

CITY OF BLAINE
REQUEST FOR COUNCIL ACTION
MEETING DATE: July 23, 2007

SUBJECT: Fee Deferral Ordinances 07-22669 and 07- 02670

SUBMITTING DEPT: City Manager

PREPARED BY: Gary Tomsic

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

ATTACHMENTS: Copies of Ordinances

ANALYSIS/SUMMARY: There will be a public hearing on Ord. 07-2669 and 07-2670.
At the last meeting the Council held a study session on these two ordinances. The Council directed several changes to the ordinances that have been incorporated. Jon Sitkin will be at the meeting to discuss the ordinance and the changes.

RECOMMENDATION: ☐ Waive 2nd Reading: (Include conditions of approval if applicable) Staff recommends that City Council

FISCAL ANALYSIS: The financial impact of the proposal was discussed at the study session. The ordinance does not defer any direct expenditure required by the City. The deferral will affect cash flow and investment earnings.

REVIEWED BY:

City Manager _____ Finance Dir. _____ City Clerk _____

COUNCIL ACTION:

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

COUNCIL ACTION: _____

ORDINANCE NO. 07-2669

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BLAINE, WASHINGTON, PROVIDING FOR AN AMENDMENT TO TITLE 15 OF THE BLAINE MUNICIPAL CODE TO ALLOW FOR ESTABLISHMENT OF INCENTIVES FOR THE REDEVELOPMENT OF THE CITY'S CENTRAL BUSINESS DISTRICT THROUGH THE DEFERMENT OF BUILDING PERMIT FEES UPON APPROVAL OF THE CITY COUNCIL.

WHEREAS, the City, has identified in it's Comprehensive Plan, seeks to provide mechanisms for incentives for investment into the Blaine community (See City of Blaine Comprehensive Plan-Economic Development Chapter Policy 1.3, and Action B); and

WHEREAS, in 2006, in Ordinance 06-2632, an ordinance allowing more flexible development alternatives, the City Council made the following Findings of Fact:

1. Blaine's downtown Central Business (CB) District has experienced significant changes in property ownership in the last two years.
2. The economy and cost of development in Whatcom County is undergoing significant changes.
3. Based upon contact with property owners in the downtown area and particularly along Peace Portal Drive, the City Manager advised the City Council that a significant number of property owners believe that the current regulations are too restrictive and inhibit investment in the downtown area.
4. Great flexibility in the Central Business- Market zoning district will help stimulate investment in the downtown area

WHEREAS, the City Council determines that the Central Business District-Market of the City is an area where revitalization though private investment is needed; and

WHEREAS, the City desires to reduce disincentives for the private sector investment in the Central Business District of the City of Blaine as that area is defined in the City Comprehensive Plan Map and Zoning Map; and

WHEREAS, the City seeks to provide mechanisms that facilitate private investment by reducing development costs for redevelopment and development in the Central Business district of the City, as an area needing revitalization through private investment; and

WHEREAS, the City seeks to improve the employment base in the Central Business District and seeks to encourage an increase to the City's tax base through the redevelopment and development of existing properties in the Central Business District; and

WHEREAS, the City has already made significant public investment in the Central Business District through the commencement of the construction of a Boardwalk between G and H Street overlooking the railroad and Blaine Harbor; and

WHEREAS on _____, after posting legal notice, and publication of legal notice in a newspaper of general circulation on _____, the City Council reviewed the recommendations of City staff and considered public testimony and related information; and

WHEREAS on _____, during a public meeting, the City Council voted to approve the amendment to the City Code as set forth herein.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BLAINE, WASHINGTON DOES HEREBY ORDAIN TO AMEND TITLE 15 OF THE BLAINE MUNICIPAL CODE BY ADDING A NEW SECTION, 15.34-FEE DEFERRAL, AS SET FORTH HEREIN:

SECTION 1. A NEW SECTION, SECTION 15.34-FEE DEFERRAL is added to Title 15 of the Blaine Municipal Code as follows:

15.34.010.--Fee Deferral Allowed.

The City Council may grant deferral of the payment of certain fees as set forth herein. The City Council may defer the fees identified below upon compliance with the following process and requirements, and the City Council determination that the request meets the requirements set forth in section _____. No Fee Deferral may be granted to any development that has not already received all land use approvals as required by Title 17 of the Blaine Municipal Code. The City Council shall only have the authority to defer City imposed fees as allowed by law. The conditions of approval set forth in the sections below shall apply to all fee deferrals granted by the City. A Fee Deferral request is not a land use decision subject to the requirements of RCW 36.70B et seq. The fees eligible for possible deferment upon approval by the City Council are:

15.04.110 BUILDING PERMIT FEES

15.34.020. Fee Deferral Request Submittal requirements. In order to have a fee deferral request considered, the Applicant shall submit to the City Clerk's office a fully completed application containing at a minimum the following:

- a. A fully completed Fee Deferral Request form provided by the City of Blaine Community Development Services Department.
- b. Evidence from the City of Blaine Community Development Services Department that the applicant's proposed project has received all necessary land use approvals from the City including, if required, approvals from the Blaine Hearing Examiner, Blaine Planning Commission, City Council or Community Development Services Department as required by City Code.
- c. Evidence that the applicant(s) requesting the fee deferral is/are the owner(s) of the real property on which the proposed project is sited.
- d. The applicant shall set forth in writing as part of the application the reasons for the request. The request shall specifically set forth how the project is consistent with the City's policies and regulations in the Central Business District-Market

and how it will create employment and/or contribute **substantially** to the City's tax base.

- e. Specify what fees or portion of fees are requested to be deferred.

15.34.030 Procedures for review and consideration of Fee Deferral Request. Upon receipt of a fully complete application for a Fee Deferral request, the City Clerk shall:

- a. Distribute copies of the request to the City Finance Department, the City Community Development Services Department, the City's Building Official, the City Public Works Department, and the City Manager.
- b. Schedule a public hearing before the City Council regarding the fee deferral request.
- c. Distribute copies of the fee deferral request packet to the City Council members as part of the Council packet.

15.34.040 Approval Criteria for Fee Deferral Request: The City Council may in its sole discretion, upon conclusion of the public hearing and after considering all public and staff comments, defer all or a part of the fees for a development project upon making the following findings based upon evidence in the record:

- a. The project considered for a fee deferral is located wholly within the Central Business District as defined in the City's zoning ordinance and map.
- b. The project for which the fee deferral request is made is consistent with the City's vision, policies and regulations for the Central Business District-Market area and that the project will likely create employment in the Central Business District-Market and/or contribute **substantially** to the City's tax base.
- c. The project creates additional private sector jobs and/or leverages private sector investment so that the City's tax base is **substantially** increased as a result of said project.

15.34.050 Conditions of Approval of Fee Deferral Request. In the event that the City Council grants approval of the Fee Deferral, the following are conditions of any such approval and may not be waived as part of any decision.

- a. The project/property owner(s) shall enter into a "Fee Deferral Agreement" as approved by the City Attorney, City Manager, and City Council. This Agreement shall be recorded on the property and shall run with the land and be binding upon all successors heirs and assigns.
- b. Construction on the project for which the deferral request is approved shall start within 60 days of the **approval of the building permit** for the project. If the project does not start within this time frame the fee waiver is void without further action required.

- c. The fee deferral shall not exceed a period of more than two years from the date of approval of the fee deferral by the City Council, or upon the sale of the property, whichever occurs first. All deferred fees shall be due on sale of the property or transfer of any interest in the entity that owns the property.
- d. The deferral shall not include deferral of any costs of notices, publications, legal review and other direct costs which must be paid by the City.
- e. Fees that have been deferred shall be paid in full before a final inspection and any type of occupancy permit is issued.

SECTION 2: Severability. If any section, subsection, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance.

SECTION 3: Effective Date. This Ordinance shall be in force from and after passage by the City Council and approval by the Mayor, if approved, as provided by law.

PASSED BY THE CITY COUNCIL OF THE CITY OF BLAINE, WASHINGTON on
The _____ day of _____, 2007, and approved by the Mayor on the same day.

CITY OF BLAINE, WASHINGTON

Mike Myers, Mayor

ATTEST/AUTHENTICATE:

Sheri Sanchez
City Clerk

APPROVED AS TO FORM:

Jonathan Sitkin
City Attorney

ORDINANCE NO. 07-2670

**AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF BLAINE, WASHINGTON, PROVIDING FOR
AN AMENDMENT TO TITLE 13 OF THE BLAINE
MUNICIPAL CODE TO ALLOW FOR ESTABLISHMENT
OF INCENTIVES FOR THE REDEVELOPMENT OF THE
CITY'S CENTRAL BUSINESS-MARKET DISTRICT
THROUGH THE DEFERRAL OF UTILITY
CONNECTION FEES UPON APPROVAL OF THE CITY
COUNCIL.**

WHEREAS, the City's Comprehensive Plan supports mechanisms that provide incentives for investment in the Blaine community (see City of Blaine Comprehensive Plan-Economic Development Chapter Policy 1.3, Action B); and

WHEREAS, in 2006, in Ordinance 06-2632, an ordinance allowing more flexible development alternatives, the City Council made the following Findings of Fact:

1. Blaine's downtown Central Business (CB) District has experienced significant changes in property ownership in the last two years.
2. The economy and cost of development in Whatcom County is undergoing significant changes.
3. Based upon contact with property owners in the downtown area and particularly along Peace Portal Drive, the City Manager advised the City Council that a significant number of property owners believe that the current regulations are too restrictive and inhibit investment in the downtown area.
4. Great flexibility in the Central Business-Market District will help stimulate investment in the downtown area

WHEREAS, the City Council determines that the Central Business-Market District of the City is an area where revitalization through private investment is needed; and

WHEREAS, the City desires to reduce disincentives for the private sector investment in the Central Business-Market District of the City of Blaine as that area is defined in the City Comprehensive Plan Map and Zoning Map; and

WHEREAS, the City seeks to provide mechanisms that facilitate private investment by reducing development costs for redevelopment and development in the Central Business-Market District of the City, as an area needing revitalization through private investment; and

WHEREAS, the City seeks to improve the employment base in the Central Business-Market District and seeks to encourage an increase to the City's tax base through the redevelopment and development of existing properties in the Central Business-Market District; and

WHEREAS, the City has already made significant public investment in the Central Business-Market District through the commencement of the construction of a Boardwalk between G and H Streets overlooking the railroad and Blaine Harbor; and

WHEREAS on _____, after posting legal notice, and publication of legal notice in the Bellingham Herald on _____, the City Council reviewed the recommendations of City staff and considered public testimony and related information; and

WHEREAS on July 23, 2007, during a public meeting, the City Council voted to approve the amendment to the City Code as set forth herein.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BLAINE, WASHINGTON DOES HEREBY ORDAIN TO AMEND TITLE 13 OF THE BLAINE MUNICIPAL CODE BY ADDING A NEW SECTION, TITLE BMC 13.21-FEE DEFERRAL, AS SET FORTH HEREIN.

SECTION 1. A NEW SECTION, SECTION 13.21-FEE DEFERRAL is added to Title 13 of the Blaine Municipal Code as follows:

13.21.010.--Fee Deferral Allowed.

The City Council may grant deferral of the payment of certain fees as set forth herein. The City Council may defer the fees identified below and enumerated in the City's Unified Fee Schedule upon applicant compliance with the following process and requirements, and City Council determination that the request meets the requirements set forth in Sections 13.21.020, 13.21.040 and 13.21.050. No fee deferral may be granted to any development that has not already received all land use approvals as required by Title 17 of the Blaine Municipal Code. The City Council shall only have the authority to defer City-imposed fees as allowed by law. A fee deferral request is not a land use decision subject to the requirements of RCW 36.70B et seq. The fees eligible for possible deferral upon approval by the City Council are:

- 13.03.040 STORM WATER UTILITY SYSTEM DEVELOPMENT CHARGES.
 System development charge
- 13.04.145 WATER SYSTEM. Front footage fees
- 13.07.020 ASSESSMENTS, RATES, FEES AND CHARGES. Assessments
- 13.08.410 SEWER SYSTEM. Permits – Classes – Applications – Fees

13.21.020. Fee Deferral Request Submittal Requirements. In order to have a fee deferral request considered, the applicant(s) shall submit to the City Clerk's office a fully completed application containing at a minimum the following:

- a. A fully completed fee deferral request form provided by the City of Blaine Public Works Department and Community Development Services Department.
- b. Evidence from the City of Blaine Community Development Services Department that the applicant(s) seeking the fee deferral has/have received all necessary land use approvals from the City including, if required, approvals from the Blaine Planning Commission, City Council or Blaine Community Development Services Department as required by City Code.

- c. Evidence that the applicant(s) requesting the fee deferral is/are the owner(s) of the real property on which the proposed project is sited.
- d. The applicant(s) shall set forth in writing as part of the application the reasons for the request. The request shall specifically set forth how the project is consistent with the City's policies and regulations in the Central Business-Market District and how it will create employment and/or contribute substantially to the City's tax base.
- e. Specify what fees or portion of fees are requested to be deferred.

13.21.030 Procedures for review and consideration of Fee Deferral Request. Upon receipt of a fully complete application for a fee deferral request, the City Clerk shall:

- a. Distribute copies of the request to the City Finance Department, the City of Blaine Community Development Services Department, the City's Building Official, the City Public Works Department, and the City Manager.
- b. Schedule a public hearing before the City Council regarding the fee deferral request.
- c. Distribute copies of the fee deferral request packet to the City Council members as part of the Council packet.

13.21.040 Approval Criteria for Fee Deferral Request: The City Council may in its sole discretion, upon conclusion of the public hearing and after considering all public and staff comments, defer all or a part of the fees for a development project upon making the following findings based upon evidence in the record:

- a. The project considered for a fee deferral is located wholly within the Central Business-Market District as defined in the City's zoning ordinance and map.
- b. The City Council enters finding of fact based upon evidence in the record that the project for which the fee deferral request is made is consistent with the City's vision, policies and regulations for the Central Business-Market District area and that the project will likely create employment in the Central Business-Market District and/or contribute substantially to the City's tax base.
- c. The project creates additional private sector jobs and/or leverages private sector investment so that the City's tax base is substantially increased as a result of said project.

13.21.050 Conditions of Approval of Fee Deferral Request. In the event that the City Council grants approval of the fee deferral, the following are conditions of any such approval and may not be waived as part of any decision.

- a. The project/property owner(s) shall enter into a "Fee Deferral Agreement" as approved by the City Attorney, City Manager, and City Council. This Agreement shall be recorded on the property and shall run with the land and be binding upon all successors, heirs and assigns.

- b. Construction on the project for which the deferral request is approved shall start within 60 days of the approval of the building permit for the project. If the project does not start within this time frame, the fee deferral is void without further action required.
- c. The fee deferral shall not exceed a period of more than two years, from the date of approval of the fee deferral by the City Council or sale of the property, whichever occurs first. All deferred fees shall be due on sale of the property or transfer of any interest in the entity that owns the property.
- d. The deferral shall not include deferral of any costs of notices, publications, legal review and other direct costs which must be paid by the City.
- e. Fees that have been deferred shall be paid in full before a final inspection and any type of occupancy permit is issued.

SECTION 2: Severability. If any section, subsection, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance.

SECTION 3: Effective Date. This ordinance shall be in full force and effect upon approval.

PASSED BY THE CITY COUNCIL OF THE CITY OF BLAINE, WASHINGTON
on the _____ day of _____, 2007, and approved by the Mayor on the same day.

CITY OF BLAINE, WASHINGTON

Mike Myers, Mayor

ATTEST/AUTHENTICATE:

Sheri Sanchez
City Clerk

APPROVED AS TO FORM:

Jonathan Sitkin
City Attorney