



City Council

Public Hearing on a Development Agreement with West Bay Development Group, LLC and Hardel Mutual Plywood Corporation

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Title

Public Hearing on a Development Agreement with West Bay Development Group, LLC and Hardel Mutual Plywood Corporation

Recommended Action

Committee Recommendation:

Not referred to a committee.

City Manager Recommendation:

Hold a public hearing on a development agreement with West Bay Development Group, LLC and Hardel Plywood Corporation.

Report

Issue:

Whether the City Council should hold a public hearing on a development agreement with West Bay Development Group, LLC and Hardel Plywood Corporation.

Staff Contact:

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Presenter(s):

Tim Smith, Planning & Engineering Manager, Community Planning and Development

Background and Analysis:

Legal Requirements for Development Agreements

Chapter 36.70B.170 of the Revised Code of Washington authorizes cities to enter into a written development agreement with a property owner. The City of Olympia's procedures for development agreements are contained in Chapter 18.53 of the Olympia Municipal Code (OMC).

An applicant may request the City Council to consider a development agreement to define specific parameters for a future project application. Development agreements are not required by the City. A development agreement is one of the few tools in the Olympia Municipal code that allow projects to be phased over several years. Development agreements typically address timelines for installation of

public improvements like roads, sidewalks, and sewer and water infrastructure that are required components of a project.

Following is a brief summary of those procedures as they relate to the proposed development agreement:

- The City Council is the authority to make a final decision on a development agreement.
- The City Council must hold a public hearing on the development agreement. Notice was provided for the public hearing consistent with the City's public notice requirements (OMC 18.78.040).
- A development agreement must be heard by the City Council prior to consideration of any application for development.
- A development agreement may address the development standards and other provisions that apply to the proposed development and vest to the development, the time frame of the agreement, and any mitigation measures to address potential impacts of the agreement. The attached development agreement would not change any existing City regulations as they would apply to the development but would ensure that current regulations apply to all phases of the development.
- The agreement includes exceptions for future state or federal regulations that may supersede the City's authority, and for new regulations addressing threats to public health and safety.
- Development agreements are recorded with Thurston County and remain in force and applicable to the property according to the terms of the agreement, even if the property is sold or transferred to another party.

Description of Site and Future Project

This public hearing is on the terms of the proposed development agreement. This public hearing is not a hearing or decision on the proposed development itself. As noted above, a development agreement must be heard by the City Council prior to consideration of any application for development.

The proposed development agreement is for an approximately 8-acre property located at 1210 West Bay Drive NE. The subject property is located east of West Bay Drive and adjacent to West Bay and is the site of the former Hardel Mutual Plywood manufacturing facility that operated between 1951 and 1996.

The anticipated future project is called West Bay Yards and will consist of approximately 478 market-rate rental housing units in five mixed-use buildings and approximately 20,500 square feet of complimentary retail, restaurant, and recreation uses. Site development is proposed in two phases, with building construction in three phases. The five buildings will be located above an elevated public plaza structure that will provide most of the parking for the development below grade. The plaza will enable the building foundations to be at the same grade as West Bay Drive.

The future mixed-use project as currently conceptualized is supported by the City's Comprehensive Plan and the Olympia Shoreline Master Program (SMP) and zoning regulations. The City amended its Comprehensive Plan and Zoning Map in 2003 from industrial to Urban Waterfront to promote urban levels of commercial and residential development in this area.

Summary of Development Agreement

This development agreement was processed in accordance with Chapter 18.53 of the Olympia Municipal Code. Staff from the Departments of Community Planning and Development and Public Works worked with West Bay Development Group, LLC and the City Attorney's office to draft the proposed development agreement (see attached).

This will be a large-scale project on a challenging site due to the historic use and its location on a shoreline of the State. Timing for permitting and installation of required site improvements is an important consideration. The development agreement establishes a framework for the sequencing of all these project components so that a piecemeal approach can be avoided.

The proposed timeline for the agreement is fifteen years. Site and building phasing plans in the agreement outline the timing for frontage improvements to West Bay Drive, onsite public utility infrastructure, shoreline restoration and public access, and construction of the five buildings. Each phase will be required to stand on its own in terms of meeting all City development standards for utility infrastructure and other onsite improvements such as parking and landscaping.

Shoreline restoration is also a component of the development agreement. The property boundary along the shoreline of West Bay will be restored consistent with the recommendations of the *City of Olympia West Bay Environmental Restoration Final Report*. The report was prepared by the City, Port of Olympia and the Squaxin Island Tribe and identifies potential restoration projects that can provide the opportunity to enhance the ecological functions of West Bay. The restoration final report includes opportunities for restoration of intertidal beach and marsh areas (in-water restoration). Restoration work would create a more natural beach with significant habitat function improvements.

Public access amenities to and along the waterfront are also addressed in the development agreement. The project will include a 24-foot wide esplanade along the project waterfront, which would be fully accessible to the public and eventually connect to a waterfront trail to the south consistent with City plans. The esplanade exceeds the City's standard for trails. A parking lot with several public access points and amenities will be provided for community use and access to the esplanade.

The proposed agreement provides that West Bay Development Group, LLC will apply for development permits for the property. A shoreline permit application will be reviewed for consistency with the City's adopted development regulations at the time of the execution of this agreement. Impact fees are vested to each of the three building phases. The first building permit application for each phase will vest impact fees for all the buildings in that phase. Other permits from state and federal agencies would also be required for the project.

SEPA

A nonproject State Environmental Policy Act (SEPA) Determination of Nonsignificance (DNS) was issued by the City for the development agreement. An appeal of the DNS was filed, and an appeal hearing was held before the Olympia Hearing Examiner in February 2021. The appellant asked that the development agreement be required to undergo a SEPA Environmental Impact Statement (EIS). On summary judgment, the Hearing Examiner denied the appellant's appeal, concluding that the City's SEPA DNS was not issued erroneously. The Hearing Examiner decision is attached to this staff report.

A separate project-level SEPA review will be conducted by the City during the review of a project development application. Issues such as traffic, noise and other environmental considerations will be evaluated at that time.

Other Considerations

Historic operations at the site resulted in a 2007 Agreed Order between the State Department of Ecology and Hardel to investigate the site and prepare a Cleanup Action Plan. Remediation activities occurred in 2010. The project applicant is currently conducting additional investigations for due diligence and this work will be incorporated into the project-level SEPA review for the future development proposal. A development proposal must comply with Department of Ecology requirements for any additional cleanup of the site.

The subject property is not located in an area that qualifies for the City's Multifamily Tax Exemption Program. The property is also not eligible for reduced impact fees that apply to projects downtown and along certain transportation corridors in the City.

Neighborhood/Community Interests (if known):

There is significant interest from throughout the community regarding the future use of this waterfront and former industrial site. The City has received numerous written comments which are provided on the city web page related to this project. A link to that page is included as an attachment to this staff report.

Options:

Following the close of the public hearing, the City Council will consider the Development Agreement at the March 30, 2021 Council meeting to consider these options:

1. Approve a resolution approving the development agreement.
2. Do not approve a resolution.
3. Continue consideration of the resolution until a future Council meeting.

Financial Impact:

The development agreement itself does not have an immediate financial impact to the City. Provisions for the payment of impact fees in the agreement may result in payments below current rates for the second buildings in the first two phases if impact fees are raised subsequent to the application for building permits for the first buildings in those two phases.

Attachments:

Development Agreement
Development Agreement Exhibits
Link to City Web Page
Hearing Examiner SEPA Appeal Decision