

ORDINANCE NO. 2010-05-026

AN ORDINANCE AMENDING BELLINGHAM MUNICIPAL CODE SECTION 21.10.260 – VESTING – TO ALLOW FOR A ONE-TIME ECONOMIC HARDSHIP EXTENSION OF ISSUED LAND USE APPROVALS.

WHEREAS, the state, county and City of Bellingham have suffered a severe economic downturn, which has created economic hardships and tightening of credit markets, resulting in a situation where developers and property owners are unable to commence or finalize projects in a timely manner; and

WHEREAS, the City of Bellingham can reduce and alleviate the pressure from the current economic climate and market conditions for projects that have received approvals but have not been completed within existing time limitations by extending expiration dates when economic hardship or the ability to obtain financing is demonstrated; and

WHEREAS, the Planning and Community Development Department brought forth a text amendment to allow for a one-time economic hardship extension of the vested status of certain issued land use approvals and Whatcom County issued land use approvals on properties that have been annexed into the City of Bellingham; and

WHEREAS, the Bellingham Planning Commission conducted a public hearing on March 11, 2010, with appropriate public notice provided, and thereafter made Findings, Conclusions and a Recommendation for adoption of the text amendment; and

WHEREAS, the Bellingham City Council held a public hearing on April 26, 2010 and agrees with and adopts the Planning Commission Findings, Conclusions and Recommendation; and

NOW THEREFORE, THE CITY OF BELLINGHAM DOES ORDAIN:

Section 1. The City Council adopts the March 11, 2010 Findings of Fact, Conclusions and Recommendation of the Planning Commission as attached in Exhibit A.

Section 2. Bellingham Municipal Code 21.10.240 is hereby amended as follows:


21.10.260 - Vesting

- A. (No Change)
- B. (No Change)
- C. (No Change)
- D. One-Time Economic Hardship Extension of Vested Status.

City of Bellingham
City Attorney
210 Lottle Street
Bellingham, Washington 98225
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1. The Planning and Community Development Director shall grant a one-time two (2) year extension, from the date of expiration, of the vested status of an issued land use approval under Process Type I, II, III, or VII or a Whatcom County issued land use approval on a property that has been annexed into the City of Bellingham if all of the following criteria are met:
 - a. The applicant files a written extension request with applicable fee on forms provided by the City by no later than December 31, 2011;
 - b. The extension request includes a sworn declaration that the work authorized by the land use approval will be delayed as a result of an inability to secure financing; and
 - c. The extension request is for an issued land use approval set to expire between January 1, 2010 and December 31, 2011.
2. To the extent the applicant has not obtained an extension identified in BMC 21.10.260 C. , BMC 18.04.100 or BMC 18.16.110 prior to applying for this one-time extension, the applicant may utilize these other extensions upon conclusion of this two (2) year one-time extension. Requests for these other extensions shall be submitted to the City prior to the expiration of the one-time two (2) year extension.

PASSED by the Council this 10th day of May, 2010.



Council President

APPROVED by me this 21st day of May, 2010.



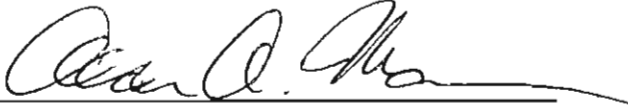
Mayor

ATTEST: 

Finance Director

City of Bellingham
City Attorney
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APPROVED AS TO FORM:



Office of the City Attorney

Published:

May 14, 2010

**BELLINGHAM PLANNING COMMISSION FINDINGS OF FACT,
CONCLUSIONS, AND RECOMMENDATIONS**

MARCH 11, 2010

SUMMARY

The severe economic downturn in the local, regional and national economies, the tightening of the credit markets and difficulty in obtaining financing have resulted in a situation where developers and property owners are unable to commence or finalize projects in a timely manner. Following the public hearing and deliberation on the proposed text amendments, the Bellingham Planning Commission has determined that the proposed amendments will provide reasonable and temporary relief to help mitigate the impacts of the current economic downturn.

I. FINDINGS OF FACT

1. Proposal Description -

The proposed amendments will allow the Planning and Community Development Director to grant a one-time two (2) year extension of the vested status of an issued Type I, II, III or VII land use approval or a Whatcom County issued land use approval on property that has been annexed into the City.

In order for the Director to grant the economic hardship extension, certain criteria would have to be met, such as; the applicant must submit a written request with applicable fee on forms provided by the City by December 31, 2011, the extension request must include a sworn declaration that the project will be delayed as a result of adverse market conditions or an inability to secure financing, and the request is for permits set to expire between January 1, 2010 and December 31, 2011.

2. Background Information/Procedural History -

Bellingham, like the rest of the state and nation, is facing a significant economic downturn that has directly affected the construction industry. The impacts are reflected in a variety of economic indicators at the state and local level. Housing starts, a freeze in the credit markets, significant decreases in construction employment and a decline in the number of applications for building permits and land use reviews are all indicators of the state of our economy.

The extraordinary conditions of the current economic market have made it extremely difficult for developers and homeowners to acquire financing to begin or complete their development proposals. Without financing and a means to construct projects approved by the City, development approvals will lapse due to the failure of developers to begin, complete or substantially complete construction within specified deadlines.

In stable economic conditions, development projects can typically meet the deadlines in the current code. However, projects that would otherwise have proceeded to completion in a better economy may now be delayed and face expiration of their approvals. Once expired these projects must re-apply and go through the entire land use review process again at substantial

1 cost and further delay. Additionally, conducting such land use reviews a second time for the
2 same project under the same codes would divert City staff resources from other priority projects.

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4 The goal of the proposed extension is to allow sufficient time for approved projects to weather
5 the current market situation, while also limiting the length of the extension so that conditions and
6 regulations considered at the time of approval remain valid.

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8 **3. Public Comment -**

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10 The Bellingham Planning Commission held a Public Hearing on March 11, 2010 and received
11 testimony and deliberated on the proposed code amendments. Notice of this hearing was
12 mailed to neighborhood representatives and associations and was published in the Bellingham
13 Herald. The City issued a press release February 9, 2010, the release was also emailed to
14 recipients on the city's Technical Advisory Bulletin list. This list includes developers, architects,
15 land use consultants and builders. Staff has received several telephones calls inquiring about
16 the details of the proposal and its affects on individual permits. No written comments have been
17 submitted in response to the notice.

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19 **4. State Environmental Policy Act (SEPA) Determination**

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21 The proposed code amendments are intended to be temporary until economic conditions
22 improve and are procedural in nature, in that they only modify the amount of time an issued
23 permit remains viable, and accordingly are Categorically Exempt from review under the SEPA
24 (WAC 197-11-800(19)).

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26 **II. CONCLUSIONS**

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28 Due to the current economic environment applicants with issued permits should not be
29 penalized due to adverse market conditions or an inability to secure financing.

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31 The proposed amendments respect the value of the existing vesting timeframes, but also
32 acknowledge that the current economic downturn supports extending these timelines for a
33 limited period for this rare event.

34
35 The proposed code amendments allow sufficient time for approved projects to weather the
36 current market situation, while also limiting the length of the extension so that conditions and
37 regulations considered at the time of approval remain valid.

38
39 The proposed amendments are in the best interest of the public health, safety and welfare and
40 should be adopted.

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42 Any Finding of Fact that should be denominated a Conclusion shall be deemed to be a
43 Conclusion. Any Conclusion that should be denominated a Finding of Fact shall be deemed to
44 be a Finding of Fact.

45
46 **III. RECOMMENDATIONS**

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48 Based on the findings and conclusions, the Bellingham Planning Commission recommends that
49 Bellingham Municipal Code section 21.10.260 be amended and the following section be added:
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1 D. One-Time Economic Hardship Extension of Vested Status.

2
3 1. The Planning and Community Development Director shall grant a one-time two (2) year
4 extension of the vested status of an issued land use approval under Process Type I, II,
5 III, or VII or a Whatcom County issued land use approval on a property that has been
6 annexed into the City of Bellingham if all of the following criteria are met:
7

8 a. The applicant files a written extension request with applicable fee on forms provided
9 by the City by no later than December 31, 2011; and

10
11 b. The extension request includes a sworn declaration that the work authorized by the
12 land use approval will be delayed as a result of adverse market conditions or inability to
13 secure financing; and
14

15 c. The extension request is for an issued land use approval set to expire between
16 January 1, 2010 and December 31, 2011.
17

18 2. To the extent the applicant has not obtained an extension identified in BMC 21.10.260
19 C., BMC 18.04.100 or BMC 18.16.110 prior to applying for this one-time extension, the
20 applicant may utilize these other extensions upon conclusion of this two (2) year one-
21 time extension. Requests for these other extensions shall be submitted to the City prior
22 to the expiration of the one-time two (2) year extension.
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25 ADOPTED this 11th day of March, 2010.

26
27 Thomas Barrett
28 *Planning Commission Chairperson*
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30
31 Debbie Hume
32 *Recording Secretary*
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37 APPROVED AS TO FORM:
38 Alan A. Ma
39 *City Attorney*
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