

ORDINANCE NO. 15-1055

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON, RELATING TO LAND USE AND ZONING, EXTENDING A MORATORIUM ON THE ACCEPTANCE OF APPLICATIONS FOR NEW DEVELOPMENT WITHIN THE MASTER PLANNED DEVELOPMENT (MPD) DISTRICT FOR ANOTHER THREE MONTHS, SUCH MORATORIUM SHALL EXCLUDE ANY APPLICATIONS SUBJECT TO THE DEVELOPMENT AGREEMENTS APPROVED FOR THE MPD DEVELOPMENTS ENTITLED THE VILLAGES AND LAWSON HILLS; ADOPTING A WORK PLAN AND SCHEDULING THE PUBLIC HEARING ON THE MORATORIUM EXTENSION FOR AUGUST 20, 2015, AND SETTING AN EFFECTIVE DATE.

WHEREAS, on March 20, 2014, the City adopted Ordinance No. 14-1027, which imposed a six-month moratorium on the City’s acceptance of certain applications for development for property zoned Master Planned Development (“MPD”); and

WHEREAS, on August 21, 2014, the City adopted Ordinance 14-1034 which extended the moratorium for an additional six-months; and

WHEREAS, on February 19, 2015 the City adopted Ordinance No. 15-1050 which extended the moratorium for an additional six-months, or until September 1, 2015; and

WHEREAS, during the pendency of the moratorium, Staff has potential options for rezoning of the affected property to the property owner and this matter was not resolved until May 7, 2015; and

WHEREAS, since the last moratorium extension was granted, the property owner hired a surveyor to provide the City with the necessary legal descriptions for the affected parcels; and

WHEREAS, since the last moratorium extension was granted, the Community Development Director, who had responsibility for processing this rezone, left his position, and the City has only recently hired a new Director to replace him; and

WHEREAS, the reason the City imposed the moratorium has not changed, but additional time is needed for the City to undertake all of the tasks described in the previous ordinances; and

WHEREAS, City Council may extend a moratorium for a period of up to six months on the acceptance of certain development permit applications as long as the City Council holds a public hearing on the proposed moratorium extension within sixty days after adoption (RCW 35A.63.220, RCW 36.70A.390); and

WHEREAS, the City staff has prepared a work plan and believes that the necessary tasks can be accomplished in three months from the date of the adoption of this Ordinance; and

WHEREAS, the City desires to extend the existing moratorium on the acceptance of development applications for any “development activity,” “development permit” or “project permit” as defined below, for any property within the Master Plan Development (MPD) district, as shown on the City’s Official Zoning Map, a copy of which is attached hereto as Exhibit A and incorporated herein by this reference for another three months after the date this Ordinance is adopted; Now, therefore,

THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON,
ORDAINS AS FOLLOWS:

Section 1. Definitions. For the purpose of this Ordinance, the following definitions shall apply:

A. **“Exempt Development Permits”** shall include all of the following permit applications for “development” or “development activity” defined in Black Diamond Municipal Code (BDMC) Section 18.98.005 and for “project permit” applications as defined in BDMC 18.14.010, which: (1) are subject to the Development Agreements executed by the City for The Villages and Lawson Hills; or (2) were determined complete by City staff and submitted to the

City on or before the effective date of this Ordinance; or (3) propose development or a development activity on property located outside the MDP Zone as identified in the City's Official Zoning Map; or (4) any applications for permits which involve interior remodeling of existing structures in the MPD Zone.

B. **“Non-Exempt Development Permits”** shall include any permits or “project permit applications” for any “development activity” defined in the Black Diamond code sections identified above, proposed to take place on property located within the MPD Zone and submitted after the effective date of this Ordinance.

Section 2. Purpose and Work Plan. The purpose of this moratorium extension is to allow the City to perform the following tasks:

A. City staff have reviewed and analyzed the appropriate land use designation for the property affected by this moratorium, in order to determine whether any changes need to be made in the City's Comprehensive Plan and development regulations. In addition, the City staff have consulted with the property owner and have reached a consensus as to the appropriate zoning designation to be given to the affected property. The City now has a legal description of the properties, which will be attached to the new rezone ordinance.

B. The City Attorney will draft the rezone ordinance on or before August 14, 2015.

C. The City Community Development Director will ensure that the draft rezone ordinance is forwarded to the Washington State Department of Community Development by August 17, 2015. Expedited review by DOC will be requested.

D. SEPA will be performed on the draft rezone ordinance on or before August 17, 2015.

E. Notice of a public hearing before the planning commission for the draft rezone ordinance will be published on or before August 18, 2015.

F. A public hearing will be held on the draft rezone ordinance before the planning commission on or before September 8, 2015.

G. The planning commission's written recommendation to the City Council on the draft rezone ordinance will be forwarded on or before October 6, 2015.

H. The City Council will consider the planning commission's written recommendation on the draft rezone ordinance on or before November 5, 2015.

I. If the Council is inclined to accept the planning commission's written recommendation, the Council plans to take action on the draft rezone ordinance on or before November 19, 2015.

J. A copy of the adopted rezone ordinance will be published and effective five days after publication.

Section 3. Moratorium Extension Imposed. Based on the above work plan, the City Council hereby extends the moratorium due to expire on September 1, 2015, on the acceptance of all non-exempt development permit applications for development activities on property located within the MPD Zone, as shown in the map attached hereto as Exhibit A, which is derived from the City's Official Zoning Map, for another three months after August 30, 2015. All such non-exempt applications submitted to the City during this time period shall be rejected and returned to the applicant.

Section 4. Public Hearing on Moratorium Extension. Pursuant to RCW 36.70A.390 and RCW 35A.63.220, the City Council is required to hold a public hearing on this moratorium extension within sixty (60) days of its adoption. The Council chooses to hold the public hearing


on August 20, 2015, or the date this Ordinance will be considered by the City Council during a regular meeting. Immediately after the public hearing, the City Council shall direct the City staff to draft the findings of fact on the subject of this moratorium extension to either justify its continued imposition or cancel the moratorium. These findings and conclusions shall be presented to the Council at its next regular meeting. The Council shall make the decision to terminate the moratorium by ordinance, and termination shall not otherwise be presumed to have occurred.

Section 5. Severability. If any section, sentence, clause or phrase of this Ordinance should be held to be unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

Section 6. Publication and Effective Date. This Ordinance shall be published by an approved summary consisting of the title, and shall be effective five days thereafter.


PASSED by the Council and approved by the Mayor of the City of Black Diamond, this 20th day of August, 2015.

CITY OF BLACK DIAMOND



Mayor Carol Benson

ATTEST/AUTHENTICATED:



Brenda L. Martinez, City Clerk

APPROVED AS TO FORM:
Office of the City Attorney

Carol A. Morris, City Attorney

FILED WITH THE CITY CLERK: 8/20/2015
PASSED BY THE CITY COUNCIL: 8/20/2015
PUBLISHED: 8/25/2015
EFFECTIVE DATE: 8/30/2015
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