

CITY COUNCIL AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

AGENDA TITLE:	Public Hearing on Six Month Moratorium on Residential Development in CB, RB and I zones and adoption of Ordinance 488
DEPARTMENT:	City Attorney's Office; Planning and Development Services
PRESENTED BY:	Joseph W. Tovar, FAICP Director of Planning and Development Services

PROBLEM/ISSUE STATEMENT: On October 29, 2007 the Council adopted Ordinance No. 484 which established a six-month moratorium on any application for development within the Community Business, Regional Business or Industrial zoning districts of the City which includes proposed residential use of any parcel located within 100 feet of an R-4, R-6 or R-8 zoning district. During the moratorium, no development permit applications which meet these locational criteria may be submitted or processed if those applications are for either a residential project or mixed-use project with a residential component.

The statutes authorizing land use moratoria are RCW 35A.63.220 and the Growth Management Act, RCW 36.70A.390 (where they are referred to as interim land use controls). The key features of land use moratoria are adoption of an ordinance without public hearing notice or a recommendation from the Planning Commission. The moratorium ordinance must be scheduled for a public hearing and adoption of findings within 60 days from its initial passage. It may remain in effect for up to six months, but may be extended after a second public hearing. Because the Council adopted Ordinance No. 484 on October 29, the public hearing must be held no later than December 28, 2007.

Given the liberal vesting rule for development of property in this state, Washington courts have expressly endorsed the use of moratoria to freeze the status quo quickly to prevent owners from securing a vested right by filing an application before a deliberative review of land use changes can be completed.

If people wish to comment on the permanent development regulations that will take effect upon the end of the moratorium, they will have several opportunities to do so. First, since the staff is now drafting proposed permanent regulations, interested parties may contact the Planning Department with their ideas and suggestions. Second, the public is invited to provide written and/or oral comments to the Planning Commission when that group conducts public hearings on the proposed permanent development regulations next year. Notice

of the hearing dates and the draft permanent regulations will be published and available well in advance of the public hearing. The public will also have an opportunity to address written or oral comments to the City Council when the proposed permanent regulations are placed on the Council agendas.

At the December 17 hearing on the moratorium, the public may ask the Council to continue the moratorium for the remainder of the six month period, to repeal the moratorium, or to amend it in some way. If the Council takes no action, the moratorium stays in place until April 29, 2008.

ALTERNATIVES ANALYZED:

The action before the Council is to conduct a public hearing on Ordinance No. 484 required by state law in order to continue this moratorium in effect for the full six-month term. Staff has received input from the public since the moratorium was passed and analyzed less restrictive alternatives. The staff recommends that the Moratorium be revised in two ways.

First, by adding dimensional height criteria, we believe we can still protect areas in need of protection while also providing some relief for properties that are less of a concern due to their topographic separation from adjacent single family zoned areas. Because 35 feet is generally the height of structures that can be built in residential areas, we think that the moratorium should only affect projects that exceed that height relative to the common zoning line with R-4, R-6, or R-8.

Second, the staff also believes that the 100 foot "separation" dimension included in Ordinance 484 should be modified to more accurately reflect the actual dimension of the Interurban Trail Right of Way. The right of way serves to buffer single family areas from more intense development, which was the staff's original rationale for including a separation criterion. However, we have come to realize that although it is generally 100 feet in width, this right of way actually narrows to 90 feet in places. We think the moratorium should be revised accordingly.

The following refinements are therefore recommended as amendments to the moratorium ordinance:

1. The moratorium would not affect projects that are within 90 feet, as opposed to 100 feet, of R-4, R-6, or R-8 zones.
2. The moratorium would not affect projects whose maximum height does not exceed 35 feet above the average elevation of the shared property line with R-4, R-6, or R-8 zones.

Alternatively, the Council may decide to repeal Ordinance 484 following consideration of testimony at the public hearing. In such a case, the Council would direct staff to prepare a repealing ordinance for a future agenda. If the

Council finds Ordinance No. 484 should continue in effect without amendments no Council action is required.

FINANCIAL IMPACT: There are no financial impacts of this council action, which is to take public testimony and either retain, amend or repeal Ordinance No. 484.

RECOMMENDATION

Staff recommends that Council hold a public hearing on the moratorium adopted in Ordinance No. 484, and adopt Ordinance No. 488 amending the moratorium.

Approved By: City Manager  City Attorney 

Attachments:

Attachment A: Ordinance No. 488

ORDINANCE NO. 488

**AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON,
AMENDING A MORATORIUM ON THE FILING OR ACCEPTANCE
OF ANY APPLICATIONS FOR RESIDENTIAL DEVELOPMENT OF
LAND WITHIN THE COMMUNITY BUSINESS, INDUSTRIAL OR
REGIONAL BUSINESS LAND USE DISTRICTS IN PROXIMITY TO
RESIDENTIAL NEIGHBORHOODS.**

WHEREAS, under the provisions of the Growth Management Act the City has adopted development regulations implementing the City of Shoreline Comprehensive Plan; and

WHEREAS, the City's adopted land use regulations pursuant Land Use Policies for the Community Business and Regional Business land use designations include Community Business, Regional Business and Industrial zoning districts in both of these Comprehensive Plan land use designations;

WHEREAS, these three business zones include development standards for residential development which may be incompatible when located adjacent to existing residential zones;

WHEREAS, the continued acceptance of development applications proposing new residential development utilizing existing community business, regional business and industrial zone development standards and density may allow development that is incompatible with existing neighborhoods, leading to erosion of community character and harmony, and a decline in property values; and

WHEREAS, a six-month moratorium on the filing of applications for residential development in these three business zones will allow the City to preserve planning options and prevent substantial change until the existing land areas so designated and the text of development standards applicable to residential development in these zones is reviewed and any needed revisions are made to these regulations; and

WHEREAS, the City Council has determined from recent public correspondence and comment that the integrity of existing land uses may suffer irreparable harm unless a moratorium is adopted; and

WHEREAS, the potential adverse impacts upon the public safety, welfare, and peace, as outlined herein, justify the declaration of an emergency; and

WHEREAS, pursuant to SEPA regulation SMC 20.30.550 adopting Washington Administrative Code Section 197-11-880, the City Council finds that an exemption under SEPA for this action is necessary to prevent an imminent threat to public health and safety and to prevent an imminent threat of serious environmental degradation through

continued development under existing regulations. The City shall conduct SEPA review of any permanent regulations proposed to replace this moratorium; now therefore, and

WHEREAS, a public hearing was held on Ordinance No. 484 adopting a moratorium on residential development in the CB, RB and I zones in close proximity to low density residential neighborhoods; and

WHEREAS, Council finds that some exceptions to the moratorium should be adopted to allow certain residential development covered by the moratorium which does not created an impact to adjacent residential neighborhoods; now therefore

**THE CITY COUNCIL OF THE CITY OF SHORELINE, WASHINGTON, DO
ORDAIN AS FOLLOWS:**

Section 1. Finding of Fact. The recitals set forth above are hereby adopted as findings of the City Council.

Section 2. Moratorium Amended. Section 2 of Ordinance 484 is hereby amended as follows:

A moratorium is adopted upon the filling of any application for development within the Community Business, Regional Business or Industrial zoning districts of the City which includes proposed residential use of any parcel located within 100 90 feet of an R-4, R-6 or R-8 zoning district. No land use development proposal or application may be filed or accepted which proposes a development described in this section. Development otherwise prohibited by this moratorium shall be allowed if the following criteria are met:

1. The maximum height of a residential building proposed in the RB, CB, and I zones shall not exceed 35 feet above the average elevation of the shared property line with R-4, R-6, or R-8 zones.

Section 3. Effective Dates. This ordinance shall take effect and be in full force five days after publication of a summary consisting of the title in the official newspaper of the City, and shall expire April 29, 2008 unless extended or repealed according to law.

PASSED BY THE CITY COUNCIL ON DECEMBER 17, 2007

Mayor Robert L. Ransom

ATTEST:

Scott Passey
City Clerk

APPROVED AS TO FORM:

Ian Sievers
City Attorney

Date of publication: , 2007
Effective date: , 2007