


To: Mayor Samuelson and Members of the City Council

Date of Report: November 20, 2008

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

Meeting Date: December 1, 2008

Agenda Item: PUBLIC HEARING - Land Division Moratorium Extension

Attachments: Draft Ordinance

This staff report presents for public hearing and deliberation the question of whether to extend for six months the emergency land division moratorium that was approved originally on June 6, 2007 and extended for six months on June 4, 2008. A vote to extend the moratorium or extend the moratorium with modifications would extend for six more months the provisions of Ordinance No. 891. A vote to terminate the moratorium would remove the provisions of Ordinance No. 891, subject to a termination ordinance to be presented at the next City Council 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 that confirmed the maintenance of the moratorium for a period of one year from the initial imposition on June 6, 2007.

On June 4, 2008, the City Council voted to extend the moratorium for an additional six month period. The rationale for extending the moratorium was to acknowledge that the work to develop, draft, review and adopt new implementing regulations had not kept pace with the work plan approved with the initial moratorium. The over-riding reason for this delay was that the newly amended Langley Comprehensive Plan directed 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.

Since the last discussion on the moratorium, much has been accomplished. The Planning Advisory Board is well underway with developing a new subdivision ordinance, the innovative tools have been presented in concept form to the City Council, Planning Advisory Board and Parks and Open Space Commission and detailed work is scheduled to begin in early January, a successful Mapping Langley 2030 community workshop resulted in the creation of maps that will inform the development of a new Future Land Use Map and Zoning Map and an initial draft of a substantially revised Capital Facilities Element is nearing completion. Clearly, while all this work is underway, none of the individual elements will be completed by early December. Staff therefore recommend another six-month extension to the moratorium.

DISCUSSION

The City Council held study sessions at its regular meetings on November 3 and November 17, 2008 to discuss progress to date on resolving the conflicts between community vision and the regulations that help to implement that vision. After reviewing the status of the work to bring the development regulations into consistency with the recently revised Comprehensive Plan, the Council directed staff to proceed with scheduling the public hearing that is required prior to any action to extend the moratorium. This hearing is scheduled for December 1, 2008.

During discussions last May and June and in response to a citizen request, the Council considered whether or not there might be ways to fine-tune the existing exemptions in ways that would not jeopardize the stated purpose behind continuing the moratorium. At the conclusion of this discussion and on the advice of the land use attorney working through the City's insurance carrier, the Council elected to leave intact the existing exemptions.

While none of the implementing regulations have yet been adopted, there has been a strong voice from within the community that these regulations should be context-sensitive to preserve Langley village character, and should promote infill within existing lots as the preferred location for new development. Work on the regulations to encourage both of these outcomes is underway. With these two goals now firmly established, the question may once again be asked as to whether or not small areas of Langley might now be exempted from certain types of land division applications.

For discussion purposes at the November 17, 2008 Council meeting, staff prepared a map with two small areas outlined, one focused in western Langley between Third Street and Saratoga Road and one in central Langley south of Sixth Street between Al Anderson Avenue and WICA. These two areas share some commonalities as noted below.

1. Both areas are contained within the RS-7200 zoning district and all new development can arguably be described as infill within existing neighborhoods.
2. Neighborhood character is largely established by existing development patterns, especially in terms of lot geography (smaller lots, most with existing residences), streets and prevailing residential use.
3. Critical areas are well known, mapped and regulated through the City's Critical Areas Ordinance.
4. Any new infill lots would have access to existing through streets, and therefore not add additional vehicle trip generation on dead end streets.
5. Sewer is either available in the adjacent streets, is planned for the immediate future (Third Street extension) or could be extended a short distance (Saratoga). Water mains are present throughout the two neighborhoods.

Given the character of these two neighborhoods and the existing regulations governing lot division within the RS-7200 zoning district, it could be argued that a new infill land division would not be contradictory to established neighborhood character or the larger goals of the Comprehensive Plan to concentrate new development on existing lots. Although it is unlikely that any of the lots within these areas would be large enough to support a subdivision (division into five lots or more) staff recommend limiting new applications to short plats and binding site plans (cottage development).

Based on direction from Council on the advisability of lifting the moratorium inside these two neighborhoods, staff prepared the attached ordinance which leaves the moratorium in effect but adds to the list of exempt actions short plats and binding site plans within the two established neighborhoods mapped in Exhibit A.

RECOMMENDED FORM OF MOTION

Move to waive the second reading and adopt Ordinance No. 915.

ORDINANCE NO. 915

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LANGLEY, WASHINGTON, ADOPTING AN EXTENSION OF SIX MONTHS TO THE MORATORIUM ADOPTED UNDER ORDINANCE NO. 893, AND EXTENDED FOR SIX MONTHS BY ORDINANCE NO. 902, 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, UNTIL THE CITY COMPLETES IMPLEMENTATION OF THE DECEMBER 2007 COMPREHENSIVE PLAN AMENDMENTS THROUGH 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 AND APPROVING THE LIST OF EXEMPT ACTIONS, AND DECLARING AN EMERGENCY NECESSITATING IMMEDIATE ADOPTION OF THE MORATORIUM EXTENSION.

WHEREAS, the City Council of the City of Langley may extend a moratorium for a period of up to six months 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 extension prior to the termination date of the moratorium; 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 the emergency moratorium initiated on June 6, 2007; and

WHEREAS, the City Council on August 1, 2007 approved Ordinance No. 893 entering findings and conclusions and adopting a work plan in support of the continued maintenance of the moratorium for a period of one year after the adoption of the moratorium; 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 the emergency moratorium initiated on June 6, 2007; and

WHEREAS, the City Council voted unanimously on June 4, 2008 to extend the moratorium for an additional six months following a public hearing and with due consideration for continuing to protect the City from applications to divide land that would be inconsistent with the City's Comprehensive Plan; and

WHEREAS, the City Council held a public hearing on December 1, 2008 to accept testimony on extending the moratorium for an additional six months after which, following due deliberation, the Council voted unanimously to extend the moratorium for a period of six months. 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. 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;

2. 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;

3. propose a division of land by short plat or binding site plan on existing lots of record so long as said proposal is located wholly within the areas delineated on the map attached to this ordinance as Exhibit A;

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

5. 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. 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 B.

Section 2. Purpose. The purpose of this moratorium extension 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, to meet the requirements of the Growth Management Act and more specifically to address an identified conflict between a newly adopted 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. The City Council approved a major revision to its Comprehensive Plan on December 19, 2007 which included several components in the Land Use Element that

were not anticipated when the moratorium was first enacted effective June 6, 2007. In particular, the revised Comprehensive Plan singled out subarea planning with innovative techniques as the primary tools for implementing housing density, site-specific zoning, community design and land use intensity. As a direct consequence of these policy decisions, the amount of work necessary to fully implement the Comprehensive Plan, including the process for creating and adopting subarea plans in those areas affected by the moratorium, has grown and will take additional time to complete. On March 19, 2008, the City Council formally initiated a list of potential amendments to the Langley development regulations, and the work and public participation efforts that are required to formulate, draft and review these amendments is being actively pursued. The Planning Advisory Board is working to complete a substantially revised subdivision ordinance that will be consistent with the revised Comprehensive Plan goals and policies, more than fifty citizens participated in Mapping Langley 2030 and this exercise will supply the foundation for a substantially revised Future Land Use Map and Zoning, City staff are nearing completion with a substantially revised Community Capital Element which will established city-wide levels of service for physical, social and geographical capital, and innovative tools are in preparation to knit together the longer term land use goals expressed within the Comprehensive Plan. The City anticipates that this work will be completed by June of 2009, including environmental review, notification to State agencies, a public hearing before the Planning Advisory Board and final review by the City Council. Continuing the moratorium during this period will allow the citizens and officials of Langley to finalize new land division regulations without the possibility that developers will flood the City with applications for development under the existing codes. Additional time is needed to fully incorporate the

community's vision as expressed in the Comprehensive Plan, develop subarea plans and adopt new codes to implement that vision.

Section 3. Moratorium Extended. The moratorium on the acceptance of all non-exempt applications for property inside the City limits adopted under Ordinance No. 893 and extended under Ordinance No. 902 shall be extended for six additional months. 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 4. Duration of Moratorium. The extension of the moratorium approved with this Ordinance shall commence on the date of adoption of this Ordinance. As long as the City conducts the public hearing as scheduled on December 1, 2008 and adopts findings and conclusions in support of the extension of the moratorium within sixty (60) days of the adoption date of this Ordinance, the moratorium shall not terminate until six (6) months after the date of adoption, or at the time all of the tasks described herein have been accomplished, whichever is sooner.

Section 5. 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 6. Declaration of Emergency. The City Council hereby declares that an emergency exists necessitating that this Ordinance take effect immediately upon passage by a majority vote plus one of the whole membership of the Council, and that the same is not subject

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to a referendum (RCW 35A.12.130). Without an immediate extension to the moratorium, non-exempt applications could be vested, leading to development that could be incompatible with the codes and subareas eventually adopted by the City.

Section 7. Publication. This Ordinance shall be published by an approved summary consisting of the title.

Section 8. Effective Date. This Ordinance shall take effect and be in full force and effect immediately upon passage, as set forth in Section 6, as long as it is approved by a majority plus one of the entire membership of the City Council.

PASSED by the City Council and approved by the Mayor of the City of Langley, this 1st day of December 2008.

Paul Samuelson, Mayor

ATTEST/AUTHENTICATED:

Debbie Mahler, City Clerk

APPROVED AS TO FORM:

Grant Weed, City Attorney