

ORDINANCE NO. 430

**AN ORDINANCE OF THE CITY OF UNIVERSITY PLACE, WASHINGTON,  
EXTENDING UNTIL MAY 1, 2005, THE MORATORIUM AND INTERIM ZONING  
CONTROL PREVENTING CONSTRUCTION ABOVE 30 FEET OR WITHIN A FIVE-  
FEET SETBACK AREA ON THE DAY ISLAND SOUTH SPIT**

WHEREAS on May 3, 2004, by Ordinance No. 418, the City Council adopted an emergency moratorium and interim zoning control with respect to building permits and other land use applications that would result in construction above thirty feet or within a five-foot setback area on the Day Island South Spit; and

WHEREAS on June 7, 2004, the City Council held a public hearing and, by Resolution No. 449, adopted Findings of Fact which supported imposition of a moratorium; and

WHEREAS, the City has embarked upon reviewing the issue; considering bulk regulations on the Day Island South Spit that more adequately protect the public health, safety and welfare; and addressing concerns raised by the Fire District; and

WHEREAS, meetings have been scheduled with all affected parties and the City to resolve remaining matters pertaining to potential hazards and safety issues, and such meetings will occur beyond the current moratorium period which will expire on November 1, 2004; and

WHEREAS, pursuant to RCW 36.70.795, a public hearing was held on October 18, 2004, at which time the City Council considered the matter and adopted Findings; NOW THEREFORE,

**THE CITY COUNCIL OF THE CITY OF UNIVERSITY PLACE, WASHINGTON, DOES ORDAIN  
AS FOLLOWS:**

Section 1. Adoption of Findings of Fact.

A. The City Council finds that the conditions on the Day Island South Spit at the time the moratorium was adopted are still in effect, namely as follows:

1. On February 26, 2001, the City Council adopted amendments to Title 19, UPMC, the City's zoning code. Among those amendments were changes to the manner in which height is measured and setback requirements in the Day Island South Spit.
2. The zoning code amendments changed the manner in which height is determined by measuring from the street centerline instead of measuring according to lot elevation, and the amendments changed setbacks from an eight-foot side yard setback to zero and from a 25-foot front yard setback to zero.
3. Upon public comment at numerous city council meetings in 2003 regarding zoning issues on the Day Island South Spit, the City held a roundtable discussion meeting on December 1, 2003 and a study session on December 15, 2003. At the study session, several issues were identified as needing further consideration, including height limits, setbacks, nonconforming structures, public safety issues, environmental impacts and flooding.
4. While researching these issues, staff contacted the Fire Marshall. In response, the Fire Marshall provided a letter on January 14, 2004, discussing the fire and life safety impacts at the Day Island South Spit.
5. The close proximity of the homes on the Day Island South Spit to the road on the west, combined with the lack of any access on the east seriously impacts fire fighting and rescue efforts.

6. The close proximity of the homes on the Day Island South Spit to one another increases the danger that, if a fire were to occur in one residence, it would spread quickly to the other homes. The close proximity of the homes increases the danger to life and safety.
7. The narrow road and close proximity of homes make it impossible to use the ladder truck for rescue purposes and more difficult to use the 34-foot ladder. In order to work from a fully extended 34-foot ladder, the bottom of the ladder must be safely placed approximately nine feet from the building, which effectively reduces the effective height of the ladder.
8. Increased height of the homes on the Day Island South Spit could increase the danger to life and safety.
9. The moratorium and interim zoning control are necessary until the Planning Commission and City Council can consider more permanent regulations to prevent further fire and safety problems on the Day Island South Spit. A final decision cannot be reached before November 1, 2004.
10. City staff have scheduled meetings with all affected parties and with the Planning Commission and City Council to resolve remaining matters pertaining to potential hazards and safety issues, and such meetings will occur beyond the current moratorium period which expires on November 1, 2004.

B. An extension of the moratorium is needed to allow for a complete review of all public safety issues and to respond to Council and public comments raised at the October 18 public hearing.

C. The Council finds that a delay in lifting the moratorium will allow the City to better consider the best public safety practices for building on the Day Island South Spit.

Section 2. Additional Consideration. The City Council adopts the following plan to allow complete review and consideration of an Ordinance regarding zoning control, building permits and other land use applications that would result in construction above thirty feet or within a five-foot setback area on the Day Island South Spit:

A. Additional meetings with affected parties and with the Planning Commission and City Council shall be held to resolve remaining matters pertaining to potential hazards and safety issues.

B. Staff will make available for Council consideration a final recommendation and any proposed changes in 2005.

C. The Planning Commission and City Council shall hold such additional hearings or meetings as may be necessary to complete review of proposed code.

Section 3. Extend the Moratorium Adopted in Ordinance No. 418. The moratorium adopted in Ordinance No. 418 shall be extended to May 1, 2005.

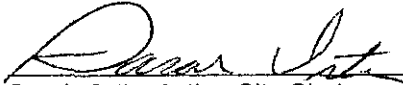
Section 4. Severability. If any provision of this Ordinance or its application to any person or circumstance is held invalid, the remainder of the Ordinance or the application of the provision to other persons or circumstances by a court of competent jurisdiction shall not be affected.

Section 5. Publication and Effective Date. A summary of this Ordinance consisting of its title shall be published in the official newspaper of the City. This Ordinance shall be effective five (5) days after its publication.

**PASSED BY THE CITY COUNCIL ON OCTOBER 18, 2004.**

  
Ken Grassi, Mayor

ATTEST:

  
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Sarah Ortiz, Acting City Clerk

APPROVED AS TO FORM:

  
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Janean Polkinghorn, Interim City Attorney

Published: October 21, 2004  
Effective Date: October 26, 2004

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