

STAFF REPORT

TO: CITY COUNCIL

THRU: RAY STURTZ, COMMUNITY DEVELOPMENT DIRECTOR 

FROM: PETE ROSE, CITY MANAGER 

SUBJECT: FIRST READING OF ORDINANCE NO. 424: AMENDING  
ORDINANCE NO. 419: BUILDING AND LAND USE  
MORATORIUM IN THE R-1 ZONE

MEETING DATE: JUNE 5, 2006

ISSUE:

Shall the City Council consider Ordinance No. 424 (Attachment A), an ordinance to amend Ordinance No. 419 which enacted an emergency building and land use moratorium in the R-1 zone?

STAFF RECOMMENDATION:

That the City Council consider Ordinance No. 424 (Attachment A), an ordinance to amend Ordinance No. 419, an emergency building and land use moratorium in the R-1 zone.

POLICY DECISION:

The proposal is to amend Ordinance No. 419 (R-1 zone area moratorium) for the purpose of formally incorporating the City Council's supplemental findings, revising and clarifying the moratorium exemptions and requiring City Council notification before issuance of an interpretation of the ordinance by the Planning Director. The proposed amendments are based on public comments received during the May 1, 2006 moratorium public hearing and subsequent City Council deliberations.

BACKGROUND:

At the City Council meeting of March 13, 2006, the City Council received a presentation on a program called Sustainable Development. This program is intended to implement the Action Plan that the City Council discussed at its Fall, 2005 retreat. A key provision of the Sustainable Development program is a comprehensive environmental study or series of studies. These studies will take some time to complete and analyze. The need for these studies, along with the need to prepare an overall set of policies, plans

and regulations were major reasons the City Council decided to consider a moratorium on the R-1 zone.

On March 20, 2006, the City Council adopted emergency Ordinance No. 419. The ordinance put into effect immediately a temporary (6-month) moratorium upon the receipt and processing of new building land use and other development permit applications within the City's R-1 Zoning District. This action was followed by a public hearing on May 1, 2006 to receive public testimony regarding the ordinance. Following the conclusion of the hearing, the City Council approved supplemental findings in support of the moratorium and directed staff to draft an amending ordinance incorporating these findings along with revisions of the ordinance exemptions section and adding a reporting requirement regarding administrative interpretations of the ordinance.

## FACTS & FINDINGS

1. At the Fall 2005 retreat, the City Council discussed strategies for managing growth and development in Woodinville and indicated interest in a program to implement such strategies.
2. At the December 5, 2005 City Council meeting, as part of the "Annual Goals Update", the City Council received a proposed "Action Plan."
3. At the March 13, 2006 City Council meeting, the City Council received a report on a detailed program to implement the Action Plan. This program is referred to as Sustainable Development. As an outcome of the presentation, the City Council directed staff to prepare an emergency building and land use moratorium for the R-1 zone.
4. On March 20, 2006, the City Council adopted Ordinance No. 419 for the purpose of imposing a temporary moratorium upon the receipt and processing of new building land use and other development permits within the City's R-1 Zoning District.
5. The City Council conducted a public hearing on May 1, 2006, for the purpose of receiving and considering public testimony regarding Ordinance No. 419.
6. Based upon public comments received on the May 1, 2006, public hearing and subsequent City Council deliberation, the City Council desires to amend Ordinance No. 419 to:
  - a. Formally incorporate supplemental findings,
  - b. Revise and clarify moratorium exemptions, and
  - c. Require City Council notification prior to the issuance of formal interpretations of said ordinance.

## ANALYSIS

The supplemental findings (Attachment B) provide an analysis of how the moratorium supports the goals of the Washington State Growth Management Act. Decisions on appeals of moratoria in other cities indicate this type of analysis is important. These findings clearly state the City Council's intent to uphold and comply with the Growth Management Act by conducting studies during the moratorium that will help the City balance growth with protecting the environment.

The current exceptions to the moratorium include: remodeling, expansion, restoration or refurbishment of existing single-family and multi-family residential structures and publicly owned structures and facilities. The proposed amending ordinance would expand this to include all existing structures and incidental structures and facilities to the existing structure. There are more than just residential and publicly owned structures and facilities in the R-1 zone. There are also agricultural buildings, daycares, church buildings and commercial structures at Mack's Corner (168<sup>th</sup> Ave NE & Woodinville-Duvall Road).

In addition, Ordinance No. 424 clarifies that development projects for which complete applications were received by the City prior to the enactment of the moratorium are considered "vested" and therefore, exempt from the moratorium.

One last item that the ordinance adds is a provision that official interpretations of the moratorium ordinance will be provided to the City Council prior to each one being issued by the Planning Director. This keeps the City Council informed in advance and can identify issues which the City Council may wish to address through further amendments to the moratorium ordinances (No. 419 and No. 424).

## ALTERNATIVES:

1. Have First Reading on Ordinance No. 424 as contained in Attachment A.
2. Direct staff as to specific amendments to Ordinance No. 424 and have First Reading at a later date.
3. Receive and discuss this information at another time.

## RECOMMENDED MOTION:

**I MOVE THAT THE CITY COUNCIL HAVE FIRST READING OF ORDINANCE NO. 424, AN ORDINANCE OF THE CITY OF WOODINVILLE, WASHINGTON, AMENDING ORDINANCE NO. 419; INCORPORATING SUPPLEMENTAL FINDINGS OF FACT IN SUPPORT OF THE CITY'S TEMPORARY LAND USE MORATORIUM WITHIN THE R-1 ZONING DISTRICT; REVISING AND CLARIFYING THE EXEMPTIONS FOR SPECIFIED PERMIT APPROVALS UNDER THE MORATORIUM; REQUIRING CITY COUNCIL NOTIFICATION PRIOR TO ISSUANCE OF FORMAL INTERPRETATIONS UNDER THE MORATORIUM; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.**

**ATTACHMENTS:**

**A – Ordinance 424**

**B – Supplemental Findings**

**ORDINANCE NO. 424**

**AN ORDINANCE OF THE CITY OF WOODINVILLE, WASHINGTON, AMENDING ORDINANCE NO. 419; INCORPORATING SUPPLEMENTAL FINDINGS OF FACT IN SUPPORT OF THE CITY'S TEMPORARY LAND USE MORATORIUM WITHIN THE R-1 ZONING DISTRICT; REVISING AND CLARIFYING THE EXEMPTIONS FOR SPECIFIED PERMIT APPROVALS UNDER THE MORATORIUM; REQUIRING CITY COUNCIL NOTIFICATION PRIOR TO ISSUANCE OF FORMAL INTERPRETATIONS UNDER THE MORATORIUM; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.**

---

WHEREAS, the Woodinville City Council adopted Ordinance No. 419 on March 20, 2006 for the purpose of imposing a temporary moratorium upon the receipt and processing of new building, land use and other development permits within the City's R-1 Zoning District; and

WHEREAS, pursuant to RCW 35A.63.220 and RCW 36.70A.390, the City Council conducted a public hearing on May 1, 2006, for the purpose of receiving and considering public testimony regarding Ordinance No. 419; and

WHEREAS, at the conclusion of the May 1, 2006, public hearing, the City Council formally adopted numerous supplemental findings in support of Ordinance No. 419; and

WHEREAS, based upon public comments received during the public hearing and subsequent Council deliberations, the City Council desires to amend Ordinance No. 419 for the purpose of formally incorporating the Council's supplemental findings, revising and clarifying the moratorium exemptions specified in the ordinance, and requiring City Council notification before issuance of any official interpretations of the ordinance by the City's Planning Director;

NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF WOODINVILLE, WASHINGTON,  
DO ORDAIN AS FOLLOWS:

Section 1. Amendment of Section 1 of Ordinance No. 419. Section 1 of Ordinance No. 419 is hereby amended by the addition of a new subsection 1(V) to provide in its entirety as follows:

Findings. The Woodinville City Council hereby makes the following findings in support of the moratorium imposed by this ordinance:

V. The City has formally considered the GMA planning goals enumerated at RCW 36.70A.020 as evidenced by, *inter alia*, the Supplemental Findings attached hereto as Exhibit B and incorporated herein by this reference as if set forth in full.

Section 2. Addition of Exhibit B to Ordinance No. 419. Ordinance No. 419 is hereby amended by the addition of Exhibit B hereto, which shall be attached to Ordinance No. 419 and incorporated therein as if set forth in full.

Section 3. Amendment of Section 3 of Ordinance No. 419. Section 3 of Ordinance No. 419 is hereby amended to provide in its entirety as follows:

Exceptions. The moratorium imposed under Section 2 of this ordinance shall not apply to the following:

A. Permit applications for the remodeling, repair, expansion, restoration, refurbishment, enhancement or replacement of an existing structure;

B. Permit applications for the construction of structures and facilities directly related to, located on the same building site as, and incidental to an existing structure;

C. Permit applications related to a publicly owned structure or facility;

D. Permit applications to construct an accessory living quarters;

E. Building and other permits necessary to complete the construction of vested development projects, complete applications for which were received by the City prior to the effective date of this ordinance; and

Section 4. Amendment of Section 7 of Ordinance No. 419. Section 7 of

Ordinance No. 419 is hereby amended to provide in its entirety as follows:

Interpretive Authority. The City of Woodinville Planning Director is hereby authorized to issue official interpretations arising under or otherwise necessitated by this ordinance. Prior to issuance of any such official interpretation, the Planning Director shall formally notify the City Council of both the interpretation and any relevant background information.

Section 5. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be 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.

Section 6. Effective Date. This ordinance or a summary thereof consisting of the title shall be published in the official newspaper of the City and shall take effect and be in full force five (5) days after publication.

PASSED by the City Council of the City of Woodinville this \_\_\_\_ day of \_\_\_\_\_, 2006.

APPROVED:

\_\_\_\_\_  
MAYOR CATHY VON WALD

ATTEST/AUTHENTICATED:

\_\_\_\_\_  
CITY CLERK, SANDRA PARKER, CMC

APPROVED AS TO FORM:  
OFFICE OF THE CITY ATTORNEY:

BY \_\_\_\_\_

FILED WITH THE CITY CLERK:  
PASSED BY THE CITY COUNCIL:  
PUBLISHED:  
EFFECTIVE DATE:  
ORDINANCE NO. \_\_\_\_\_

## Exhibit B

### SUPPLEMENTAL FINDINGS IN SUPPORT OF DEVELOPMENT MORATORIUM

The Woodinville City Council reaffirms the findings contained in Ordinance No. 419. Pursuant to RCW 35A.63.220 and RCW 36.70A.390, the City Council additionally enters the supplemental findings below in support of the temporary development moratorium imposed under that ordinance. The City has duly considered the Growth Management Act (GMA) planning goals enumerated in RCW 36.70A.020. The moratorium imposed under Ordinance No. 419 will assist the City in reviewing and amending its Comprehensive Plan and development regulations in a manner that appropriately balances these policy interests for the Woodinville community and physical environment. Specifically, the City has considered the following GMA goals:

1. Urban Growth - *Encourage development in urban areas where adequate public facilities and services exist or can be provided in an efficient manner. (RCW 36.70A.020(1)).*

The City is committed to accommodating and encouraging appropriate levels of urban development in accordance with applicable GMA directives. The comprehensive Sustainable Development study that will be conducted during the moratorium period will help the City to identify which public facilities and services are needed in order to accommodate such future growth within the R-1 zoning district, an area that is — and historically has been — under-served with respect to utility service and other public facilities.

Moreover, the Sustainable Development study will help determine the appropriate phasing and installation timeframe regarding public facilities within the R-1 zone. This in turn will assist the City's capital planning and budgeting efforts. Other plans and studies, including but not limited to the Downtown/Little Bear Creek Corridor Master Plan (DT/LBC) and the Economic Development Study, are currently being reviewed by the City Council and will likewise assist the City in influencing the location and timing of urban development where adequate public facilities and services are provided.

2. Reduce Sprawl - *Reduce the inappropriate conversion of undeveloped land into sprawling, low-density development. (RCW 36.70A.020(2)).*

The Sustainable Development study conducted during the moratorium period will help determine the measures necessary to encourage the conversion of undeveloped land at appropriate levels of urban density. The study is intended in part to help the City balance the need to accommodate growth while simultaneously ensuring appropriate protection of the local environment and natural resources. Innovative land use management techniques aimed at reducing sprawl and protecting the environment will be evaluated as part of this process. It is anticipated that the City's development regulations may be amended at the conclusion of the Sustainable Development study

process to specifically encourage and provide incentives for the use of such innovative techniques.

3. Transportation – *Encourage efficient multimodal transportation systems that are based on regional priorities and coordinated with county and city comprehensive plans. (RCW 36.70A.020(3)).*

During the Sustainable Development study period, the City will examine the City's transportation infrastructure needs and the opportunity to accommodate multi-modal forms of transportation within the R-1 zoning district. The City intends to review the findings and recommendations from this study in conjunction with the transportation concurrency program separately being considered by the City. This analysis is needed in order to determine how appropriate growth — particularly within the R-1 zoning district — may be accommodated concurrently with necessary transportation facilities and services consistent with local and regional transportation plans.

4. Housing - *Encourage the availability of affordable housing to all economic segments of the population of this State, promote a variety of residential densities and housing types, and encourage preservation of existing housing stock. (RCW 36.70A.020(4)).*

As the largest contiguous residential area in the City, the R-1 zone contains a substantial percentage of the City's existing housing stock. Although single family homes are predominant in the R-1 zone, the development pattern in this zoning district has traditionally provided for a variety in age, style and size of houses. The Sustainable Development study conducted during the moratorium will help to determine appropriate development techniques — potentially including, but not limited to, low impact development standards — to protect the environment and natural resources while simultaneously accommodating growth and preserving existing housing stock.

5. Economic Development - *Encourage economic development throughout the State that is consistent with adopted comprehensive plans, promote economic opportunity for all citizens of this state, especially for unemployed and disadvantaged persons, promote the retention and expansion of existing business and recruitment of new business, experiencing insufficient economic growth, all within the capacities of the state's natural resources, public services, and public facilities. (RCW 36.70A.020(5)).*

A critical goal of the City's long-range planning efforts is to enhance the economic vitality of the Woodinville community. However, this policy must be carefully balanced and viewed holistically with the City's other planning goals to ensure an appropriate balance of economic development, housing, and environmental protection. The results and recommendations of the City's Sustainable Development study will be considered together with the City's economic development efforts to foster a complementary and coherent pattern of housing and business growth.

Furthermore, the State's fisheries are recognized as a significant element of the Pacific Northwest economy. Different portions of the City's R-1 zone drain into the headwaters of Bear Creek, and towards Little Bear Creek and Woodin Creek, all known to contain salmonids — including Chinook salmon. The Sustainable Development study will likely recommend methods of protecting this valuable economic resource through the adoption and implementation of careful and well-balanced land use planning and zoning measures. The City's Economic Study also identifies the livability of the City's residential neighborhoods and the protection of the natural environment as keys to the local economy's vitality. The Sustainable Development and Concurrency studies will serve to identify the need for public facilities and services which support economic development.

6. Property Rights - *Private property shall not be taken for public use without just compensation having been made. The property rights of landowners shall be protected from arbitrary and discriminatory actions. (RCW 36.70A.020(6)).*

The moratorium process is a legally-sanctioned development control mechanism, and the City has enacted its R-1 moratorium ordinance in conformance with applicable state law. By its terms, the moratorium is of a limited, temporary duration, and will not be construed to violate any previous permit applicant's vested development rights as defined by state and local regulations. Moreover, the limited exceptions contained in Section 3 of Ordinance No. 419 authorize modification, remodeling and expansion of existing structures notwithstanding the moratorium, ensuring that landowners may continue to alter their existing residences during the pendency of the City's Sustainable Development study.

7. Permits - *Applications for both state and local government permits should be processed in a timely and fair manner to ensure predictability. (RCW 36.70A.020(7)).*

The receipt and processing of new land use permits under the moratorium will be suspended only for the limited time necessary to conduct the Sustainable Development study. Upon the expiration of the moratorium, the City will process development applications involving the R-1 zoning district in a fair and timely manner consistent with applicable state and local regulations.

The separate Development Services study initiated earlier this year is intended to make the City's permit process more efficient. The recommendations resulting from this study are expected to be implemented over the next few months. The Sustainable Development study will address current uncertainties regarding the R-1 zone. Having these questions answered, particularly with regard to appropriate environmental protections, will enhance the certainty of the City's permit application and approval process. Individual property owners will know in advance what mitigation, construction techniques, and infrastructure is required for the proposed development of their property. This in turn will provide for more timely permit processing and the need for fewer individual environmental studies by permit applicants. The Development Services study will thus serve as a valuable resource for both the City and development

applicants, and will increase the predictability of the development process within the R-1 zone.

8. Natural Resources - *Maintain and enhance natural resource-based industries, including productive timber, agricultural, and fisheries industries. Encourage the conservation of productive forest lands and productive agricultural lands, and discourage incompatible uses. (RCW 36.70A.020(8)).*

The Bear Creek Basin drainage area encompasses a significant portion of the eastern Woodinville City limits within the R-1 Zoning District. The basin drains southeasterly into the Cold Creek Natural Area wetland system, a complex network of wetlands and groundwater springs feeding the headwaters of Cold Creek and an important cold water source for the Bear Creek system. The Bear/Cottage Lake/Cold Creek system is formally rated as a Tier I subarea under the draft WRIA 8 Chinook Salmon Conservation Plan, and the action start list for the North Lake Washington Chinook population is to identify and protect headwater areas, wetlands, groundwater sources, natural hydrologic processes and temperatures that support Chinook salmon within this area. The Sustainable Development study conducted during the moratorium period will provide policy recommendations concerning the protection of these valuable resources.

9. Open Space and Recreation - *Retain open space, enhance recreational opportunities, conserve fish and wildlife habitat, increase access to natural resource lands and water, and develop parks and recreation facilities. (RCW 36.70A.020(9)).*

The Sustainable Development studies will assist in identifying potential park and recreation (i.e., trail) opportunities in concert with habitat conservation areas.

10. Environment - *Protect the environment and enhance the state's high quality of life, including air and water quality, and the availability of water. (RCW 36.70A.020(10)).*

A primary purpose of the Sustainable Development study is to address the protection of the environment, quality of life, air and water quality, and the availability of water resources. The City's R-1 zoning district contains coarse, permeable geologic materials that allow infiltration to mapped critical aquifer recharge areas (CARAs), many of which have been characterized as possessing a "high" or "medium" potential for ground water contamination. The R-1 Zoning District also contains Lake Leota, a natural water body, with known water quality impacts. The shallow ground water surrounding Lake Leota is believed to be hydrologically connected to local CARAs.

Regions within the R-1 Zoning District hydrologically drain toward areas characterized by "high" or "medium" potential for ground water contamination. Said areas are known or suspected of being hydrologically connected to Bear Creek, a significant and biologically productive salmonid-bearing stream. Other areas within the R-1 zone drain variously toward Lake Leota, Little Bear Creek, and Woodin Creek, the latter two of which are known to contain salmonids.

11. Citizen Participation and Coordination - *Encourage the involvement of citizens in the planning process and ensure coordination between communities and jurisdictions to reconcile conflicts.* (RCW 36.70A.020(11)).

The City is committed to providing opportunities for citizen involvement in the public process. The City Council's adoption of Ordinance No. 419 occurred at a public meeting on March 20, 2006, and substantial public comment was received at that meeting. Pursuant to RCW 35A.63.220 and RCW 36.70A.390, the City Council also held a public hearing on May 1, 2006 to receive and consider public testimony regarding the R-1 moratorium.

The City Council has also proposed the formation of a Citizen Advisory Panel to assist the Sustainable Development study consultants and the Planning Commission in reviewing information and the promulgation of land use management policies and tools to address environmental protection and development issues within the R-1 zone. Any amendments to the City's Comprehensive Plan and/or development regulations recommended by the Sustainable Development study will undergo significant public scrutiny and commentary before both the Planning Commission and the City Council. It is contemplated and encouraged that residents, property owners, businesses and all other interested parties will participate in this process. Because the R-1 zone area is adjacent to unincorporated areas of both King County and Snohomish County, these counties will also be asked to participate in the review of the studies and potential outcomes.

12. Public Facilities and Services - *Ensure that those public facilities and services necessary to support development shall be adequate to serve the development at the time the development is available for occupancy and use without decreasing current service levels below locally established minimum standards.* (RCW 36.70A.020(12)).

As explained with respect to subsection 3 above, the Sustainable Development study will examine the City's transportation infrastructure needs and the opportunity to accommodate multi-modal forms of transportation within the R-1 zoning district. The City intends to review the findings and recommendations from this study in conjunction with the transportation concurrency program separately being considered by the City. This analysis is needed in order to determine how appropriate growth — particularly within the R-1 zoning district — may be accommodated concurrently with necessary transportation facilities and services and consistent with local and regional transportation plans.

13. Historic Preservation - *Identify and encourage the preservation of lands, sites, and structures, that have historical or archaeological significance.* (RCW 36.70A.020(13)).

At this time, there are no lands, sites, or structures within the R-1 zone area known to have historical or archaeological significance.

