

To: Mayor Samuelson and Members of the City Council

Date of Report: May 28, 2008

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

Meeting Date: June 4, 2008

Agenda Item: Land Division Moratorium Public Hearing - Extension

Attachments: Draft Ordinance

This staff report presents the statutory requirements for conducting a public hearing to accept public testimony followed by deliberation on whether to extend the emergency land division moratorium that was approved on June 6, 2007. A vote to extend the moratorium would extend for an additional six months the provisions of Ordinance No. 891, subject to adoption of findings of fact at the next City Council meeting. 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.

In accordance with State law, Ordinance No. 893 included a Work Plan 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.

DISCUSSION

The City Council held a study session at its regular meeting on May 21, 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 June 4, 2008.

Also discussed at this study session was a request by David and Cathy Schmidt to consider expanding the list of actions exempt from the moratorium to include situations such as theirs. 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 the current language of the moratorium, none of the exemptions allow the creation of a new, vacant building lot. However, the Council could consider creating additional exemptions so long as the fundamental justifications for having the moratorium in place are still honored (see Section 3.A. in attached draft ordinance).

Should the Council wish to consider a new exemption under Section 1.A. of the moratorium ordinance that could accommodate property owners in situations such as the Schmidts, the following language might be considered:

“7. propose a division of land by short plat (four lots or fewer) on parcels of less than 1.33 acres within those parts of the City currently served by public sewer. Any lot created through this exemption shall be considered unbuildable until such time as the moratorium is terminated within the subarea or zoning district in which it is located.”

If the Council elects to include an amendment of this sort, or any others, the implementing ordinance would be modified as appropriate before presenting it for adoption.

RECOMMENDED FORM OF MOTION

Move to extend/extend with modifications/terminate the land division moratorium approved through Ordinance No. 891.

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LANGLEY, WASHINGTON, RELATING TO THE ADOPTION OF FINDINGS AND CONCLUSIONS TO EXTEND 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 IMPLEMENTATION OF THE 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, APPROVING THE LIST OF EXEMPT ACTIONS, AND CONFIRMING THE MAINTENANCE OF THE MORATORIUM FOR AN ADDITIONAL SIX MONTHS.

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 entered findings and conclusions and adopted 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); and

WHEREAS, the City Council held a public hearing on June 4, 2008 on extending the moratorium for an additional six months after which, following due deliberation, the Council voted unanimously to extend the emergency 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. 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 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. Having a moratorium in place will allow the citizens and officials of Langley to formulate new land division 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 as expressed in the Comprehensive Plan, develop subarea plans and adopt new codes to implement that vision.

Section 3. Findings and Conclusions in Support of Extending the Moratorium. On June 4, 2008, the City Council held a public hearing on extending for six months the moratorium first 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 worked actively to the end of 2007 to identify and propose changes to the Langley Comprehensive Plan, an effort that culminated in the adoption of the revised Comprehensive Plan on December 19, 2007 that redefined a sustainable and smart growth vision for Langley. Following adoption of the revised Langley Comprehensive Plan, the City moved forward with considering changes to the current versions of the Official Zoning Map, the City's land division standards and other development regulations that do not protect the vision that was crafted for Langley's future and may be inconsistent with the goals of the State Growth Management Act. On March 19, 2008, the City Council formally initiated a long list of potential amendments to the Langley development regulations, and this work is ongoing but is not yet complete. With the work necessary to amend the development regulations still underway, the City Council reaffirms that the existing moratorium that applies 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 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. In relation to the six-month extension approved on June 4, 2008, the Langley Environmental Official determined that the extension of the emergency action taken under Ordinance No. 891 was categorically exempt.

C. On June 4, 2008, the Council held the public hearing to consider the six month extension of the moratorium. [insert public comment here] The Council concluded that continued maintenance of the moratorium 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 recently amended 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 six additional months beyond the original one year moratorium 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. 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. 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 16th day of June, 2008.

Paul Samuelson, Mayor

ATTEST/AUTHENTICATED:

Debbie Mahler, City Clerk

APPROVED AS TO FORM:

Grant Weed, City Attorney