



MAYOR AND COUNCIL COMMUNICATION

DATE: 12/20/2016

REGULAR

ITEM #: 25

AGENDA ITEM: Ordinance No. 08-160 - An Ordinance Terminating Moratoria Declared by Ordinances Nos. 08-123 (Extended by Ordinance No. 08-146) and 08-156 that Imposed Moratoria on Certain Development Activity within the City

SUBMITTED BY: Stephen Wensman, Planning Director

THROUGH: Kristina Handt, City Administrator

REVIEWED BY: Emily Becker, City Planner

BACKGROUND:

In July of 2015, the City adopted an interim ordinance declaring a moratorium for a period of 12 months on residential development within the Stage One Development Area and all development activity within the Stage Two or Three Development Areas as described by the Comprehensive Plan, based on the following findings:

- The draft 2040 regional forecast from the Metropolitan Council would reduce the number of households and total community population by a substantial margin from the 2030 forecast as part of the City's 2015 System Statement.
- The City intends to create an interim growth management strategy that will be used to guide future growth and development within the City in advance of the 2018 decennial Comprehensive Plan Update while also recognizing and planning against the 2040 forecast numbers.
- The City will be considering amendments to its Comprehensive Plan in order to rebalance the future land use plan to guide development in a manner consistent with the 2040 forecast.
- The City's Staging Plan does not establish specific targets or dates.
- The 2040 forecast and Systems Statement will not be finalized until late in 2015, and the City cannot adopt any Comprehensive Plan amendments that guide future growth in accordance with the updated Systems Statement until its adoption.
- It is in the public's interest to ensure that future residential development occurs in a manner consistent with the updated 2040 forecast.
- The City intended to study the potential for transit-oriented development along the Bus Rapid Transit (BRT).

In July of 2016, the City extended its interim ordinance (moratorium) on development within Stage 1, 2 and 3 development areas, which was authorized by Minnesota Statutes Section 462.355, subdivision 4 (c) (1), as the City was in process of studying and revising its shoreland regulations which were being reviewed by the Minnesota Department of Natural Resources (MNDNR). The moratorium was extended for an additional 120 days following receipt of the MNDNR's review..

In October of 2016, the City also placed a moratorium on development within the Shoreland District. This was because after the original moratorium was extended, it was found there are properties that are in the Shoreland District that were not included in the moratorium because they were outside of the Stage 1, 2 and 3 development areas. After its meeting on October 4, 2016, the City Council decided that because these properties are also subject to the City's shoreland regulations and because the shoreland regulations affect the use and development of properties within the Shoreland District, there should be a moratorium on development activity on all properties that are within the Shoreland District and not only properties within the Stage 1, 2 and 3 development areas.

For tonight's agenda, two members of the Council have requested that the moratoria adopted by Interim Ordinance No. 08-123 (which was extended by Interim Ordinance No. 08-146) and Interim Ordinance No. 08-156 be terminated.

ISSUE BEFORE COUNCIL:

Staff respectfully requests the Council consider adopting Ordinance No. 08-160, An Ordinance Terminating the Moratoria Declared by Ordinances No. 08-123 (Extended by Ordinance 08-146) and 08-156 that Imposed Moratoria on Certain Development Activity within the City. A public hearing is not required for terminating the moratoria.

FINDINGS:

The Ordinance terminating the moratoria imposed by Interim Ordinances Nos. 08-123 (extended by Ordinance No. 08-146) and 08-156 is being proposed based on the following findings:

- The MNDNR has communicated that review of the City's proposed shoreland regulations amendments is nearly complete.
- The City will soon begin its Comprehensive Plan update process, which will allow the City to rebalance the future land use plan in a manner consistent with the 2040 forecast and update its Staging Plan to establish specific targets/dates for development within later stages.

OPTIONS:

The Council may:

- Adopt Ordinance No. 08-160 as proposed.
- Make amendments to Ordinance No. 08-160 and adopt as amended.
- Not adopt Ordinance No. 08-160.

RECOMMENDATION:

Staff recommends that the Council adopt Ordinance No. 08-160

“Move to adopt Ordinance No. 08-160- An Ordinance Terminating the Moratoria Declared by Ordinances Nos. 08-123 (Extended by Ordinance No. 08-146) and 08-156 that Imposed Moratoria on Certain Development Activity within the City”

ATTACHMENTS:

- Ordinance No. 08-160

**CITY OF LAKE ELMO
COUNTY OF WASHINGTON
STATE OF MINNESOTA**

ORDINANCE NO. 08-160

**AN ORDINANCE TERMINATING THE MORATORIA DECLARED BY
ORDINANCES NOS. 08-123 (EXTENDED BY ORDINANCE NO. 08-146) AND 08-
156 THAT IMPOSED MORATORIA ON CERTAIN DEVELOPMENT
ACTIVITY WITHIN THE CITY**

WHEREAS, on July 7, 2015, the City Council (the “Council”) of the City of Lake Elmo (the “City”) adopted Ordinance No. 08-123, pursuant to its authority under Minnesota Statutes Section 462.355, subdivision 4, which established a 12 month moratorium on the consideration and/or approval of any residential and related use or mixed-use subdivision or residential and related use or mixed-use development project within the State 1, 2, or 3 Staging Areas as identified in the Lake Elmo Comprehensive Plan with certain exceptions (“Ordinance No. 08-123”); and

WHEREAS, Ordinance No. 08-123 was adopted as a result of the City receiving a draft of the 2040 regional forecast from the Metropolitan Council that would reduce the number of households and total community population by a substantial margin from the 2030 forecast as part of the City’s 2015 System Statement and the City wished to undergo a planning process and adopt an interim growth management strategy in order to rebalance the future land use plan and guide residential development in a manner consistent with the 2040 forecast; and

WHEREAS, because the City’s shoreland regulations were under review by the Minnesota Department of Natural Resources (the “DNR”), on July 5, 2016, the Council adopted Ordinance No. 08-146, An Interim Ordinance Extending the Moratorium on Residential Development within the Stage One Development Area and All Development Activity within the Stage Two and Three Development Areas as Described by the Lake Elmo Comprehensive Plan (“Ordinance No. 08-146”) pursuant to the extension authority in Minnesota Statutes Section 462.355, subdivision 4 (c)(1); and

WHEREAS, because there were properties that are in the Shoreland District that were not included in the moratorium because they were outside of the Stage 1, 2, and 3 development areas and because the City’s shoreland regulations were still under review by the DNR, on October 18, 2016, the Council adopted Ordinance No. 08-156, An Interim Ordinance Authorizing Continuance of a Study of the City’s Shoreland Regulations and Imposing a Moratorium on Development Activity within the Shoreland District (“Ordinance No. 08-156”); and

WHEREAS, the DNR has communicated that the review of the City’s shoreland regulations is nearly complete; and

WHEREAS, the City will soon begin its Comprehensive Plan update process, which will allow the City to rebalance the future land use plan in a manner consistent with the 2040 forecast and update its Staging Plan to establish specific targets and dates for development within later stages; and

NOW, THEREFORE, based on the foregoing, the City Council of the City of Lake Elmo does ordain:

SECTION 1. FINDINGS.

1. In light of the DNR's review of the City's shoreland regulations being nearly complete and the City beginning its Comprehensive Plan update process, it is hereby found and determined by the City that the areas described in Ordinances Nos. 08-123 and 08-156 no longer need to be subject to a moratorium.

2. It is hereby declared that the areas described in Ordinances Nos. 08-123 and 08-156 are no longer subject to the moratoria imposed by those ordinances. City staff shall henceforth accept and process applications and regulate development activity in accordance with the City's shoreland regulations and other relevant City ordinances and regulations.

SECTION 2. EFFECTIVE DATE. This Ordinance shall be effective upon its legal passage and publication.

SECTION 3. ADOPTION DATE. This Ordinance No. 08-160 was adopted on this 20th day of December, 2016, by a vote of ____ Ayes and ____ Nays.

LAKE ELMO CITY COUNCIL

Mike Pearson, Mayor

ATTEST:

Julie Johnson, City Clerk

This Ordinance No. 08-160 was published on the ____ day of _____, 2016.