

POULSBO DISTRIBUTION SCHEDULE

ORDINANCE NO. 2023-11

SUBJECT: Moratorium on Development of C-4 an BP Properties in Olhava

CONFORM AS TO DATES & SIGNATURES

- Filed with the City Clerk: 08/09/2023
- Passed by the City Council: 08/09/2023
- Signature of Mayor
- Signature of City Clerk
- Publication: 08/14/2023
- Effective: 08/19/2023
- Recorded: _____

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Kati Diehl
Deputy City Clerk

08/10/2023
Date

ORDINANCE NO. 2023 –11

AN ORDINANCE OF THE CITY OF POULSBO, WASHINGTON, ADOPTED PURSUANT TO RCW 35A63.220 and RCW 36.70A.390; IMPOSING A TWELVE-MONTH MORATORIUM ON THE ACCEPTANCE AND PROCESSING OF CERTAIN APPLICATIONS FOR DEVELOPMENT OF C-4 AND BP ZONED PROPERTIES WITHIN THE OLHAVA MASTER PLAN; SETTING FORTH FINDINGS OF FACT IN SUPPORT OF THIS MORATORIUM; IMPOSING THE MORATORIUM; STATING THE EFFECT ON VESTED RIGHTS; PROVIDING FOR EXCLUSIONS; SETTING A PUBLIC HEARING TO BE HELD WITHIN 60 DAYS; AUTHORIZING INTERPRETIVE AUTHORITY; PROVIDING FOR SEVERABILITY; DECLARING AN EMERGENCY; SETTING THE DURATION; AND ESTABLISHING AN IMMEDIATE EFFECTIVE DATE.

WHEREAS, within the express terms of the Growth Management Act, the Washington State Legislature has specifically conferred upon the governing bodies of Washington cities the right to establish and adopt moratoria related to land uses; and

WHEREAS, the Olhava Master Plan (“Master Plan”) was approved in 1995 by City of Poulsbo (“City”);

WHEREAS, proposals to develop parcels within the Master Plan are reviewed in the context of the 1995 Master Plan, including the Environmental Impact Statement (EIS), mitigations, conditions of approval, and the subsequent Development Agreement, recorded 4/29/2004; and

WHEREAS, the Master Plan anticipated a mixture of residential, commercial and business park uses and allocated those uses a maximum amount of square footage (840,000 sq commercial floor area; 325,000 square feet business park floor area; 50,000 square feet college floor space; and 490 residential units) and these maximum amounts were identified within the Olhava Master Plan, Final EIS and Development Agreement; and

WHEREAS, the Master Plan was anticipated to be developed over a 10 year period, but currently continues to be developed; and

WHEREAS, all of the mitigation infrastructure improvements identified in the Final EIS and Development Agreement (e.g. roads, sewer system, stormwater controls, water system) have been constructed and the mitigation remaining is vested, paid but unused traffic impact fees for the remaining_undeveloped parcels; and

WHEREAS, all of the residential units have been allocated to properties, and

WHEREAS, the City has received a land use application proposal that exceeds the maximum amount of square footage allocated to the business park zoning, and will require an amendment to the master plan to be approved by the City Council in order to authorize exceeding the maximum amount of business park square footage allocated; and

WHEREAS, the Olympic College's Poulsbo Campus is located and subject to the Olhava Master Plan, Final EIS, and Development Agreement and the Board of Trustees for the Olympic College have announced plans to move its Nursing and Allied Health Division programs to Olympic College's Poulsbo Campus; and

WHEREAS, the existing Poulsbo Olympic College campus is anticipated to expand to 100,000 square feet of facilities between existing and proposed buildings, including five acres of vacant land south of the current campus and is within the Business Park zoning, which may exceed the maximum square footage for college use and would also exceed the maximum amount of business park square footage allowed by the Olhava Master Plan, Final EIS and Development Agreement; and

WHEREAS, the expansion of the college will also require an amendment to the Master Plan to authorize exceeding the maximum amount of square footage allocated to the business park zone and possibly the square footage amount allocated for college use in order to be approved by the City; and

WHEREAS, the State Legislature made significant amendments to the Growth Management Act during the 2022 and 2023 legislative session, that tasks cities to increase its housing capacity and plan for and accommodate housing affordable to all economic segments of the population; and

WHEREAS, the City prepared a Housing Action Plan in 2021 which identified strategies for increasing housing stock, and the City is currently in the process of updating its comprehensive plan scheduled for adoption by December 31, 2024 which will respond to the State Legislature's housing capacity increase requirements; and

WHEREAS, the Olhava Master Plan does not allow for any additional residential units beyond the original maximum of 490 units without an amendment to the Master Plan; and

WHEREAS, the Olhava Master Plan was drafted in 1995 and continues to be the primary document authorizing land use development within the master plan area; and

WHEREAS, the Olhava Master Plan is nearly 30 years old and no longer reflects the preferred land use development patterns and uses as established by the recent amendments to the Growth Management Act, as well as preferred by the City Council; and

WHEREAS, the City Council now desires to review the Olhava Master Plan to evaluate and consider the maximum square footage amounts, non-residential uses, and analyze opportunities for increasing housing capacity on Olhava Master Plan area's remaining, undeveloped parcels, in tandem with the City's 2024 Comprehensive Plan update process; and

WHEREAS, the City Council desires to review the Olhava Master Plan, Final EIS and Development Agreement to determine proper procedures for amendments or other options to modify maximum square footage amounts, uses and increased residential units; and

WHEREAS, the City possess land use jurisdiction and regulatory authority over the City's incorporated lands; and

WHEREAS, unless a moratorium on new applications for development of C-4 and BP properties in the Olhava Master Plan is adopted, vacant lands in the Master Plan could be developed prior to the City completing a thorough review of the Master Plan and the remaining properties to determine the uses that best meet the City's vision, as determined by the 2024 Comprehensive Plan update process; and

WHEREAS, the moratorium imposed herein promotes the public good and is necessary for the protection of public health, property, safety, and welfare. A public emergency exists requiring that the City's moratorium become effective immediately upon adoption.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF POULSO, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Findings of Fact. The recitals set forth above are hereby adopted as the City Council's initial findings of fact in support of the moratorium established by this ordinance. The City Council may, in its discretion, adopt additional findings after public hearing referenced in Section 5 below.

Section 2. Moratorium Imposed. As authorized by the police powers of the City as set forth, for example, in Article XI, Section 11 of the Washington State Constitution, and pursuant to statutory authority set forth, for example, in RCW 36.70A.390 and RCW 35A.63.220 and unless expressly excluded under Section 3 and Section 4 of this ordinance, the City hereby imposes a temporary moratorium, as described in this Section², for those properties requesting the following ("Permit Applications"):

All building permit applications or land use applications for development on vacant undeveloped property zoned Commercial (C-4) and Business Park (BP) within the Olhava Master Plan that have not received an approved land use permit from the City at the date of adoption of this moratorium. From and after the effective date of this ordinance, the City shall not accept new building permit applications and new land use applications for the development of vacant undeveloped property zoned C-4 or BP in the Olhava Master Plan and shall not process or approve any pending applications or issue any permits that are not vested under applicable law, except as provided in this ordinance.

Section 3. Effect on Vested rights. The moratorium imposed under Section 2 of this ordinance shall apply prospectively only and shall operate to prevent acceptance of Permit Applications submitted after the effective date of this ordinance. Nothing in this ordinance shall be construed to extinguish, limit, or otherwise infringe on any permit applicant's vested development rights as defined by state law and City of Poulsbo regulations, provided that such a permit applicant has filled a Permit Application before the effective date of this ordinance.

Section 4. Exclusions. Any property owner that has been issued a valid, unexpired land use permit pursuant to PMC 18.270 prior to the effective date of this ordinance may apply to modify said permit pursuant to PMC 19.90.040.B 1-4 and/or apply for any building permit for the approved land use and is not subject to this moratorium.

Section 5. Adoption of Work Plan. A work plan for the twelve-month period of this moratorium is hereby adopted and attached as Exhibit B to this ordinance.

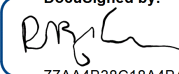
Section 6. Public Hearing. Pursuant to RCW 35A.63.220 and RCW 36.70A.390, the City Council shall hold a public hearing at a City Council meeting to be held at Poulsbo City Hall, 200 Moe Street, Poulsbo, Washington, on September 20, 2023 at 5:00 p.m., or as soon thereafter as the same may be heard. Public testimony shall be taken at the hearing and the City Council may, but shall not be obligated to, consider adopting further findings of fact justifying the moratorium after the close of such hearing.

Section 7. Interpretive Authority. The City of Poulsbo Director of Planning and Economic Development, or designee, is hereby authorized to issue official interpretations arising under or otherwise necessitated by this ordinance.

Section 8. Severability. Should any section, paragraph, sentence, clause, or phrase of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be preempted by state or federal law or regulation, such decision or preemption shall not affect the validity of the remaining portions of this ordinance or its application to other person or circumstances.

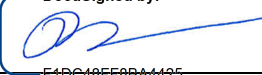
Section 9. Declaration of Emergency; Effective Date; Duration. This ordinance, as a public emergency ordinance necessary for the protection of the public health, public safety, public property, and public peace, shall take effect and be in full force immediately upon its adoption. Pursuant to *Matson v. Clark County Board of Commissioners*, 79 Wn. App. 641 (1995), non-exhaustive underlying facts necessary to support this emergency declaration are included in the "Whereas" clauses above, all of which are adopted by reference as findings of fact as if fully set forth herein. This moratorium shall take effect immediately, and shall remain effective for 12 months, unless terminated earlier by the City Council. Provided, that the Council may, at its sole discretion, renew the moratorium for one or more six-month periods in accordance with state law. This ordinance or a summary thereof consisting of the title shall be published in the official newspaper of the City.

APPROVED:

DocuSigned by:

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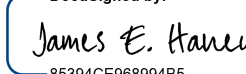
MAYOR, BECKY ERICKSON

ATTEST/AUTHENTICATED:

DocuSigned by:


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CITY CLERK, RHIANNON FERNANDEZ, CMC

APPROVED AS TO FORM BY THE
OFFICE OF THE CITY ATTORNEY:

BY DocuSigned by:

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OGDEN MURPHY WALLACE, PLLC

FILED WITH THE CITY CLERK: 08/09/2023
PASSED BY THE CITY COUNCIL: 08/09/2023
PUBLISHED: 08/14/2023
EFFECTIVE DATE: 08/19/2023
ORDINANCE NO. 2023-11

SUMMARY OF ORDINANCE NO. 2023-11
of the City of Poulsbo, Washington

On August 9, 2023, the City Council of the City of Poulsbo, Washington, approved Ordinance No. 2023-11, the main point of which may be summarized by its title as follows:

AN ORDINANCE OF THE CITY OF POULSBO, WASHINGTON, ADOPTED PURSUANT TO RCW 35A63.220 and RCW 36.70A.390; IMPOSING A TWELVE-MONTH MORATORIUM ON THE ACCEPTANCE AND PROCESSING OF CERTAIN APPLICATIONS FOR DEVELOPMENT OF C-4 AND BP ZONED PROPERTIES WITHIN THE OLHAVA MASTER PLAN; SETTING FORTH FINDINGS OF FACT IN SUPPORT OF THIS MORATORIUM; IMPOSING THE MORATORIUM; STATING THE EFFECT ON VESTED RIGHTS; PROVIDING FOR EXCLUSIONS; SETTING A PUBLIC HEARING TO BE HELD WITHIN 60 DAYS; AUTHORIZING INTERPRETIVE AUTHORITY; PROVIDING FOR SEVERABILITY; DECLARING AN EMERGENCY; SETTING THE DURATION; AND ESTABLISHING AN IMMEDIATE EFFECTIVE DATE.

The full text of this ordinance will be mailed upon request.

DATED this 9th day of August, 2023

DocuSigned by:







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CITY CLERK, RHIANNON FERNANDEZ CMC

EXHIBIT A: C-4 College Market Place and Business Park Moratorium

Effective: 07/19/2023

Legend

-  C-4 College Market Place
-  Parks
-  Office Commercial Industrial
-  Business Park
-  Light Industrial
-  Residential Low
-  Residential Medium
-  Residential High
-  C-3 SR305 Corridor
-  Olhava Master Plan
-  Olhava Moratorium Area
-  City Limits

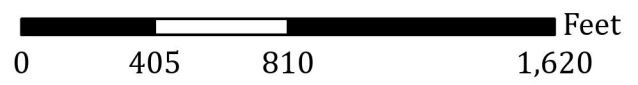
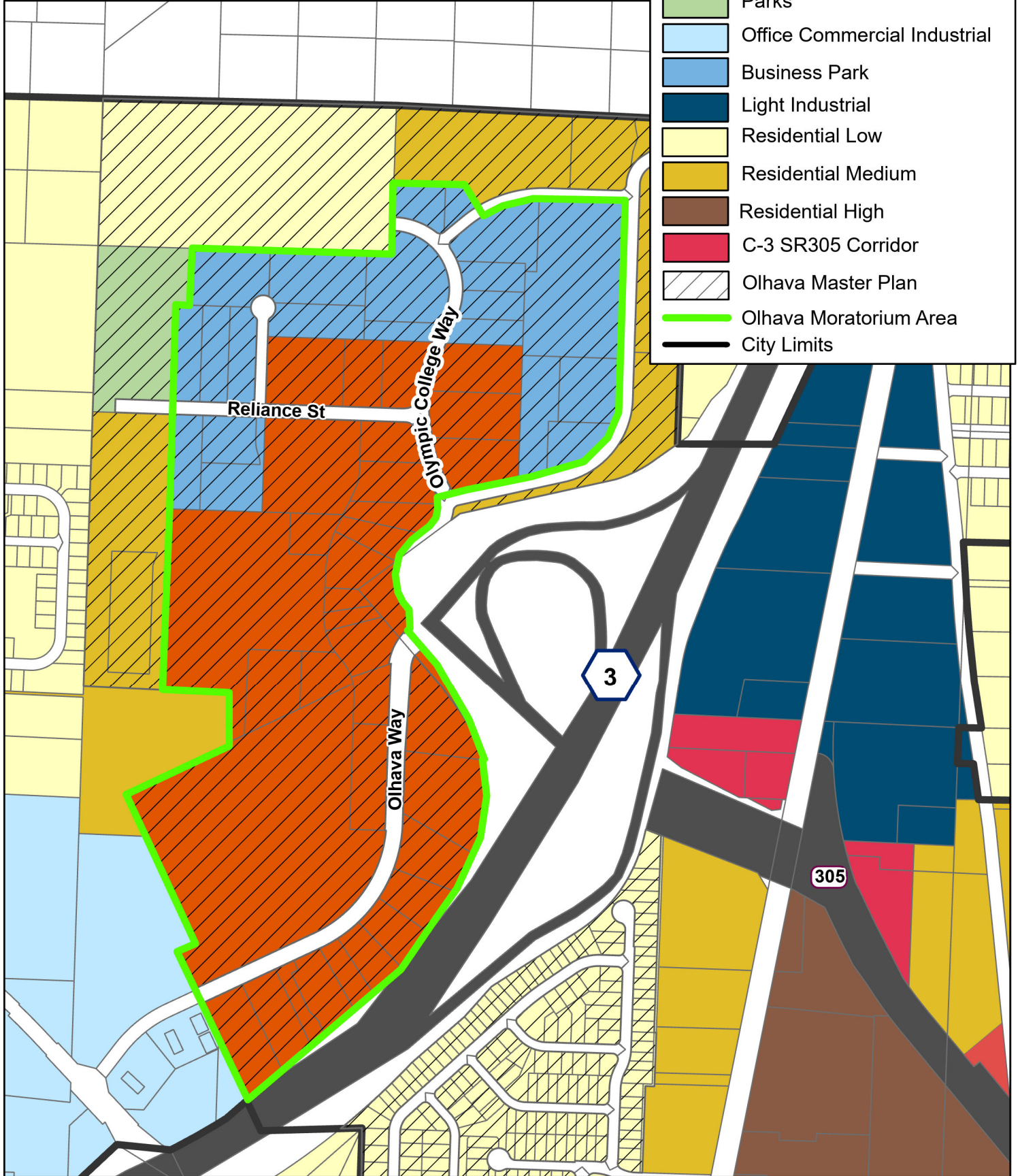


EXHIBIT B to Ordinance No. 2023 – 11

Olhava Moratorium, Vacant C-4 & Business Park Zoned Properties

WORK PLAN (August 9, 2023)

On August 9, the City Council imposed a twelve-month moratorium via Ordinance 2023-11 to prohibit all building permit applications or land use applications for development on vacant undeveloped property zoned Commercial (C-4): College MarketPlace and Business Park (BP) within the Olhava Master Plan that have not received an approved land use permit from the City at the date of adoption of this moratorium. From and after the effective date of this ordinance, the City shall not accept new building permit applications and new land use applications for the development of vacant undeveloped property zoned C-4 or BP in the Olhava Master Plan and shall not process or approve any pending applications or issue any permits that are not vested under applicable law, except as provided in this ordinance.

The initial interim control was for twelve months, or until July 19, 2024.

The City has developed the following Work Plan described below:

August - September, 2023

Identify undeveloped parcels and vested development rights under the Master Plan and Developers Agreement as well as allowances through the zoning code.

October - November, 2023

Engage affected property owners within the master plan and discuss development alternatives.

December 2023

Workshop with the City Council and determine preferred path forward.

January 2023

Re-engage affected property owners within the master plan and identify preferred alternative.

February – March, 2024

Discuss preferred alternative with legal staff.

April, 2024

Re-engage City Council (particularly new Council members) on discussions with property owners, legal staff and staff recommendations and determine council's preferred alternative.

May – August 2024

Pursue amendments to the master plan, developers' agreement and zoning code as appropriate as well as consider the sunseting of the master plan.