

CITY COUNCIL AGENDA MEMORANDUM

SUBJECT

Public hearing on proposed emergency Ordinance No. _____ renewing an interim official control (Ord. No. 6009), extending the life of certain preliminary short plat approvals.

STAFF CONTACTS

Catherine A. Drews, Legal Planner 452-6134
Development Services Department

POLICY ISSUES

An interim official control (Ord. No. 6009) extending the life of certain preliminary short plat approvals is in effect and will expire on January 5, 2012, unless the City Council extends the interim official control for another six month period by adoption of proposed emergency Ordinance No. _____.

DIRECTION NEEDED FROM COUNCIL:

Action
 Discussion
 Information

BACKGROUND

In July, the City Council responded to the impacts related to the ongoing economic downturn affecting development project proponents by directing staff to develop measures addressing these impacts. One of the measures Council directed staff to take was to extend the life of preliminary short plat approvals. Staff returned to the City Council's July 5, 2011 Regular Session and presented emergency ordinances responding to Council's direction. Specific to this discussion, Council adopted Ordinance No. 6009, on July 5, imposing an interim official control under the Growth Management Act extending the life of certain preliminary short plat approvals. The extension applied only to approvals that had not yet expired as of July 5, 2011, and that were not the subject of an active request for voluntary compliance or civil violation proceeding under the city's code enforcement provisions, Chapter 1.18 BCC.

The Council expressed a desire to extend the life of these preliminary short plat approvals for a total of one year. However, under the procedural requirements of the Growth Management Act (GMA) Chapter 36.70A RCW, interim official controls like the one established under Ordinance No. 6009 may be effective for only a maximum of six months, after which additional process is required to extend the effectiveness. Thus, interim official control (Ord. No. 6009) will expire January 5, 2012, unless extended by the Council. Staff is bringing forward proposed Ordinance No. _____ to allow for the full one-year extension that Council supported in July. This extension is warranted because the economic downturn that prompted the extension is ongoing. An

emergency ordinance is necessary to prevent the approval extension originally established in Ordinance No. 6009 from expiring before the effective date of proposed Ordinance No. _____. If the approved extension is allowed to expire, it may not be revived by proposed Ordinance No. _____. Since adoption of the interim official control, 1 project with preliminary short plat approval has applied for final plat approval, leaving 8 projects subject to the extension.

The city may extend the interim official control, under Chapters 35A.63.220 and 36.70A.390 RCW, only if Council first holds a public hearing to accept and consider public comment and testimony. The public hearing scheduled for December 12, 2012, satisfies that requirement. Following the hearing, Council may adopt an extension for a period of up to six months. Council must also adopt findings of fact supporting the extension. Proposed Ordinance No. _____ will allow for existing qualified short plat approvals to continue for an additional period of six months, beginning on its effective date, and includes the required findings of fact. With the adoption of proposed Ordinance No. _____, the extension for preliminary short plat approvals will expire on July 5, 2012.

ALTERNATIVES

1. Hold the public hearing and adopt proposed Ordinance No. _____ renewing Ordinance No. 6009 by six months; or
2. Do not adopt proposed Ordinance No. _____, and allow the existing interim official control to expire on January 5, 2012; or
3. Provide alternative direction to staff.

RECOMMENDATION

Hold the public hearing and extend the interim official control for an additional six months, by adopting proposed Ordinance No. _____.

MOTIONS

1. Move to open the public hearing for comments on renewing the interim official control extending the life of certain preliminary plat approvals for a six-month period.
2. Move to close the public hearing and record on the interim official control.
3. Move to adopt Ordinance No. _____.

ATTACHMENTS

- A. Proposed Ordinance No. _____.
- B. Affidavit of Publication of public notice on _____.

AVAILABLE IN COUNCIL OFFICE

N/A

CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. _____

AN ORDINANCE extending Ordinance No. 6009 imposing an interim official control extending the life of certain preliminary short plat approvals; amending section 2 of Ordinance No. 6009; declaring an emergency, providing for severability; and establishing an effective date.

WHEREAS, the Bellevue City Council adopted LUC 20.45B.150 establishing the time and conditions when preliminary short plats expire, and LUC 20.45B.160 authorizing extensions of the expiration period; and

WHEREAS, under Washington law and the Land Use Code, vesting occurs with the submittal of a complete application for a preliminary short plat approval; and

WHEREAS, under the Bellevue Land Use Code, vesting expires when the preliminary short plat approval expires; and

WHEREAS, the ongoing recession and economic downturn continues to create significant barriers for new commercial and residential development, and continues to put projects approved within the last few years or currently under construction at risk of failure; and

WHEREAS, staff presented information to the City Council on July 5, 2011, demonstrating that certain preliminary short plat approvals will expire over the next year; and

WHEREAS, if the preliminary short plat approvals are allowed to expire, the ongoing condition of the financial markets will render it difficult, if not impossible for developers to either sell projects or obtain capital necessary or to restart or complete projects; and

WHEREAS, once preliminary short plat approvals expire, project proponents are required to re-apply, adding additional time and cost to projects; and

WHEREAS, allowing preliminary short plat approvals to expire may expose the City to consequences in the form of decreased tax revenues, underutilized and vacant land, and the long-term impacts associated with abandoned construction sites; and

WHEREAS, the City has a compelling interest in the protection of the health and safety of all of its residents, as well as a compelling interest in ensuring that the goals and policies contained within the Comprehensive Plan and other policy/planning documents are fulfilled; and

WHEREAS, RCW 35A.63.220 and the Growth Management Act at RCW 36.70A.390, authorizes cities to adopt interim official controls provided the City Council holds a public hearing on the interim official control or ordinance within 60 days of the commencement of the ordinance; and

WHEREAS, on July 5, 2011, the City adopted Ordinance No. 6009 establishing an interim official control extending the life of certain preliminary short plat approvals, which ordinance required a public hearing on the interim official control to be held no later than September 3, 2011; and

WHEREAS, the City held a public hearing on August 1, 2011 to consider the initial interim official control extending the life of preliminary short plat approvals for a period of six months; and

WHEREAS, RCW 35A.63.220 and RCW 36.70A.390, further authorizes Washington cities to extend interim official controls for additional periods of up to six months following a public hearing and adoption of findings of fact; and

WHEREAS, Ordinance No. 6009 will, by its terms, expire on January 5, 2012; and

WHEREAS, on December 12, 2012, the City held a public hearing to consider extending Ordinance No. 6009 by an additional 6 month period, thereby extending the life of certain preliminary short plat approvals for a total period of 12 months; and

WHEREAS, pursuant to RCW 35A.13.190, ordinances may take effect and be in force immediately upon adoption, provided the ordinance is passed by a majority plus one of the whole membership of the Council, and provided the Council declares an emergency exists thereby necessitating adoption of the ordinance; and

WHEREAS, for the reasons set forth above, the City Council finds an emergency exists within the city, and that adoption of this ordinance is necessary for the immediate preservation of the public peace, health, safety, and welfare; and

WHEREAS, pursuant to WAC 197-11-880, the adoption of this ordinance is exempt from environmental review under the State Environmental Policy Act; and

WHEREAS, the City Council adopts the foregoing as its findings of fact justifying adoption of this ordinance; now, therefore

THE CITY COUNCIL OF THE CITY OF BELLEVUE, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. Extension of Interim Official Control. Section 2 of Ordinance 6009 is hereby amended to read:

Duration and Scope of Interim Official Control. The extension of time limits granted by this ordinance shall become effective on the effective date of this ordinance and shall remain in effect for a period of twelve months.

Section 2. Severability. Should any provision of this ordinance or its application to any person or circumstance be held invalid, the remainder of the ordinance or the application of the provision to other persons or circumstances shall not be affected.

Section 3. Declaration of Emergency. The City Council hereby finds and declares that a public emergency exists and that this ordinance is a public emergency ordinance necessary for the protection of the public health and safety and should, therefore, take effect upon adoption. The facts upon which this public emergency is based include all recitals set out in this ordinance as well as those facts contained in the legislative record.

Section 4. Findings of Fact. The findings contained in this ordinance are hereby adopted as Findings of Facts to justify extending Ordinance 5944 imposing the interim official control.

Section 5. Effective Date. In accordance with RCW 35A.13.190, this ordinance, as a public emergency ordinance, shall take effect and be in force immediately upon adoption.

Passed by the City Council this _____ day of _____, 2011 and signed in authentication of its passage this _____ day of _____, 2011.

(SEAL)

Don Davidson, DDS
Mayor

Approved as to form:

Lori M. Riordan, City Attorney

Lacey Hatch, Assistant City Attorney

Attest:

-ORD
11/18/11

Myrna L. Basich, City Clerk

Published _____