



KING COUNTY

1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

Signature Report

September 1, 2009

Ordinance 16642

Proposed No. 2009-0497.1

Sponsors Lambert

1 AN ORDINANCE authorizing the King County executive
2 to execute an interlocal agreement with the city of North
3 Bend relating to the processing of building and land use
4 permits within the Tanner Annexation Area.

5

6 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

7 SECTION 1. Findings.

8 A. The city of North Bend annexed an area of unincorporated King
9 County described in Attachment A (Tanner) and may annex additional areas of
10 unincorporated King County (collectively referred to as the "Annexation Area").

11 B. All local governmental authority and jurisdiction with respect to the
12 Annexation Area transferred from the county to the city upon the date of
13 annexation.

14 C. The county and city agree that having county staff process various
15 Annexation Area building permits and land use applications on behalf of the city
16 for a transitional period will assist in an orderly transfer of authority and
17 jurisdiction.

18 D. It is the parties' intent by virtue of this Agreement that any and all
19 discretionary decisions shall be made by the city.

20 E. This Agreement is authorized by the Interlocal Cooperation Act, RCW
21 Chapter 39.34.

22 F. The county has a long history of providing quality regional services to
23 smaller incorporated governments.

24 G. The county and the city, although separate legal entities, share the
25 common goal of processing development permits and providing quality services
26 to the citizens of King County as efficiently as possible.

27 H. The North Bend City Council is expected to approve the attached
28 interlocal agreement for building and land use permits within the Tanner
29 Annexation Area.

30 SECTION 2. The county executive is hereby authorized to execute an
31 interlocal agreement, substantially in the form of Attachment A to this ordinance,
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33 with the city of North Bend relating to the processing of building and land use
34 permits within the Tanner Annexation Area.

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Ordinance 16642 was introduced on 8/17/2009 and passed by the Metropolitan King County Council on 8/31/2009, by the following vote:

Yes: 8 - Mr. Constantine, Mr. Ferguson, Ms. Hague, Ms. Lambert, Mr. von Reichbauer, Mr. Gossett, Mr. Phillips and Ms. Patterson

No: 0


Excused: 1 - Mr. Dunn

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON



Dow Constantine, Chair

ATTEST:



Anne Noris, Clerk of the Council

APPROVED this 10th day of September, 2009.



Kurt Triplett, County Executive

RECEIVED
2009 SEP 11 PM 3:56
CLERK
KING COUNTY COUNCIL

Attachments A. Interlocal Agreement Between King County and the City of North Bend Relating to Processing of Building Permits and Land Use Applications

**INTERLOCAL AGREEMENT BETWEEN
KING COUNTY AND THE CITY OF NORTH BEND
RELATING TO PROCESSING OF BUILDING PERMITS
AND LAND USE APPLICATIONS**

THIS AGREEMENT is made and entered into this day by and between the City of North Bend, a municipal corporation in the State of Washington (hereinafter referred to as the “City”) and King County, a home rule charter County in the State of Washington (hereinafter referred to as the “County”).

WHEREAS, the City annexed an area of unincorporated King County described in Attachment 1 and may annex additional areas of unincorporated King County (collectively referred to as the “Annexation Area”); and

WHEREAS, all local governmental authority and jurisdiction with respect to the Annexation Area transfers from the County to the City upon the date of annexation; and

WHEREAS, the County and City agree that having County staff process various Annexation Area building permits and land use applications on behalf of the City for a transitional period will assist in an orderly transfer of authority and jurisdiction; and

WHEREAS, it is the parties’ intent by virtue of this Agreement that any and all discretionary decisions shall be made by the City; and

WHEREAS, this Agreement is authorized by the Interlocal Cooperation Act, RCW Chapter 39.34;

NOW, THEREFORE, in consideration of the terms and provisions, it is agreed by and between the City and the County as follows:

1. Fees. The City shall adopt legislation authorizing the County to charge applicants fees in amounts currently specified or hereafter adopted in King County Code Title 27 for applications processed by the County in accordance with the terms of this Agreement.

2. Pre-annexation Building Permit Applications Filed with King County.

2.1 Except as otherwise provided for herein, the County shall continue to review on behalf of the City all vested building-related permit applications filed with the County before the effective date of annexation that involve property within the Annexation Area. For the purposes of this Agreement, building-related permits include but are not limited to building permits, mechanical permits, fire systems/fire sprinkler permits and clearing and grading permits. Review by the County shall occur in accordance with the regulations to which the applications are vested. Any decision regarding whether or when an application has vested shall be made by the City.

2.2 Except as provided in Section 4 of this Agreement, the County’s review of building-related permits shall include rendering decisions to approve, condition or deny such applications; conducting inspections; issuing correction notices, certificates of occupancy, permit extensions and completion of extensions; and evaluating compliance with approval conditions that extend beyond

issuance of a certificate of occupancy. The County agrees to consult with the City prior to rendering any administratively appealable building-related permit decision. Appeals of building related permit decisions, if any, shall be processed by the City in the same manner as appeals of land use permits are addressed in Section 3.4; provided that the City and County may agree to have the County conduct such appeals on behalf of the City in particular instances where such processing by the County would further the orderly transition envisioned by this Agreement.

2.3 The County shall receive and process any permit applications made following annexation that implement conditions of a Commercial Site Development permit issued by the County prior to annexation. The County shall additionally receive and process ancillary permit applications, such as fire and mechanical permits, that are made following annexation and that are essential for completion of an approved project permit.

2.4 The County shall review and make a recommendation to the City on requests to renew County permits within the Annexation Area that are approaching their expiration date without having completed the permitted activity. The City shall render any final decisions on such requests.

2.5 The County shall review and render decisions on requests for changes to approved building-related permit plans up to the time that either a certificate of occupancy is issued or final construction approval has been issued for the project. Following issuance of the certificate of occupancy or final construction approval, requests for changes to the approved set of plans shall be referred to the City. The City intends to process such requests as new permit applications.

2.6 The County shall review and make recommendations to the City's designated decision maker on applications to vary adopted road or drainage standards that are made in conjunction with a building related application being reviewed by the County pursuant to this Agreement. All final decisions on such variance applications shall be rendered by the City.

3. Pre-annexation Land Use Permit Applications Filed with King County.

3.1 Except as otherwise provided for herein, the County shall continue to review on behalf of the City all vested land use permit applications filed with the County before the effective date of annexation that involve property within the Annexation Area. Review by the County shall occur in accordance with the regulations to which the applications are vested. Any decisions regarding whether or when an application has vested shall be made by the City.

3.2 For those vested land use applications that do not require a public hearing prior to issuance, the County will continue to process such applications and shall make a report and recommendation to the City's designated decision maker based upon the regulations under which the applications are vested. Any decisions to approve, deny, or approve with conditions such applications shall be made by the City's designated decision maker and will be processed pursuant to the City's applicable land use review and appeal procedures.

3.3 Notwithstanding any other provision of this Agreement, applications for any rezone and any associated permit applications shall be referred to the City for all further processing.

3.4 For those vested land use applications that require quasi-judicial or legislative approval, e.g., subdivision or conditional use, or which involve administrative appeals, the County shall prepare a report and preliminary recommendation to the City's designated decision maker for a final decision or a recommendation to the designated decision-maker pursuant to the City's applicable land use review and appeal procedures. The City's decision-maker shall not be a County employee. The City shall be responsible for scheduling, providing notice, conducting any public hearings required, and making any decision in conjunction with the application. County staff may attend the public hearing to testify with respect to analysis set forth in the County's report and preliminary recommendation.

3.5 The County shall continue to review those vested subdivision, short subdivision and binding site plan applications that have not yet received preliminary approval up to the point of making a recommendation to the City's designated decision maker on preliminary approval. At the request of the City, County staff shall appear at the public hearing to testify with respect to analysis set forth in the County's preliminary recommendation.

3.6 For those vested subdivision, short plat and binding site plan applications that have received preliminary approval prior to annexation, the County shall continue and complete all post-preliminary review up to the point of making a recommendation to the City on final approval. For purposes of this section, post-preliminary review includes: engineering plan approval, final plat, short plat or binding site plan approval, and construction inspection approval.

3.7 The County shall review and make recommendations to the City's designated decision maker on applications to vary adopted road or drainage standards that are made in conjunction with a land use application being reviewed by the County pursuant to this Agreement. All final decisions on such variance applications shall be rendered by the City.

3.8 The County shall review and render decisions on requests for changes to approved land use permit engineering plans up to the time that final construction approval has been issued for the project. Following issuance of final construction approval, requests for changes to the approved set of plans shall be referred to the City.

4. List of Projects and Notice of Meetings.

4.1 The County will prepare and send to the City a quarterly list of all building, land use and associated ancillary permit applications pending within the Annexation Area as of the date of annexation. The list shall include the status of the projects as it is shown in the County Permits Plus system.

4.2 The County shall notify the City of all technical screening meetings, pre-construction conferences and engineering pre-submittal meetings for projects being reviewed by the County under this Agreement. Such notice shall be provided promptly upon scheduling of the meeting. The City may participate in these meetings to learn more about the project and to offer comments.

4.3 The County shall provide the City with a copy of files and records of all land use and building permit applications processed under this Agreement upon completion of permit review, termination of the Agreement under Section 11 or expiration of the Agreement, whichever comes first.

5. SEPA Compliance.

5.1. In order to satisfy the procedural requirements of the State Environmental Policy Act (SEPA), the City shall serve as lead agency for all Annexation Area building permit and land use applications, including those being processed by the County pursuant to this Agreement.

5.2. Any and all appeals from SEPA threshold determinations and other SEPA matters relating to projects within the City shall be heard and decided by the City.

5.3. For those permit applications requiring a SEPA determination, the County will not take final action upon the application until the City has acted. Upon written request with regard to a particular project being reviewed by the County, the County agrees to provide technical and administrative SEPA assistance to the City on that project. Such assistance may include, but is not limited to:

- review of an applicant's environmental checklist and collection of relevant comments and facts;
- preparation of a proposed SEPA threshold determination with supporting documentation for approval, publication and notice by the County on behalf of the City;
- preparation and submittal of a written review and comment on any appeal received on a SEPA threshold determination recommended by County staff to the City;
- attendance at appeal hearings to testify with respect to analysis of environmental impacts, mitigation measures and the environmental review process;
- preparation of any required draft, final, addendum or supplemental EIS for approval of the City; and
- coordination of adopted or required SEPA measures of mitigation with project review staff.

5.4. Any decision whether to condition or deny an application on SEPA grounds shall be made by the City.

6. Administrative and Ministerial Processing. County review specified in this Agreement is intended to be of an administrative and ministerial nature only. Any and all final recommendations on legislative or quasi-judicial decisions or decisions of a discretionary nature shall be made by the City's designated decision maker and processed pursuant to the City's applicable review and appeal procedures.

7. Code Enforcement and Financial Guarantees.

7.1. Within a reasonable period following the effective date of this Agreement, the County shall provide the City with a list and brief explanation of all Annexation Area code enforcement cases under review by the County at the time of annexation. The City shall be responsible for undertaking any

code enforcement actions following the date of annexation. The County shall provide the City with copies of any Annexation Area enforcement files requested by the City.

7.2 Any financial guarantee that is intended to secure compliance with project conditions that are being or will be reviewed by the City shall be turned over to or posted with the City, which shall have sole authority and discretion over its release and/or enforcement. Any financial guarantee that has been posted or is otherwise required in order to guarantee compliance with conditions that are being reviewed by the County pursuant to this Agreement shall be retained by or posted with the County. On behalf of the City, the County is authorized to accept such financial guarantees and to release them where it determines that conditions for release have been satisfied. In making such decisions whether to release a financial guarantee instrument, the County may at any time seek direction from the City. The City shall be solely responsible for making any demands or initiating any legal action to enforce financial guarantees for Annexation Area projects.

7.3 Code enforcement abatement actions necessary to eliminate public health or safety hazards shall be the sole responsibility of the City.

8. Processing Priority. Within budgetary constraints, the County agrees to process pre-annexation building and land use applications in accordance with the County's administrative procedures, at the same level of service as provided to County applications.

9. Fees and Reimbursement.

9.1 In order to cover the costs of providing services pursuant to the terms of this Agreement, the County is authorized to collect and retain such application and other fees authorized by the County fee ordinances adopted by the City pursuant to Section 1 above, or as may be modified at some future date by the County and the City.

9.2 In order to cover the costs of providing review, technical and administrative assistance, and other services not otherwise reimbursed pursuant to this Agreement, including but not limited to providing testimony at public hearings, the City shall pay the County at such hourly rate as specified in the version of King County Code Title 27 in effect at the time the services are performed. The County shall not seek reimbursement under this paragraph for review services performed on an individual permit application where the County has already been compensated for such services by the receipt of permit application review fees. The County shall provide the City with quarterly invoices for assistance and services provided, and the City shall tender payment to the County within thirty days after the invoice is received.

10. Duration. This Agreement shall become effective upon approval by the City and the County and shall continue until December 31, 2014, unless otherwise terminated in accordance with paragraph 11 or extended in accordance with paragraph 12.

11. Termination. Either party may terminate this Agreement for good cause shown upon providing at least sixty (60) days written notice to the other party. Upon expiration or termination of this Agreement, the County shall cease further processing and related review of applications it is processing under this Agreement. The County shall thereupon transfer to the City those application files and records, posted financial guarantee instruments, and unexpended portions of filing fees for pending land

use and building-related applications within the Annexation Area. Upon transfer, the City shall be responsible for notifying affected applicants that it has assumed all further processing responsibility.

12. Extension. The City and County may agree to extend the duration of this Agreement through December 31, 2019 or to a date prior thereto. In order for any such extensions to occur, the City shall make a written request to the County not less than sixty (60) days prior to the otherwise applicable expiration date. Any agreement by the County to the proposed extension(s) shall be made in writing. If the parties have not agreed to the extension in writing by the otherwise applicable expiration date, the Agreement shall expire.

13. Application Process. The County and the City will each prepare and have available for applicants and other interested parties a document describing the handling of applications based on this Agreement.

14. Indemnification, Hold Harmless and Defense.

14.1 The County shall indemnify and hold harmless the City and its officers, agents and employees, or any of them from any and all claims, actions, suits, liability, loss, costs, expenses, and damages of any nature whatsoever, by reason or arising out of any negligent action or omission of the County, its officers, agents, and employees, or any of them, in performing obligations pursuant to this Agreement. In the event that any suit based upon such a claim, action, loss, or damage is brought against the City, the County shall defend the same at its sole cost and expense, provided that the City retains the right to participate in said suit if any principal or governmental or public law is involved, and if final judgment be rendered against the City and its officers, agents, and employees, or any of them, or jointly against the City and County and their respective officers, agents, and employees, or any of them, the County shall satisfy the same.

14.2 The City shall indemnify and hold harmless the County and its officers, agents and employees or any of them from any and all claims, actions, suits, liability, loss, costs, expenses, and damages of any nature whatsoever, by reason or arising out of any negligent action or omission of the City, its officers, agents, and employees, or any of them, in performing obligations pursuant to this Agreement. In the event that any suit based upon such a claim, action, loss, or damage is brought against the county, the City shall defend the same at its sole cost and expense, provided that the County retains the right to participate in said suit if any principal of governmental or public law is involved; and if final judgment be rendered against the County and its officers, agents, employees, or any of them, or jointly against the City and County and their respective officers, agents, and employees or any of them, the City shall satisfy the same.

14.3 The City and the County acknowledge and agree that if such claims, actions, suits, liability, loss, costs, expenses and damages are caused by or result from the concurrent negligence of the City, its agents, employees, and/or officers and the County, its agents, employees, and/or officers, this section shall be valid and enforceable only to the extent of the negligence of each party, its agents, employees and/or officers.

14.4 In executing this Agreement, the County does not assume liability or responsibility for or in any way release the City from any liability or responsibility that arises in whole or in part from the existence or effect of City ordinances, rules, regulations, policies or procedures. If any cause, claim,

suit, action or proceeding (administrative or judicial), is initiated challenging the validity or applicability of any City ordinance, rule or regulation, the City shall defend the same at its sole expense and if judgment is entered or damages awarded against the City, the County, or both, the City shall satisfy the same, including all chargeable costs and attorneys' fees.

15. Personnel. Control of County personnel assigned by the County to process applications under this Agreement shall remain with the County. Standards of performance, discipline and all other aspects of performance shall be governed by the County.

16. Administration. This Agreement shall be administered by the County Director of the Department of Development and Environmental Services or his/her designee, and by the City's designated decision maker or his/her designee.

17. Amendments. This Agreement is the complete expression of the terms hereto and any oral representation or understanding not incorporated herein is excluded. Any modifications to this Agreement shall be in writing and signed by both parties.

18. Legal Representation. The services to be provided by the County pursuant to this Agreement do not include legal services, which shall be provided by the City at its own expense.

19. Notice of Annexation Area Processing. In the event that the City intends for the County to conduct permit review in any future City Annexation Area pursuant to this Agreement, the City shall exercise its best efforts to provide the County with written notice of its intent no less than sixty days prior to the date County processing of such Annexation Area applications would occur.

20. No Third Party Beneficiaries. This Agreement is made and entered into for the sole protection and benefit of the parties hereto. No other person or entity shall have any right of action or interest in this Agreement based upon any provision set forth herein.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed.

KING COUNTY

King County Executive

Dated

Approved as to Form:

DANIEL T. SATTERBERG
King County Prosecuting Attorney

By: _____
Senior Deputy Prosecuting Attorney

Dated

CITY OF NORTH BEND

North Bend _____

Dated

Approved as to Form:

City Attorney

Dated