


To: Mayor Samuelson and Members of the City Council

Date of Report: May 15, 2008

Staff Contact:  Larry E. Cort, Director of Community Planning

Meeting Date: May 21, 2008

Agenda Item: Land Division Moratorium – Further Action Discussion

Attachments: Ordinance No. 893
Letter to City from Dave and Cathy Schmidt – 7 April 2008

This staff report introduces for City Council discussion the question of further action on the existing moratorium on land division within the RS-7200 and RS-15,000 zoning districts. This one-year moratorium is set to expire on June 6, 2008 and staff is seeking Council direction on whether to allow the moratorium to expire, to continue the moratorium in its current form or to continue the moratorium in a revised form. No action will be taken at this meeting.

BACKGROUND

On June 6, 2007, the Langley City Council unanimously approved an emergency moratorium to bar acceptance of applications to divide land for residential use in the RS-7200 and RS-15,000 zoning districts. By the passage of Ordinance No. 891, the moratorium was set to last one year and, in accordance with RCW 35A.63.220 and RCW 36.70A.390, July 18, 2007 was established as the public hearing date to accept and consider public testimony on the moratorium. At the conclusion of this public hearing, the City Council approved Ordinance No. 893 (attached) that confirmed the maintenance of the moratorium for a period of one year from the initial imposition on June 6, 2007.

In accordance with State law, Ordinance No. 893 included a Work Plan (see Section 5) that laid out the steps to adopt the necessary amendments to the Comprehensive Plan and Development Regulations that would remove the potential that new development would be incompatible with the City's vision. These steps included a proposed schedule for when these amendments would be considered and adopted. Clearly, the City met every deadline in the schedule for the first six months, culminating in the adoption of the revised Comprehensive Plan on December 19, 2007.

Since that date, however, the work to develop, draft, review and adopt new implementing regulations has not kept pace with the work plan. The over-riding reason for this delay is that the newly amended Langley Comprehensive Plan directs that residential intensities and densities will be governed in large part by a combination of subarea plans and innovative tools, including such concepts as transfer of development rights and land use budgeting. In other words, the steps involved in implementation grew from a relatively narrow reconsideration of the subdivision

ordinance and zoning districts to a wide-ranging and context-driven approach guiding both new residential development and the conservation of high value open space. While this work is underway, it will not be completed by June.

Also attached to this staff report is a letter from Dave and Cathy Schmidt who reside at 834 Third Street. The Schmidts own a 1.14-acre parcel in the RS-7200 zoning district that they would like to short plat into three lots (their residence would be on one of the lots). In its current form, the moratorium precludes them from submitting an application and the Schmidts are requesting relief from the moratorium should the Council elect to continue it beyond June 4, 2008. If the Council elects to continue the moratorium, staff would recommend against a specific exemption for this property. However, the Council could consider ways to fine-tune the existing exemptions (see Section 1.A) in ways that would not jeopardize the stated purpose behind continuing the moratorium. If desired by the Council, possible options could be explored at Wednesday's meeting.

ORIGINAL

ORDINANCE NO. 893

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LANGLEY, WASHINGTON, RELATING TO THE ADOPTION OF FINDINGS AND CONCLUSIONS TO SUPPORT AN EMERGENCY MORATORIUM ON THE ACCEPTANCE OF APPLICATIONS TO DIVIDE LAND FOR RESIDENTIAL USE IN THE RS-7200 AND RS-15,000 ZONING DISTRICTS AS SHOWN ON THE OFFICIAL ZONING MAP, UNTIL THE CITY COMPLETES THE 2007 COMPREHENSIVE PLAN AMENDMENT PROCESS AND COMPLETES CODE REVIEW AND AMENDMENTS RELATING TO THE DIVISION OF LAND FOR RESIDENTIAL USE IN THE RS-7200 AND RS-15,000 ZONING DISTRICTS, DEFINING THE APPLICATIONS SUBJECT TO THE MORATORIUM, AMENDING THE LIST OF EXEMPT ACTIONS APPROVED IN ORDINANCE NO. 891, ADOPTING A WORK PLAN TO RESOLVE THE ISSUES THAT JUSTIFY THE MORATORIUM AND CONFIRMING THE MAINTENANCE OF THE MORATORIUM FOR ONE YEAR AFTER INITIAL IMPOSITION AS THE EFFECTIVE PERIOD.

WHEREAS, the City Council of the City of Langley may adopt an immediate moratorium for a period of up to one year with a work plan on the acceptance of certain applications to divide land for residential use, as long as the City Council holds a public hearing on the proposed moratorium within sixty (60) days after adoption (RCW 35A.63.220, RCW 36.70A.390); and

WHEREAS, on June 6, 2007, the Langley City Council passed Ordinance No. 891 imposing an immediate moratorium on the acceptance of certain applications to divide land for residential use in the RS-7200 and RS-15,000 zoning districts as shown on the official zoning map; and

WHEREAS, the City Council held a public hearing on the moratorium on July 18, 2007, after which, following due deliberation, the Council voted unanimously to confirm with one modification the emergency moratorium initiated on June 6, 2007; and

WHEREAS, the City Council desires to enter findings and conclusions and adopt a work plan in support of the continued maintenance of the moratorium for a period of one year after the adoption of the moratorium (which would be on or about June 6, 2008); Now, Therefore,

THE CITY COUNCIL OF THE CITY OF LANGLEY, WASHINGTON, ORDAINS AS FOLLOWS:

Section 1. Definitions. For the purpose of this Ordinance, the following definitions shall apply:

A. **“Exempt Applications”** shall include all of the following permit applications to divide land by long plat, short plat or binding site plan which:

1. have, by the effective date of this ordinance, received preliminary approval by the appropriate legislative body of the City of Langley and for which final approval is still pending;

2. were determined complete by City staff and submitted to the City on or before the effective date of this Ordinance;

3. propose a division of land by long plat, short plat or binding site plan on property located outside the RS-7200 and RS 15,000 zoning districts as depicted on the Official Zoning Map for the City of Langley;

4. propose a division of land for the sole purpose of dividing two or more existing single family residences on a single parcel of land such that each residence would be located on a separate parcel;

5. propose a division of land for the sole purpose of creating a new lot to be designated and protected as open space; and

6. propose an amendment to a previously approved preliminary or final long plat, short plat or binding site plan that does not increase the number of dwelling units.

B. **“Non-Exempt Applications”** shall include any application to divide land for residential use proposed to take place on property located within the City’s RS-7200 and RS-15,000 zoning districts, submitted after the effective date of Ordinance 891. Any applications meeting this description that were submitted to the City but not determined complete by City staff on or before the effective date of Ordinance 891, are also “non-exempt applications.” The RS-7200 and RS-15,000 zoning districts are shown on the City’s Official Zoning Map, as adopted in LMC Section 18.02.070, a copy of which is attached to this Ordinance as Exhibit A.

Section 2. Purpose. The purpose of this moratorium is to allow the City to continue and complete the process of reviewing and amending the Langley Comprehensive Plan and Development Regulations to achieve a more sustainable pattern of development using smart growth principles, and more specifically to address an identified conflict between an emerging community vision and the form, density and use of land that is currently permitted in the City’s two largest zoning districts, the RS-7200 and RS-15,000. Having a moratorium in place will allow the citizens and officials of Langley to formulate new land division policies and regulations without the possibility that developers will flood the City with applications for development under the existing codes. Time is needed to fully incorporate the community’s vision into the Comprehensive Plan, develop subarea plans and adopt new codes to implement that vision.

Section 3. Findings and Conclusions in Support of Moratorium. On July 18, 2007, the City Council held a public hearing on the moratorium imposed on June 6, 2007.

A. In 2006, the City Council of the City of Langley approved, through Ordinance No. 873, the creation of a Comprehensive Plan Group to review and recommend to the City Council amendments to the Langley Comprehensive Plan. The Comprehensive Plan Group and the various committees thereof have been working actively since 2006 to identify and propose changes to the Langley Comprehensive Plan, an effort that culminated in a community workshop on March 1, 2007 that focused on redefining a sustainable and smart growth vision for Langley. In the three months following the community workshop, the Comprehensive Plan Group and several committees thereof have recognized that the current versions of the Comprehensive Plan Land Use Designations Map, the Official Zoning Map and the City's land division standards in effect could lead to a sprawling, monocultural development pattern within the two major single family residential zones (RS-15,000 and RS-7200) in the City of Langley and do not protect the vision that is being re-crafted for Langley's future and may be inconsistent with the goals of the State Growth Management Act. In response to this recognition of the growing gap between community vision and the existing rules that govern the form, density and use of Langley's future neighborhoods, the City Council directed the City staff to draft a moratorium ordinance that would address land division in areas most vulnerable to new development that would be incompatible with the Comprehensive Plan vision and development regulations being written now and planned for 2008. Specifically, the City Council contemplated that the moratorium should apply to applications to divide land for residential use in the RS-15,000 and RS-7200 zoning districts because these two districts contain large amounts of undeveloped land which could, if developed under the existing plan and codes, lead to a sprawling single family residential development pattern that does not represent a sustainable or desirable small town future for Langley.

B. On June 6, 2007, the ordinance was presented to the City Council as an emergency measure, and the Council passed it as Ordinance No. 891, to be effective immediately. A hearing was scheduled on Ordinance No. 891, to take place on July 18, 2007. After adoption of Ordinance No. 891 and prior to the July 18, 2007 public hearing, the Langley Environmental Official determined that the emergency action taken under Ordinance No. 891 was categorically exempt under WAC 197-11-800(19). In making this determination, the Langley Environmental Official asserted that any future action by the City Council to extend the moratorium could be reviewable under SEPA.

C. On July 18, 2007, the Council held the public hearing. Several members of the public asked to speak to support the moratorium. The City also received a letter from an attorney, Jane Seymour, dated June 12, 2007, asking whether the moratorium would apply to an application to divide two existing single family residences on one lot. After taking public testimony and considering Ms. Seymour's question, the City Council voted unanimously to maintain the moratorium imposed by Ordinance No. 891 for the one year period allowed by state law in conjunction with a work plan, based on the above facts, and to amend the list of "exempt applications" contained in Ordinance 891 to include an exemption for land divisions that would create separate lots for existing single family residences that currently share a single parcel. The Council concluded that maintenance of the moratorium as amended was required for the public health, safety and welfare, given that without a moratorium, there was a risk that land division applications for the type of development not supported by the public, the draft amendments to the Comprehensive Plan and the Growth Management Act, could become vested and developed under the existing codes, thereby thwarting the efforts of the Council.

Section 4. Moratorium Maintained. A moratorium shall be maintained on the acceptance of all non-exempt applications for property inside the City limits for one year, which began on the date of adoption of Ordinance No. 891. The City Council hereby directs the City Clerk to schedule consideration of the termination of this moratorium at least three weeks prior to the expiration of the moratorium. The Council shall make the decision to terminate the moratorium by ordinance, and termination shall not otherwise be presumed to have occurred.

Section 5. Work Plan. During the period of the moratorium the following work plan shall apply:

<u>Deadline</u>	<u>Description</u>
September 14, 2007	Complete first draft of Comprehensive Plan amendments, including those that address potential land divisions within the RS-7200 and RS-15,000 zoning districts
October 5, 2007	Issue SEPA threshold decision on Comprehensive Plan amendments
October 17, 2007	Transmittal of Comprehensive Plan amendments to DCTED
November 14, 2007	Public hearing before the CPG Integration Committee
December 5, 2007	Public hearing before the Langley City Council
December 19, 2007	Adoption of Comprehensive Plan amendments by City Council
March 15, 2008	Complete first draft of code amendments specifically addressing land division within the current RS 15,000 and RS-7200 zoning districts that implement the Comprehensive Plan amendments
April 1, 2008	Transmittal of code amendments to DCTED
April 15, 2008	Issue SEPA threshold determination on code amendments
May 14, 2008	Public hearing on code amendments by Planning Advisory Board

June 4, 2008

Public hearing and final action by City Council on code amendments

Section 6. Severability. If any section, sentence, clause or phrase of this Ordinance should be held to be unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

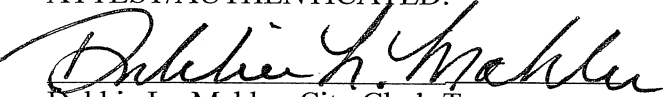
Section 7. Effective Date. This Ordinance shall take effect and be in full force five (5) days after passage and publication of an approved summary consisting of the title.

PASSED by the City Council and approved by the Mayor of the City of Langley, this 1st day of August, 2007.

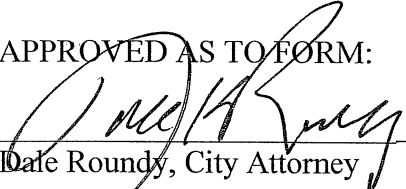


MAYOR Neil Colburn

ATTEST/AUTHENTICATED:


Debbie L. Mahler, City Clerk-Treasurer

APPROVED AS TO FORM:



Dale Roundy, City Attorney

To: Paul Samuelson, City of Langley Mayor
Larry Cort, Director of Community Planning
From: Dave and Cathy Schmidt
Re: 834 3rd St property division
Date: April 7, 2008

We would like to request permission to continue with our plans to divide our one-acre parcel on Third Street into three roughly equal parts. We initiated a dialog with city officials on this matter over two years ago. We are hoping that whatever the outcome of the City's upcoming ruling on the continuation of the current moratorium, we may somehow be allowed to proceed with this project.

We have been residents of the City of Langley for the past twenty years. We love this community, this island, and we want nothing more than to see it remain the beautiful place that it is. We believe this project is in keeping with the responsible planning concepts that are necessary to accommodate the inevitable population growth. Our oversize lot is in an area within the city limits that should support a more dense housing capacity, while leaving outlying areas on the island more open space. The three lots we are proposing are still well above the zoning size for our neighborhood.

Before the moratorium was imposed, we began the initial process of this project. The property lines were surveyed and marked. We then had Flat Rock Designs draw a site plan showing the three proposed lots, with our existing house and proposed building footprints on the other two newly proposed lots. The design is in keeping with suggestions proposed by the city, including shared access for all three lots, and proper setbacks for each building. We have submitted this design to Larry Cort for the City's review.

If our proposal is approved, our future plans are still somewhat sketchy. Initially we plan to sell our house and the lot it is on. After that we will consider our options, which may include relocating, or building another house on one of our other lots, or some creative combination of both. We are pretty sure that we could never really leave this community.

For us personally, this process will be relatively complicated and expensive. We would really like to "keep the ball rolling"—arranging finances, lining up contractors—as much and as soon as possible. We would appreciate any consideration and assistance we could have with the continuation of our plan.

Thanks,
Dave and Cathy