

**SULTAN CITY COUNCIL
AGENDA ITEM COVER SHEET**

ITEM NO: A-1

DATE: January 28, 2010

SUBJECT: Adoption of Supporting Findings for Moratorium adopted by Ordinance 1070-09;
Accessory Dwelling Unit Applications
SMC 16.25

CONTACT PERSON: Robert Martin, Community Development Director

ISSUE:
Consider draft findings and Ordinance 1071-10, (**Attachment A**).

STAFF RECOMMENDATION:

If, after the public hearing on this item (Agenda Item H-1) the Council intends to extend the life of the moratorium on acceptance of Accessory Dwelling Units under Sultan Municipal Code (SMC) 16.25, then Council should review the draft findings provided in **Exhibit A** of **Attachment A**, modify as appropriate, and adopt Ordinance 1071-10. To meet the 60-day time line, Council will conduct first reading and adopt on first reading at this meeting.

DISCUSSION:

RCW 35A.63.220 and 36.70A.390 allow adoption of a moratorium without a public hearing, but require a public hearing and adoption of findings within 60 days of the date of adoption of the moratorium.

The Council adopted an emergency moratorium on December 10, 2009. This moratorium, adopted by Ordinance 1070-09, prohibits staff from accepting applications for accessory dwelling units under Sultan Municipal Code (SMC) 16.25.

Accessory Dwellings are second, usually smaller, residences on a single family residential lot. There are standards that such units must meet before an application can be approved. The property owner must occupy one of the residences. The code allows for more than one accessory dwelling if the lot is of sufficient size.

Without a public hearing and adoption of findings in support of the moratorium adopted on December 10, 2009, the moratorium on applications for Accessory Dwelling Units will expire on February 8, 2010. There is no regular council meeting date between this meeting and February 8 at which Council could

An ordinance adopting findings is provided as **Attachment A**.

ALTERNATIVES:

1. Determine not to adopt Ordinance 1071-10, thereby terminating the moratorium on acceptance of Accessory Dwelling Unit Applications on February 8, 2010.
2. Direct staff to provide alternatives to continuation of the moratorium for consideration at a subsequent meeting.

3. Schedule a special meeting prior to February 8, 2010 to conduct second reading of Ordinance 1071-10 or to take alternative action prior to expiration of the currently adopted moratorium.

RECOMMENDATION:

If, after the public hearing on this item (Agenda Item H-1) the Council intends to extend the life of the moratorium on acceptance of Accessory Dwelling Units under Sultan Municipal Code (SMC) 16.25, then Council should review the draft findings provided in **Exhibit A** of **Attachment A**, modify said findings as appropriate, and adopt Ordinance 1071-10. To meet the 60-day time line, Council will conducting first reading and adopt on first reading at this meeting.

ATTACHMENTS:

Attachment A: Draft Ordinance 1071-10 including Exhibit A, Proposed Findings

CITY OF SULTAN
Sultan, Washington

ORDINANCE NO. 1071-10

AN ORDINANCE OF THE CITY OF SULTAN, WASHINGTON ADOPTING FINDINGS IN SUPPORT OF ORDINANCE 1070-09 AS REQUIRED BY RCW 36.70A.390 and RCW 35A.63.220; COFIRMING ADOPTION OF A MORATORIUM ON THE ACCEPTANCE OF AND PROCESSING OF APPLICATIONS FOR ACCESSORY DWELLING UNITS UNDER SMC 16.25.010 THROUGH 16.25.040.

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

WHEREAS, the City Council adopted an emergency moratorium without a public hearing as provided by RCW 36.70A.390 and 35A.63.220; and

WHEREAS, RCW 36.70A.390 and 35A.63.220 require the City Council to hold a public hearing on the prior-adopted moratorium within 60 days of the adoption and to “immediately after the public hearing” adopt findings of fact justifying its action in adopting the moratorium ; and

WHEREAS, the City Council has conducted a public hearing on January 28, 2010, and said date is within 60 days of December 10, 2009, thereby meeting the timing requirements of RCW 36.70A.390 and 35A.63.220; and

WHEREAS, it is the intent of the Council to affirm and justify its action on December 10, 2009 in adoption of Ordinance 10-70-09, which Ordinance established a moratorium on acceptance and processing of applications for accessory dwelling units under SMC 16.25.010 through 16.25.040;

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

Section 1. Findings Adopted. Findings in support of Ordinance 1070-09 are hereby adopted as as findings of fact to support the moratorium as presented on “Exhibit A”.

Section 2. Moratorium Affirmed. The moratorium adopted by Ordinance 1070-09 is hereby affirmed and Ordinance 1070-09 shall remain in effect for its specified duration under the conditions contained therein.

Section 3. 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.

PASSED by the City Council and APPROVED by the Mayor this ____ day of _____, 2010.

By _____
CAROLYN ESLICK, Mayor

ATTEST:

By _____
LAURA KOENIG, City Clerk

Approved as to form:

By _____
Margaret King, City Attorney

Published: _____, 2010

ORDINANCE 1071-10

EXHIBIT A

Finding A: SMC 16.25.010 through 16.25.040 authorizes accessory dwellings on any residential lot without regard for the person intended to occupy the accessory structure.

Finding B: It is the Council's statement of understanding and intent that adoption of SMC 16.25.010 through 16.25.040 was to allow temporary placement of accessory residences for health hardship specific to a particular occupant, with removal of the structure when the person subject of the application no longer required its use.

Finding C: SMC 16.25.010 through 16.25.040 allows multiple residential units, including more than one accessory dwelling unit, on single family residential lots anywhere in the city.

Finding D: The Council has recently become aware of the residential density increase that could result from widespread application for accessory dwelling units.

Finding E: The residential density increase that could result from widespread application for accessory dwelling units is not in the best interest of the community due to the conflicts that such close proximity could produce.

Finding F: The character of single family residential neighborhoods is important to the community. SMC 16.25.010 through 16.25.040 potentially permits a significant increase in the density of existing single family residential neighborhoods.

Conclusion 1: The language that was adopted in SMC 16.25.010 through 16.25.040 does not address the intent for which the Council authorized its creation. It is the legislative determination of the Council that adoption of SMC 16.25.010 through 16.25.040 was erroneous.

Conclusion 2: SMC 16.25.010 through 16.25.040 Increases in density allowed by the current provisions of SMC 16.25.010 through 16.25.040 do not contribute to the quality of life expected by residents of existing single family residential areas.

Conclusion 3: The public interest is best served by repeal of SMC 16.25.010 through 16.25.040.

Conclusion 4: The moratorium adopted by Ordinance 1070-09 should remain in effect until further legislative action is taken to address repeal of SMC 16.25.010 through 16.25.040.