



MANAGEMENT BRIEF

DATE: June 20, 2011

TO: Mayor Davidson and members of the City Council

FROM: Mike Brennan, Director 452-4113
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Development Services Department

SUBJECT: Proposal to extend building permits and short plats

During the June 6, 2011 City Council Meeting, the Council directed staff to develop a proposal to extend the life of building permits and short plats in response to the continuing challenges developers face securing financing for projects due to the slow economic recovery. Staff proposes an approach to extend permits and short plats similar to the action taken by Council in March of 2010. This management brief provides the Council with background information on impacted permits and short plats, details of a proposal for extensions, and requests Council direction to proceed.

Background

The Bellevue City Code establishes the maximum period that permit applications, issued permits, and preliminary plats remain valid and vested to city codes and development standards. The City Code also includes performance criteria requiring permit applicants or builders to advance through permit review and commence construction in order to maintain the validity of an application or issued permit. The intent of these provisions is to ensure that the applicant or builder is making a good faith effort to advance an application to reach a City decision or to complete construction, allowing only viable projects to remain in the permit system and minimizing the length of time that the public is exposed to ongoing construction conditions. Limiting the period of time a permit can remain in the system also ensures that structures are constructed under the most current life safety codes, which are generally updated on a 2-3 year cycle incorporating new knowledge of building performance in a range of environmental circumstances.

The lengthy recession has created significant barriers for some commercial and residential development, putting projects under permit review or approved within the last several years at risk of failure. If the associated building permits or short plats expire, the current condition of the financial markets will make it difficult, if not impossible, for developers to either sell the projects or raise the capital necessary to re-start the project. While the consequences of expiring building permits or plats could be financially devastating for developers and builders, the City may also bear a burden in the form of decreased tax revenues, underutilized and vacant land, and the long-term impacts associated with abandoned construction sites.

In more stable economic conditions, development projects typically can meet the deadlines defined in the City Code. However, projects that would otherwise have proceeded to completion in a better economy are now delayed, and may face the expiration of their approvals. Once expired, these projects must go through the permit processes again, adding additional time and cost to realize completion of the project.

Proposal to Extend Permits and Short Plats

The proposed extensions would apply to all preliminary short plat approvals, building permit applications, and issued building permits that are in active status on the effective date of the ordinance (including those projects that were granted an extension in 2010 and not subsequently canceled or expired). Ancillary permits, such as mechanical, electrical, fire, and right of way, are not included because the life of the related building permit typically establishes the maximum life for these applications and permits. Clearing and grading applications and permits for plat infrastructure are included to address the proposed extensions to preliminary short plat approvals.

Staff proposes extending the maximum life of building and clearing and grading permit applications from 1-1/2 years to 2 years, issued building permits from 3 years to 4 years, and preliminary short plat approvals from 3 years to 4 years. These extensions will apply to applications, issued permits, and preliminary short plat approvals that have a valid standing in the City's permit system when the proposed ordinance takes effect. For active projects that received the previous extensions approved by Council, the extensions would be additive, extending those applications from 2 years to 2-1/2 years, permits from 4 years to 5 years, and preliminary short plat approvals from 4 years to 5 years. Projects eligible for extensions must continue to progress through the application and construction process as defined in the code to maintain their vested status.

Status of Permits

In March, 2010 the City Council granted a one-year extension to all building permit applications, issued building permits, and preliminary short plats in the City's permit system. While many projects have found the financing needed to proceed, the slow economic recovery continues to hamper a large number of projects and their ability to initiate construction. The additional time allowed applicants to retain vested status and predictability under city development codes, and additional time to secure financing for their projects.

Table 1 in the Attachment shows the status of building permit applications and issued building permits that received one-year extensions in 2010. Of the 1,000 projects benefiting from that extension, 547 are completed, and 136 applications were cancelled by the applicant or have expired. A total of 317 of the projects receiving the first extension would benefit from the additional extension and retain their vesting.

Table 2 in the Attachment shows the status of building permit applications submitted and permits issued since March 2010 that are considered active. A total of 806 projects in this category would benefit from the proposed extensions.

Table 3 in the Attachment shows the status of short plats that received extensions under two ordinances in 2010 and short plats approved since the original ordinance. A total of 17 approved short plats would benefit from the additional extension.

Process

Emergency Ordinances

Expiration periods may be extended without amending code provisions by using an emergency ordinance detailing the scope and other desired provisions of the extension. BCC 1.12.040(B)(1) allows for passage of an emergency ordinance provided the ordinance is passed by a majority plus one of the Council. The code also requires the ordinance be designated as a public emergency ordinance that is necessary for the protection of public health, public safety, public property, or the public peace. Under RCW 35A.13.190, public emergency ordinances take effect and are in force immediately upon adoption. The attached recommended ordinances satisfy these requirements.

Process Requirements under the Growth Management Act

The Bellevue Land Use Code (LUC) governs preliminary shorts plat approvals. The LUC is a development regulation as defined by the Growth Management Act (GMA), Chapter 36.70A RCW. Legislative actions relating to the LUC must comply with the process requirements set forth in GMA. The required process for passage of emergency “interim official controls” is set forth in RCW 36.70A.390. Adoption of another one-time extension to the life of preliminary short plat approvals would constitute imposition of an interim official control and that legislative action would be required to adhere to the following processes and limitations:

- Council must hold a public hearing within 60 days of adoption of the ordinance;
- If Council does not adopt findings of fact justifying its actions before the public hearing, then Council must do so immediately after the public hearing;
- The interim official control may be effective for up to six months, unless a work plan is developed for related studies; and
- The interim official control may be renewed for one or more six month periods, provided Council holds a public hearing and enters additional findings before each renewal.

By using the GMA “interim official control” adoption process, a Planning Commission public hearing will not be required to extend the life of preliminary short plat approvals by emergency ordinance. However, Council will be required to renew the ordinance extending the life of preliminary short plat approvals within six months of its effective date. This is similar to the adoption process that is required for the passage of a moratorium.

Because Title 23 (Construction Codes) is not regulated as a development regulation under the GMA, requirements described in this section apply only to adoption of the ordinance extending preliminary short plat approvals.

Staff will be available at the June 20 Council meeting to present the proposal for extension of building permits and short plats and to respond to any questions the Council may have. Staff is seeking direction from Council to proceed with the proposed extensions by bringing back ordinances for Council approval, or is seeking alternative direction.

Attachment

Table 1 -- Construction Applications & Permits – Granted one-year Extension

Status		Total	New Single family	Single family Alterations	New Commercial	Commercial Alterations
Closed	Approved for Occupancy	547	84	207	48	208
	Cancelled or Expired	136	1	66	17	52
	Total	683	85	273	65	260
Permit Review	Under Review	12	0	3	9	0
	Ready to Issue	15	2	6	0	7
	Total	27	2	9	9	7
Issued Permits	Issued not started	57	6	24	3	24
	Under Construction	233	27	92	19	95
	Total	290	33	116	22	119

Table 2 -- Building Permit Applications Applied for and Issued Since Last Extension

Status		Total	New Single family	Single family Alterations	New Commercial	Commercial Alterations
Permit Review	Under Review	197	36	56	9	96
	Ready to Issue	69	2	17	1	49
	Total	266	38	73	10	145
Issued Permits	Issued not started	121	1	83	5	32
	Under Construction	419	31	222	8	158
	Total	540	32	305	13	190

Table 3 – Status of Short Plat Approvals

	Total	Pending Final Plat Application	Vesting Retained with Final Plat Application	Canceled
Granted Extensions in 2010	20	12	7	1
Approved Since Original Ordinance	5	5	N/A	N/A
Total	25	17	7	1