

RESOLUTION 2009 - 73

ORIGINAL

**A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF SUNNYSIDE, WASHINGTON, ADOPTING
FINDINGS OF FACT SUPPORTING IMPOSITION OF A
MORATORIUM IMPLEMENTED BY ORDINANCE
2009-16, AS AMENDED BY ORDINANCE 2009-18,
PERTAINING TO DEVELOPMENT OF
COMPREHENSIVE AIRPORT LAND USE PLAN**

WHEREAS, the City Council of the City of Sunnyside adopted Ordinance 2009-16 on August 5, 2009, implementing and imposing a moratorium upon the acceptance of applications for or issuance of any permit or approval of zoning or changes in classification as those terms are defined and used in the City's municipal code and as those terms are commonly understood, for parcels listed in Exhibit "A" attached to Ordinance 2009-16; and

WHEREAS, the City Council of the City of Sunnyside adopted Ordinance 2009-18 on August 24, 2009, amending Section 3 of Ordinance 2009-16 to provide that the moratorium shall continue in effect until and including February 2, 2010, unless repealed or extended by the City council after subsequent public hearing and entry of appropriate findings of fact pursuant to RCW 35A.63.220 and 36.70A.390; and amending Section 6 to provide that the Public Hearing is set to occur on Monday, September 14, 2009, at 6:30 p.m. at the City Council Chambers at the Sunnyside Law & Justice Center, 401 Homer Street, Sunnyside, Washington; and

WHEREAS, pursuant to Section 6 of such Ordinance and RCW 35A.63.220 and RCW 36.70A.390, the City Council must hold and conduct a public hearing on such moratorium and receive a progress report from the administration concerning

development of an appropriate regulatory ordinance, and thereafter adopt findings of fact; and

WHEREAS, a public hearing for such purposes was held on September 14, 2009 pursuant to notice duly published; and

WHEREAS, the City Council, having considered the administrative report and all comment, testimony and evidence presented at the public hearing, hereby adopts the following findings of fact:

1. In conformance with the State Growth Management Act, the City is required to adopt, review, develop and implement a comprehensive plan, as well as a zoning code and land use regulations consistent with that plan; and
2. In conformance with RCW 36.70.547, the City is mandated to develop a comprehensive airport land use plan, to wit:

Every county, city, and town in which there is located a general aviation airport that is operated for the benefit of the general public, whether publicly owned or privately owned public use, shall, through its comprehensive plan and development regulations, discourage the siting of incompatible uses adjacent to such general aviation airport. Such plans and regulations may only be adopted or amended after formal consultation with: Airport owners and managers, private airport operators, general aviation pilots, ports, and the aviation division of the department of transportation. All proposed and adopted plans and regulations shall be filed with the aviation division of the department of transportation within a reasonable time after release for public consideration and comment. Each county, city, and town may obtain technical assistance from the aviation division of the department of transportation to develop plans and regulations consistent with this section;

Any additions or amendments to comprehensive plans or development regulations required by this section may be adopted during the normal course of land-use proceedings.

This section applies to every county, city, and town, whether operating under chapter 35.63, 35A.63, 36.70, [or] 36.70A RCW, or under a charter; and;

3. The current Comprehensive Plan of the City of Sunnyside does not include a comprehensive airport land use plan in conformity with RCW 36.70.547, including but not limited to, a comprehensive plan and development regulations, discouraging the siting of incompatible uses adjacent to such general aviation airport; and
4. In the future, the City could receive applications for zoning or change of zone application which would permit uses of adjacent lands incompatible with operations of the city's general aviation airport; and
5. The Municipal Code, Comprehensive Plan, existing airport plans and the city's development standards do not currently adequately address the various impacts to the city's general aviation airport and the public health, safety and general welfare that these uses present; and in fact, the city currently has a draft Airport Improvement Plan (AIP) being developed. This plan will identify a series of improvements for the airport property itself. These improvements, some of which may have the potential to increase use at the facility, also need to be factored into land uses surrounding the airport; and
6. The Planning Commission and City Council have reviewed and considered a draft airport overlay zoning district ordinance and held public hearings thereon and received evidence and comments from staff, the public and local business. The City needs more time to further review this evidence and comments; to further consult with airport owners and managers, private airport operators, general aviation pilots, ports, and the aviation division of the department of transportation regarding this evidence and comments; to revise the draft airport overlay zoning district ordinance, after considering such evidence and comments and consultations; to comply with any applicable requirements of the State Environmental Policy Act and; and to hold hearings on any revised ordinance; and
7. The City needs more time to consider properly and carefully the location, types and development standards best designed to address uses of land adjacent to the airport; and
8. The City council finds that the City's land use integrity and the State Growth Management Act planning process will suffer significant harm unless applications for licenses, permits and approvals for zoning and changes of zone classification are halted until the planning process is completed; and
10. The City council finds that protection of the health, safety and welfare supports establishment of a moratorium on applications for licenses, permits and approvals as set forth in Ordinance 2009-16; and

11. RCW 35A.63.220 and 36.70A.390 authorize the City to adopt a moratorium on development permits and approvals for zoning and changes in zone classifications for properties described within Ordinance 2009-16 and thereafter to hold a public hearing on the moratorium within 60 days of the commencement of the moratorium; and
12. The City Council of the City of Sunnyside finds that enactment of Ordinance 2009-16 constituted an emergency, due to inquiries regarding permitting and/or licensing and zoning requirements for land use within properties adjacent to, or in the near vicinity of, the city's general aviation airport and the fact that the current city code and regulations do not adequately address the potential health, safety, environmental, zoning, infrastructure, law enforcement and community impacts associated with the type, number and siting of land uses located and likely to be proposed for location within the ambit of the airport properties designated in Ordinance 2009-16; and
13. This emergency is further supported by the unnecessary burden and infringement placed on businesses and other persons desiring to process applications for zoning and/or change of zone classification under a regulatory process that is ill-suited to review the health, safety, environmental, zoning, infrastructure, law enforcement, and community issues involved in such applications; and
14. A moratorium on the acceptance, processing and issuance of permits for zoning and/or change of zone classification is necessary to enable the City Council to formulate a comprehensive airport land use plan and permitting process which addresses impacts, mitigation requirements, zoning for potential siting, and other requirements or standards to protect and benefit the public interest; and
15. The potential adverse effects on the public health, property, safety and welfare, as discussed above, justify the declaration of an emergency; and

WHEREAS, the City Council, having made the above findings of fact, finds and determines that such moratorium should continue in effect until terminated in accordance with the provisions of Ordinance 2009-16, as amended by Ordinance 2009-18;

NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE CITY COUNCIL OF THE CITY OF SUNNYSIDE, WASHINGTON, as follows:

SECTION 1. The Findings of Fact set forth in the Preamble above are adopted and confirmed as the Findings of Fact.

SECTION 2. The moratorium adopted, imposed and implemented pursuant to Ordinance 2009-16, as amended by Ordinance 2009-18, shall remain in effect in accordance with the terms of such Ordinance.

SECTION 3. The City Manager is directed to prepare and present to the City Council a comprehensive regulation and land use plan pertaining to the regulation of land uses and incompatible land uses for properties lying within the ambit of the described properties in Ordinance 2009-16, and to report to the City Council at each regular meeting of the City Council on the progress in developing such plan during the tendency of this moratorium.

SECTION 4. This Resolution shall be effective upon passage, approval and signatures hereon in accordance with law.

PASSED this 14th day of September, 2009.



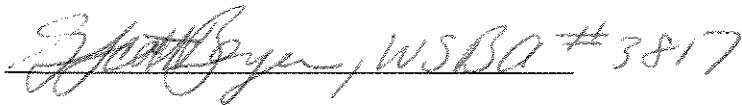
PABLO GARCIA, MAYOR

ATTEST:


DEBORAH A. ESTRADA, CITY CLERK

APPROVED AS TO FORM:

Menke Jackson Beyer Ehlis & Harper, LLP
Attorneys at Law



WSBA # 3817