



MAYOR AND COUNCIL COMMUNICATION

DATE: October 4, 2016

REGULAR

ITEM #: 18

MOTION

AGENDA ITEM: Moratorium Issue

SUBMITTED BY: Sarah Sonsalla, City Attorney

REVIEWED BY: Kristina Handt, City Administrator
Stephen Wensman, Planning Director

BACKGROUND:

The City received an inquiry from a person who owns property that she is unable to develop at this time because it is subject to the moratorium that was imposed by the City on July 22, 2015 that was subsequently extended by the City. The City also received a letter from the property owner's attorney. If you recall, in July of 2016, the City extended the moratorium because the City's shoreland regulations had been significantly revised and been sent to the Department of Natural Resources ("DNR") for review. The shoreland regulations affect the use and development of properties within the area that is subject to the moratorium and that was the City's reason for the extension of the moratorium. If this was the City's reason for the moratorium extension, the property owner questioned why doesn't the moratorium apply to not only the properties within the Shoreland District that are in the Stage 1, 2 or 3 development area but also to other Shoreland District properties?

After receiving the inquiry from the property owner, City staff did find that it is true that there are properties within the Shoreland District that are not subject to the moratorium. The reason that these properties were not subject to the moratorium was because they were not located in the Stage 1, 2 or 3 development areas, which are the areas to which the moratorium applies. Even though these properties were not originally subject to the moratorium, it is City staff's opinion that they should also be subject to a moratorium on development because they are similarly situated or, alternatively, the moratorium should be lifted so that all of these properties are being treated the same and are able to be developed.

ISSUE BEFORE COUNCIL:

Does the City Council wish to adopt an interim ordinance (moratorium) on development activity that would apply to properties that are currently not within the Stage 1, 2, or 3 development areas but within the Shoreland District so that all properties within the Shoreland District are being treated the same? Or, alternatively, does the City Council wish to lift the moratorium on the properties within the Stage 1, 2 or 3 development areas so that all properties are being treated the same and are able to be developed?

PROPOSAL DETAILS/ANALYSIS:

That because the reason for the moratorium extension is to allow the City to be able to complete the adoption of the revised shoreland regulations, all properties that are within the Shoreland District should be subject to the same restrictions on development as the properties that are within the Stage 1, 2 and 3 development areas. In order to make these properties subject to the same restrictions, the City would need to adopt an interim ordinance (moratorium) that restricts development on properties that are in the Shoreland District. Although an initial interim ordinance may be for a period of up to one year, a one year period may not be necessary in this case, as the moratorium on the Stage 1, 2 and 3 development areas will expire 120 days following the City's receipt of the DNR's review of the City's shoreland regulations. The interim ordinance could be drafted in such a way that it would expire at the same time as the original moratorium.

If the Council does not wish to adopt a moratorium that restricts development on properties that are in the Shoreland District, it could lift the moratorium that is currently in place so that all properties are able to be developed.

Either one of these options would achieve the desired objective of treating all properties within the Shoreland District the same with respect to development.

RECOMMENDATION:

The City Council has three options:

1. Direct staff to prepare an interim ordinance (moratorium) on development activity that would apply to all properties within the Shoreland District;
2. Direct staff to prepare an ordinance repealing the moratorium on development on the properties that are within the Stage 1, 2 or 3 development areas; or
3. Do not take any action.

It is recommended that the City Council choose either Option 1 or Option 2.