

ORDINANCE NO. 05-796

AN ORDINANCE OF THE CITY OF BLACK DIAMOND, KING COUNTY, WASHINGTON, CREATING THE MASTER PLAN OVERLAY ZONE, AMENDING CERTAIN PROVISIONS OF THE MASTER PLAN DEVELOPMENT PROGRAM TO CLARIFY ITS APPLICABILITY, PERMITTED USES AND EMPLOYMENT TARGET REQUIREMENTS, ADDING A NEW SECTION 18.98.005 TO THE BLACK DIAMOND MUNICIPAL CODE AND AMENDING SECTIONS 18.98.030 (A), 18.98.060(A)(1), AND 18.98.120 DECLARING THIS ORDINANCE A PUBLIC EMERGENCY ORDINANCE AND THUS EFFECTIVE IMMEDIATELY

WHEREAS, the City Council, by adopting Ordinance 05-779, created the Master Plan Development (MPD) Program, but did not create the MPD overlay zoning district classification which now needs to be done so that zoning can be applied to land parcels; and

WHEREAS, in preparing to implement the MPD Program, staff has identified areas in Ordinance 05-779 that need to be clarified so that the intent and purpose of the MPD Program is effectively reflected in the implementing regulations; and

WHEREAS, the proposed changes were sent to the appropriate state agency for comment, and the proposed changes were presented to the City Council at its November 3, 2005 Council Meeting, with copies being made available to the public at that time; and

WHEREAS, Planning Commission held a public meeting to consider the proposed changes on November 29, 2005, and recommended that the City Council approve the changes; and

WHEREAS, the Black Diamond Area Open Space Protection Agreement ("Agreement") protects hundreds of acres of land inside the City and in King County from future development, and also allows provides the funding for the City to acquire significant park lands, at no cost to the City; and

WHEREAS, the Agreement expires on December 9, 2005, unless certain lands are annexed into the City; and

WHEREAS, said lands cannot be annexed unless the City creates the necessary zoning designation, so that the designation will be effective upon annexation; and

WHEREAS, in order for the zoning to be effective before the annexation is effective this ordinance must be effective immediately, otherwise the Agreement will expire, which would be detrimental to the public health; and

WHEREAS, a Public Hearing was held before the City Council on December 8, 2005, with notice of said hearing having been given as required by law; now, therefore,

THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON DOES ORDAIN, AS FOLLOWS:

Section 1. A new section 19.98.005 is hereby added to the Black Diamond Municipal Code and it shall read as follows:

18.98.005 MPD Overlay Zoning District Created. The Master Plan Development (MPD) Overlay Zoning District is hereby created. No development activity may occur, or any application accepted for processing, on property subject to an MPD Overlay zoning designation, or for which the submittal of an MPD is required by a development agreement, unless it is done in accordance with the terms and conditions of a valid MPD permit. Development activity shall include, but not be limited to grading, clearing, filling, tree harvesting, platting, short platting, building or any other activity for which a city permit or other approval is required.

Section 2. Black Diamond Municipal Code section 18.98.030(A) is hereby amended to read as follows:

18.98.030 MPD Permit – Criteria for MPD Eligibility.

A. Where Required. An MPD permit shall be required for any development where:

1. Any of the property within the development is subject to an MPD Overlay zoning designation; or
2. The parcel or combined parcels to be included in a development total at least 80 gross acres; or
3. Any of the property within the development is subject to a development agreement that requires an MPD permit to be obtained.

Section 3. Black Diamond Municipal Code section 18.98.060(A)(1) is hereby amended to read as follows:

A. MPD Permit – Pre-application Conference, Public Information Meeting and Planning Commission Informational Meeting Required.

1. A pre-application conference between the MPD applicant or representative and City staff is required before the City will accept an application for MPD permit approval.

a. The purpose of this conference is for the applicant to familiarize the staff with the proposed MPD, and for the staff to review with the applicant the City's submittal requirements, anticipated staffing needs, and processing procedures for MPD permit approval. The goal is to identify the City's objectives and likely issues, and to eliminate potential problems that could arise during processing of the MPD permit application prior to formal processing on the MPD permit application.

b. The applicant or representative shall present the information required as part of the MPD application. The City's intent is that the conference takes place after site inventory and analysis has been substantially completed, but prior to the completion of detailed survey, architectural or engineering work on the proposal.

c. A nonrefundable pre-application conference fee in an amount set forth in the City Fee Schedule Resolution will be paid before the pre-application conference will be scheduled.

d. If, at the pre-application conference, the City determines that it does not have adequate staff, space, or equipment, to process the application, then the applicant shall deposit with the City an amount sufficient for the City to hire the additional staff and/or consultants, and acquire the space and/or equipment necessary to process the application. The deposit must be made no less than 4 months or more than 5 months before the application is submitted. The Public Information meeting may not be scheduled until the deposit has been made. The City may waive or shorten the 4 month period if it is determined the necessary arrangements for staffing, space and equipment can be made in less than 4 months.

Section 4. Black Diamond Municipal Code section 18.98.120 is hereby amended to read as follows:

18.98.120 MPD standards - Permitted Uses and Densities.

A. MPDs shall include a mix of residential and non-residential uses. Residential uses shall include a variety of housing types and densities.

B. Each MPD shall contain sufficient affordable housing, in each residential phase, in order to provide the percentage of affordable housing recommended in the County-wide Planning Policies.

C. The MPD shall include those uses shown or referenced for the applicable parcels or areas in the Comprehensive Plan, and shall also provide neighborhood commercial uses, as defined in the Comprehensive Plan, sized and located to primarily serve the residential portion of the MPD.

D. The MPD shall, within the MPD area, or elsewhere within the City, provide for the set aside of sufficient properly zoned lands, and include sufficient incentives to encourage development as permit conditions, so that the employment targets set forth in the Comprehensive Plan for the number of proposed residential units within the MPD, will, with reasonable certainty, be met before full buildout of the residential portion of the MPD.

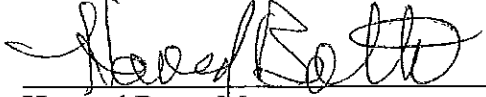
E. The mix of uses required, and their exact locations, as is necessary to comply with MPD permit conditions, shall override any underlying zoning code use restrictions to the contrary.

Section 5. This Ordinance is hereby designated as a Public Emergency Ordinance necessary for the protection of public health, safety, public property or the public peace and shall be effective upon adoption.

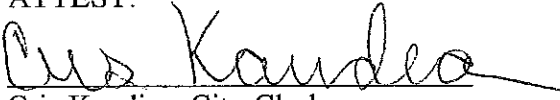
Section 6. If any provision of this Ordinance is determined to be invalid or unenforceable for any reason, the remaining provisions of this Ordinance and Ordinances and/or Resolutions modified by it shall remain in force and effect.

Introduced the 8th day of December, 2005.

Passed unanimously by the City Council on the 8th day of December, 2005.

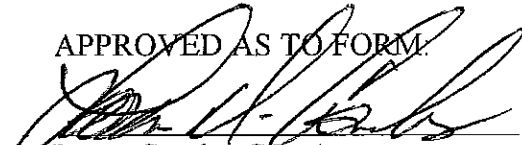

Howard Botts, Mayor

ATTEST:


Cris Kandior, City Clerk

Published: 12-13-05
Posted: 12-09-05
Effective Date: December 8, 2005

APPROVED AS TO FORM:


Loren Combs, City Attorney