

**SULTAN CITY COUNCIL
AGENDA ITEM COVER SHEET**

ITEM NO: Public Hearing - 1
DATE: March 13, 2008
SUBJECT: Ordinance No. 981-08 imposing a moratorium
CONTACT PERSON: Deborah Knight, City Administrator

ISSUE:

The issue is to hold a public hearing and take comment on the City's proposal to impose a moratorium on the acceptance of and processing of applications for subdivisions under Sultan Municipal Code 16.28.250 through 16.28.390, and 16.28.470, planned unit developments under Sultan Municipal Code chapter 16.10, rezones under Sultan Municipal Code chapter 21.10; and annexations under any method.

Agenda Item A-1 includes details and the revised draft moratorium for Council consideration. Attachment B is a red-lined version that shows changes from the original draft moratorium before Council on February 28, 2008.

The revised draft clarifies the situations where the moratorium would not apply, and makes the moratorium effective immediately upon adoption – with a corresponding declaration of emergency.

STAFF RECOMMENDATION:

Hold a public hearing and take comment on the City's proposal to impose a moratorium on the acceptance of and processing of applications for subdivisions under Sultan Municipal Code 16.28.250 through 16.28.390, and 16.28.470, planned unit developments under Sultan Municipal Code chapter 16.10, rezones under Sultan Municipal Code chapter 21.10; and annexations under any method.

ATTACHMENT

A- Ordinance No. 981-08

CITY OF SULTAN
Sultan, Washington

ORDINANCE NO. 981-08

AN ORDINANCE OF THE CITY OF SULTAN, WASHINGTON IMPOSING A MORATORIUM ON THE ACCEPTANCE OF AND PROCESSING OF APPLICATIONS FOR SUBDIVISIONS UNDER SMC 16.28.250 THROUGH 16.28.390, AND 16.28.470, PLANNED UNIT DEVELOPMENTS UNDER SMC CHAPTER 16.10, REZONES UNDER SMC CHAPTER 21.10; AND ANNEXATIONS UNDER ANY METHOD.

WHEREAS, RCW 36.70A.390, 35A.63.220, and other lawful authority give the Sultan City Council ("Council") the authority to enact moratoria; and

WHEREAS, the Central Puget Sound Growth Management Hearings Board (the "Board") has considered Case No. 06-3-0003 (*Fallgatter V*), Case No. 06-3-0034 (*Fallgatter VIII*), and 07-3-0017 (*Fallgatter IX*), and found the City of Sultan's Capital Facilities Plan ("CFP") and Transportation Improvement Plan ("TIP") noncompliant with the Growth Management Act ("GMA") and invalid, and also found the City noncompliant with the GMA for failing to complete its review and update of development regulations required by RCW 36.70A.130(1)(b); and

WHEREAS, the City received the Board's Final Decision and Order in *Fallgatter IX* invalidating the CFP on September 6, 2007; and

WHEREAS, at a Compliance Hearing on February 7, 2008, the Board instructed the City to advise the Board if the City would consider the adoption of a moratorium to prevent vesting of development applications in the absence of a valid CFP; and

WHEREAS, it is necessary, in order to preserve the public health, safety, and welfare of City residents, and the City budget, to prevent certain development approvals in the City until the appropriate planning and legislative action can be completed in accordance with the Board's Orders; and

WHEREAS, it is the intent of the Council to lift this moratorium at such time as the Board rescinds its determination of invalidity;

NOW, THEREFORE, it is ordained by the City Council of the City of Sultan, Washington as follows:

Section 1. Moratorium imposed. A moratorium is hereby imposed. From and after the first day after the effective date of this Ordinance, the planning director shall not accept and the City shall not process applications for subdivisions under SMC 16.28.250 through 16.28.390 and 16.28.470, for planned unit developments under SMC 16.10; for rezones under SMC 21.10; and for annexations under any method.

Section 2. Clarification of Nonapplicability. This moratorium does not apply to:

(a) applications for short subdivisions under SMC 16.28.010 through 16.28.240;

(b) applications for those permits identified in the Growth Management Act at RCW 36.70A.302(3)(b), as set out below:

- (i) permit for construction by any owner, lessee, or contract purchaser of a single-family residence for his or her own use or for the use of his or her family on a lot existing before September 6, 2007, except as otherwise specifically provided in the board's order to protect the public health and safety;
- (ii) A building permit and related construction permits for remodeling, tenant improvements, or expansion of an existing structure on a lot existing before September 6, 2007; and
- (iii) A boundary line adjustment or a division of land that does not increase the number of buildable lots existing before September 6, 2007;

(c) applications for development that vested before September 6, 2007, including related construction permits for those vested applications;

(d) applications for development that do not require a certificate of concurrency for approval.

Section 3. Duration. A public hearing shall be held not later than six months following the date of adoption by the Council, to consider the moratorium imposed and to determine whether to continue the moratorium, modify it or rescind it, and at which time, if the moratorium is continued or modified, to adopt findings of fact justifying the Council's decision. Unless continued, modified, or rescinded as a result of the public hearing, this moratorium shall be effective for a period of six months from the effective date of this Ordinance.

Section 4. Severability. If any section, sentence, clause, phrase, or other portion or provision of this Ordinance or its application to any person or project is, for any reason, declared invalid, illegal or unconstitutional in whole or in part by any court or agency of competent jurisdiction, the balance of this Ordinance shall be unaffected and shall remain in full force and effect.

Section 5. Effective date. The City Council hereby finds and declares that an emergency exists which necessitates that this Ordinance become effective immediately in order to preserve the public welfare and to prevent the potential for vesting of development for which capital facilities may not be provided.

Section 6. Declaration of emergency. The City Council hereby declares for the public interest, safety and welfare reasons set forth above, that an emergency exists necessitating that this Ordinance take effect immediately upon its passage.

PASSED by the City Council and APPROVED by the Mayor this ____ day of _____, 2008.

By _____
CAROLYN ESLICK, Mayor

ATTEST:

By _____
LAURA KOENIG, City Clerk

Approved as to form:

By _____
Kathy Hardy, City Attorney

Published: _____, 2008