

CITY OF BLAINE
REQUEST FOR COUNCIL ACTION
MEETING DATE:

SUBJECT: Ordinance 06-2632, Conditional Use in Central Business District Amendment to Code 17

SUBMITTING DEPT: City Manager/Community Development

PREPARED BY: Gary Tomsic, Terry Galvin

AGENDA LOCATION: Comments/Communications ☐, Consent ☐, Committee Reports ☐, Unfinished Business ☐, New Business ☐, Public Hearing ☐, Standing Committees ☐

ATTACHMENTS: Second draft -proposed amendment

SUMMARY/BACKGROUND: On January 4, 2006, many of the property/business owners along Portal Way attended a meeting at the International Café to discuss future development in the central business district. The discussion focused on building heights, locations, view corridors, public amenities, etc., and how the property owners might work together more effectively. With so many property owners, the options are complex but the issues are real and need to be addressed.

This meeting was the latest of several that have occurred regarding the challenges of developing in the CBD of Blaine. For months, we have been meeting with serious developers who are confronting serious engineering and cost issues with construction on the west side of Portal Way. Our own boardwalk project has encountered similar design and cost issues because of poor soil conditions and increases in steel and other material costs.

The bottom line is that it is difficult, if not impossible, for investors to pencil projects particularly on the west side of Portal under the current regulations, which govern building height, design, parking, etc. We are finding that it is very difficult to develop regulations that fit the individual property owner and site needs in the downtown. The challenge is to develop regulations and a review process that has built-in flexibility in order to accommodate special needs while assuring that the community's vision for the downtown is preserved and enhanced.

One way to address this issue is to amend the City's code so that developments in the CBD-Market District that do not comply with the City's design regulations can be reviewed as conditional uses. This allows the City and the Developer the opportunity to jointly find solutions that benefit both the developer and the City. The conditions are developed and approved on a project-by-project basis. If a land developer in the CBD does not want to go through the conditional use process, then they are allowed to build as long as they meet the existing regulations. This way, property owners have defined development parameters that guarantees them use of their property. If they want to go beyond those, then they must use the conditional use process.

While a conditional use process adds flexibility in design, it may also add time to the review process because you do not have a clearly prescribed process and regulations. This is a trade-off that investors must evaluate when developing in the downtown.

BACKGROUND:

On May 9, 2005, in response to what appeared to be a significant building trend in the downtown area, the City Council approved changes to development regulations, performance standards, and design standards in the Central Business District. They did so in recognition that the community had a short window of opportunity to create a clear vision for the downtown's future and establish regulatory language that would help realize this vision.

The following is a summary of what was approved in 2005:

Vision Statement: a vision statement for the downtown area. The vision was developed during a three day Charrette and is intended to be placed in chapter 2: Vision of the 2005 Comp Plan.

Zoning Map Amendment: Two significant changes were made to the CB District. The first was to expand the District to include the wharf area previously zoned Marine Commercial. The second change was to divide the CB District into three sub-districts; CB- Wharf District, CB-Market District, and the CB Transition District.

Chapter, 17.22, Central Business District. - Regulatory Amendments

Summary: New language was developed for Chapter 17.22. The new language was intended to address a number of issues that were previously not addressed. They include:

- Clarification of the District's purpose.
- Establishing a more concise delineation of the uses and facilities that are subject to CBD regulations.
- Establishing a more direct relationship between a building and the streetscape. The existing regulations allow a building to locate anywhere on a lot. The new regulations require buildings to abutt the front of the property with slight variations when appropriate.
- Establishing maximum building heights. There have been no maximum building heights in the past. The new regulations set height limits at 36' and 46' with some flexibility.
- Clarifying the role of design standards in the CB District.
- Establishing clear regulatory language that addresses the priority considerations of open space, view corridors, parks, the boardwalk, and related trails and other pedestrian amenities.
- Revising parking requirements. The new parking requirements provide for the creation of a parking district and flexible parking alternatives.
- Establishing regulatory language that helps buffer the existing residential neighborhood from high impact commercial uses with their corresponding noise, light traffic and activity.

Chapter 17.120, Design standards (new chapter): The Design Guidelines needed a better home. Chapter 17.120 clearly establishes design standards that apply to the Central Business

District. New language was included to insure that design would clearly help implement the vision for the district.

ANALYSIS:

Proposed Text amendment:

Major development projects in the CBD-Market District that do not strictly meet the requirements contained in this chapter but are consistent with the Comprehensive Plan vision, the purpose and intent statements contained in this chapter and Chapter 17.120, Design standards, BMC. The project must also substantially contribute to public amenities as determined by the City Council.

The text amendment will allow a project proposal that does not strictly meet the regulatory requirements to be heard by the Planning Commission and City Council through a conditional use permit. A conditional use permit requires both public notification and a public hearing, thus allowing the community at large to participate in the review and decision of such a project proposal.

A key component in the review of such a project proposal will be to establish a review process that results in compliance with the community and vision for the downtown district. The conditional use criteria contained in Title 17 and included below, help establish conditions for approval of the project proposal.

17.92.050 Standards and criteria for granting conditional use permits.

A conditional use permit shall be granted only upon a finding that the proposed use complies with the standards and criteria listed below. The approving authority may impose such conditions as it deems necessary to assure compliance with the standards and criteria listed below as well as any applicable standards and requirements of the zone district in which the use will be located.

A. Will be harmonious and in accordance with the general and specific objectives of the city of Blaine comprehensive plan and zoning regulations.

B. Will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity, and that such use will not change the essential character of the same area.

C. Will not be hazardous or disturbing to existing or future neighboring uses.

D. Will be serviced adequately by essential public facilities such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewers, and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services.

E. Will not create excessive additional requirements at public cost for public facilities and services, and will not be detrimental to the economic welfare of the community.

F. Will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property, or the general welfare by reasons of excessive production of traffic, noise, smoke, fumes, glare or odors.

G. Will have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding public streets.

H. Will not result in the destruction, loss or damage of any natural, scenic or historic feature of major importance. (Ord. 2554 § 3, 2003)

The vision and purpose and intent statements contained in chapter 17.22 and 17.120 provide additional, and more specific direction in making land use decisions in the Central Business district. One problem that could arise is in establishing a fair and consistent process for determining what or how “substantially” a developer should contribute to public amenities. The City should determine what “public amenities” it would like to be built and a process for developer contributions.

That being said, with this provision in place the City will be in a position to respond in a flexible and creative way to unique, creative, and large development proposals.

PLANNING COMMISSION COMMENTS:

On January 18, The Community Development Director informally reviewed the proposal with the Planning Commission. Their response was negative. There was concern from the six Planning Commission members that this kind of amendment could result in the supremacy of developer profit margins over regulatory guidance that holds development to a consistent and predictable standard (vision). They also expressed concern that, without clear guidance, a conditional use review process becomes more dependent on informed, competent and dedicated staff and decision makers and that with the loss of staff and turnover in Planning Commission and City Council members, consistency and predictability can be compromised.

Staff comments: The Planning Commission’s concern has some merit. Without specific criteria and perhaps a more articulated “vision” of the downtown area, the basis for individual land use decisions may be less rooted in community based goals and visions than in the desire to see the City grow without restraints.

In the past, planning staff have used the sailboat as a metaphor to help understand the dynamics between developers and local government. Much like a sailboat out in the bay, a community needs the “winds” of development in order to achieve its goals and visions for the future. However, the sailboat requires a “keel” and a “rudder” if it is going to effectively utilize the wind’s power. Because, without a keel and rudder, the wind will simply push the sailboat sideways. In Blaine, that keel is often local government and the rudder is the City Council.

It is clear that a sailboat requires dynamic tension between the wind and the water to reach its destination. It may also be true that, just like a sailboat, development in a community is the most dynamic and most interesting when the two forces are working the hardest because, in fact, it is the dynamic tension between the wind and the water that moves the boat forward.

With the proposed amendment in place, the challenge will be to stay on course. And, while it may look fairly simple to hold the tiller (attached to the rudder) steady, in a stiff wind it will require good vision, skill, commitment, and diligence to reach our destination.

RECOMMENDATION: Staff recommends approval of this amendment. However, if approved, the City Council should more clearly define criteria for this type of conditional use approval and establish a clear basis for determining the type and magnitude of public amenities that the city will require upon approval of the project.

FISCAL ANALYSIS

The amendment is designed to stimulate development in the CBD.

REVIEWED BY: City Manager _____ Finance Dir. _____ City Clerk _____

COUNCIL ACTION:

☐ Approved ☐ Denied ☐ Tabled/Deferred ☐ Assigned to: _____

COUNCIL ACTION: _____