

**ORDINANCE NO. 3503**

**AN ORDINANCE OF THE CITY OF MOUNT VERNON, WASHINGTON ADOPTING AN UPDATED BUILDABLE LANDS AND LAND CAPACITY ANALYSIS AS APPENDIX LU-B WITHIN THE LAND USE ELEMENT OF THE COMPREHENSIVE PLAN, TO REPEAL THE 2005 BUILDABLE LANDS ANALYSIS THAT IS AN APPENDIX TO THE LAND USE ELEMENT OF THE COMPREHENSIVE PLAN, AND AMENDING THE TEXT WITHIN THE LAND USE ELEMENT TO REFLECT THE NEW CONCLUSIONS WITHIN THE BUILDABLE LANDS AND LAND CAPACITY ANALYSIS.**

**WHEREAS**, the Mount Vernon Comprehensive Plan has consistently been maintained in compliance with the Washington State Growth Management Act, as amended, since its initial adoption in 1995; and

**WHEREAS**, the Washington State Growth Management Act (GMA) requires the City of Mount Vernon to take legislative action to review and, if needed, revise its Comprehensive Plan and development regulations on a regular basis; and that following extensive public process the City Council adopted an updated and revised Comprehensive Plan and associated development regulations in January of 2006; and

**WHEREAS**, the open record public hearings of September 21, 2010 (before the Planning Commission) and October 13, 2010 (before the City Council) were preceded with appropriate notice, published in the Skagit Valley Herald on August 23, 2010; and,

**WHEREAS**, the notice of adoption of the proposed amendments has been duly transmitted in compliance with RCW 36.70A.106(1); and,

**WHEREAS**, the SEPA Threshold Determination of Non-significance, non-project action, was published on July 1, 2010; and,

**WHEREAS** the City Council finds that the attached revised Comprehensive Plan reflects the best interests of the citizens of the City of Mount Vernon, Washington; and,

**WHEREAS**, it is the intent of the City Council that the attached revised Comprehensive Plan shall serve as a future guide for anticipating and influencing the orderly and coordinated development of land and building uses within the City of Mount Vernon.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MOUNT VERNON WASHINGTON DO ORDAIN AS FOLLOWS:**

**Section One. FINDINGS OF FACT.** The City Council hereby adopts the recitals set forth above in their entirety; and also adopts the following findings of fact set forth below in their entirety:

- A. **PLANNING COMMISSION RECOMMENDATION ADOPTED.** The City Council adopts the Planning Commission's findings of fact and conclusions of law attached in their entirety.
- B. The City utilized the State Attorney General Advisory Memorandum: Avoiding Unconstitutional Takings of Private Property for evaluating constitutional issues, in conjunction with and to inform its review of the Ordinance. The City has utilized the process, a process protected under Attorney-Client privilege pursuant to law including RCW 36.70A.370(4), with the City Attorney's Office which has reviewed the Advisory Memorandum has discussed this Memorandum, including the "warning signals" identified in the Memorandum, with decisions makers, and conducted an evaluation of all constitutional provisions potentially at issue and advised of the genuine legal risks, if any, with the adoption of this Ordinance to assure that the proposed regulatory or administrative actions did not result in an unconstitutional taking of private property, consistent with RCW 36.70A.370(2).

**Section 2. CONCLUSIONS OF LAW.** The Mount Vernon City Council does hereby adopt the following conclusions of law:

- A. The 2005 Buildable Lands Analysis was adopted as an appendix (LU-B) to the City's Land Use Element of the Comprehensive Plan. The 2010 Buildable Lands and Land Capacity Analysis is an update to this earlier report.
- B. The Buildable Lands Analysis is an integral part of the Land Use Element of the Comprehensive Plan as it identifies the amount of land in each of the City's existing zoning designations that is either 1) Fully developed; or 2) Can be further developed. For zoning designations that allow residential dwelling units the analysis also quantifies the number of additional dwelling units that could potentially be constructed within each of these zones.
- C. The 2010 Buildable Lands and Land Capacity Analysis does use methodology that departs from that which was used in the 2005 report. However, the new methodology is reasoned, supported, and justified by the data gathered and referenced within the updated report.
- D. With the updated 2010 Buildable Lands and Land Capacity Analysis completed, the currently adopted 2005 version of this report needs to be removed from the Land Use Element of the Comprehensive Plan and replaced with the 2010 version. Text currently within the Land Use Element of the Comprehensive Plan also will need to be revised to reflect the new conclusions of the 2010 Buildable Lands and Land Capacity Analysis.
- E. The Planning Commission recommended that the Buildable Lands/Land Capacity Analysis update be docketed on February 3, 2009. The City Council then placed this item on the CEDD's docket with the approval of Resolution 783 on February 11, 2009. Both the Planning Commission meeting and the City Council hearing were noticed by publication in the Skagit Valley Herald on January 26, 2009.

F. The requirements for public participation in the development of this amendment as required by the State Growth Management Act (GMA) and by the provisions of City of Mount Vernon Resolution No. 491 have all been met.

G. The proposed amendment is found to be in compliance with the State Growth Management Act.

**Section Three. REPEALER.** The following document is hereby repealed in its entirety:

A. Buildable Lands Analysis dated 2005, that was adopted as Appendix LU-B, within the Land Use Element of the Comprehensive Plan.

**Section Four. Exhibit A,** the 2010 Buildable Lands and Land Capacity Analysis, attached hereto and incorporated herein in its entirety by this reference is hereby adopted and shall be included in the Land Use Element of the Comprehensive Plan of the City of Mount Vernon labeled as Appendix LU-B.

**Section Five. Exhibit B,** attached hereto and incorporated herein in its entirety by this reference is hereby adopted and shall be included in the Land Use Element of the Comprehensive Plan under the subsection within the Land Use Element that is entitled 'Buildable Lands Analysis'. The existing text within this subsection shall be repealed and replaced as shown within the document attached and labeled as Exhibit B.

**Section Six. SEVERABILITY.** In the event any term or condition of this ordinance or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other terms, conditions, or applications of this ordinance which can be given effect without the invalid term, condition, or application. To this end, the terms and conditions of this ordinance are declared severable.

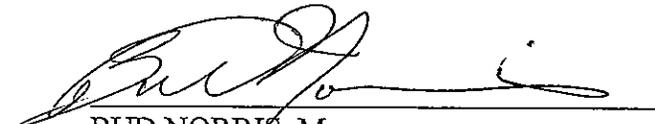
**Section Seven. PLAN UPDATED.** City staff are hereby directed to complete preparation of the final Comprehensive Plan Document, including correction of any typographical or OTHER edits consistent herewith.

**Section Eight. EFFECTIVE DATE.** This ordinance shall be in full force and effect five days after its passage, approval and publication as provided by law.

PASSED AND ADOPTED this 13<sup>th</sup> day of October, 2010.

SIGNED AND APPROVED THIS 29 day of October, 2010

  
ALICIA D. HUSCHKA, Finance Director

  
BUD NORRIS, Mayor

Approved as to form:

  
KEVIN ROGERSON, City Attorney

Published November 4, 2010