

ORDINANCE NO. 4540

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELLENSBURG, WASHINGTON RELATING TO SUBDIVISIONS AND PLANNED UNIT DEVELOPMENTS; AMENDING ELLENSBURG MUNICIPAL CODE SECTION 12.08.480 PERTAINING TO FINAL PLAT SUBMITTAL DEADLINE, ELLENSBURG MUNICIPAL CODE SECTION 12.10.180 PERTAINING TO FINAL SHORT PLAT SUBMITTAL DEADLINE, AND ELLENSBURG MUNICIPAL CODE SECTIONS 13.38.260, 13.38.420, 13.38.440 PERTAINING TO PLANNED UNIT DEVELOPMENT FINAL DEVELOPMENT PLAN DEADLINES; AND ADDING A NEW SECTION 13.38.430 ENTITLED "PRELIMINARY DEVELOPMENT PLAN – EXTENSION OF DURATION OF APPROVAL."

WHEREAS, Title 12 of the Ellensburg Municipal Code sets forth the requirements and process for city approval of major subdivisions and short subdivisions; and,

WHEREAS, Ellensburg Municipal Code Section 12.08.480 requires that a final plat shall be submitted within five (5) years of preliminary plat approval or that preliminary plat approval lapses; and,

WHEREAS, Ellensburg Municipal Code Section 12.10.180 requires that a final short plat shall be submitted within one (1) year of preliminary short plat approval or that preliminary short plat approval lapses; and

WHEREAS, the Ellensburg Municipal Code does not provide for any extension of that final plat or final short plat submittal deadline; and,

WHEREAS, Chapter 13.38 of the Ellensburg Municipal Code sets forth the requirements and process for city approval of Planned Unit Developments; and,

WHEREAS, Section 13.38.260 of the Ellensburg Municipal Code sets forth the general process for review and submittal of Planned Unit Development preliminary development plans, including duration of approval of such preliminary plans; and,

WHEREAS, Sections 13.38.420 and 13.38.440 of the Ellensburg Municipal Code respectively set forth the duration of approval for Planned Unit Development preliminary development plans and the submittal deadline for Planned Unit Development final development plans; and,

WHEREAS, the Ellensburg Municipal Code does not provide for any extension of Planned Unit Development final development plan submittal deadlines; and,

WHEREAS, the Ellensburg City Council has determined that it is in the best interests of the community that an opportunity be provided for the obtaining of an

extension of those final plat, final short plat and Planned Unit Development final development plan submittal deadlines, subject to certain conditions;

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

Section 1. Ellensburg Municipal Code Section 12.08.480, as last amended by Ordinance No. 4517, is hereby amended to read as follows:

12.08.480 Final plat – Submittal deadline and extension.

Within five years following preliminary plat approval, the applicant shall submit to the administrator the final plat application. ~~Any applicant who files a written request with the administrator within 30 days before the expiration date shall be granted a one-time, one-year extension upon a showing that the applicant has attempted in good faith to submit the final plat within the five-year period.~~

Any applicant may request that city council grant a one-time extension of the final plat submittal deadline for two (2) years, subject to the following:

A. The request must be made in writing and delivered to the community development department no later than ninety (90) days before the original five (5) year submittal deadline date for the final plat has expired.

B. The request must demonstrate that the applicant has proceeded with due diligence and in good faith to submit the final plat within that original five (5) year submittal deadline timeframe, and shall include a status report of activity that the applicant has taken in preparing for submittal of the final plat.

C. Prior to consideration of the extension request by city council, the community development department shall send the request to the appropriate city departments for review as to whether or not conditions or development regulation requirements have changed substantially since the original preliminary plat approval and council shall be advised of any identified substantial changes. City council shall then set a public hearing date and public notice of such public hearing shall be accomplished by the following:

1. Publish notice in a newspaper of local general circulation at least ten (10) days prior to the hearing date stating:

a. Reference to the authority under which the public hearing is being held;

b. The general nature of the matters being considered and issues involved;

c. A legal description of the proposed plat and/or a vicinity location sketch and a locational description; and

d. The time and place of the public hearing and the manner in which interested persons may present their views therein.

2. Mailing such notice at least ten (10) days prior to the hearing date to the applicant or the applicant's agent and to the property owner whose property is under consideration.

D. The city council may grant the extension request or may deny the extension request. In granting the extension request, the city council shall also make a determination whether or not conditions or development regulations have changed so substantially as to warrant imposition of new conditions to address those substantial

changes and may impose new conditions along with the granting of the extension request if warranted by substantial changes in conditions or development regulations. The findings and/or determination by the city council made after such public hearing shall be in writing and a copy thereof submitted to the applicant for the extension request within fifteen (15) days after such findings and/or determinations have been made.

Failure to submit the final plat application within that time period, or any extension if granted, will result in a lapse of the preliminary plat approval. [Ord. 4517 § 1, 2008; Ord. 4289, 2001; Ord. 3235 § 17, 1979.]

Code reviser's note: Section 4 of Ordinance 4517 provides, "The amendatory language set forth in this ordinance shall expire three hundred sixty five (365) days after the effective date of this ordinance."

Section 2. Ellensburg Municipal Code Section 12.10.180, as last amended by Ordinance No. 4517, is hereby amended to read as follows:

12.10.180 Short subdivision final short plat – Submittal deadline and extension.

Within one year following preliminary short plat approval, the applicant shall submit to the administrator the final short plat. Any applicant who files a written request with the administrator within 30 days before the expiration date shall be granted a one-time, one-year extension upon a showing that the applicant has attempted in good faith to submit the final short plat within the one-year period. Any applicant may request that the administrator grant a one-time extension of the final short plat submittal deadline for an additional period of two (2) years, subject to the following:

A. The request must be made in writing and delivered to the community development department no later than sixty (60) days before the original one (1) year submittal deadline date for the final short plat has expired;

B. The request must demonstrate that the applicant has proceeded with due diligence and in good faith to submit the final short plat within that original one (1) year submittal deadline timeframe, and shall include a status report of activity that the applicant has taken in preparing for submittal of the final short plat; and

C. Prior to consideration of the extension request by the administrator, the request shall be sent to the appropriate city departments for review as to whether or not conditions or development regulation requirements have changed substantially since the original preliminary short plat approval and the administrator shall be advised of any identified substantial changes.

D. The administrator may grant the extension request or may deny the extension request. In granting the extension request, the administrator shall also make a determination whether or not conditions or development regulations have changed so substantially as to warrant imposition of new conditions to address those substantial changes and may impose new conditions along with the granting of the extension request if warranted by substantial changes in conditions or development regulations. The findings and/or determination by the administrator shall be in writing and a copy thereof submitted to the applicant making the extension request within fifteen (15) days after such findings and/or determinations have been made.

Failure to submit the final short plat application within that time period, or any extension if granted, will result in a lapse of the preliminary short plat approval. [Ord. 4517 § 2, 2008; Ord. 4289, 2001.]

~~*Code reviser's note: Section 4 of Ordinance 4517 provides, "The amendatory language set forth in this ordinance shall expire three hundred sixty five (365) days after the effective date of this ordinance."~~

Section 3. Ellensburg Municipal Code Section 13.38.260, as last amended by Ordinance No. 4307, is hereby amended to read as follows:

13.38.260 Preliminary development plan – General process.

A. Application. A completed application for a preliminary development plan review shall be filed with the department of community development along with the appropriate processing fee. The application may be filed only by persons having legal interest in the property and all legal owners must sign and consent to the application. In addition to the application and fee, the applicant shall also complete an environmental checklist and pay the appropriate fee for SEPA review. Accuracy for all data and information submitted on or with a preliminary development plan shall be the responsibility of the applicant.

B. Subdivision Requirements. A planned unit development shall be exempt from the platting and procedural requirements of the city's subdivision ordinance (ECC Title 12), except that when the planned unit development is a part of a larger ownership and is intended for individual ownership, sale or public dedication, or if any parcel of land within a planned unit development is intended for individual ownership, sale or public dedication, the platting and procedural requirements of the subdivision ordinance (ECC Title 12) and all applicable state laws pertaining to the subdivision and conveyance of land and the preparation of maps shall be followed.

C. Project Phasing. A PUD may be developed in phases, subject to a phasing schedule that must have been approved as part of the preliminary development plan approval. If a proposed PUD is to be developed in phases, the entire PUD shall be portrayed in the preliminary development plan application with specificity as to exactly which public improvements are proposed in each phase and the timing of the phases, and if a phasing schedule is approved in the preliminary development plan, each phase shall individually undergo final development plan review.

In all phased PUDs, the first phase must contain a minimum of 40 percent of the full PUD public improvements as determined by the city in the preliminary development plan approval. The applicant shall have three (3) years from the date of preliminary development plan approval, during which time the final development plan for that first phase shall be submitted and all first phase public improvements shall be either installed or bonded for. Subject to the requirements of ECC 13.38.430, the applicant in a phased PUD may request, and city council may grant, an extension for submittal of the first phase final development plan for two (2) years beyond the initial deadline for submittal of that first phase final development plan and an extension for submittal of the final development plan for all remaining phases for three (3) years beyond the initial deadline for submittal of the final development plan for those remaining phases. Failure to submit the first phase final development plan within that three-year ~~time frame~~ submittal deadline, or failure to submit the first phase final development plan within any extension

deadline granted under ECC 13.38.430 will render the preliminary development plan approval void for the entire PUD.

After the first phase has received final development plan approval, all of the subsequent remaining phases shall have five years from the date of preliminary development plan approval, during which time the final development plan for all subsequent remaining phases shall be submitted and all public improvements shall be either installed or bonded for. Subject to the requirements of ECC 13.38.430, the applicant in a phased PUD may request, and city council may grant, an extension for submittal of the final development plan for all of the remaining phases for three (3) years beyond the initial deadline for submittal of the final development plan for those remaining phases. Failure to submit the final development plan for any subsequent remaining phases within that five-year time frame, or within any extension deadline granted under ECC 13.38.430 will render the preliminary development plan approval for that phase and for all subsequent remaining phases void. The city shall have sole authority to determine the timing for the installation of all remaining public improvements that have been bonded for but not yet completed after the expiration of that five-year period, or after the expiration of any extension granted under ECC 13.38.430.

In addition to the requirement that the first phase must contain at least 40 percent of all of the PUD public improvements as determined by the city in the preliminary development plan approval, all phases shall include an appropriate share of the proposed recreational, open space, and other site and building amenities of the entire development. The appropriate share of the amenities for each phase shall be determined and approved by the city at the time of preliminary development plan approval, shall be based on the portrayal of the full build-out of the entire PUD, and shall not be based solely upon a proportional or equal share for the entire site.

D. Combined Review. The planned unit development application review and decision may be combined with other development permitting review and decision in accordance with the procedures set forth in Chapter 1.68 ECC, except that the public hearing and timing requirements set forth in ECC 1.68.200 and 1.68.240 are waived for planned unit development application review and decision processes due to the higher levels of detail, review and public scrutiny involved in the planned unit development application review process. If the proposal includes a subdivision, the preliminary and final plats shall be reviewed simultaneously with the preliminary and final development plans.

E. Reviewing Bodies. The preliminary development plan will be distributed by the director of the department of community development to staff within the community development department, public works department, energy services department, fire department, and other relevant service providers or agencies, to the landmarks and design commission, to the SEPA responsible official for SEPA review including opportunity for agency review and comment, and to the planning commission for review and action. Staff, service provider and agency comments, and landmarks and design commission findings and recommendations will be developed and forwarded along with the SEPA determination to the planning commission. The planning commission shall then hold a public meeting to take comment, after which recommendations will be developed and forwarded to the city council. [Ord. 4307, 2001.]

Section 4. Ellensburg Municipal Code Section 13.38.420, as last amended by Ordinance No. 4307, is hereby amended to read as follows:

13.38.420 Preliminary development plan – Duration of approval.

Approval of the preliminary development plan shall be effective for ~~three~~ five (5) years from the date of approval by the city council, during which time the final development plan shall be submitted and all public improvements shall be either installed or bonded for, or an extension of said duration of approval shall have been applied for and granted pursuant to ECC 13.38.430 during which extension time period the final development plan shall be submitted and all public improvements shall be either installed or bonded for. If the preliminary development plan included an approved phasing plan, then the first phase preliminary development plan approval shall be effective for a period of three years from the date of preliminary development plan approval by the city council, or an extension of said first phase preliminary development plan approval shall have been applied for and granted pursuant to ECC 13.38.430 during which extension time period the first phase final development plan shall be submitted and all of the first phase public improvements shall be either installed or bonded for, and the remaining phases shall be effective for a period of five years from the date of preliminary development plan approval by the city council, during which time the final development plan for each phase shall be submitted and all public improvements for all phases shall be either installed or bonded for, or an extension of said duration of final development plan approval for those remaining phases shall have been applied for and granted pursuant to ECC 13.38.430 during which extension time period the final development plan for each phase shall be submitted and all public improvements shall be either installed or bonded for.

Knowledge of the expiration date of the preliminary development plan approval, including phased preliminary development plan approvals, if phasing was approved, and of any extension of the expiration date of the preliminary development plan approval(s) granted pursuant to ECC 13.38.430 is the sole responsibility of the applicant. The city of Ellensburg shall bear no responsibility to provide notification of expiration periods. [Ord. 4307, 2001.]

Section 5. A new section entitled “13.38.430 Preliminary Development Plan – Extension of Duration of Approval” is hereby added to the Ellensburg Municipal Code to read as follows:

13.38.430 Preliminary Development Plan – Extension of Duration of Approval.

Any applicant may request that city council grant a one-time extension of the duration of approval of the preliminary development plan for two (2) years beyond the original date of preliminary development plan approval expiration, or a one-time extension of the duration of approval of the first phase of the preliminary development plan, if phasing was approved, for two (2) years beyond the original date of first phase preliminary development plan approval expiration and a one-time extension deadline for submittal of the final development plan for all remaining phases for three (3) years beyond the initial deadline for submittal of the final development plan for those remaining phases, subject to the following:

A. The request must be made in writing and delivered to the community development department no later than ninety (90) days before the original expiration date of the

preliminary development plan, or before the original expiration date of the first phase preliminary development plan, if phasing was approved, or before the original submittal deadline for all remaining phases, if phasing was approved;

B. The request must demonstrate that the applicant has proceeded with due diligence and in good faith to submit the final development plan or first phase final development plan, if phasing was approved, or the final development plan(s) for all remaining phases, if phasing was approved within those original timeframes, and shall include a status report of activity that the applicant has taken in preparing for submittal of the final development plan, or any phased final development plan(s); and

C. Prior to consideration of the extension request by city council, the community development department shall send the request to the appropriate city departments for review as to whether or not conditions or development regulation requirements have changed substantially since the original preliminary development plan approval and city council shall be advised of any identified substantial changes. City council shall then set a public hearing date to consider whether conditions or development regulations have changed so substantially as to warrant imposition of new conditions to address those substantial changes. Public notice of such public hearing shall be accomplished by the following:

1. Publish notice in a newspaper of local general circulation at least ten (10) days prior to the hearing date stating:

a. Reference to the authority under which the public hearing is being held;

b. The general nature of the matters being considered and issues involved;

c. A legal description of the proposed project and/or a vicinity location sketch and a locational description; and

d. The time and place of the public hearing and the manner in which interested persons may present their views therein.

2. Mailing such notice at least ten (10) days prior to the hearing date to the applicant or the applicant's agent and to the property owner whose property is under consideration.

D. City council may grant the extension request or may deny the extension request. In granting the extension request, city council may, at its discretion, impose new conditions along with the granting of the extension request if warranted by substantial changes in conditions or development regulations. The findings and/or determination by the city council shall be in writing and a copy thereof submitted to the applicant of the extension request within fifteen (15) days after such findings and/or determinations have been made.

Section 6. Ellensburg Municipal Code Section 13.38.440, as last amended by Ordinance No. 4307, is hereby amended to read as follows:

13.38.440 Final development plan – Submittal deadline.

Within ~~three~~ five years following preliminary development plan approval, or within any extension time frame granted pursuant to ECC 13.38.430, the applicant shall submit to the administrator the final development plan application for the proposal, ~~or for the~~

~~first phase of the proposal if phasing was approved in the preliminary development plan. Failure to submit the final development plan application for the full PUD or for the first phase of the PUD within that time period frame, or within any extension time frame granted, will result in a lapse of the preliminary development plan approval, the preliminary development plan shall be considered abandoned, and development of the property shall be subject to the normal requirements and limitations of the underlying zoning.~~

Within three (3) years following phased preliminary development plan approval, or within any extension time frame granted pursuant to ECC 13.38.430, the applicant shall submit the first phase final development plan application for the proposal. Failure to submit the first phase final development plan application within that time frame, or within any extension time frame, will result in a lapse of the preliminary development plan approval for that first phase and for all remaining phases, the preliminary development plan for that first phase and for all remaining phases shall be considered abandoned, and development of the property shall be subject to the normal requirements and limitations of the underlying zoning.

Within five (5) years following phased preliminary development plan approval, or within any extension time frame granted for the submittal of the final development plan application for all remaining phases pursuant to ECC 13.38.430, and only after there has been a timely submittal and approval of the final development plan for the first phase, the applicant shall submit to the administrator the final development plan application for all subsequent remaining phases. Failure to submit the final development plan for any subsequent remaining phases within that five-year time frame, or within any phased final development plan submittal extension time frame granted under ECC 13.38.430, will result in a lapse of the preliminary development plan approval for that phase and for all subsequent remaining phases, the preliminary development plan for that phase and all subsequent remaining phases shall be considered abandoned, and development of the property shall be subject to the normal requirements and limitations of the underlying zoning.

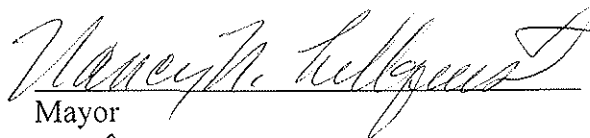
Knowledge of the expiration date of the preliminary development plan approval, and of the deadline for final development plan submittal is the sole responsibility of the applicant. The city of Ellensburg shall bear no responsibility to provide notification of expiration periods. [Ord. 4307, 2001.]

Section 7. If any portion of this ordinance is declared invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this ordinance.

Section 8. This ordinance shall take effect and be in force five (5) days after its passage, approval and publication.


The foregoing ordinance was passed and adopted at a regular meeting of the City

Council on 4-20, 2009.



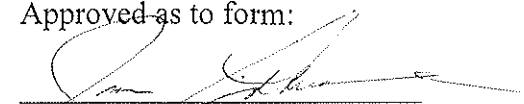
Mayor

Attest:



City Clerk

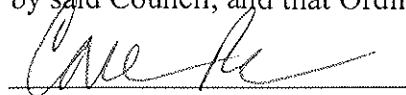
Approved as to form:



City Attorney

Publish: 4-23, 2009

I, Coreen M. Reno, City Clerk of said City, do hereby certify that Ordinance No. 4540 is a true and correct copy of said ordinance of like number as the same was passed by said Council, and that Ordinance No. 4540 was published as required by law.



COREEN M. RENO, CMC