



City of Kirkland
Planning and Building Department
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MEMORANDUM

Date: March 19, 2024

To: Kurt Triplett, City Manager

From: Adam Weinstein, Planning & Building Director
Denise Russell, Planning Supervisor
Stephanie Croll, Senior Assistant City Attorney

Subject: PUBLIC HEARING – EMERGENCY MORATORIUM ON THE
ISSUANCE OF PERMITS FOR NEW DWELLING UNITS ON GOAT
HILL, File No. CAM24-00115

RECOMMENDATION

That the City Council conducts a public hearing on the City's emergency moratorium on the issuance of permits for new dwelling units on Goat Hill, provides feedback on the proposed scope of work for the moratorium study (included in this memo), and adopts the attached Ordinance affirming the moratorium, which contains Findings of Fact to support the moratorium.

BACKGROUND

On February 6, 2024, City Council adopted an emergency moratorium on the issuance of permits for new dwelling units on Goat Hill, Ordinance O-4870. The purpose of the moratorium is to temporarily halt the development of new dwelling units to allow the City time to evaluate the life, health and safety concerns posed by such development and consider adoption of regulations to mitigate or minimize those concerns.

Goat Hill is both a landform and an informal subdistrict of the greater Finn Hill Neighborhood¹, which was annexed into the City of Kirkland in 2011. The area comprises approximately 66 acres of steep terrain with commanding views south over Juanita Bay and Lake Washington. Goat Hill is generally bounded by Juanita Heights Park on the north; properties adjacent to 89th Avenue NE on the west; NE Juanita Drive on the south; and properties adjacent to 91st Place NE and 91st Lane NE on the east.²

Goat Hill is a neighborhood with significant physical and environmental constraints. The streets in Goat Hill are steep, narrow, and wind sharply around corners in many places, creating pinch points with limited opportunities for vehicle turnoffs. There are only two primary access points to Goat Hill – one on the south at NE 116th Place and one on the east at NE 120th Street. These limited access points together with the area's narrow, twisting streets make day-to-day and emergency access to the neighborhood difficult.

¹ A small easterly portion of Goat Hill is located in the Juanita Neighborhood.

² The Goat Hill area identified in KMC 24.02.065 – Goat Hill Boundary and Zoning Map 24.02.065.

The area also contains significant landslide hazards, several perennial and intermittent streams, and other critical environmental areas, including wetlands. Approximately 97 percent of Goat Hill consists of moderate or high landslide hazard zones. After Finn Hill was annexed into Kirkland in 2011, the City undertook a basin study of the area, which concluded that Goat Hill continues to face challenges related to stormwater drainage issues, steep topography, and the preponderance of groundwater reaching the surface.

Because of Goat Hill's central location in Kirkland and excellent views, it has been a popular place for development. Development on Goat Hill, however, presents many challenges, including the fact that additional development generates additional traffic—both immediate construction-related traffic and the resulting traffic from additional dwelling units—that is exacerbated by limited entry points and narrow roads. At the same time, due to City requirements, construction projects are required to proportionally correct some of the structural deficiencies in Goat Hill by widening roadway frontages and installing modern stormwater infrastructure. Thus, ultimately, the City hopes to benefit the road and stormwater system on Goat Hill through incremental improvements required by development.

Although some other areas of Kirkland exhibit similar access constraints, Goat Hill is unique due to its combination of steep topography, limited access, and heightened stormwater and geologic concerns. The City has sought to address these constraints in several ways, including the following:

- the adoption of new City-wide geologic hazard regulations in 2018 that require the preparation of peer-reviewed geologic studies for projects in landslide hazard and/or seismic areas;
- implementing special construction traffic requirements for development projects on Goat Hill;
- the construction of stormwater management infrastructure to handle runoff and surface water;
- the adoption of new threshold levels for Categorical Exemptions issued pursuant to the State Environmental Policy Act (SEPA) in 2022 that require environmental review for projects resulting in the development of five or more dwelling units on Goat Hill. State law exempts four or fewer dwelling units from SEPA. In the rest of the City, environmental review is not required unless the development proposes 21 or more dwelling units; and
- land purchases on Goat Hill to preserve as open space.

Even accounting for these previous attempts to mitigate the impacts of development on Goat Hill, serious concerns continue to exist about the ability of Goat Hill to accommodate additional development. The City recently received correspondence from community members on Goat Hill concerned about the risks of new development, including a petition from residents to “Halt the Development of Forest Land into Residential Homes” at the Wu Property (located just south of Juanita Heights Park).

MORATORIUM

State law authorizes local governments to adopt a moratorium or interim zoning ordinance to address urgent development, environmental, and other health and safety considerations. A moratorium gives legislative bodies time to study issues of concern and, if warranted, adopt new regulations to address those issues while holding off on issuing permits. In 2022, the City adopted a moratorium to further study and craft regulations for the operation of autonomous personal delivery devices.

Moratoria are regulated statewide by Revised Code of Washington (RCW) Sections 35A.63.220 and 36.70A.390, and locally by Kirkland Zoning Code (KZC) Section 135.30. Legislative bodies that adopt a moratorium without holding a public hearing need to hold a public hearing within no more than 60 days after adoption of the moratorium. Moratoria are established in 6-month increments, but may be withdrawn sooner than 6 months if the matters are resolved. Moratoria may be extended in 6-month increments, but only after first holding a public hearing and the entry of specific findings of fact to support the extension.

The moratorium adopted by Council for Goat Hill on February 6, 2024, O-4870, extends from February 6, 2024, through August 6, 2024. It applies to the issuance of permits for new dwelling units on Goat Hill (except permits for which applications were deemed complete prior to adoption of the moratorium, as described below), including building and all related permits (e.g., grading permits). “Dwelling units” in the KZC are defined in Section 5.250 as:

One (1) or more rooms or structures providing complete, independent living facilities for one (1) family, including permanent provisions for living, sleeping, cooking and sanitation.

Dwelling units thus include standard single-family units, apartments, and any form of middle housing (Accessory Dwelling Units, cottages, carriage homes, duplexes, and triplexes). While the acceptance of applications for review and/or issuance of permits for new dwelling units is prohibited under the moratorium, the issuance of permits for projects such as repairs, renovations/additions, franchise utility work and associated electrical/plumbing/mechanical permits is permitted. Capital Improvement Program projects are not subject to the moratorium.

The moratorium places a temporary ban on the acceptance of applications for review and/or issuance of permits for new dwelling units. Complete permit applications received prior to adoption of the moratorium are not impacted by the moratorium and will continue to be processed; also, construction may occur for already-issued permits. Since the moratorium was adopted, and as of the date this staff report was prepared, the City has rejected one building permit application for a new dwelling unit on Goat Hill.

The initial moratorium, O-4870, is set to expire on April 6, 2024. The moratorium is for protection of the public health, safety, and welfare, and protection of property. Thus, this ordinance should go into effect immediately to ensure the continuity of the moratorium pursuant to RCW 35A.13.190 (“No ordinance shall take effect until five days after the

date of its publication unless otherwise provided by statute or charter, except that an ordinance passed by a majority plus one of the whole membership of the council, designated therein as a public emergency ordinance necessary for the protection of public health, public safety, public property or the public peace, may be made effective upon adoption[.]”). Emphasis added. This ordinance therefore requires five “yes” votes.

SCOPE OF WORK FOR STUDY

Following is the scope of work for the moratorium study that staff proposes to undertake over the next several months, including a summary of code amendment concepts and policy changes that could be pursued to address development and environmental constraints on Goat Hill.

1. **Project Initiation.** To initiate the project, staff established a project website with information about the Goat Hill moratorium, notice of upcoming meetings, and links to other documents.³ The website also contains an email listserv that community members interested in Goat Hill can sign up for to receive project and meeting updates. To spread the word about the project, staff have also installed a large public notice sign at Juanita Beach Park, mailed a notice of the project and upcoming hearing to Goat Hill property owners, and advertised the project on social media and the City’s development listserv (comprising property developers and associated design and engineering professionals). Staff have also reached out specifically to development applicants on Goat Hill and discussed the project with the Master Builders Association of King and Snohomish County (MBAKS). Staff have had extensive contact with existing residents of Goat Hill, and some community members have posted links to the City’s Goat Hill website and other related information on their own internal neighborhood discussion pages.
2. **Site Visit.** On March 4, the City’s Associate Planner, Planning Supervisor, and Planning & Building Director visited Goat Hill, driving and walking every street in the subarea (and walking trails in Juanita Heights Park) to observe and document existing conditions.
3. **Kick-off Meeting with the Community.** On March 22, 2024, staff held a meeting with interested community members to review the purpose of the moratorium, get feedback on the moratorium draft scope of work, and discuss next steps and answer questions. Staff will summarize public comments from this meeting at the Public Hearing.
4. **Review of Existing Information.** A significant amount of environmental and development information exists for Goat Hill, a geographic area that has been studied extensively. This task, which has already been initiated, involves gathering geotechnical reports, wetland/stream studies, traffic and access studies, Fire Department plans, stormwater and utility plans, and other

³ Goat Hill Moratorium website:

<https://www.kirklandwa.gov/Government/Departments/Planning-and-Building/Planning-Projects/Goat-Hill-Development-Moratorium>

documents, and reviewing them for information to inform potential future code amendments and policy changes. As part of this task, staff would also meet with members of other departments and divisions to learn more about Goat Hill.

5. **Research Code Amendment/Policy Changes.** Staff is proposing to research the following code or policy change concepts, which may or may not be ultimately pursued by City Council:
 - a. *Reducing development allowances on Goat Hill.* Staff will explore eliminating or reducing current zoning allowances on Goat Hill (or parts of Goat Hill), including allowances for Accessory Dwelling Units (ADUs), cottages, duplexes, and triplexes, and the ability to build on very steep slopes (currently the City allows construction on slopes of any gradient as long as the development can be safely engineered). A secondary code amendment concept could involve establishing a square footage maximum for new residential units, similar to the current square footage maximums established for reasonable use applications (under which new houses are limited to 1,500 square feet in size). The intent would be to reduce the impact of development on Goat Hill, both during the construction period and when housing units are occupied.
 - b. *Road improvement district.* A road improvement district could be explored that would allow for the financing of roadway improvements that primarily benefit property owners in Goat Hill. Roadway improvements, including potential emergency access, motor vehicle, and bike and pedestrian improvements (including the two pedestrian connections identified on the Citywide Transportation Connections Map⁴) could be financed and paid for over a period of time through special tax assessments on Goat Hill properties. We would note that creation of a special district is a major undertaking and any establishment of such a district would need to be phased-in at a later date as a separate City work program item. However, staff could bring back to Council additional information on the establishment of a special district and an implementation plan over the next several months.
 - c. *Construction metering and practices.* As noted in the Background section of this memo, the City already implements special construction requirements for Goat Hill projects. These requirements pertain to pre-construction meeting procedures, construction sequencing, traffic control, work hours in the roadway, erosion control provisions, and professional geotechnical services. This task would look at expanding these requirements to reduce the impacts of local construction projects, including metering projects so only a certain number can be constructed

⁴ Kirkland Citywide Transportations Map:
<https://www.kirklandwa.gov/Government/Departments/Public-Works-Department/Transportation/Plans-and-Studies-Transportation-Division/Citywide-Transportation-Connections-Map>

within any given period of time (to reduce construction traffic and other short-term impacts), limiting hours of construction, and requiring special construction-period reporting (e.g., reporting on erosion practices and traffic). Staff would also evaluate whether existing right-of-way improvement requirements for new development should be expanded. Staff may also evaluate and expand on requirements for "Wet Season" construction activity, a component of surface water management and erosion control for development projects.

- d. *Policies regarding land clearing.* The City has been mindful of projects that entail land clearing, but which then languish without being developed, particularly in areas with steep slopes like Goat Hill. Currently, the City has the ability to require development applicants to bond for needed stormwater and other site improvements (such that the City can build improvements if needed), but this process is very cumbersome. This task would involve looking at other options to mitigate the impacts of development projects that end up getting stalled. The following code chapters will be evaluated for additional Goat Hill-specific requirements: Kirkland Zoning Code (KZC) Chapter 110 (Required Public Improvements); Kirkland Municipal Code (KMC) Chapter 15 (Water and Sewer [plus Surface Water]); KMC Chapter 19 (Streets and Sidewalks); and KMC Chapter 29 (Land Surface Modification).
 - e. *New emergency access requirements/apparatuses.* The Fire Department has indicated that a critical challenge on Goat Hill is the ability of aid vehicles to reach the area. Currently, response times to the upper reaches of Goat Hill are expected to be minutes longer than in other parts of the City. This task would involve exploring physical development requirements, such as establishing vehicle pullouts, or evaluating different types of aid vehicles that can better access the steep roads on Goat Hill.
6. **Community, Planning Commission, and Council Engagement.** Staff will engage the community (including the development community) to gain feedback on the code amendments and policy concepts discussed above. Staff will also hold check-ins with the Planning Commission and Council to gain guidance on the project. We anticipate that the public engagement for this project will primarily encompass in-person and virtual meetings. Work products will also be posted on the project webpage.
 7. **Draft Code Amendments/New Policies.** Staff will draft any code amendments or policy changes identified from the process discussed above. Environmental review pursuant to the State Environmental Policy Act (SEPA) will be conducted as needed.
 8. **Public Hearings and Final Adoption.** Code amendments and new policies will be reviewed with the Planning Commission (as applicable) for a recommendation on adoption, prior to being brought to the City Council for consideration of final adoption. Any adopted amendments will need to be implemented, and those

tasks would be built into future iterations of the Planning Work Program (or other departmental work programs).

NEXT STEPS

Based on any amendments to the scope of work provided by Council, and assuming adoption of Findings of Fact for the moratorium, staff will continue working on the project and engaging with the community.

Attachments: Ordinance