

Benton County Planning Department

Planning Annex, P.O. Box 910, 1002 Dudley Avenue, Prosser WA 99350, Phone: (509) 786-5612 or (509) 736-3086, Fax (509) 786-5629

PCM 1.1

DATE: AUGUST 12, 2016
TO: BENTON COUNTY PLANNING COMMISSION
FROM: BENTON COUNTY PLANNING DEPARTMENT
RE: DRAFT ORDINANCE AMENDING SECTIONS 9.08.36.

BACKGROUND:

In 2013 the Washington State Legislature approved Substitute House Bill 1074 which amended RCW 58.17.140 to increase the submission timeline for a final plat. The new timelines are as follows: a ten-year preliminary plat approval period if the application was approved on or before December 31, 2007; a seven-year preliminary plat approval period if the application was approved between January 1, 2008 and December 31, 2014; and a five-year preliminary plat approval period if the application was approved on or after January 1, 2015.

Attached to this memo is a draft ordinance (PCM 1.2) that would amend BCC Section 9.08.36 increasing the timeline for final plat submission. This provision would apply to 9 preliminary plat approvals.

LEGAL NOTICE PUBLISHED:

The Notice of the Public Hearing for the proposed ordinance was published in the Tri-Cities Herald on September 1, 2016 (PCM 1.3).

RECOMMENDATION:

The Benton County Planning Department recommends that the Planning Commission reviews the proposed ordinance, conduct a public hearing and make recommendations to the Board of County Commissioners to approve the draft ordinance.

SUGGESTED MOTION:

I move that the Chairman, in conjunction with the Secretary of the Planning Commission, prepare and adopt written findings and conclusions reflecting the Commission's recommendation for Approval/Approval with modifications/Denial of the Draft Ordinance, amending BCC 9.08.036 and 9.08.037 to extend the time a preliminary plat is effective, that articulate and are consistent with the findings, conclusions and recommendation made by the Planning Commission.

ORDINANCE NO. _____

AN ORDINANCE relating to platting and subdivision; amending Ordinance 102, Section 3.06, Ordinance 125, Section 10, Ordinance 394, Section 2, Ordinance 474, Section 18, Ordinance 498, Section 1 and BCC 9.08.036; amending Ordinance 102, Section 3.07, Ordinance 394, Section 3, Ordinance 474, Section 19, Ordinance 498, Section 2 and BCC 9.08.037.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

SECTION 1. Ordinance 102, Section 3.06, Ordinance 125, Section 10, Ordinance 394, Section 2, Ordinance 474, Section 18, Ordinance 498, Section 1 and BCC 9.08.036 are hereby amended to read as follows:

9.08.036 PRELIMINARY PLAT APPROVAL. (a) Upon the Board of County Commissioners receipt of the Planning Commission's written record and recommendation, if any, the Administrator shall set a date for a closed record hearing for the Board to consider the application. Following its closed record hearing, the Board of County Commissioners may adopt, modify or reject the recommendation of the Planning Commission. The decision of the Board of County Commissioners to approve, conditionally approve or deny the preliminary plat shall be based on the written record prepared by the Planning Commission. The decision of the Board of County Commissioners shall be in writing and effective upon its adoption.

(b) The Board of County Commissioners' decision to approve, conditionally approve or deny the preliminary plat shall be made within ninety (90) days of the County's receipt of the complete preliminary plat application, except as follows:

- (1) If an Environmental Impact Statement is required, the ninety (90) day period shall not include the time spent preparing and circulating the statement;
- 2) If the plat is located in a flood control zone as provided in Chapter 86.16 RCW, the ninety (90) days shall be extended if necessary until the project receives written approval from the Department of Ecology; or
- (3) If the applicant consents in writing to an extension of such ninety (90) day period.

A copy of the resolution, along with the findings and conclusions, indicating the action of the Board of County Commissioners shall promptly be sent to the Planning Department, the County Engineer, the County Assessor, the Benton-Franklin Health District, the applicant, the applicant's surveyor, to any person who submitted substantive comments on the application and to any person who, prior to the rendering of the decision, requested notice of the decision.

(c) The Board of County Commissioners, if it approves the preliminary plat, authorizes the applicant to proceed with the preparation of the final plat in accordance with all the

requirements of this chapter and any conditions of preliminary plat approval imposed by the Board of County Commissioners.

(d) Preliminary plats approved (~~(prior to April 19, 2004)~~) on or before December 31, 2007 shall be effective for (~~(twelve (12) months)~~) ten years from the date of approval by the Board of County Commissioners. Such preliminary plats shall be null and void after the (~~(twelve-month)~~) ten (10) year period unless:

(1) A final plat (~~(has)~~) for all phases been submitted, reviewed and signed by the Chairman of the Planning Commission and road and utility plans reviewed and approved by the County Engineer (~~(-)~~); or

(2) A written application for time extension has been (applied for and granted by the Planning Commission-) submitted to the Administrator at least thirty (30) days prior to the expiration of the ten (10) year period and the applicant demonstrates that the applicant has attempted in good faith to satisfy the conditions of plat approval for all phases within the ten (10) year period. In such case, one extension of one year shall be granted, but additional or altered conditions and requirements may be imposed.

(e) Except as otherwise provided in subsection (f) below, preliminary plats approved on or after (~~(April 19, 2004)~~) January 1, 2015 shall be effective for five (5) years from the date of approval by the Board of County Commissioners. Such preliminary plats shall be null and void after the five (5) year period unless: (~~(the final plat has been submitted in accordance with BCC 9.08.040 within the five (5) year period.)~~)

(1) A final plat for all phases has been submitted, reviewed and signed by the Chairman of the Planning Commission and road and utility plans reviewed and approved by the County Engineer; or

(2) A written application for time extension has been submitted to the Administrator at least thirty (30) days prior to the expiration of the five (5) year period and the applicant demonstrates that the applicant has attempted in good faith to satisfy the conditions of plat approval for all phases within the five (5) year period. In such case, one extension of one year shall be granted, but additional or altered conditions and requirements may be imposed.

(f) Preliminary plats (~~(for which complete applications are submitted)~~) that were approved between (April 19, 2004) January 1, 2008 and December 31, 2014 ((and which are approved)) shall be effective for seven (7) years from the date of such approval by the Board of County Commissioners. Such preliminary plats shall be null and void after the seven (7) year period unless: (~~(the final plat has been submitted in accordance with BCC 9.08.040 within the seven (7) year period.)~~)

1) A final plat has been submitted, reviewed and signed by the Chairman of the Planning Commission and road and utility plans reviewed and approved by the County Engineer; or

(2) A written application for time extension has been submitted to the Administrator at least thirty (30) days prior

to the expiration of the seven (7) year period and the applicant demonstrates that the applicant has attempted in good faith to satisfy the conditions of plat approval for all phases within the seven (7) year period. In such case, one extension of one year shall be granted, but additional or altered conditions and requirements may be imposed.

SECTION 2. Ordinance 102, Section 3.07, Ordinance 394, Section 3, Ordinance 474, Section 19, Ordinance 498, Section 2 and BCC 9.08.037 are hereby amended to read as follows:

~~9.08.037 LARGE DEVELOPMENTS. ((a) Plats Approved On or Before April 19, 2004. For preliminary plats approved as of April 19, 2004, the project may be final platted and developed in a number of units or divisions without submitting a preliminary plat for each unit provided that:~~

~~(1) Each unit is final platted in accordance with the approved preliminary plat. Substantial change from the approved plan shall cause a new preliminary plat to be filed.~~

~~(2) Each final plat unit is developed to allow for the systematic and logical extension of roads and utilities.~~

~~(3) The first unit shall be submitted for final plat within one (1) year of the date of approval of the preliminary plat. Each successive unit shall be submitted for final plat within twenty-four (24) months of the previous unit. If more than twenty-four (24) months elapses between any two final submittals, the Planning Commission shall first review the preliminary plat to determine if the conditions are still valid.~~

~~(4) Should the Planning Commission become aware of significant change in conditions which affect the plat, they may cause a new preliminary plat to be submitted.~~

~~(b) Plats Approved After April 19, 2004. To implement changes in state law and in order to discourage premature subdivision and the uneconomic improvement of land and streets, the following procedure is adopted to govern the phasing of final plats for preliminary plats approved after April 19, 2004.)~~

When a developer or group of developers have in their control an area of land which they wish to plat, they may prepare a preliminary plat of the entire area of the development. Once the total preliminary plat is approved, the project may be final platted and developed in two or more phases provided that:

(1) Each phase is final platted in accordance with the provisions of BCC 9.08.045 and the provisions of preliminary plat approval; and

(2) Each final plat is developed to allow for the systematic and logical extension of roads and utilities; and

(3) No final plat for any phase may be submitted after the preliminary plat for the entire area of the development has expired pursuant to BCC 9.08.036.

SECTION 3. Severability. If any provision of this Ordinance is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the Ordinance and the applicability thereof to other persons and circumstances shall not be affected thereby.

SECTION 4. Effective Date. This Ordinance shall take effect and be in full force upon its passage and adoption.

ADOPTED AND PASSED this _____ day of _____.

Chairman of the Board.

Chairman Pro-Tem.

Member.

Approved as to Form:

Ryan K. Brown
Deputy Prosecuting Attorney

Constituting the Board of
County Commissioners of
Benton County, Washington

Attest: _____
Clerk of the Board

Benton County Planning Department

Planning Annex, P.O. Box 910, 1002 Dudley Avenue, Prosser WA 99350, Phone: (509) 786-5612 or (509) 736-3086, Fax (509) 786-5629

NOTICE OF OPEN RECORD HEARING

PCM 1.3

NOTICE IS GIVEN that the following items will be considered by the Benton County Planning Commission at a public hearing on Tuesday, September 13, 2016, at 7 p.m. in the Planning Annex Hearing Room, Benton County Planning Department, 1002 Dudley Avenue, Prosser, WA 99350. All concerned persons may appear and present any support for or objections to the ordinance amendments or subdivisions or provide written testimony to the Planning Commission in care of the Planning Department on or before the date of the hearings. It is suggested that if you plan on attending the hearing that you call the Benton County Planning Department by 4 p.m. the afternoon of the hearing to confirm that the hearing will be conducted as scheduled.

SUB 2016-003/EA 2016-012 - the preliminary plat of Steeplechase, a subdivision of 107.34 acres into 20 lots with an average lot size of 5.17 acres by: Candy Mountain LLC. The site is located on that portion of Section 9, Township 8 North, Range 28 East W.M., lying south of Sagebrush Road, East of Clear View Lane and West of Summit View Drive.

SUB 2016-005/EA 2016-016 - the preliminary plat of La Buena Vida Estates, a subdivision of 20.9 acres into 15 lots by: Dos Cabras Viejas, LLC. The site is located at the terminus of Breezin Lane and Thunder Road, South of Breezin In Estates #3 on Lot 2 of Short Plat 2724 in Section 12, Township 9 North, Range 26, East, W.M.

At this hearing, the Planning Commission may recommend approval, approval with conditions or disapproval of the preliminary plat applications to the Benton County Board of Commissioners.

NOTICE IS FURTHER GIVEN that said proposals have been reviewed under the requirements of the State Environmental Policy Act, as amended, along with the Environmental Checklist and other information. Determinations have been made as to the environmental impacts of the proposals and a Determination of Non-Significance was issued on August 11, 2016 for the preliminary plat of La Buena Vida Estates.

A Determination of Non-Significant was issued on August 29, 2016 for the preliminary plat of Steeplechase. Any comments regarding the determination and the environmental impacts of the proposals can be made at the hearing before the Planning Commission at the time and place indicated above, or be made in writing to the Planning Department by 5 p.m. September 12, 2016.

ORDINANCE AMENDMENT BCC CHAPTER 9.08 – Platting and Subdivision; amending BCC 9.08.036 and BCC 9.08.037. Section 1 - Preliminary Plat Approval - Changing the timeline for the effective dates of preliminary plats. Section 2 - Large Developments - deleting wording regarding the timeframe for preliminary plats. Section 3 - Severability. Section 4. Effective date - This ordinance shall take effect and be in full force upon its passage and adoption.

FURTHER INFORMATION regarding the preliminary plat applications and copies of the proposed ordinances are available at no cost to the public from the Benton County Planning Department at the following address: 1002 Dudley Avenue, P O Box 910, Prosser, WA 99350 or by calling 736-3086 (Tri-Cities) or 786-5612 (Prosser).

Any information submitted to Benton County is subject to the public records disclosure law for the State of Washington (RCW Chapter 42.17) and all other applicable law that may require the release of the documents to the public.

It is Benton County's policy that no qualified individual with a disability shall by reason of such disability be excluded from participation in public meetings. If you wish to use auxiliary aids or require assistance to comment at this public meeting, please contact the ADA Coordinator or the Benton County Planning Department at the above stated phone numbers and/or address no later than 48 hours prior to the date of the meeting. The Request for Reasonable Accommodation form is available online at www.co.benton.wa.us or from the Planning Department.

Dated at Prosser, Washington on this 26th day of August 2016.

MARTIN SHEERAN, Chairman
BENTON COUNTY PLANNING COMMISSION



MICHAEL SHUTTLEWORTH,
Planning Manager

PUBLISH ON: September 1, 2016