




CITY OF KENMORE, WASHINGTON

AGENDA BILL SUMMARY

AGENDA TITLE			MEETING DATE
Continuation of Public Hearing and Adoption of Ordinance 09-0301 Regarding Proposed Amendments to the Kenmore Municipal Code Including Amending Sections 15.30.245 Building Permit Expiration, 17.20.020 Preliminary Approval of Subdivision and 17.20.040 Preliminary Approval of Short Subdivision.			November 23, 2009
DEPARTMENT	DIRECTOR	CONTACT PERSON	PHONE
Community Development	Debbie Bent	Lauri Anderson	425-398-8900
COST OF PROPOSAL: Staff and city attorney time to prepare ordinance and public hearing materials.		ACCOUNT NUMBER: 01585455	
AMOUNT BUDGETED: \$132,000 is budgeted for development regulation updates and the annual docket process.		NAME AND FUND #: General Fund #01	
ATTACHMENT(S) TO AGENDA PACKET ITEM: Cover memo dated 11/19/09 from Lauri Anderson, Senior Planner to Frederick Stouder, City Manager with four attachments and associated Ordinance.			
<p>SUMMARY STATEMENT: At the November 16, 2009 Public Hearing, Council considered an ordinance that included proposed amendments to the Municipal Code to allow extensions of certain land use and permit approvals. The proposed amendments included allowing a one-year extension for preliminary plats and short plats for those projects with a complete application date between May 18, 2006 and the effective date of the ordinance. (May 18, 2006 is the effective date of the current critical areas rules.)</p> <p>Council continued the November 16 Public Hearing to November 23, 2009 and requested Staff prepare a revised ordinance to allow a two-year extension for all unexpired preliminary plat and short plat approvals issued prior to the effective date of the ordinance. The revised ordinance is included with this agenda bill, as is a memo containing background information on potential impacts of this change as it relates to critical areas rules.</p> <p>The following KMC amendments are proposed:</p> <p><u>Building Permits:</u> (no change from previous version of ordinance)</p> <ul style="list-style-type: none"> ▪ Allow the opportunity for an additional 1-year extension period for some active permits (total of 3 years to complete a permit). ▪ Temporarily allow some already-expired permits to be reinstated and extended for a one-year period. <p><u>Subdivisions and Short Plats:</u> (revised from previous version of ordinance)</p> <ul style="list-style-type: none"> ▪ Allow the opportunity for a two-year extension of the preliminary approval period (to a total of 7 years) for unexpired preliminary approvals for subdivisions and short plats issued prior to the effective date of the proposed ordinance. <p>The public hearing on permit extension amendments was continued to November 23 to allow additional input on the revised extension proposal. After the public hearing, the Council could deliberate and direct Staff to make any desired changes to the amendments. If no changes are requested, the City Council may take final action on the proposal; an Ordinance for that action is attached.</p>			
CONSISTENT WITH OR COMPARISON TO PAST COUNCIL POLICIES, ORDINANCES, DIRECTION: At the 10/5/09 Council Meeting, Council directed staff to schedule a public hearing and prepare an ordinance to extend expiration deadlines for building permits as well as preliminary subdivision and short plat approvals. At the 11/16/09 Council Meeting, Council directed staff to prepare additional amendments increasing the extension period to two years for unexpired subdivisions and short plats.			
RECOMMENDED CITY COUNCIL ACTION/SUGGESTED MOTION: Continue public hearing on amendments to the KMC regarding permit extensions. Motion to adopt Ordinance 09-0301 Amending Kenmore Municipal Code Sections 15.30.245 Building Permit Expiration, 17.20.020 Preliminary Approval of Subdivision and 17.20.040 Preliminary Approval of Short Subdivision.			
REVIEWED BY FINANCE DIRECTOR:	REVIEWED BY CITY ATTORNEY:	APPROVED BY CITY MANAGER:	
			

TODAY'S DATE: Nov. 19, 2009	REVISION DATE(S):	FILE NAME & PATH (HYPERLINK):
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The City of Kenmore

6700 NE 181ST STREET PO Box 82607
KENMORE, WASHINGTON 98028

MEMO

TO: Frederick Stouder, City Manager
FROM: Lauri Anderson, Senior Planner
DATE: November 19, 2009
SUBJECT: Permit Extensions

At the November 16, 2009 Public Hearing, Council considered an ordinance that included proposed amendments to the Municipal Code to allow extensions of certain land use and permit approvals. The proposed amendments included allowing a one year extension for preliminary plats and short plats for those projects with a complete application date between May 18, 2006 and the effective date of the ordinance. May 18, 2006 represents the effective date of the current critical area regulations. Plats or short plats receiving preliminary approval have five years to obtain final approval. If final plat approval is not obtained, then a new application in compliance with current regulations (e.g. critical areas regulations) would be required. For example, a plat receiving preliminary approval in April 2005 would have until April 2010 to obtain final plat approval.

Council continued the November 16, 2009 Public Hearing to November 23, 2009 and requested Staff prepare a revised ordinance including amendments allowing a two year extension for all preliminary plats and shorts plats active at the time of the effective date of the ordinance. The revised ordinance would therefore include those preliminary plats and short plats vested to "old" critical area regulations in effect prior to May 18, 2006. For example, a plat receiving preliminary approval in April 2005 would have until April 2012 to obtain final plat approval.

At the November 16, 2009 meeting, Council also asked staff to provide information on the number of active preliminary plats and short plats vested to "old" critical area regulations. Staff was able to make estimates of the numbers of these older preliminary approvals involving critical areas as follows:

	<u>Number of Active Preliminary Approvals</u>	<u>Percent involving Critical Areas Review</u>
Subdivisions (more than 4 lots)	11	55% (6)
Short Plats (4 lots or less)	23	65% (15)

Staff has provided four case studies of projects vested to the "old" critical areas regulations for your review. These case studies compare the critical areas requirements imposed at the time of preliminary approval with the standards that would be in place if the project were to

reapply under the current critical area regulations. Staff cannot determine how conformance with current regulations would affect the preliminary plat layout (for example reduction in the number of lots) as this would require a redesign of the plat and additional analyses of critical area impacts.

Attachment 1 provides information on Wynfield South, a 40-lot subdivision, with a complete application date of May 17, 2004. Attachment 2 provides information on East Creek Village, a 65-lot subdivision, with a complete application date of October 21, 2005. Wynfield South is the plat referenced by speaker John Baringer at the public hearing on November 16. These two plats are the largest not yet recorded from the time period before May 18, 2006.

Attachment 3 is an analysis of the Moe Short Plat, a 4-lot project with a complete application date of August 1, 2005. Attachment 4 is an analysis of the Kia Short Plat, a 4-lot project with a complete application date of March 7, 2006.

In all cases, the new critical areas rules would provide larger buffers and/or an assessment of the feasibility of avoidance or minimization of impacts before modifications could be made to the critical areas.

Attachments

- Attachment 1: Analysis of Wynfield South Subdivision
- Attachment 2: Analysis of East Creek Village Subdivision
- Attachment 3: Analysis of Moe Short Plat
- Attachment 4: Analysis of Kia Short Plat

WYNFIELD SOUTH SUBDIVISION

Proposal: 40 lots on 8.72 acres

Date Application determined complete: 5/17/04

Date Preliminary Approval issued: 4/29/05 (SEPA appeal was denied by the Hearing Examiner)

Preliminary Approval expiration date: 4/29/10 (60 months)

Status: Civil engineering drawings for plat improvements approved in October 2005. Applicant has not submitted final materials or financial agreements required for issuance of permit.

Critical Areas Impacts:

	<u>Old Critical Area Rules</u>	<u>New Critical Areas Rules</u>
Wetland A (Class 2, 2.12 acres)	50' buffer, but allowed to fill and partially convert to buffer	100' buffer; must meet avoidance and minimization standards to fill; variance required for buffer reduction below 75'
Wetland B (Class 2, 732 sq.ft.)	Isolated wetland; OK to fill if mitigated	100' buffer; must meet avoidance and minimization standards to fill; variance required for buffer reduction below 75'

EAST CREEK VILLAGE SUBDIVISION

Proposal: 65 lots on 17.42 acres

Date Application determined complete: 10/21/05

Date Preliminary Approval issued: 12/12/06

Preliminary Approval expiration date: 12/12/11 (60 months)

Status: Civil engineering drawings for plat improvements under review. Applicant has not submitted materials requested in June 2007.

Critical Areas Impacts:

	<u>Old Critical Area Rules</u>	<u>New Critical Areas Rules</u>
Wetland A (Class 2, 2.2 acres)	50' buffer, but allowed to partially fill	100' buffer; must meet avoidance and minimization standards to fill; variance required for buffer reduction below 75'
Wetland B (Class 2, 1.1 acres)	50' buffer, but allowed to partially fill	100' buffer; must meet avoidance and minimization standards to fill; variance required for buffer reduction below 75'
Wetland C (322 sq.ft.)	Isolated wetland; OK to fill if mitigated	If Class 3 <1,000 sq.ft.; OK to fill if mitigated
Wetland D (759 sq.ft.)	Isolated wetland; OK to fill if mitigated	If Class 3 <1,000 sq.ft.; OK to fill if mitigated
Wetland E (Class 2, .11 acre)	50' buffer, but allowed to partially fill	100' buffer; must meet avoidance and minimization standards to fill; variance required for buffer reduction below 75'
Wetland G (Class 2, .48 acre)	50' buffer, but allowed to partially fill	100' buffer; must meet avoidance and minimization standards to fill; variance required for buffer reduction below 75'
Wetland H (Class 2, .04 acre)	50' buffer	100' buffer; must meet avoidance and minimization standards to fill; variance required for buffer reduction below 75'

**Stream 1 (Class 2,
non-salmonid)**

**50' buffer; impacted by
utilities, road crossing
and lot layout**

**25-50' buffer; can reduce
to 18.75-37.5' if buffer
degraded and enhancement
plan provided; variance required
for additional buffer reduction**

Tributaries (Class 3)

25' buffer

**25' buffer; can reduce to
18.75' if buffer degraded and
enhancement plan provided;
variance required for buffer
reduction below 18.75'**

Erosion hazard area

**Erosion control
required**

**Erosion control
required**

KIA SHORT PLAT

Proposal: 4 lots on 1.15 acres

Date Application determined complete: 3/7/06

Date Preliminary Approval issued: 4/13/07 (appeal of SEPA and short plat was denied by the Hearing Examiner)

Preliminary Approval expiration date: 4/13/12 (60 months)

Status: Civil engineering drawings for plat improvements under review. Applicant has not submitted materials requested in October 2007.

Critical Areas Impacts:

	<u>Old Critical Area Rules</u>	<u>New Critical Areas Rules</u>
Wetland A (Class 2)	50' buffer	100' buffer; variance required for buffer reduction below 75'
Stream 1 (Class 2, non-salmonid)	50' buffer	25-50' buffer; can reduce to 18.75-37.5' if buffer degraded and enhancement plan provided; variance required for additional buffer reduction
Landslide/steep slope hazard area	50' buffer	Buffer equal to height of slope or 50' whichever is greater

MOE SHORT PLAT

Proposal: 4 lots on 4.06 acres

Date Application determined complete: 8/1/05

Date Preliminary Approval issued: 12/31/07

Preliminary Approval expiration date: 12/31/12 (60 months)

Status: Civil engineering drawings for plat improvements approved. Applicant has not submitted financial guarantees or inspection fees as requested in January 2009.

Critical Areas Impacts:

	<u>Old Critical Area Rules</u>	<u>New Critical Areas Rules</u>
Wetland A (Class 1)	100' buffer	150' buffer; variance required for buffer reduction below 112.5'
Heron habitat	Additional 50' buffer along wetland	900' buffer from outermost nest tree in the rookery

CITY OF KENMORE
WASHINGTON
ORDINANCE NO. 09-_____

AN ORDINANCE OF THE CITY OF KENMORE, WASHINGTON, AMENDING SECTIONS 15.30.245 (BUILDING PERMIT EXPIRATION), 17.20.020 (PRELIMINARY APPROVAL OF SUBDIVISION) AND 17.20.040 (PRELIMINARY SHORT SUBDIVISION APPROVAL TIME) OF THE KENMORE MUNICIPAL CODE TO PROVIDE TEMPORARY TIME EXTENSIONS FOR BUILDING PERMITS, SUBDIVISION APPROVALS AND SHORT PLAT APPROVALS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the current economic downturn has placed many developments which were approved within the last several years or which are already under construction at risk of incompleteness or failure; and

WHEREAS, while the consequences of expiring projects could be financially ruinous for many developers and builders, the City also will bear a burden in the form of decreased tax revenues, underutilized and vacant land, and the potential for abandoned construction sites; and

WHEREAS, the temporary extension of subdivision and short plat approvals as well as the extension of building permit expiration timelines may provide significant relief to developers, builders, and the City until the financial crisis abates and the economy recovers; and

WHEREAS, the ordinance amendments are procedural in nature, and therefore categorically exempt from environmental review under the State Environmental Policy Act (SEPA) pursuant to WAC197-11-800(19); and

WHEREAS, the City Council considered the proposed amendments at a City Council public hearing conducted on November 16 and continued to November 23, 2009; and

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

WHEREAS, the City Council finds that it is in the interest of the public health, safety and welfare to adopt this ordinance and temporarily extend building permit expirations, subdivision approvals and short plat approvals;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF KENMORE, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Amendments. Sections 15.30.245, 17.20.020 and 17.20.040 of the Kenmore Municipal Code are hereby amended as set forth in Attachment "A" hereto.

Section 2. 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.

PASSED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE 23RD DAY OF NOVEMBER, 2009.

CITY OF KENMORE

David Baker, Mayor

ATTEST/AUTHENTICATED:

Lynn Batchelor, City Clerk

Approved as to form:

Rod P. Kaseguma, City Attorney

Filed with the City Clerk:
Passed by the City Council:
Ordinance No.:
Date of Publication:
Effective Date:

ATTACHMENT A: PROPOSED MUNICIPAL CODE AMENDMENTS

15.30.245 Permit expiration.

A. Every permit issued shall expire 12 months from the date of issuance. The building official is authorized to approve a request for an extended expiration date where a construction schedule is provided by the applicant and approved prior to permit issuance.

B. With the exception of those permits described under subsections C and D of this section, Every permit which has been expired for less than one year may be renewed for a period of one year from the expiration date for an additional fee as long as no changes have been made to the originally approved plans and new building codes have not been adopted. For permits that have been expired for longer than one year, a new permit must be obtained and full new fees paid. No permit shall be renewed more than once.

C. Every active permit with a complete application date after July 1, 2007 and an issuance date prior to XX (effective date of ordinance) may be renewed for a period of one year from the expiration date for an additional fee as long as no changes have been made to the originally approved plans. If requested prior to expiration of the renewal period, a second one-year renewal from the expiration date of the original renewal may be approved for an additional fee if no changes have been made to the originally approved plans. After expiration of the second renewal, a new permit must be obtained and full new fees paid.

D. Every expired permit with a complete application date after July 1, 2007 and an issuance date prior to XX (effective date of ordinance) may, until the City's adoption of a new building code(but no later than December 1, 2010), be reinstated for a period of one year for an additional fee as long as no changes have been made to the originally approved plans. After expiration of the reinstatement period, a new permit must be obtained and full new fees paid.

~~C.E.~~ Mechanical and plumbing permits shall expire at the same time as the associated building permit except that if no associated building permit is issued, the mechanical and or plumbing permit shall expire 12 months from the date of issuance.

17.20.020 Preliminary approval of subdivision.

A. Preliminary subdivision approval shall be effective for a period of 60 months. For those unexpired preliminary approvals issued prior to XX (effective date of ordinance), the Community Development Director, upon receipt of an extension fee, shall extend the approval period for an additional 24 months.

B. Preliminary subdivision approval shall be considered the basis upon which the applicant may proceed toward development of the subdivision and preparation of the final plat subject to all the conditions of the preliminary approval.

C. If the final plat is being developed in divisions, and final plats for all of the divisions have not been recorded within the time limits provided in this section, preliminary subdivision approval for all unrecorded divisions shall become void. The preliminary subdivision for any unrecorded divisions must again be submitted to the department with a new application, subject to the fees and regulations applicable at the time of submittal.

17.20.040 Preliminary short subdivision--Approval time.

Preliminary approval of a short subdivision shall be effective for a period of 60 months. For those unexpired preliminary approvals issued prior to XX (effective date of ordinance), the Community Development Director, upon receipt of an extension fee, shall extend the approval period for an additional 24 months.