

ORDINANCE NO. 418

AN ORDINANCE OF THE CITY OF UNIVERSITY PLACE, WASHINGTON, ADOPTING A MORATORIUM AND INTERIM ZONING CONTROL ON THE FILING OF, ACCEPTANCE OF, AND PROCESSING OF DEVELOPMENT, BUILDING PERMIT OR OTHER LAND USE APPLICATIONS THAT WOULD RESULT IN THE CONSTRUCTION OF ANY NEW BUILDING OR THE EXPANSION OF ANY EXISTING BUILDING ON THE SOUTH DAY ISLAND SPIT THAT EITHER EXCEEDS THIRTY FEET IN HEIGHT OR ENCROACHES ON A SIDE YARD SETBACK OF LESS THAN FIVE FEET PER SIDE, EXEMPTING DEVELOPMENT AND BUILDING PERMIT APPLICATIONS THAT ARE PENDING UPON THE EFFECTIVE DATE OF THIS ORDINANCE, PROHIBITING EXPANSION OF SUCH USES, SETTING THE DATE FOR A PUBLIC HEARING ON THE MORATORIUM AND INTERIM ZONING CONTROL, PROVIDING THAT THE MORATORIUM SHALL BE IN EFFECT UNTIL NOVEMBER 1, 2004, PROVIDING THAT A VIOLATION OF THE MORATORIUM AND INTERIM ZONING CONTROL IS A GROSS MISDEMEANOR SUBJECT TO A \$5,000 FINE AND ONE YEAR IN JAIL, DECLARING AN EMERGENCY, AND ESTABLISHING AN IMMEDIATE EFFECTIVE DATE.

WHEREAS, the University Place Fire District has expressed concerned about its ability to protect the public safety and health on the south spit of Day Island due to lack of adequate side yard setbacks which make it difficult to prevent a fire from spreading from building to building; and

WHEREAS, the University Place Fire District has expressed concern that the inadequate roadway on the South Day Island spit and heat and smoke could result in persons being trapped on the south side of any fire that does occur on the South Day Island spit; and

WHEREAS, the University Place Fire District has expressed concern that its personnel would not be able to use truck mounted ladders to assist in the rescue of any persons caught in the upper stories of any buildings that were on fire on the South Day Island spit; and

WHEREAS, the University Place Fire District has expressed concern that hand carried ladders are only 34 feet tall and they need to be set back a sufficient distance from the base of burning structures to allow firefighters to safely attempt the rescue of persons trapped on the upper floors of any buildings on the south spit of Day Island; and

WHEREAS, the City Council has asked the Planning Commission to revisit and suggest revisions to the bulk regulations (height and setbacks) for the South Spit of Day Island, and

WHEREAS, the Planning Commission has an exceptionally busy work schedule and will not be able to revisit the bulk regulations for structures on the south spit of Day Island until the Fall of 2004 at the earliest; and

WHEREAS, the City Council believes that it is urgent to enact a moratorium and interim zoning control on an interim basis until such time as the Planning Commission and Council can consider more permanent regulations to prohibit any future structures that would exacerbate the existing problems that the Fire District has identified on the South Spit of Day Island;

WHEREAS, the City needs time to consider bulk regulations on the South Spit of Day Island that more adequately protect the public health, safety and welfare and which address the concerns raised by the Fire District and the City Council has therefore decided to impose a moratorium and interim zoning control in order to study the issue and to adopt appropriate regulations, NOW, THEREFORE,

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

Section 1. Moratorium and Interim Zoning Control Established. From and after the effective date of this ordinance, the City hereby adopts a moratorium and interim zoning control and shall not allow the filing of, acceptance of, and processing of development, building permit or other land use applications that would result in the construction of any new building or the expansion of any existing building on the South Day Island Spit that either exceeds thirty feet in height or encroaches on a side yard setback of less than five feet per side. As used in this ordinance, the South Day Island Spit means that are of the City of University Place identified at the Day Island "0" Setback Area as depicted in the map in Appendix A of Title 18 of the University Place Municipal Code.

Section 2. Exemption – Vested Rights. Applications which are legally vested as of the effective date of this ordinance shall continue to be processed as provided in the University Place Municipal Code and according to the land use and building regulations in effect on the date of vesting.

Section 3. Public Hearing. Pursuant to RCW 36.70A.390 and RCW 35A.63.220, a public hearing shall be set by the City Clerk for a date within than sixty (60) days of the date of passage of this ordinance, for the purpose of taking testimony and adopting written findings and conclusions justifying the moratorium established by this ordinance.

Section 4. Effective Period of Moratorium and Interim Zoning Control. The moratorium and interim zoning control adopted by this ordinance shall be come effective immediately upon adoption and shall remain in effect through November 1, 2004, subject to the adoption of findings and conclusions as provided in Section 3 above. This moratorium shall also terminate upon the adoption by the City Council of revised regulations pertaining to side yard setbacks and building heights for the South Day Island spit. This moratorium may be extended as provided in RCW 36.70A.390 and RCW 35A.63.220.

Section 5. Penalty for Violation. Any person violating any provision of this ordinance shall have committed a gross misdemeanor and upon conviction thereof, shall be punished by a fine in an amount not to exceed \$5,000, or imprisonment for a term not to exceed one year, or by both such fine and imprisonment.

Section 6. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 7. Effective Date and Declaration of Emergency. The City Council hereby finds and declares that an emergency exists, pursuant to RCW 23.21C110 and WAC 197-11-880 which necessitates that this ordinance become effective immediately in order to avoid an imminent threat to the public health, safety and welfare to prevent an imminent danger to public or private property and an imminent threat of serious environmental degradation. This ordinance shall become effective immediately upon passage. The City Clerk is directed to publish a summary of this ordinance, consisting of the title, at the earliest possible publication date.

PASSED BY THE CITY COUNCIL ON MAY 3, 2004.

Ken G. Grassi
Ken Grassi, Mayor

ATTEST:

Catrina Craig
Catrina Craig, CMC, City Clerk

APPROVED AS TO FORM:

Timothy X. Sullivan
Timothy X. Sullivan, City Attorney

Passed by the City Council:

Published:

Effective Date:

UNOFFICIAL DOCUMENT