



CITY OF BLACK DIAMOND
PLANNING COMMISSION MEETING AGENDA
April 12, 2011 7:00 PM
25510 Lawson Street, Black Diamond, Washington

- 1) CALL TO ORDER, ROLL CALL
- 2) PUBLIC COMMENTS: Individuals wishing to address the Planning Commission regarding any item not on this meeting's agenda may do so at this time.
- 3) APPROVAL OF MINUTES – February 8, 2011
- 4) PUBLIC HEARING ON MISCELLANEOUS MINOR AMENDMENTS TO TITLES 17 AND 18, BLACK DIAMOND MUNICIPAL CODE
 - a) Title 17: preliminary plat appeals
 - b) Title 18: urban agriculture
 - c) Title 18: temporary signs
- 5) DEPARTMENT REPORT
- 6) ADJOURNMENT



CITY OF BLACK DIAMOND
PLANNING COMMISSION
25510 Lawson Street, Black Diamond, Washington

M E M O R A N D U M

Date: April 5, 2011
To: Planning Commission
From: Steve Pilcher, Community Development Director
Re: Public Hearing on Miscellaneous Code Amendments

At previous meetings, the Commission discussed the potential of amending the Zoning Code to allow for greater agricultural activities in residential zones and also proposed amendments regarding the use of banners and sandwich board signs at places of business. A public hearing on both of those topics has been scheduled for your April 12th regular meeting. In addition, staff is presenting a minor amendment to Title 17 (aka Subdivision Code) regarding the process for appealing a decision of the Hearing Examiner concerning a preliminary plat application.

“Urban Agriculture” amendments

The proposed amendments addressing “urban agriculture” concern the potential for community gardens/pea patches, small-scale growing of crops, and the potential selling of crops raised at private residences located within residential zones.

Recent years have seen an increased interest in the production of locally-grown crops. The “locavore” movement has gained momentum from both commercial food product scares (salmonella, e. coli, etc.), negative reaction to “industrial” agribusiness, and a simply desire to know where one’s food is coming from. “Urban agriculture” refers to cultivating, processing and distributing food in or around a city. While the term may sometimes include animal husbandry, the proposed code amendments are intended to encourage urban farming, whether in the form of community gardens or in an individual setting.

Currently, the City’s zoning regulations would not allow community gardens/pea patches in residential zones as the exclusive use of a parcel of property. Nor do the regulations allow for marketing of locally produced agricultural products or recognize existing agricultural activities that were in existent prior to the current regulations being adopted. The proposed amendments are intended to address all of these limitations and allow urban agricultural activities within the City’s residential zones.

Temporary Sign amendments

The City Council had previously made a “time sensitive” amendment to the Code to allow more extensive use of temporary signs (banners, sandwich boards) once the Kummer Bridge was

reopened in 2009. These provisions had a built-in expiration date at the end of 2010. Several months ago, two business owners had approached the Council during the public comment portion of a Council meeting and expressed concern that some type of temporary signage be allowed to continue.

The Planning and Community Services (PCS) Committee of the Council met several months ago and expressed a willingness to consider allowing the use of banners, provided they are mounted on a building. The Committee also supported the use of sandwich board signs. The Planning Commission subsequently worked with staff to draft proposed code amendment language, which is attached.

These revisions to certain sections of the Sign Code (BDMC 18.82) will accomplish the following:

- The definition of “banner” is modified to indicate it refers to a temporary sign only.
- “Portable signs” are proposed for elimination in favor of the use of sandwich board signs.
- The definition of “special sales” etc. signs is revised to eliminate the use of wind-driven accent devices.
- Standards for sandwich board signs are clarified to provide a minimum clear zone on a sidewalk and to note that a permit is not required.
- The use of banners is capped at 180 days total per calendar year, with specific time limits for individual times of use. The need to obtain a permit is noted.
- All allowances for use of pennants, wind-driven accents, etc. are eliminated.

Preliminary Plat appeal procedures

After a drought of many, many years, the City has now received four preliminary plat applications in the last few months. When City Council members expressed interest in reviewing the submittals, it was discovered there is a conflict between various sections of Title 17 and BDMC 18.08, which is the primary portion of the Municipal Code dealing with land use planning procedures.

Various sections of Title 17 indicate that the Hearing Examiner is granted authority to conduct public hearings and make rulings on preliminary plat applications. However, these sections indicate that an individual dissatisfied with the Examiner’s decision may appeal to the City Council. Given this scenario, it is questionable whether the Council should review materials and/or discuss with constituents a proposed preliminary plat which could wind up in front of the Council on appeal.

BDMC 18.08 states that appeals of the Examiner’s decision on a preliminary plat would go directly to Superior Court. This is consistent with all other types of quasi-judicial actions. (The Examiner actually makes a *recommendation* – not a decision – on Master Planned Developments and Development Agreements).

The proposed amendments to Title 17 would make it consistent with BDMC 18.08.

Hearing Notice

This hearing has been advertised in the official city newspaper and posted to the website.

Staff agency review

As required by the Growth Management Act, all potential amendments of development regulations are submitted to the State Department of Commerce. This agency coordinates review by various other State departments.

A request for expedited review of these amendments was sent to the Department on March 21st. At the time of writing this staff report, staff had received one comment from the Washington State Department of Transportation concerning the placement of sandwich board signs along SR-169. A copy of their email is attached.

URBAN AGRICULTURE AMENDMENTS

Chapter 18.30 SINGLE-FAMILY RESIDENTIAL DISTRICTS– R4 & R6

Sections:

18.30.010 Intent.

18.30.020 Permitted uses.

18.30.030 Conditional uses.

18.30.040 Development standards.

18.30.050 Additional requirements.

18.30.010 Intent.

It is the intent of this chapter to:

- A. Enhance the residential quality of the city by providing a high standard of development for single-family residential areas.
- B. Designate certain areas in which single-family structures on individual lots are the predominant type of dwelling unit.
- C. Guide residential development to those areas where public sewers are in place or can be extended efficiently at reasonable cost.
- D. Guide development of residential areas in such manner as to assure availability of public services and community facilities such as utilities, police and fire protection, schools, parks and recreation.
- E. Preserve existing agricultural activities within the city and provide opportunities for small-scale agricultural uses meeting the needs of city residents.

18.30.020 Permitted uses.

A. Residential.

1. Single-family detached structures on individual lots.
2. Manufactured housing as provided in Chapter 18.90.
3. Agricultural uses, including farms, nurseries and community gardens/pea patches. Greenhouses, storage sheds and similar buildings accessory to such uses are also permitted.

B. Other or Related Uses.

URBAN AGRICULTURE AMENDMENTS

1. Accessory buildings or structures as provided in Chapter 18.50.
2. Temporary uses as provided in Chapter 18.52.
3. Home occupations as provided in Chapter 18.54.
4. Utilities, underground.
5. Child day care for up to twelve children.
6. Agricultural stands for sales of produce and plants grown on-site.

18.30.030 Conditional uses.

The following uses not allowed as permitted uses in Section 18.30.020 may be allowed by approval of a conditional use permit in accordance with Chapters 18.08 and 18.12:

A. Child care for more than twelve children, including nursery schools, day care centers and preschools.

B. Utilities, aboveground.

C. Public uses/facilities.

D. Religious institutions, not to exceed ten thousand square feet gross floor area.

E. Duplexes, subject to the following criteria:

1. The minimum lot size for a duplex shall be one and one-half times that required for a single family detached structure. Only one duplex shall be permitted per lot which meets this standard;

2. A lot on which a duplex is proposed shall not be located within three hundred feet of any other lot on which a duplex or multiple unit structure is found (accessory dwelling units excluded), or constitute more than ten percent of the dwelling units in a single block;

3. Duplexes shall be subject to design standards to ensure their compatibility in terms of bulk, scale and architectural style with the surrounding neighborhood.

F. Private schools, K-12.

URBAN AGRICULTURE AMENDMENTS

18.50.060 Fences and walls.

The height of the fence or wall shall be determined from the existing, established grade on the property.

A. Fences and walls may be constructed to a height not to exceed the following in each of the required setback areas, as regulated per each zone, or as modified by subsection B of this section:

1. Front yard: Forty-two inches; provided, that fences constructed of wrought iron or similar materials that provide visibility may be seventy-two inches in height; Exception: fences protecting an agricultural use or community garden may exceed forty-two inches in height, provided they are at least seventy-five percent (75%) open.

2. Side yard: Seventy-two inches;

3. Rear yard: Seventy-two inches;

4. Street side yard: Seventy-two inches.

5. These limitations do not apply within the public zone district.

B. Special Height Restrictions. There shall not be anything constructed or reconstructed, and no obstruction permitted to grow, other than a post, column or tree not exceeding one foot square or one foot in diameter, between a height three feet and ten feet above the established grade within the triangular areas described below, without the express approval of the public works director:

1. The triangular area formed by a line extending twenty feet along the right-of-way lines of a street and alley or edge of a private driveway, measured from the point of intersection and the line connecting the two ends of the two twenty-foot lines;

2. Fences located at the corner of intersecting streets shall comply with the sight distance requirements of the city public works standards.

C. In general, no fence, wall, hedge, structure or other obstruction shall act as a sight hazard to traffic, and the public works director may order the removal of such hazard whether or not such object otherwise complies with the provisions of this title.

D. Other than in the public, industrial or business/industrial park zones, no fence may include the use of barbed wire, razor wire, etc.; provided, that pasture areas a minimum of one acre in area may be fenced with barbed wire in any zone. Barbed wire may be attached to the top of and in addition to the height of a seventy-two-inch fence, provided it does not extend more than one additional foot in height.

TEMPORARY SIGN AMENDMENTS

**Chapter 18.82
SIGNS**

18.82.020 Definitions.

"Banner" means ~~any a temporary~~ sign of lightweight fabric, vinyl or similar material that is mounted to a building ~~or pole~~ by any means. National flags, state or municipal flags, seasonal flags, or the official flag of any institution or business shall not be considered as banners.

~~"Portable sign" means a sign made of any material, which by its design is readily movable and is not permanently affixed to the ground, structures or buildings.~~

"Sandwich board sign" means a temporary sign set upon the ground, consisting of two sign faces hinged at the top and separated at the bottom to make it self-standing upon the ground.

"Special sale/promotional/business opening/~~closing~~ sign" means a temporary sign such as a banner, flags, pennants, and similar devices, ~~or wind-driven sign accents (such as spinners) attached to a sign to attract the attention of the public,~~ used for short durations of time as specified in this code.

"Temporary sign" means any sign or advertising display, intended to be displayed for a limited time only and not permanently attached to a building or site.

18.82.050 Sign standards and conditions.

A. General Regulations.

1. No sign or any part of a sign shall be designed or constructed to be moving by any means, and shall not contain items such as banners, ribbons, ~~and~~ streamers and spinners, except as authorized for temporary signs.

~~9. Portable signs shall not exceed twelve square feet in sign area and no more than one such sign may be displayed per business. Portable signs must be located on the premise to which they relate, except real estate directional signs.~~

10. Abandoned signs shall be removed by the owner or lessee of the premises upon which the sign is located within ninety days after the business or service advertised is no longer conducted on the premises.

H. Sandwich Board. In non-residential zones, one ~~sidewalk~~ or sandwich board sign per business shall be permitted subject to the following:

TEMPORARY SIGN AMENDMENTS

1. Signs may be located on private property provided they do not interfere with the opening of car doors, bus stops, loading zones or pedestrian traffic, or create a traffic safety hazard by interfering with the vision of drivers entering or leaving the premises.
2. Signs may be located in the public right-of-way directly adjacent to the property upon which the ~~advertisaged~~ business is located, provided that no sign shall: ~~block~~ reduce the travel way of a sidewalk to less than 42 inches; encroach into any portion of a required handicapped ramp; be located closer than two feet from the face of curb to the nearest sign edge; or, along roadways with no curbs, be located six feet from the edge of ~~payment~~ pavement to the nearest sign edge.
3. Owners of such signs shall assume liability for damage resulting from their use.
4. Maximum allowable sign area shall be six square feet per side. Maximum allowable sign height shall be thirty-six inches.
5. Signs shall only be displayed during the hours the premises or business is open to the general public.
6. There shall be no more than one sign per premises in non-residential zones and no more than three signs per premises in residential zones.
- ~~7. The provisions of this subsection shall expire on December 31, 2010.~~
7. A permit is not required.

18.82.060 Temporary signs.

~~No permit is required for.~~ The following standards shall apply to all temporary signs:

A. Special sale/promotional or business opening signs shall be permitted in all non-residential zones.

1. Maximum duration shall be :

a) 180 days total per calendar year;

b) sixty (60) days for a business opening/closing event;

c) one month or upon termination of the special sale or other event that they advertise, whichever is less.

2. Maximum area, per site, shall not exceed fifty percent of the size of the permitted wall/façade sign; this area shall not count towards the total allowable sign area.

| TEMPORARY SIGN AMENDMENTS

3. All banners shall be attached to the façade, wall or window of the building which includes the business which they advertise; ~~provided that, until December 31, 2010, banners may be attached to other site features such as fences, poles, etc.~~

4. ~~Pennants may be anchored on lighting poles or similar features on private property.~~

5. ~~The use of pennants, wind driven accents and other attention attracting devices attached to a sign shall be prohibited after December 31, 2010.~~

4. No banner shall be erected without first obtaining a temporary sign permit.

PRELIMINARY PLAT APPEAL PROCESS AMENDMENTS

17.15.010 Substantive standards.

The requirements set forth in this chapter are substantive standards that must be met in order for a preliminary plat to be approved. The hearing examiner, in making its decision whether the plat should be approved, approved with conditions, or denied, shall make findings as to each of the approval criteria set forth in this chapter. The hearing examiner's decision shall be final action, unless an appeal is timely filed ~~to the city council, in accordance with BDMC 18.08 (Administration: Procedures, Notice and Appeals).~~

17.16.040 - Appeal from hearings examiner decision.

~~A. The hearings examiner's decision on a preliminary plat application shall be final city action unless within fourteen days of the date of his or her decision an appeal is filed in accordance with BDMC 18.08 (Administration: Procedures, Notice and Appeals) with the city clerk, appealing the decision to the city council. The appeal shall not be deemed timely unless a complete application for appeal, on the city's appeal form, is filed with the clerk, and the appropriate filing fee paid, by five p.m. on the fourteenth day after the examiner's decision. An appeal may be filed by the city administrator, the applicant, or any person of record before the hearings examiner.~~

~~B. The hearing before the city council shall be a closed record appeal. The council shall not receive new evidence, but shall only receive legal argument, either orally or in writing, and shall allow the applicant and the appellant thirty minutes to present their oral argument. If the applicant is the appellant, then the city shall have thirty minutes to present its response to the appeal.~~

~~C. The decision of the city council may be appealed by a party withstanding to the King County superior court pursuant to Chapter 36.70C RCW. A petition for a judicial appeal must be filed within twenty-one days of the issuance of a decision.~~

17.24.010 Review.

Any decision approving or disapproving any plat shall be reviewable pursuant to Chapter ~~36.70C RCW,~~ in accordance with BDMC 18.08 (Administration: Procedures, Notice and Appeals).

Steve Pilcher

From: Bolotin, Leah <BolotiL@wsdot.wa.gov>
Sent: Friday, April 01, 2011 2:57 PM
To: Steve Pilcher; COM GMU Review Team
Cc: O'Leary, Pat; Hunter, Carol; Warren, Richard; Klockenteger, Katherine
Subject: Black Diamond Expedited Review, COM Tracking #16746
Attachments: Scanner2_20110318_161004.pdf

Hi Steve,

I had some input from our signage folks regarding the language on page 6, #2, under Temporary Sign Amendments:

“Signs may be located in the public right-of-way directly adjacent to the property upon which the advertised business is located, provided that ...”

The proposed minor edits are fine and we have no comment or issue with the expedited review. However, next time you have an opportunity, WSDOT requests that you add a prohibition to signage being placed in view of SR 169, in compliance with RCW 47.42.080.

Please direct any questions regarding signage reg minutiae to WSDOT Highway Advertising Control Program Manager, Pat O'Leary. He can be reached at 360-705-7296 or pat.oleary@wsdot.wa.gov.

Thanks,

Leah Bolotin, AICP
Senior Transportation Planner
Urban Planning Office
Washington State Department of Transportation
401 - 2nd Avenue S., #300
Seattle, WA 98104-3850
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leah.bolotin@wsdot.wa.gov

From: Steve Pilcher [mailto:SPilcher@ci.blackdiamond.wa.us]
Sent: Friday, March 18, 2011 1:52 PM
To: COM GMU Review Team
Subject: Proposed Development Regulations amendments

Please find attached a request for expedited review of three sets of minor code amendments to the City of Black Diamond's Subdivision and Zoning Codes.

If you have any questions, please feel free to contact me.

Steve Pilcher
Community Development Director

TEMPORARY SIGN AMENDMENTS

1. Signs may be located on private property provided they do not interfere with the opening of car doors, bus stops, loading zones or pedestrian traffic, or create a traffic safety hazard by interfering with the vision of drivers entering or leaving the premises.

2. Signs may be located in the public right-of-way directly adjacent to the property upon which the advertising business is located, provided that no sign shall back-reduce the travel way of a sidewalk to less than 42 inches; encroach into any handicapped ramp; be located closer than two feet from the face of curb to the nearest sign edge; or, along roadways with no curbs, be located six feet from the edge of payment pavement to the nearest sign edge.

Clearly
Note
except no temporary signs are allowed in SR 169 right-of-way
Maximum allowable

3. Owners of such signs shall assume liability for damage resulting from their use.

4. Maximum allowable sign area shall be six square feet per side. Maximum allowable sign height shall be thirty-six inches.

5. Signs shall only be displayed during the hours the premises or business is open to the general public.

6. There shall be no more than one sign per premises in non-residential zones and no more than three signs per premises in residential zones.

~~7. The provisions of this subsection shall expire on December 31, 2010.~~

7. A permit is not required.

18.82.060 Temporary signs.

~~No permit is required for.~~ The following standards shall apply to all temporary signs:

A. Special sale/promotional or business opening signs shall be permitted in all non-residential zones.

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2. Maximum area, per site, shall not exceed fifty percent of the size of the permitted wall/façade sign; this area shall not count towards the total allowable sign area.