

ORDINANCE NO. 08-858

**AN ORDINANCE OF THE CITY OF BLACK DIAMOND,
KING COUNTY, WASHINGTON, ADDING A NEW
CHAPTER 17.34 TO THE BLACK DIAMOND MUNICIPAL
CODE AND DELETING SUBSECTION 17.04.030(C) OF THE
BLACK DIAMOND MUNICIPAL CODE REGARDING
BINDING SITE PLANS**

WHEREAS, RCW 58.17 authorizes local governments to adopt a binding site plan process for commercially or industrially zoned properties as an alternative to the subdivision process; and

WHEREAS, on March 20, 2008 the City Council held a public hearing to consider the proposed binding site plan ordinance; and

WHEREAS, the Council finds that it is in the best interests of the City to adopt such a process; now therefore,

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

SECTION 1. Section 17.04.030 of the Black Diamond Municipal Code is hereby amended by the deletion of subsection (c) in its entirety.

SECTION 2. A new chapter 17.34 titled "Binding Site Plans" is hereby added to the Black Diamond Municipal Code.

SECTION 3. A new section 17.34.010 is hereby added to the Black Diamond Municipal Code to read as follows:

17.34.010 Purpose and Scope

The purpose of this chapter is to clearly delineate the procedures and criteria used by the City of Black Diamond to review and approve binding site plans. A binding site plan is intended to provide an alternative means of dividing land for commercially or industrially zoned property. This chapter shall only apply to divisions of land for sale or lease of commercially or industrially zoned property and upon which no future residential structure will be placed except as an accessory use.

SECTION 4. A new section 17.34.020 is hereby added to the Black Diamond Municipal

Code to read as follows:

17.34.020 Application Requirements

An application for a binding site plan shall be submitted to the community development department on forms provided by the community development director. Unless otherwise provided, the term “director” in this chapter shall mean the community development director. A complete application for a binding site plan shall consist of:

A. At least one original 18 inch by 24 inch drawing, eight copies, and one eight-and-one-half-inch by 11-inch copy containing the following information:

1. The location and size of all proposed lots, tracts, and buildings;
2. Proposed and existing structures, including elevations and floor plans as known (plans which show building envelopes rather than footprints must include postconstruction treatment of unoccupied areas of the building envelopes);
3. All proposed or existing uses;
4. The location of proposed or existing open space, including any required landscaped areas;
5. The location and identification of critical areas;
6. The layout of an internal vehicular and pedestrian circulation system, including proposed ingress and egress for vehicles;
7. The number and location of proposed or existing parking spaces on and off the site;
8. A drainage plan which will accommodate the maximum proposed square footage of impervious surface, including the maximum proposed square footage of impervious surface exposed to vehicular use, subject to the requirements of the city's storm water drainage design standards;
9. The location and size of utility trunk lines serving the site;
10. The location and size of water bodies and drainage features, both natural and manmade;
11. A grading plan showing proposed clearing and tree retention and the existing and proposed topography, detailed to two-foot contours, unless smaller contour intervals are otherwise required by the city code or rules and regulations promulgated thereunder;
12. A layout of sewers and the proposed water distribution system;
13. Proposed easements and access;
14. Proposed signage;
15. If the proposed binding site plan is part of an approved Master Planned Development (MPD), the proposed binding site plan shall show road, trail, utility, and other connections to adjacent MPD properties, as well as adjacent

approved MPD land uses; and

16. If the proposed binding site plan is part of an approved MPD, a copy of the signed and recorded MPD development agreement.

17. Depiction of easements, deed restrictions and other encumbrances referred to in sections D and G below.

B. A completed environmental checklist, if required by the State Environmental Policy Act and implementing ordinances.

C. A downstream drainage analysis or any other requirement specified in the City's surface water design manual, site development regulations or surface water policy ordinance.

D. All covenants, easements, maintenance agreements or other documents regarding mutual use of common open space, parking and access.

E. Sanitary Sewer availability certificate from the public sanitary sewer service provider if other than the City for an area not served by or intended to be served by the City.

F. Water availability certificate from the water purveyor providing service to the property if other than the City for an area not served by or intended to be served by the City.

G. Copies of all easements, deed restrictions or other encumbrances restricting the use of the site.

H. A phasing plan and time schedule, if the site is intended to be developed in phases.

I. The payment of all applicable fees as prescribed in the City's fee schedule.

J. The director may waive specific submittal requirements determined to be unnecessary for review of the application.

SECTION 5. A new section 17.34.030 is hereby added to the Black Diamond Municipal Code to read as follows:

17.34.030 Determination of completeness-time limitations

A. Within twenty-eight days after receiving a binding site plan application, the director shall mail or provide in person a written determination to the applicant, stating either that the application is complete, or that the application is incomplete and what is necessary to make the application complete. An application is complete for purposes of this section when all applicable fees are paid, and the application

meets the procedural submission requirements of BDMC 17.34.020 and is sufficient for continued processing even though additional information may be required or project modifications may be undertaken subsequently. The determination of completeness shall not preclude the City from requesting additional information or studies either at the time of the notice of completeness or subsequently if new information is required or substantial changes in the proposed action occur.

B. Within 14 days after an applicant has submitted the additional information identified by the director as being necessary for a complete application, the director shall notify the applicant whether the application is complete or whether additional information is necessary.

SECTION 6. A new section 17.34.040 is hereby added to the Black Diamond Municipal Code to read as follows:

17.34.040 Review of Binding Site Plan

Upon receiving a complete application for binding site plan approval, the director shall transmit for review and comment a copy of the site plan, together with copies of any accompanying documents as the director deems appropriate, to the following:

A. Public Works Director, who shall review the proposed binding site plan with regard to its conformance to the general purposes of adopted traffic and utility plans; adequate provisions for storm drainage, streets, alleys, other public ways, water and sanitary sewer; and conformance to any applicable improvement standards and specifications and compliance with Chapter 58.09 RCW and Chapter 332-130 WAC;

B. City fire marshal, who shall review the proposed binding site plan with regard to adequate provisions for emergency access;

C. Any other city department, utility provider, school district or other public or private entity as the director deems appropriate.

D. If the proposed binding site plan is located adjacent to the right of way of a state highway, the director shall give written notice of the application, including a legal description of the binding site plan and a location map, to the State department of transportation.

SECTION 7. A new section 17.34.050 is hereby added to the Black Diamond Municipal Code to read as follows:

17.34.050 Approval.

A. A proposed binding site plan shall be considered under the zoning and other land use control ordinances in effect at the time a fully completed application is filed with the City. The director shall consider and base a decision to approve, approve with conditions, deny or return the application for modifications, based on the following criteria:

1. Appropriate provisions are made for, but not limited to, the public health, safety, and general welfare for open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, and sanitary wastes;

2. The proposed binding site plan is in conformity with the underlying zoning district requirements, other land use controls, building requirements, and other applicable regulations which may exist at the time of a completed application;

3. All other relevant facts were considered, including sidewalks and other planning features that assure safe walking conditions for pedestrians;

4. The public interest is served by the binding site plan and any dedications;

5. If the proposal is in an approved MPD, the proposed binding site plan is consistent with the approved MPD, the MPD conditions of approval, the MPD design standards, and the MPD development agreement.

B. The director's decision shall include written findings and conclusions supporting the decision. The director may require, as a condition of binding site plan approval, that any required improvements be guaranteed by the method described by BDMC 17.32.070 prior to binding site plan approval or issuance of building permits for any lot within the binding site plan.

C. The director may authorize or recommend authorization of the sharing of open space, parking, access and other improvements among contiguous properties subject to the binding site plan. Conditions of use, maintenance and restrictions on redevelopment of shared open space, parking, access and other improvements shall be identified on the binding site plan and enforced by covenants, easements or other similar mechanisms.

D. The director shall specify in the findings the use and intensity assumptions that were made regarding traffic volumes, parking requirements and other such conditions that are dependent upon the anticipated volume of traffic and types of uses.

E. As an alternative procedure, where the applicant is requesting a deviation from the development regulations, or a longer vesting period due to a requested phasing plan, the applicant may request that the City Council approve a development agreement, as authorized by RCW 36.70B.170, after public hearing and review and

recommendation from the director.

SECTION 8. A new section 17.34.060 is hereby added to the Black Diamond Municipal Code to read as follows:

17.34.060 Final binding site plan approval and recording.

A. After a binding site plan application has received approval from the director, the applicant shall have one hundred eighty (180) days to present to the city a final binding site plan in accordance with this section.

B. The approved binding site plan shall be surveyed and a professional land surveyor, licensed in the state of Washington, shall prepare the final binding site plan for recording in accordance with Chapter 58.09 RCW and Chapter 332-130 WAC.

C. The final binding site plan shall be drawn on mylar (or similar material with prior approval of the director) and include the following information in a format prescribed by the director:

1. Lots designated by number on the binding site plan within the area of the principal lot. Tracts shall be similarly designated and each tract shall be clearly identified with the ownership and purpose;

2. Signature and stamp of the land surveyor who prepared the binding site plan;

3. Reference to the recording number of the completed survey as required by this section if the boundaries have been previously surveyed;

4. Reference to all agreements or covenants required as a condition of approval;

5. Notarized signatures of all persons having an ownership or security interest in the land being divided;

6. Certificate for approval of the public works director; and

7. Certificate for approval of the director.

D. The binding site plan shall contain applicable inscriptions or attachments setting forth limitations and conditions to which the plan is subject, including any applicable irrevocable dedications of property, and shall contain a provision requiring that any development of the site be in conformity with the approved site plan.

E. After the City has returned the duly executed final binding site plan to the applicant, the applicant shall record the approved binding site plan with King County within thirty days. Failure to present the city with a final binding site plan or to record the executed final binding site plan with the time limits set forth herein shall render the binding site plan approval null and void.

F. Lots, parcels, or tracts adjusted or created through the binding site plan procedure shall be legal lots of record. The number of lots, tracts, parcels, sites, or divisions shall not exceed the number of lots allowed by other provisions of this chapter.

G. All provisions, conditions, and requirements of the binding site plan shall be legally enforceable on the purchaser or any other person acquiring a lease or other ownership interest of any lot, parcel, or tract created pursuant to the binding site plan.

H. Any sale, transfer, or lease of any lot, tract, or parcel created pursuant to the binding site plan, that does not conform to the requirements of the binding site plan shall be illegal and considered a violation of the binding site plan approval conditions and grounds for terminating the binding site plan approval.

I. The conditions of binding site plan approval shall be vested for five (5) years from the date of approval. All subsequent development on the site will be subject to the development regulations in effect when a development application is submitted.

SECTION 9. A new section 17.34.070 is hereby added to the Black Diamond Municipal Code to read as follows:

17.34.070 Amendments, modifications and vacations.

Any amendment, modification or vacation of a binding site plan shall be accomplished by following the same procedure and satisfying the same laws, rules and conditions as required for a new binding site plan application, as set forth in this chapter, except that amendments that adjust lot lines only, without creating any additional lots, shall be made in accordance with BDMC Chapter 17.36. If a portion of a binding site plan is vacated, the property subject to the vacated portion shall constitute one lot unless an approved full subdivision or short subdivision subsequently divides the property. The director may revoke a binding site plan approval, after an opportunity for notice and hearing to the affected property owners of record, if he determines that there has been a violation of the conditions of approval and the violation has not been corrected after reasonable notice to the owner of record to correct the violation.

SECTION 10. A new section 17.34.080 is hereby added to the Black Diamond Municipal Code to read as follows:

17.34.080 Administrative rules.

The director may promulgate administrative rules and regulations consistent with this chapter to implement the provisions and requirements of this chapter.

SECTION 11. A new section 17.34.090 is hereby added to the Black Diamond Municipal Code to read as follows:

17.34.090 Appeal procedures.

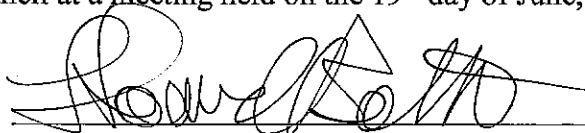
Within fourteen calendar days following the decision of the director pursuant to BDMC 17.34.050, the applicant may appeal the decision to the hearing examiner. The appeal shall be accomplished by filing of a written request with the city clerk for a hearing accompanied by the appeal fee. The notice of appeal shall briefly specify the issues of the appeal. Decisions not timely appealed are deemed final and conclusive. Provided, however, if a development agreement has been requested by the applicant, as authorized by section 17.34.050(E), then the City Council's action on the development agreement shall be deemed final city action, and any appeal shall be to the King County Superior Court.

SECTION 12. This Ordinance shall be in full force and effect five days after its passage, approval, posting and publication as provided by law. A summary of this Ordinance may be published in lieu of publishing the Ordinance in its entirety.

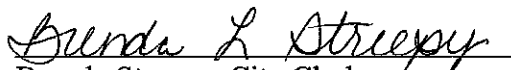
SECTION 13. If any provision of this Ordinance is determined to be invalid or unenforceable for any reason, the remaining provisions of this Ordinance shall remain in force and effect.

Introduced the 19th day of June, 2008.

Passed by a majority of the City Council at a meeting held on the 19th day of June, 2008.


Mayor Howard Botts

Attest:


Brenda Streepy, City Clerk

APPROVED AS TO FORM:

Loren D. Combs, City Attorney

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