

ORDINANCE NO. 157B

AN ORDINANCE RENEWING AN ESTABLISHED MORATORIUM ON RECEIPT AND PROCESSING OF DEVELOPMENT PERMIT APPLICATIONS PERTAINING TO BUILDING, SUBDIVISION, AND RELATED LAND USE DEVELOPMENT ACTIVITIES IN THE SEAVIEW DUNAL AREA LYING NORTH OF THE CITY OF ILWACO CITY LIMITS, SOUTH OF THE CITY OF LONG BEACH CITY LIMITS, AND WEST OF THE SEAVIEW URBAN GROWTH AREA

WHEREAS, the Board of Pacific County Commissioners adopted the Pacific County Comprehensive Plan on October 13, 1998, and subsequently adopted Ordinance No. 149 – Subdivision, and Ordinance No. 153 – Land Use, to effectuate said plan; and

WHEREAS, the Pacific County Comprehensive Plan anticipated, and Ordinance Nos. 149 and 153 permit, low intensity development to occur in the rural lands portion of the Seaview dunes located north of the city limits of the City of Ilwaco, south of the city limits of the City of Long Beach, and west of the Seaview Urban Growth Area; and

WHEREAS, the Comprehensive Plan and development regulation provisions allowing development in this area were established, in part, in response to anticipated provision of municipal sewer treatment collection services by the Seaview Sewer District; and

WHEREAS, in accordance with Growth Management Act requirements, the Seaview Sewer District recently retracted its service area to exclude any further service extensions into the dunal area west of the Seaview Urban Growth Area; and

WHEREAS, the State of Washington, as conveyed through the Washington State Parks and Recreation Commission, has expressed a renewed interest in preserving the Seaview Dunes natural resources and view-shed; and

WHEREAS, residents of the Seaview community have expressed interest in preserving the Seaview dunal environment, and have voiced a desire to pursue landscape level preservation and transfer of development rights options as an alternative to litigation on a parcel by parcel basis; and

WHEREAS, recent market factors have magnified the pressure to develop this area at the furthest western most building location (200' east of the 1968 Seashore Conservation Line); and

WHEREAS, recent applications to subdivide and develop in the Seaview dunes have resulted in protracted and expensive litigation and development uncertainty; and

WHEREAS, the competing and disparate pressures to develop or preserve this area have created intergovernmental and community tension, disharmony, and inefficiency; and

WHEREAS, Pacific County staff, Washington State Parks and Recreation staff, and representatives of the Seaview community formed a Technical Advisory Committee (TAC) that was sanctioned by the Board of Pacific County Commissioners to develop a pragmatic means of relocating development potential eastward on an equivalent value basis with the goal of preserving as much of the Seaview Dunes as possible while avoiding a legal taking and attempting to keep property owners financially whole while improving the certainty of the development permitting process; and

WHEREAS, the TAC developed a series of options and delivered a preferred alternative to the Planning Commission that was based upon a technical analysis of equivalent property values, analysis of infrastructure costs, evaluation of critical areas impacts and mitigation requirements, assessment of comparative development costs, determination of development potential, and extensive market research and analysis; and

WHEREAS, the TAC preferred alternative was analyzed by the Pacific County Planning Commission, in conjunction with preparation of a Draft and Final Supplemental Environmental Impact Statement (SEIS) and a Regional General Permit Application (RGP) to the U.S. Army Corps of Engineers; and

WHEREAS, the Planning Commission reviewed this preferred alternative, the record developed by the TAC, the SEIS, and RGP, and following public testimony, recommended that the preferred alternative be adopted as a package contingent upon issuance of the RGP; and

WHEREAS, the RGP has been submitted to the U.S. Army Corps of Engineers, and is anticipated to be issued prior to the end of 2006; and

WHEREAS, this second moratorium extension is needed because implementing the preferred alternative requires issuance of a Regional General Permit (RGP) which is beyond the authority of this Board to approve; and

WHEREAS, the RGP permit application has been submitted to the U.S. Army Corps of Engineers, the Corps has assigned staff to review this application, the review has been initiated, and it is anticipated that this review may take six months; and

WHEREAS, the package of regulations and the ability to avoid a legal taking and the attempt to keep property owners whole is primarily dependent upon issuance of the RGP with acceptable conditions; and

WHEREAS, the task has proven to be sufficiently complex that the securing of the RGP was not feasible in the initial ten month moratorium period; and

WHEREAS, lifting of the development moratorium may allow for development applications to vest that would undermine and make impossible the issuance of the RGP, and thus render the preferred alternative unattainable; and

WHEREAS, extension of this moratorium will not compromise property owners' ability to develop their property, as the area east of the UGA is not subject to the moratorium, and the Army Corps individual permit review process exceeds the moratorium period; and

WHEREAS, Chapters 36.70.795 and 36.70A.390 RCW allow the Board to adopt a moratorium on the processing of development permit applications in the event of an emergency; and

WHEREAS, the adoption of this emergency ordinance is exempt under WAC 197-11-880, SEPA; however a Supplemental Environmental Impact Statement was developed, the findings of which support this action; and

WHEREAS, the ability to receive and process land use applications in the Seaview dunes during the time period in which the RGP is being reviewed and issued would frustrate the goals and policies of Chapter 36.70A RCW, and as such constitutes an emergency; and

WHEREAS, Ordinance No. 157A expires June 30, 2006; and

WHEREAS, the public hearing for this action was advertised in the Chinook Observer on May 31st and June 7th, 2006; and

WHEREAS the previous statements are hereby deemed to be findings of fact justifying the extension of Ordinance No. 157/157A, and the findings adopted in support of the adoption of Ordinance No. 157/157A are hereby adopted by reference, NOW THEREFORE

BE IT ORDAINED BY THE BOARD OF PACIFIC COUNTY COMMISSIONERS THAT IN ACCORDANCE WITH RCW 36.70.795 AND RCW 36.70A.390, THAT THE FOLLOWING BE ENACTED:

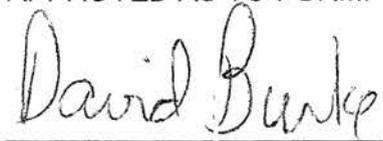
1. A moratorium is placed on receipt and/or processing of development permit applications subject to Ordinance Nos. 149 and 153 as they pertain to development proposals located north of the City of Ilwaco city limits, south of the City of Long Beach city limits, and west of the Seaview Urban Growth Area boundary lying 200 feet west of the Western Boundary of Upland Ownership (aka 200 feet west of the 1889 line).
2. A moratorium is also placed on the receipt and/or processing of comprehensive plan amendments involving intensification of development in the area north of the City of Ilwaco city limits, south of the City of Long Beach city limits, and west of the Seaview Urban Growth area, unless such an amendment is an outcome of the planning exercise promoted herein and results in relocation of development within or immediately adjacent to the Seaview Urban Growth Area as it exists on the date of adoption of this ordinance.

3. Said moratorium listed above in No. 1 shall not be imposed on land that lies within an approved Subdivision or Short Subdivision and for which a connection to the Seaview Sewer District for provision of sewer collection services has already been purchased, secured, or provided.
4. The Board hereby directs staff from the Department of General Administration and Department of Community Development to work with the Washington State Department of Ecology, Washington State Parks and Recreation Commission, Pacific County Planning Commission, interested parties, and the general public to develop and submit proposed rules to amend and/or replace pertinent sections of Ordinance Nos. 149 and/or 153, and other development regulations (including the RGP) as they pertain to development in this area.
5. Ordinance No 157B shall take effect immediately.
6. Ordinance No. 157B shall remain in effect until repealed or until December 20, 2006, whichever shall come sooner.
7. If a Regional General Permit with suitable terms and/or new permanent rules pertaining to development within the Seaview Dunes cannot be adopted by December 20, 2006, the Board may take the necessary steps under RCW 36.70.795 and RCW 36.70A.390 to extend this moratorium.

PASSED by the members of the Board of Pacific County Commissioners meeting in continued session and following an advertised public hearing this 20th day of June, 2006, at South Bend, Washington, then signed by its membership and attested to by its Clerk in authorization of such passage.

3 YEA; 0 NAY; 0 ABSTAIN; and 0 ABSENT.

APPROVED AS TO FORM:

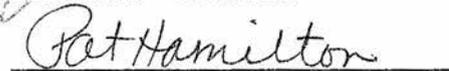


 David Burke - Prosecuting Attorney

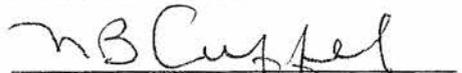
BOARD OF COUNTY
 COMMISSIONERS
 PACIFIC COUNTY, WASHINGTON



 Jon Kaino - Chairman

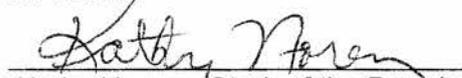


 Pat Hamilton - Commissioner



 Norman B. Cuffel, - Commissioner

ATTEST:



 Kathy Noren - Clerk of the Board