

CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 5627

AN ORDINANCE imposing a moratorium on the acceptance of applications for the issuance of Land Use Permits, Licenses or Approvals for any change in use for Auto Row, as defined in this ordinance, declaring a public emergency, and establishing an immediate effective date.

WHEREAS, the Bellevue City Council has initiated the Wilburton/NE 8th Corridor study, to examine incentives to revitalize this area and provide additional direction for the General Commercial District city-wide; and

WHEREAS, the study area includes the area known as Auto Row, described generally as the area along both sides of 116th Avenue NE, bounded by NE 8th Street, and the extension of SE 3rd Street from its current terminus to 116th Avenue NE, which area has one of the largest concentration of auto dealerships in the City; and

WHEREAS, auto retail is an important component of the City's economic development strategy, and one of the defined objectives of the Wilburton/NE 8th study is to strengthen auto retail use; and

WHEREAS, there are a number of uses allowed by the Land Use Code in that portion of Auto Row zoned General Commercial (GC) and Community Business (CB) that would eliminate auto retail uses in that area; and

WHEREAS, in April, 2005 the City approved a Master Plan for redevelopment of the Overlake Hospital Medical Campus (OHMC) adjacent to the Wilburton/NE 8th study area, envisioning significant additional development on the campus; and

WHEREAS, significant changes in use along Auto Row could result in transportation impacts within and adjacent to the Moratorium Area, including increased congestion and related emergency access and air quality impacts; and

WHEREAS, the Bellevue City Code may not currently adequately address the various conflicts between auto retail and other uses, and may not include all the necessary tools to adequately mitigate transportation impacts associated with changes in use within the Moratorium Area; and

WHEREAS, the City has a compelling interest in the protection of the health and safety of all of its residents, as well as the enforcement of its zoning and transportation codes; and

WHEREAS, without a moratorium, the City could, in the near future, receive applications for uses that would conflict with the continuation of auto retail in a portion of Auto Row and could result in transportation impacts not adequately mitigated by existing codes and regulations; and

WHEREAS, a moratorium on establishing new uses in a portion of Auto Row other than auto retail is required in order to allow sufficient time to thoroughly analyze these potential land use conflicts by completing the Wilburton/NE 8th Corridor study, to draft proposed Comprehensive Plan, Bellevue City Code amendments, and to present such amendments to the City Council; and

WHEREAS, Washington state law, including RCW 35A.63.220 and RCW 36.70A.390, authorizes Washington cities to adopt moratoria and provides a process for a public hearing that must be held within sixty days of the date of the adoption of a moratorium; now, therefore

THE CITY COUNCIL OF THE CITY OF BELLEVUE, WASHINGTON, DOES
ORDAIN AS FOLLOWS:

Section 1. Imposition of Moratorium. A moratorium is hereby imposed on the filing, acceptance or issuance of any applications for land use permits, building permits, variances, licenses, and/or approvals for all Changes of Use for all sites in the Moratorium Area.

Section 2. Duration and Scope of Moratorium. The moratorium imposed by this ordinance shall become effective on the date hereof, and shall continue in effect for an initial period of sixty (60) days, unless repealed, extended or modified by the City Council after subsequent public hearings and the entry of additional findings of fact pursuant to RCW 35A.63.220.

Section 3. Initial Findings of Fact.

- A. The above recitals are hereby incorporated as findings of fact;
- B. Auto retail uses are historically significant uses within the Moratorium Area, providing significant economic benefits to the City and its citizens. The continued viability of auto retail uses within Auto Row is a stated objective of the Wilburton/NE 8th study;
- C. The Wilburton/NE 8th study may conclude that Comprehensive Plan and Bellevue City Code changes are necessary to achieve the stated objective of continued viability of auto retail uses;
- D. Changes in land use within the Moratorium Area prior to completion of the Wilburton/NE 8th study may undermine the objectives of the study, and interfere with the full evaluation of the impacts of conflicting uses on auto retail uses in Auto Row;

E. Further study is required to determine whether the traffic impacts of new development or new uses within the Moratorium Area place an unacceptable strain on the public road system in and around the Moratorium Area, including impacts to emergency access and air quality associated with increased congestion; and

F. Changes in land use within the Moratorium Area prior to completion of the Wilburton/NE 8th study and any Comprehensive Plan and Bellevue City Code changes recommended by the study would be detrimental to the health and safety of the citizens of the City of Bellevue, and could potentially allow the establishment of vested rights contrary to and inconsistent with those amendments to the Comprehensive Plan and Bellevue City Code that the City may adopt as a result of the Wilburton/NE 8th study.

Section 4. Public Hearing. Pursuant to RCW 35A.63.220 and RCW 36.70A.390, the City Council shall hold a public hearing on this moratorium within sixty (60) days of its adoption, or no later than December 5, 2005, so as to hear and consider public comment and testimony regarding this moratorium. Following such hearing, the City Council may adopt additional findings of fact, and may extend the moratorium for a period of up to six (6) months. If a period of more than six months is required to complete the Wilburton/NE 8th study and complete consideration of any changes to the Comprehensive Plan or Bellevue City Codes, the Council may extend this moratorium after any required public hearing, pursuant to RCW 35A.63.220 and RCW 36.70A.390.

Section 5. Definitions.

A. As used in this ordinance "Change in Use" shall mean any modification to the existing use of a site that causes a change in use from one entry in the City's use charts of LUC Section 20.10.440 to another entry in the use charts; except that a change to "autos (retail)" or "Trucks, Motorcycles, Recreational Vehicles (Retail)" is allowed in accordance with the requirements of the Land Use Code.

B. As used in this ordinance "Moratorium Area" includes all sites within the area bounded by: NE 8th Street, the extension of SE 3rd Street from its current terminus to 116th Avenue NE, 116th Avenue NE, and the Burlington Northern Railroad right of way.

Section 6. Severability. Should any provision of this ordinance or its application to any person or circumstance be held invalid, the remainder of the ordinance or the application of the provision to other persons or circumstances shall not be affected.

Section 7. Public Emergency. The City Council hereby finds and declares that a public emergency exists, and that this ordinance is a public emergency ordinance necessary for the protection of the public health and safety and should,

therefore, take effect upon adoption. The facts upon which this public emergency are based include all findings and recitals set out in this ordinance as well as those facts contained in the legislative record.

Section 8. Effective Date. In accordance with RCW 35A.13.190, this ordinance, as a public emergency ordinance, shall take effect and be in force immediately upon adoption.

Passed by the City Council this 10th day of October, 2005, and signed in authentication of its passage this 10th day of October, 2005.

(SEAL)

Connie B. Marshall
Connie B. Marshall, Mayor

Approved as to form:

City Attorney

Lori M. Riordan
Lori M. Riordan, City Attorney

Attest:

Myrna L. Basich
Myrna L. Basich, City Clerk

Published _____