

ORDINANCE NO. 431

AN INTERIM ORDINANCE OF THE CITY OF WOODINVILLE, WASHINGTON AMENDING CHAPTER 21.04 WMC; TEMPORARILY REMOVING A RESTRICTION ON DEVELOPMENT WITH DENSITIES LESS THAN FOUR DWELLING UNITS PER ACRE WITHIN THE CITY'S LOW DENSITY RESIDENTIAL ZONES; ADOPTING PRELIMINARY FINDINGS IN SUPPORT OF SAID AMENDMENT; SCHEDULING A PUBLIC HEARING DATE; PROVIDING FOR SEVERABILITY; DECLARING A PUBLIC EMERGENCY; AND ESTABLISHING AN IMMEDIATE EFFECTIVE DATE.

WHEREAS, pursuant to the requirements of the Washington State Growth Management Act, the City of Woodinville is required to develop and adopt development regulations implementing its Comprehensive Plan; and

WHEREAS, RCW 36.70A.130(1) requires that the City of Woodinville, a "fully planning" city within King County shall update its Comprehensive Plan and development regulations, as necessary, to reflect local needs, new data, and current laws; and

WHEREAS, the Woodinville City Council has determined that a certain amendment is necessary to keep the Zoning Code updated and to accommodate the needs of its citizens; and

WHEREAS, the Woodinville City Council has reviewed the amendment contained in this ordinance and finds that the amendment meet the required criteria in Ordinance No. 172 and WMC 21.46.030; and

WHEREAS, public hearings concerning the substance of this ordinance were held by the City of Woodinville Planning Commission on January 31, 2007 and February 14, 2007, and by the City of Woodinville City Council on March 5, 2007;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WOODINVILLE, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. Findings. The City Council hereby adopts the following preliminary findings in support of this interim ordinance, together with the recitals expressed herein.

1. Among the considerations which come to bear on sustainable development are the City's GMA duty to accommodate urban growth while protecting critical area "function and values", as well as considerations relating to such factors as protection of anadromous fisheries, adequate and diverse housing alternatives, availability of urban services and infrastructure, preservation of the character and vitality of existing neighborhoods, and considerations relating to jobs and economic development.
2. Environmental functions and values of critical areas have become more recognized in recent years largely as a result of local jurisdictions' work on their critical area regulations utilizing GMA-mandated "best available science".
3. The GMA itself is silent on what numeric value constitutes "urban density". However, over time, case decisions by Growth Hearings Boards established a minimum figure of four units per acre as meeting the threshold of urban density. This figure has been referred to as the "bright line" threshold.
4. Recently, some jurisdictions (for example, Bothell and Normandy Park) have faced and survived challenges from public policy advocacy or development groups which complained that their plans did not meet the four dwelling unit per acre urban density bright line threshold even though the plans over-all accommodated the jurisdictions' growth allocations. A Washington Supreme Court decision has also held that interpreting minimum density "bright lines" into the language of the GMA was beyond the authority of the Growth Management Hearings Boards and was inconsistent with the deference which local government's decisions must be accorded under the GMA. However, at least one Plan (Normandy Park's) has been appealed to the Washington Supreme Court and the extent of flexibility and deference to which jurisdictions are entitled under the GMA has yet to be finally determined.
5. Central Puget Sound Growth Management Hearings Board rulings generally uphold "lower" residential densities supported through studies applying the "Litowitz v. Federal Way" factors, named for a decision by the Board setting a standard for when lower densities would be acceptable as a means of maintaining the integrity of environmental resources. Even in such cases, however, the jurisdiction in question was still required to meet its growth allocations in some way, and the exemption on density for critical area protection did not reduce the jurisdiction's overall allocation numbers.
6. In a "Litowitz Test" study, lower development densities are justified if the area in question meets a three-part test. The critical area must be shown to: (1) be large in scope; (2) have complex structure and function, and (3) have high (environmental value) rank order.
7. Consultants for the City of Woodinville have performed "Litowitz" studies to evaluate the level of resource sensitivity and potential impact from development and to provide data useful in determining appropriate development density.
8. The GMA also recognizes other factors as relevant in planning. For example, Comprehensive Plan's housing element, among other things, ensures "the vitality and character of established residential neighborhoods". RCW 36.70A.070(2).

9. Staff has prepared a study of the existing neighborhoods in the R-1 area and therein found that several neighborhoods' housing stock, character, and vitality would best be preserved by lower density zoning.
10. The City contains a surplus supply of buildable lands to accommodate the 20-year housing and population projection required by the GMA.
11. The Planning Commission is responsible for review of issues and formulating recommendations concerning growth, land use, transportation, community infrastructure, preservation of environmental quality, preservation of neighborhood character and developing policy for those and other land use issues.
12. Any amendment to either the City's Comprehensive Plan or regulatory code requires approval of an ordinance by City Council.
13. The Planning Commission held a public hearing on January 31st and February 14th regarding the Sustainable Development Study and proposed amendments to Comprehensive Plan goals and policies as well as amendments to the Zoning Code. They deliberated at the close of the public hearing and the Planning Commission recommended the City Council retain the existing R-1 zoning and amend WMC 21.04.080(1)(a) to remove the restriction of development with densities less than four dwelling units per acre based on the following reasoning and findings:
 - a. The City contains excess capacity in its residentially zoned areas to accommodate the GMA housing allocation out to the year 2022, the current twenty year planning horizon.
 - b. Adding significantly to the City's housing capacity is the recently approved mixed-use and multi-family projects in the downtown area and in the Tourist District. Two projects alone account for over 700 new housing units. These and other projects in the planning stages are serving to implement the City's long standing goal to develop pedestrian-oriented development in and around the commercial areas of the City that accommodate over 3 dozen wineries. The City is at a delicate tipping point in its Downtown/Little Bear Creek Master Plan, Economic Development Plan, and Sustainable Development Plan, particularly with respect to carefully planned growth in higher residential areas that require mixed retail/residential developments to be successful. Sudden increase in development away from this targeted core area could effectively "cannibalize" some of this nascent residential growth where it is needed most.
 - c. Changing the R-1 area to R-4 is counter to the City's economic and residential growth plans to encourage housing in the downtown where people can live in proximity to work opportunities, shopping, mass transit and other services, which not only supports the local economy, but also reduces vehicle trips.

- d. An R-4 rezone of the subject area would likely have a negative effect on the City's resources in context of the capital improvement plans, particularly in regards to addressing traffic and acknowledging single-family development that does not provide sufficient tax revenue to support required municipal services.
 - e. An R-4 up-zone to a large area of the City could have a negative impact on the City's image and sense of unique identity, recognized since its incorporation as a Woodland Character community (Comprehensive Plan Goals LU-1, CD-2)
 - f. In the central portion of the R-1 area, identified in the Study (Attachment A), the Lake Leota Basin constitutes approximately 50% of the total R-1 area and feeds into Cold Creek and the Bear Creek Drainage Basin, the region's most significant salmon spawning habitat area. These two important natural resources are large in scope, complex in structure and function, and of high rank order and thus, the interconnecting system qualifies under the "Litowitz Test" for low-density (less than R-4) zoning.
 - g. The Sustainable Development Study and public hearing testimony indicate possible negative impacts to other elements of the natural environment if R-4 zoning were put into place. Greater development could affect geologic hazards, and an extensive Critical Aquifer Recharge Area and Lake Leota.
 - h. The City is doing an effective job of balancing the competing GMA goals related to accommodating growth and environmental protection by exceeding the GMA job allocation; providing a wide variety of housing, including a national award winning affordable housing project (Greenbrier); and protecting the environment through an updated critical areas regulations based on Best Available Science, as well as participation in and support of such programs as WRIA 8 Salmon Task Force, Sammamish ReLeaf, Salmon Watchers, Wetland Restoration Monitoring and Tree City USA (10 Year Award).
 - i. The City limits are co-terminus with the Seattle Metropolitan Urban Growth Area Boundary with no potential annexation areas left for the City to grow into after 2022. The R-1 area with proper development regulations, such as shadow platting can serve as a tool for future growth beyond 2022.
14. The City Council held a study session on February 26, 2007 to review and discuss the Sustainable Development Study and the Planning Commission recommendations.
15. The City Council held a public hearing on March 5, 2007 to receive and consider public testimony regarding proposed Zoning Code Amendment as contained in Ordinance No. 431, the Sustainable Development Study and the Planning Commission recommendation to retain the current R-1 zoning in the City.

16. The entire R-1 zoning district is currently subject to a comprehensive building and land use moratorium that was imposed in order to preserve the status quo during the pendency of the Sustainable Development Study. The moratorium was originally enacted on March 20, 2006, was renewed for an additional six month period commencing September 20, 2006, and is scheduled to expire on March 20, 2007.
17. Allowing the moratorium to expire before the City's new regulations take effect would pose a serious threat to the public health, safety, welfare and local environment by potentially enabling developers to obtain vested development rights inconsistent with the City's new regulations. The accrual of any such vested rights would irreparably frustrate the City's long-term planning efforts with respect to the Sustainable Development Study.
18. Additional time is necessary to thoroughly review the zoning code amendments recommended by the Planning Commission, and to conduct further analysis regarding appropriate permanent changes to the City's existing development regulations.
19. The Council is concerned about the legal and practical implications of renewing the current moratorium, and desires instead to adopt the Planning Commission's recommended zoning code amendments as interim regulations that will temporarily govern development within the R-1 zoning district until such time as permanent amendments are enacted.
20. The City Council fully expects and intends to adopt the permanent zoning amendments arising from the Sustainable Development Study within the six month effective period of this ordinance.
21. Pursuant to RCW 35A.63.220 and RCW 36.70A.390, the City is authorized to adopt interim zoning regulations.
22. A public emergency exists requiring this ordinance to take effect immediately upon passage by the City Council.

Section 2. Interim amendment to Section 21.04.080, Residential zones, of the Woodinville Municipal Code is hereby amended to read as set forth below. Deleted text is shown by ~~strikethrough~~.

21.04.080 Residential zones.

- (1) The purpose of the urban residential zones (R) is to implement Comprehensive Plan Goals and Policies for housing quality, diversity and affordability, and to efficiently use residential land, public services and energy. These purposes are accomplished by:
 - (a) Providing, in the low density zones (R-1 through R-4), for predominantly single-family detached dwelling units. Other development types, such as duplexes and accessory units, are allowed under special circumstances. ~~Developments with densities less than R-4 are allowed only if adequate services cannot be provided;~~

- (b) Providing, in the moderate density zones (R-5 through R-8), for a mix of predominantly single-family attached and detached dwelling units. Other development types, such as apartments, duplexes, and townhomes would be allowed so long as they contribute to Woodinville's small town atmosphere as articulated in the vision statement found in the City's Comprehensive Plan and conform to all applicable regulations;
 - (c) Providing, in the medium density zones (R-9 through R-18), for duplexes, multi-family apartments, and townhomes, at densities supportive of transit and providing a transition to lower density areas; and
 - (d) Providing, in the high density zones (R-19 through R-48), for the highest residential densities, consisting of duplexes, multi-story apartments. Developments have access to transit, pedestrian and nearby commercial facilities, and provide a transition to high intensity commercial uses.
- (2) Use of this zone is appropriate in residential areas designated by the Comprehensive Plan as follows:
- (a) The R-1 zone on or adjacent to lands with area-wide environmental constraints, or in well-established subdivisions of the same density, which are served at the time of development by public or private facilities and services adequate to support planned densities;
 - (b) The R-4 through R-8 zones on urban lands that are predominantly environmentally unconstrained and are served at the time of development, by adequate public sewers, water supply, roads and other needed public facilities and services; and
 - (c) The R-12 through R-48 zones in appropriate areas, of the City that are served at the time of development by adequate public sewers, water supply, roads and other needed public facilities and services.

Section 3. Public Hearing. Pursuant to RCW 35A.63.220 and RCW 36.70A.390, the City Council will conduct a public hearing for the purpose of receiving public testimony regarding this interim ordinance. The City Clerk is authorized and directed to schedule said public hearing for a City Council meeting held within the next 60 days. The City Clerk is hereby authorized and directed to provide public notice of said hearing in accordance with applicable City standards and procedures. The City Council may in its discretion adopt additional findings in support of this interim ordinance at the conclusion of the public hearing.

Section 4. Severability. Should any section, paragraph, sentence, clause, or phrase of this Ordinance be held invalid or 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. Provided, however, that if any section, sentence, clause, or phrase of this Ordinance, or any change in a land use designation is held to be

invalid by a court of competent jurisdiction, or by the Growth Management Hearings Board, then the section, sentence, clause, phrase, or land use designation in effect prior to the effective date of this ordinance, shall be in full force and effect for that invalidated section, sentence, clause, phrase, or land use designation, as if this ordinance had never been adopted.

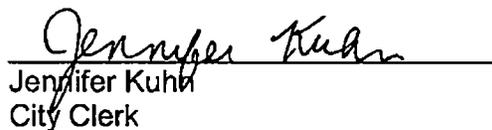
Section 5. Copy to CTED. The City Clerk is directed to send a copy of this ordinance to the State Department of Community, Trade, and Economic Development for its files within ten (10) days after adoption of this Ordinance.

Section 6. Effective Date; Sunset. Based upon the recitals and findings set forth above, the City Council hereby declares a public emergency requiring this ordinance to take effect immediately; PROVIDED, that the interim zoning code amendment imposed pursuant to Section 2 hereof shall take effect on March 21, 2007, immediately following the scheduled expiration of the land use and building moratorium originally adopted by Ordinance No. 419 and renewed by Ordinance No. 427. Subject to the foregoing, this ordinance shall be in full force and effect immediately upon adoption, and shall remain effective for a period of six months unless terminated earlier or subsequently extended by the City Council.

PASSED BY THE CITY COUNCIL OF THE CITY OF WOODINVILLE THIS 12th DAY OF MARCH 2007.


Cathy VonWald, Mayor

ATTEST/AUTHENTICATED:


Jennifer Kuhn
City Clerk

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY

By: 
J. Zachary Lell
City Attorney

PASSED BY THE CITY COUNCIL: 3-12-2007
PUBLISHED: 3-19-2007
EFFECTIVE DATE: 3-12-2007
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