

WHATCOM COUNTY COUNCIL AGENDA BILL

NO. 2010-180

CLEARANCES	Initial	Date	Date Received in Council Office	Agenda Date	Assigned to:
Originator: Tyler Schroeder			RECEIVED APR 06 2010 WHATCOM COUNTY COUNCIL	4/13/10	Council Introduction
Division Head:				4/27/10	Hearing
Dept. Head: David Stalheim	<i>DS</i>	4-5-10		5/11/2010	Introduction
Prosecutor: Royce Buckingham	<i>RB</i>	4-6-10		5/25/2010	Hearing
Purchasing/Budget:					
Executive: Pete Kremen					

TITLE OF DOCUMENT: *Economic Hardship Time Extension for Land Use Approvals.*

ATTACHMENTS:

- (1) Interim Ordinance amending Title 20 and Title 21

SEPA review required? () Yes (x) NO
 SEPA review completed? () Yes (x) NO
 Exempt per WAC 197-11-800(19)

Should Clerk schedule a hearing? (X) Yes () NO
 Requested Date: 5/25/2010

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE: *(If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)*

An interim ordinance that amends the WCC 20.84 – Variance, Conditional Uses, Administrative Approval Uses and Appeals and WCC 21.01 – General Provisions. The proposal will allow for the Planning and Development Services Director or Whatcom County Hearing Examiner to grant a one-time, two (2) year economic hardship extension to issued planned unit developments, conditional use, variance, administrative approval, short subdivision or binding site plat, and critical area and geologic assessment reports..

COMMITTEE ACTION:

COUNCIL ACTION:

4/13/2010: Introduced
 4/27/2010: New version to be introduced on 5/11/2010 and hearing 5/25/2010
 5/11/2010: Introduced
 5/25/2010: Council Adopted 6-1 Weimer opposed Ord. 2010-026

Related County Contract #:

Related File Numbers:

Ordinance or Resolution Number:
 Ord. 2010-026

Please Note: *Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County's website at: www.co.whatcom.wa.us/council.*

1 SPONSORED BY: Consent

2 PROPOSED BY: PDS

3 INTRODUCTION DATE: 5/11/2010

4
5 **ORDINANCE NO.** 2010-026

6
7 **AMENDING WHATCOM COUNTY CODE, ON AN INTERIM BASIS, TO ALLOW FOR A**
8 **ONE-TIME ECONOMIC HARDSHIP EXTENSION OF LAND USE PERMIT EXPIRATIONS**
9

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

14
15 **WHEREAS**, Whatcom County can reduce and alleviate the pressure from the current
16 economic climate and market conditions for projects and applications that have not been
17 completed within time limitations by extending expiration dates and vested status when
18 economic hardship of developers and property is demonstrated; and

19
20 **WHEREAS**, Whatcom County is authorized to set expiration dates for zoning permits
21 and pending applications therefore pursuant to RCW 36.70, Planning Enabling Act, and
22 binding site plans, short plats, subdivisions, and pending applications therefore pursuant to
23 RCW 58.17; and

24
25 **WHEREAS**, the Council makes the following findings of fact and reasons for action in
26 accordance with RCW 36.70.795:

27
28 **FINDINGS OF FACT AND REASONS FOR ACTION**

- 29 1. Whatcom County, like the rest of the state and nation, is facing a significant
30 economic downturn that has directly affected the construction industry. The
31 impacts are reflected in a variety of economic indicators at the state and local
32 level
- 33 2. A freeze in the credit markets, significant decreases in construction employment,
34 and a decline in the number of applications for building permits and land use
35 reviews are all indicators of the state of our economy.
- 36 3. These extraordinary conditions of the current economic market have made it
37 extremely difficult for developers and homeowners to acquire financing to begin
38 or complete their development proposals.
- 39 4. The proposed code amendments allow sufficient time for pending applications
40 and approved projects to remain vested and weather the current market
41 situation, while also limiting the length of the extension so that conditions and
42 regulations considered at the time of approval remain valid.

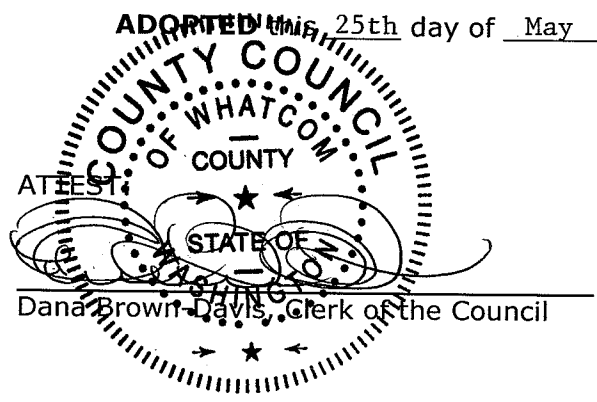
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5. The amendments are in the best interest of the public health, safety and welfare of the community.

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that the Official Whatcom County Zoning Ordinance (Title 20) and (Title 21) are hereby amended as shown in Exhibit A.

BE IT FURTHER ORDAINED, by the Whatcom County Council, pursuant to RCW 36.70.795, that this amendment shall be effective for not longer than six months following the effective date of this ordinance.

ADOPTED this 25th day of May, 2010.



Dana Brown-Davis, Clerk of the Council

APPROVED AS TO FORM:

[Handwritten Signature]

Civil Deputy Prosecutor

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

[Handwritten Signature]
Sam Crawford, Council Chair

WHATCOM COUNTY EXECUTIVE
WHATCOM COUNTY, WASHINGTON

[Handwritten Signature]
Pete Kremen, County Executive

() Approved () Denied

Date Signed: 5-26-10

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4 **Exhibit A**

5 Section 1: Amend the Whatcom County Zoning Code, Chapter 20.84 as follows:

6 One-Time Economic Hardship Extension of Permit Expirations

- 7 1. A one-time two (2) year time extension of vested status for any terms,
8 conditions or other dates, including permit expiration, shall be granted for
9 the following land use permits: planned unit developments, conditional
10 use permits, variances, or administrative use permits if all of the following
11 criteria are met:
- 12 a. The applicant files a written extension request with applicable fee
13 on forms provided by the County no later than March 1st 2012.
 - 14 b. The extension request includes a sworn declaration that the work
15 authorized by the land use approval will be delayed as a result of
16 adverse market conditions or inability to secure financing; and
 - 17 c. The extension request is for an issued land use approval to expire
18 between January 1st, 2009 and March 1st, 2012.
- 19 2. Any permit application for a permit identified in the previous Section 1
20 pending on January 1, 2009, shall be extended and remain vested for a
21 period of two (2) years from the date of expiration of such permit
22 application (whether or not expired) provided the following criteria are
23 met:
- 24 a. The applicant files a written extension request with applicable fee
25 on form provided by the County no later than March 1, 2012.
 - 26 b. The extension request includes a sworn declaration that the
27 completion of the pending permit application was or will be delayed as
28 a result of adverse market conditions or inability to secure financing.
- 29 3. The time extension shall be granted by the official who granted the
30 underlying permit, that being either the Zoning Administrator or Whatcom
31 County Hearing Examiner.
- 32 4 An applicant may apply for other extensions identified in the applicable
33 Whatcom County Code if submitted prior to the conclusion of this two (2)
34 year one-time extension.

35 Section 2: Amend the Whatcom County Land Division ordinance, Chapter 21.01 as follows:

36 One-Time Economic Hardship Extension of Permit Expirations

- 37 1. A one-time two (2) year time extension of vested status for any terms,
38 satisfying additional requirements, conditions or other dates, including
39 expiration of the date to record a final short subdivision, exempt land
40 division, subdivision, and general or specific binding site plan, shall be
41 granted if all of the following criteria are met:

- 1 a. The applicant files a written extension request with applicable fee
2 on forms provided by the County no later than March 1st 2012.
3 b. The extension request includes a sworn declaration that the work
4 authorized by the land use approval will be delayed as a result of
5 adverse market conditions or inability to secure financing; and
6 c. The extension request is for an issued land use approval or notice
7 of additional requirements to expire between January 1st, 2009 and
8 March 1st, 2012.
9
10 2. Any application for an exempt land division, short subdivision, subdivision,
11 and a general or specific binding site plan pending on January 1, 2009,
12 shall be extended and remain vested for a period of two (2) years from
13 the date of expiration of such application (whether or not expired)
14 provided the following criteria are met:
15 a. The applicant files a written extension request with applicable fee
16 on forms provided by the County no later than March 1, 2012.
17 b. The extension request includes a sworn declaration that the
18 pending application was or will be delayed as a result of adverse
19 market conditions or inability to secure financing.
20 3. The time extension shall be granted by the official who granted the
21 underlying preliminary land division or notice of additional requirements,
22 that being either the Subdivision Administrator or Whatcom County
23 Hearing Examiner.
24 4. An applicant may apply for other extensions identified in the applicable
25 Whatcom County Code if submitted prior to the conclusion of this two (2)
26 year one-time extension.

27 Section 3: Amend the Whatcom County Critical Areas Ordinance, Chapter 16.16.255 as
28 follows:
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- 31 D. Critical areas assessment reports shall generally be valid for a period of
32 five years. Future land use applications may require preparation of new or
33 supplemental critical area assessment reports unless it can be
34 demonstrated to the satisfaction of the technical administrator that the
35 previously prepared report is adequate for current analysis. The technical
36 administrator may also require the preparation of a new critical area
37 assessment report or a supplemental report when new information is
38 found demonstrating that the initial assessment is in error. If the technical
39 administrator requires more information in the report, he/she shall make
40 the request in writing to the applicant stating what additional information
41 is needed and why.
42

1 H. A one-time two (2) year time extension for critical area assessment
2 reports shall be granted if all of the following criteria are met:

- 3
4 1. The applicant files a written extension request with
5 applicable fee on forms provided by the County no later than
6 March 1st 2012.
7 2. The extension request includes a sworn declaration that the
8 work authorized by the land use approval will be delayed as
9 a result of adverse market conditions or inability to secure
10 financing; and
11 3. The extension request is for an issued land use approval to
12 expire between March 1st, 2010 and March 1st 2012.

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14 The time extension shall be granted by the official who approved the
15 critical area assessment report, that being either the Technical
16 Administrator or Whatcom County Hearing Examiner.

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18 Section 4: Amend the Whatcom County Critical Areas Ordinance, Chapter 16.16.375 as
19 follows:

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21 C. A geological assessment for a specific site may be valid for a period of up
22 to five years when the proposed land use activity and site conditions
23 affecting the site are unchanged. However, if any surface and subsurface
24 conditions associated with the site change during that five-year period,
25 the applicant may be required to submit an amendment to the geological
26 assessment.

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28 D. A one-time two (2) year time extension for geologic assessment reports
29 shall be granted if all of the following criteria are met:

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31 4. The applicant files a written extension request with
32 applicable fee on forms provided by the County no later than
33 March 1st 2012.
34 5. The extension request includes a sworn declaration that the
35 work authorized by the land use approval will be delayed as
36 a result of adverse market conditions or inability to secure
37 financing; and
38 6. The extension request is for an issued land use approval to
39 expire between March 1st, 2010 and March 1st 2012.

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41 The time extension shall be granted by the official who approved the
42 geologic assessment report, that being either the Technical Administrator
43 or Whatcom County Hearing Examiner.