

**JEFFERSON COUNTY
BOARD OF COUNTY COMMISSIONERS**

AGENDA REQUEST

TO: Board of County Commissioners
Philip Morley, County Administrator

FROM: Stacie Hoskins, Department of Community Development (DCD) Interim Director &
Planning Manager *SH*
David Wayne Johnson, Associate Planner

DATE: April 16, 2012

SUBJECT: Port Ludlow Associates request to extend expiration of Olympic Terrace II Preliminary Plat

STATEMENT OF ISSUE:

On June 28, 2005, the Jefferson County Hearing Examiner granted preliminary plat approval for the Olympic Terrace II Long Plat, Phase One of which was finalized on May 7, 2007. Phase Two had yet to be finalized when the economic downturn of 2008 made doing so infeasible. Preliminary Plat approval for Olympic Terrace II will expire on June 28, 2012 per DCD Code Interpretation dated June 7, 2010. Port Ludlow Associates (PLA) has submitted a written request to extend the expiration of that Plat for one additional year consistent with Section 6.212 of Subdivision Ordinance 04-0526-92, the relevant regulations under the Port Ludlow Development Agreement.

ATTACHMENTS : Port Ludlow Associates letter dated March 20, 2012
DCD Code Interpretation dated June 7, 2010
Section 6.212 of Subdivision Ordinance 04-0526-92

ANALYSIS/STRATEGIC GOALS/PROS and CONS:

Port Ludlow's request is appropriate considering the cost of plat development to complete infrastructure necessary for final approval and the economic conditions that to date have inhibited that development. It is also in keeping with the proper procedure to extend preliminary plat approval consistent with their development agreement with the County. Board approval to extend plat expiration one year is appropriate since PLA has demonstrated good faith in completing the plat by already acquiring final approval for Phase One. The Board should be aware that there are currently four (4) plats that are due to expire as outlined in section (7) of the DCD Code Interpretation (page 5) that may benefit from further extensions enacted by ordinance as allowed under Section 1, page 2 of Substitute Senate Bill 6544 (attachment to DCD Code Interpretation).

FISCAL IMPACT/COST-BENEFIT ANALYSIS:

PLA has to date paid the County a total of \$23,377.75 in fees to process the Olympic Terrace II Long Plat. Should their preliminary plat approval expire, and they desire to continue their development of Olympic Terrace II Phase Two, PLA would be required to re-apply for a new plat under the current fee schedule

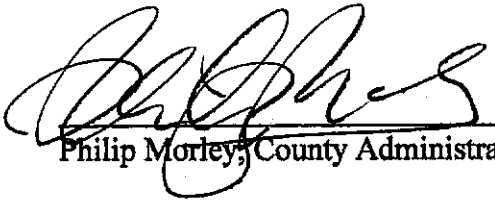
after completing the required Pre-application Conference. DCD charges PLA for Lead Planner services not included in an application fee at the standard hourly rate of \$74.00 per hour.

RECOMMENDATION:

DCD recommends the Board of County Commissioners:

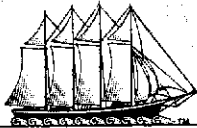
1. Review the attached request and supporting documentation and make a motion to approve a one-time only twelve (12) month extension to the preliminary plat approval for Olympic Terrace II.

REVIEWED BY:


Philip Morley, County Administrator

Date 4/10/12

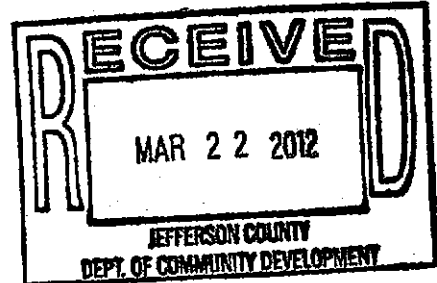
2012-03-22-0000002



PORT LUDLOW
ASSOCIATES, LLC

March 20, 2012

David Johnson
Jefferson County Dept. of Community Development
621 Sheridan Street
Port Townsend, WA 98368



RE: Olympic Terrace Division II Phase 2 (SUB05-00003)

Dear Mr. Johnson:

I am writing in response to the upcoming expiration date of the above referenced preliminary plat. In summary, Olympic Terrace Division II is set to expire on June 28, 2012. Due to the current economic conditions of the real estate market, Port Ludlow Associates LLC hereby requests a 1-year preliminary plat extension per the Subdivision Ordinance 04-0526-92, section 6.212.

If you should have any questions or need additional information, please feel free to contact me. Thank you for your time and consideration in this request.

Sincerely,

Diana Smeland
President



JEFFERSON COUNTY

DEPARTMENT OF COMMUNITY DEVELOPMENT

621 Sheridan Street
Port Townsend, WA 98368
Al Scalf, Director

CODE INTERPRETATION

This interpretation is made according to Ordinance No. 05-0828-98 Jefferson County Procedures & Criteria to Clarify Land Use Regulations Ordinance, and under Jefferson County Code Chapter 18.40 Article VI Unified Development Code Interpretation. The purpose of these code sections are to allow Community Development to address conflicting or ambiguous wording, clarify the scope and applicability of specific provisions of the land use regulations, interpret the intent of a regulation, or take action regarding conflicts between local land use code and State or Federal law or Court decisions, including informing the public and applicants.

Date: June 7, 2010

Subject: **Substitute Senate Bill 6544**
A Washington State Legislature Bill to extend preliminary plat approval from five to seven years

Requestor: Jefferson County Department of Community Development

Issue: Current Jefferson County Code 18.35 Land Divisions limit preliminary Long Subdivisions approval to five years, while Subdivision Ordinance No. 04-0526-92 (applicable only to Port Ludlow Associates) limits the same to three years. Both codes will be in conflict with RCW 58.17 effective June 10, 2010 due to passage of new legislation under SSB 6544 which extends preliminary subdivision approval from five to seven years for long plats.

RELEVANT LAW, CODE, PLANS, ORDINANCES OR POLICIES:

This interpretation is made according to JCC 18.40 Article VI Unified Development Code Interpretation and Ordinance No. 05-0828-98 Jefferson County Procedures & Criteria to Clarify Land Use Regulations Ordinance. In making an interpretation of the provisions of Jefferson County's land use regulations, the Director shall consider the following:

- a) The applicable provisions of the subject land use regulation(s), including its purpose and context;
- b) The implications of the interpretation for development within the county as a whole, including the precedent the interpretation will set for other applicants; and
- c) The applicable provisions of the Jefferson County Comprehensive Plan and other relevant ordinances and policies;
- d) The consistency of the interpretation with other local, state and federal land use regulations, if any.

Jefferson County Code Chapter 18.35 Land Divisions

On December 18, 2000, the Board of County Commissioners adopted the Unified Development Code (UDC) as the set of implementing regulations for the Jefferson County Comprehensive Plan. Section Seven (7) of the UDC was Land Divisions. The effective date of the UDC was January 16, 2001. Upon codification, the UDC became Title 18 of the Jefferson County Code (JCC). Section 7 Land Divisions then became Chapter 18.35 of the JCC. JCC 18.35.390(3) states, "Applications for final plat approval shall be submitted within five years of the date of the preliminary plat approval."

Subdivision Ordinance No. 04-0526-92

The Subdivision Ordinance No. 04-0526-92 was adopted May 26, 1992 as the County's land use law governing the division of land throughout Jefferson County. In December 2000, the Unified Development Code was adopted, replacing Subdivision Ordinance No. 04-0526-92 with Jefferson County Code (JCC) Chapter 18.35 Land Divisions. Subdivision Ordinance No. 04-0526-92 now only applies to property owned by Port Ludlow Associates (PLA) as required under their Development Agreement with the County (Resolution No. 42-00) and adopted May 8, 2000. Section 6.212 Expiration of Subdivision Ordinance No. 04-0526-92 states, "Approval of a preliminary long plat shall expire unless the final long plat is submitted in proper form for final approval within thirty-six (36) months, unless an extension is granted by the Board...."

Comprehensive Plan Goal & Policy:

Applicable Comprehensive Plan Goals & Policies are as follows

GOAL:

LNG 1.0 Ensure consistency between the Growth Management Act, the County-wide Planning Policy, this Comprehensive Plan, land use and zoning maps, the Unified Development Code, Western Washington Growth Management Hearings Board decisions, other related policies and regulations, and all land use, environmental and development decisions and approvals.

POLICIES:

LNP 1.2 Acknowledge and protect the rights of private property owners in preparing land use, development, and environmental regulations, prohibit arbitrary and discriminatory actions, and preserve reasonable uses for regulated properties.

RCW 58.17.020 Definitions

The Revised Code of Washington (RCW) 58.17.020 Definitions, defines the following:

- 1) "Subdivision" is the division or re-division of land into five or more lots, tracts, parcels, sites or divisions for the purpose of sale, lease, or transfer of ownership, except as provided in subsection (6) of this section.
- 2) "Plat" is a map or representation of a subdivision, thereon the division of a tract or parcel of land into lots, blocks, streets and alleys or other divisions and dedications.
- 6) "Short Subdivision" is the division or re-division of land into four or fewer lots, tracts, parcels sites or divisions for the purpose of sale, lease, or transfer of ownership: PROVIDED, that the legislative authority of any city or town may by local ordinance increase the number of lots, tracts, parcels to be regulated as short subdivisions to a maximum of nine.

RCW 58.17.140 Time limitation for approval or disapproval of plats — Extensions

RCW 58.17.140 currently reads: "Preliminary plats of any proposed subdivision and dedication shall be approved, disapproved, or returned to the applicant for modification or correction within ninety days from date of filing thereof unless the applicant consents to an extension of such time period or the ninety day limitation is extended to include up to twenty-one days as specified under RCW 58.17.095(3): PROVIDED, That if an environmental impact statement is required as provided in RCW 43.21C.030, the ninety day period shall not include the time spent preparing and circulating the environmental impact statement by the local government agency. Final plats and short plats shall be approved, disapproved, or returned to the applicant within thirty days from the date of filing thereof, unless the applicant consents to an extension of such time period. A final plat meeting all requirements of this chapter shall be submitted to the legislative body of the city, town, or county for approval within five years of the date of preliminary plat approval. Nothing contained in this section shall act to prevent any city, town, or county from adopting by ordinance procedures which would allow extensions of time that may or may not contain additional or altered conditions and requirements."

RCW 58.17.170 Written approval of subdivision — Original of final plat to be filed —
Copies

RCW 58.17.170 currently reads: "When the legislative body of the city, town or county finds that the subdivision proposed for final plat approval conforms to all terms of the preliminary plat approval, and that said subdivision meets the requirements of this chapter, other applicable state laws, and any local ordinances adopted under this chapter which were in effect at the time of preliminary plat approval, it shall suitably inscribe and execute its written approval on the face of the plat. The original of said final plat shall be filed for record with the county auditor. One reproducible copy shall be furnished to the city, town or county engineer. One paper copy shall be filed with the county assessor. Paper copies shall be provided to such other agencies as may be required by ordinance. Any lots in a final plat filed for record shall be a valid land use notwithstanding any change in zoning laws for a period of five years from the date of filing. A subdivision shall be governed by the terms of approval of the final plat, and the statutes, ordinances, and regulations in effect at the time of approval under RCW 58.17.150 (1) and (3) for a period of five years after final plat approval unless the legislative body finds that a change in conditions creates a serious threat to the public health or safety in the subdivision.

FINDINGS OF FACT:

- (1) On March 17, 2010, Governor Gregoire signed into law Substitute Senate Bill (SSB) 6544 which extends the expiration of preliminary plat approval from five years to seven years. SB 6544 was unanimously passed by both the State Senate and House on February 16 and 28, 2010 respectively, to become effective as State law on June 10, 2010.
- (2) The only sections of the RCW affected by SSB 6544 are RCW 58.17.140 & 170. New text for RCW 58.17.140 reads, "A final plat meeting all requirements of this chapter shall be submitted to the legislative body of the city, town, or county for approval within (~~five~~) seven years of the date of preliminary plat approval." New text for RCW 58.17.170 reads, "Any lots in a final filed for record shall be valid land use notwithstanding any change in zoning laws for a period of (~~five~~) seven years from the date of filing. A subdivision shall be governed by the terms of approval of the final plat, and the statutes, ordinances, and regulations in effect at the time of approval under RCW 58.17.150 (1) and (3) for a period of (~~five~~) seven years after the final plat approval unless the legislative body finds that a change in conditions creates a serious threat to the public health or safety in the subdivision."
- (3) NEW SECTION SEC. 3 of SSB 6455 states, "Sections 1 and 2 of this act expire December 31, 2014." The act will expire on December 31, 2014, at which time, presumably, the five-year time period will be reinstated.
- (4) Final Bill Report on SSB 6544 stipulates that the act applies only "for applications to form five or more lots," that is, does not apply to short subdivisions of fewer than five lots. Also, the definition of "plat" in RCW 58.17.020(2) does not include subdivisions of less than five lots.
- (5) Local regulations must be consistent with State law, in this case RCW 58.17.

(6) On March 24, 2010 the UDC Administrator instructed staff to draft the subject code interpretation to inform applicants of conflicts between local land use code and State or Federal law or Court decisions and to insure consistency with State law.

(7) Currently, there are four (4) plats that this legislation will affect. Also listed is when preliminary approval will expire once SSB 6544 takes effect:

- Olympic Terrace Division II Phase 2 – SUB05-00003 (expires 6/28/2012)
- Discovery Bay Golf Club PRRD – SUB05-00022 (expires 10/23/2013)
- Ludlow Cove II – SUB07-00038 (expires 9/16/2015)
- PAM Port Townsend One – SUB08-00029 (expires 11/5/2016)

CONCLUSION:

As of June 10, 2010 provisions of the Jefferson County Code, JCC 18.35.390(3) and Section 6.212 of Jefferson County Subdivision Ordinance No. 04-0526-92 will be inconsistent with RCW 58.17.140 & 170. Those codes should be amended to reflect the changes to the RCW enacted by SSB 6544.

DECISION:

Any and all subdivisions within Jefferson County of five (5) lots or greater granted preliminary plat approval before December 31, 2014 and that have not expired prior to June 10, 2010 shall be granted a seven year expiration period from the date of preliminary plat approval in which to accomplish final plat approval. This code interpretation becomes effective immediately upon signing and becomes ineffective on December 31, 2014.

APPEAL:

JCC 18.40.390 & Section 6 of Ordinance No. 05-0828-98 - Jefferson County Procedures & Criteria to Clarify Land Use Regulations Ordinance, outline the appeal process available to any person or entity aggrieved by this interpretation.

Dated this 7th of June, 2010


Al Scalf, DCD Director

SUBSTITUTE SENATE BILL 6544

Passed Legislature - 2010 Regular Session

State of Washington 61st Legislature 2010 Regular Session

By Senate Financial Institutions, Housing & Insurance (originally sponsored by Senators Berkey, Marr, Hobbs, Kilmer, and Tom)

READ FIRST TIME 02/05/10.

1 AN ACT Relating to time limitation for approval of plats; amending
2 RCW 58.17.140 and 58.17.170; and providing an expiration date.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 58.17.140 and 1995 c 68 s 1 are each amended to read
5 as follows:

6 Preliminary plats of any proposed subdivision and dedication shall
7 be approved, disapproved, or returned to the applicant for modification
8 or correction within ninety days from date of filing thereof unless the
9 applicant consents to an extension of such time period or the ninety
10 day limitation is extended to include up to twenty-one days as
11 specified under RCW 58.17.095(3): PROVIDED, That if an environmental
12 impact statement is required as provided in RCW 43.21C.030, the ninety
13 day period shall not include the time spent preparing and circulating
14 the environmental impact statement by the local government agency.
15 Final plats and short plats shall be approved, disapproved, or returned
16 to the applicant within thirty days from the date of filing thereof,
17 unless the applicant consents to an extension of such time period. A
18 final plat meeting all requirements of this chapter shall be submitted
19 to the legislative body of the city, town, or county for approval

1 within ((~~five~~)) seven years of the date of preliminary plat approval.
2 Nothing contained in this section shall act to prevent any city, town,
3 or county from adopting by ordinance procedures which would allow
4 extensions of time that may or may not contain additional or altered
5 conditions and requirements.

6 Sec. 2. RCW 58.17.170 and 1981 c 293 s 10 are each amended to read
7 as follows:

8 When the legislative body of the city, town or county finds that
9 the subdivision proposed for final plat approval conforms to all terms
10 of the preliminary plat approval, and that said subdivision meets the
11 requirements of this chapter, other applicable state laws, and any
12 local ordinances adopted under this chapter which were in effect at the
13 time of preliminary plat approval, it shall suitably inscribe and
14 execute its written approval on the face of the plat. The original of
15 said final plat shall be filed for record with the county auditor. One
16 reproducible copy shall be furnished to the city, town or county
17 engineer. One paper copy shall be filed with the county assessor.
18 Paper copies shall be provided to such other agencies as may be
19 required by ordinance. Any lots in a final plat filed for record shall
20 be a valid land use notwithstanding any change in zoning laws for a
21 period of ((~~five~~)) seven years from the date of filing. A subdivision
22 shall be governed by the terms of approval of the final plat, and the
23 statutes, ordinances, and regulations in effect at the time of approval
24 under RCW 58.17.150 (1) and (3) for a period of ((~~five~~)) seven years
25 after final plat approval unless the legislative body finds that a
26 change in conditions creates a serious threat to the public health or
27 safety in the subdivision.

28 NEW SECTION. Sec. 3. Sections 1 and 2 of this act expire December
29 31, 2014.

Passed by the Senate February 16, 2010.

Passed by the House February 28, 2010.

Approved by the Governor March 17, 2010.

Filed in Office of Secretary of State March 17, 2010.

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 6544

Chapter 79, Laws of 2010

61st Legislature
2010 Regular Session

APPROVAL OF PLATS--EXTENSION OF TIME

EFFECTIVE DATE: 06/10/10

Passed by the Senate February 16, 2010
YEAS 44 NAYS 0

BRAD OWEN

President of the Senate

Passed by the House February 28, 2010
YEAS 96 NAYS 0

FRANK CHOPP

Speaker of the House of Representatives

Approved March 17, 2010, 1:43 p.m.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 6544** as passed by the Senate and the House of Representatives on the dates hereon set forth.

THOMAS HOEMANN

Secretary

FILED

March 17, 2010

**Secretary of State
State of Washington**

FINAL BILL REPORT

SSB 6544

C 79 L 10
Synopsis as Enacted

Brief Description: Extending the time limitations for approval of plats.

Sponsors: Senate Committee on Financial Institutions, Housing & Insurance (originally sponsored by Senators Berkey, Marr, Hobbs, Kilmer and Tom).

Senate Committee on Financial Institutions, Housing & Insurance
House Committee on Local Government & Housing

Background: Land may be divided into smaller pieces, assuming the smaller pieces, or lots, comply with local zoning and other land use and development laws. The owner wishing to make this division into smaller lots must first apply for approval of his or her plan, to the local government having jurisdiction over the land.

This is called filing of the preliminary plat. This begins an administrative process that moves toward approval by involving the public and any agencies that have jurisdiction over the land and the land's proposed use. The legislative authority of the city, town, or county having jurisdiction is the entity that approves the preliminary plat, upon the advice of the administrative proceedings and planning commission, among others.

For applications to form five or more lots, the date that the preliminary plat is approved begins a five-year time-period during which the laws applicable to approval of the preliminary plat are the laws that apply to final approval of the plat.

If the legislative authority finds that the subdivision conforms to all terms of the approval of the preliminary plat, and satisfies all laws in effect at the time of the approval of the preliminary plat, then the legislative authority must inscribe and execute its written approval on the face of the plat. Any lots in the final plat filed for record are valid land uses even if land use law changed during, and up to, the five-year approval process. From the date of final approval of the plat of the subdivision, the subdivision is governed by the terms of approval of the final plat for five more years.

Summary: The five-year time periods during which the laws applicable to the subdivision remain fixed, are changed to seven-year time periods.

The act expires on December 31, 2014.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Votes on Final Passage:

Senate 44 0
House 96 0

Effective: June 10, 2010

thereafter approve or disapprove the preliminary long plat; the Board's approval of the preliminary long plat and supporting submissions shall furnish a firm basis upon which the applicant may proceed with development of the long subdivision and preparation of the final long plat in compliance with these regulations, and in accordance with any conditions of approval imposed by the Board; or

b. If, after considering the matter at a public meeting, the Board deems a change in the Hearing Examiner's recommendation approving or disapproving any preliminary plat necessary, the change of the recommendation shall not be made until the Board conducts its own public hearing and thereupon adopts its own findings and thereafter approves or disapproves the preliminary long plat. Such public hearing may be held before a committee constituting a majority of the Board. If the hearing is before a committee, the committee shall report its recommendation on the matter to the full Board for final action.

- 2. The Clerk of the Board shall keep records of the public meetings and public hearings set and held by the Board which shall be made available for public inspection.
- 3. In any event, the Board shall take action on a preliminary long plat within ninety (90) days of the date of the filing of a completed application unless the applicant consents to an extension of the time period PROVIDED, if an environmental impact statement is required, the ninety (90) day period shall not include the time spent preparing and circulating the environmental impact statement.
- 4. The Planning Department shall notify the applicant of the Board's action by mail as soon as practicable after the action. The notification shall specify any conditions imposed, or in the event of disapproval, the reasons thereof.
- 5. The Board's approval of the preliminary long plat and supporting submissions shall furnish a firm basis upon which the applicant may proceed with development of the long subdivision and preparation of the final long plat in compliance with these regulations and in accordance with any conditions of approval imposed by the Board.

6.211 Construction Phase: Upon receipt of preliminary long plat approval, the applicant may proceed with detailed engineering plans for construction of roads, bridges, utilities, drainage works and other required improvements. After submission of plans to the departments and agencies having jurisdiction, and receipt from them of the necessary permits and approvals, the applicant may proceed with construction PROVIDED, arrangements shall be made for inspection by the Department of Public Works, and by other departments and agencies having jurisdiction.

⇒ **6.212 Expiration:** Approval of a preliminary long plat shall expire unless the final long plat is submitted in proper form for final approval within thirty-six (36) months, unless an extension is granted by the Board upon an



affirmative recommendation of the Planning Department at least thirty (30) days prior to the date of expiration. Applicants may submit written extension requests to the Planning Department at least thirty (30) days prior to the date of expiration. The Board may grant extensions not to exceed twelve (12) months, upon a showing that the applicant has in good faith attempted to submit the final long plat within the initial twelve (12) month period.

6.213 Renewal Procedure: A long plat upon which preliminary approval has expired shall be resubmitted and processed as a new application.

6.214 Final Long Plat:

1. The final long plat and supporting data shall be prepared in accordance with Appendix D of this ordinance, and shall be submitted to the Planning Department. When the Hearing Examiner has conducted a public hearing prior to preliminary long plat approval, the final long plat and supporting data shall be submitted to the Planning Department no later than thirty (30) days prior to final review by the Board.
2. The Planning Department shall cause the final long plat to be circulated to the Department of Public Works and the Health Department for their individual approval in accordance with the conditions for final long plat approval and the requirements of this and other applicable laws and/or ordinances. The Planning Department shall provide a copy of the plat to the County Assessor who shall segregate the assessed valuation of the property being platted and furnish same to the County Treasurer for segregation of taxes.
3. When the Hearing Examiner has conducted a public hearing prior to preliminary long plat approval, the Planning Department shall check the final long plat and supporting data for compliance with the conditions for final long plat approval and shall prepare a written recommendation for the advice of the Board. The Board shall not consider approval of the long plat until the recommendations of the Health Department, the Department of Public Works, the Planning Department, and other relevant government agencies are in hand.
4. The Health Department and the Department of Public Works shall promptly notify the Planning Department of any obstacles or problems which prevent or delay approval of the long plat, and the Planning Department shall thereupon notify the applicant. In all cases where a final long plat is not approved within sixty (60) days, for long plats consisting of five (5) to fourteen (14) lots, or ninety (90) days for long plats consisting of fifteen (15) or more lots, the Planning Department shall either return the long plat to the applicant with a statement of the reasons approval is denied, or shall secure a written authorization from the applicant permitting the long plat to be considered for a longer period.
5. After approval by the Health Department, the Department of Public Works, and the Planning Department, the taxes and delinquent