.
 2. This provision is available to and only to developments which have a current valid unexpired preliminary plat approved granted prior to July 1, 2010
 3. No more than one (1) extension may be valid at any time for a preliminary PUD.
 4. In no case shall more than two extensions be granted to any preliminary plat including the extension granted under 16.28.350 D.
 5. An extension granted under this section shall expire any previously granted extension. The 24-month extension granted by this section shall be the only valid extension and shall be the final extension granted to a development.
 6. The applicant for an extension under this provision 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 preliminary plat would otherwise expire. Failure to submit an extension request prior to the expiration date of the preliminary plat shall result in the preliminary plat being deemed expired. Applications for an extension under this provision shall consist of the following:
 - a. A statement making the case for extension, specifically addressing the short-term economic issues, and the long-term economic viability of the project.
 - b. A statement acknowledging that the preliminary plat approval expires at the end of the extension without appeal or recourse for additional extensions.

- c. A statement acknowledging that the City, as a condition of the extension, has the right to require the developer to enter into a Development Agreement as provided by RCW 36.70B.170 to insure that the form and function of the extended preliminary plat approval meets the requirements of the City of Sultan land development standards as provided in SMC Title 12, Title 14, Title 16, Title 17, and the City's published Engineering Standards Document.
 - d. A draft Development Agreement agreed to by the Developer and the City shall be a required component of the application packet forwarded to the Hearing Examiner.
 - e. If the City and the Developer cannot come to agreement on the provisions of a Developer Agreement as required in item "d." above, the City shall prepare a set of findings and proposed Developer Agreement conditions that, in the City's opinion, should be included as a condition(s) of the extension.
 - f. Payment of the Hearing Examiner Fee in the amount set forth in the then-applicable City of Sultan Annual Fee Schedule.
8. Upon receipt of a written extension request, the community development director shall schedule review of the application with the Hearing Examiner as provided in 16.10.150 B. The Applicant, the City, and the public shall be allowed to present brief verbal statements at a hearing according to provisions of SMC 2.26.090 through 2.26.120.
 9. To approve an extension, the Hearing Examiner shall find that the proposed extension is supported by the information presented for review, and that the Draft Developer Agreement, or City-proposed conditions for extension are appropriate. Approval of any extension under this provision shall include specific recitation of any conditions required to bring the subject preliminary plat into conformance with City development standards as described in Section 16.28.350 D. 6. c. above.
 10. If the extension is approved by the Hearing Examiner, 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.