

ORDINANCE 4139

AN ORDINANCE OF THE CITY OF KIRKLAND IMPOSING A MORATORIUM WITHIN CENTRAL BUSINESS DISTRICT (CBD) ZONES 1, 2, 3, 4, 6, 7, AND 8 ON THE ACCEPTANCE OF APPLICATIONS FOR REVIEW AND/OR ISSUANCE OF DEVELOPMENT PERMITS FOR ANY NEW DEVELOPMENT THAT WOULD ADD OR CREATE IN EXCESS OF 500 SQUARE FEET OF GROSS FLOOR AREA.

WHEREAS, the Kirkland City Council has previously identified a goal of maintaining the overall coherence of the Downtown's visual and historic character, which goal is articulated in the Downtown Plan, the Design Guidelines for Pedestrian Oriented Business Districts, the Design Review regulations, and in other policy/planning documents; and

WHEREAS, the applicable provisions of the Downtown Plan and the Zoning Code do not adequately ensure that Downtown development occurs in a manner that is predictable, effective, and consistent with this goal; and

WHEREAS, the City has a compelling interest in ensuring that the goals and policies contained within the Downtown Plan and other policy/planning documents are fulfilled; and

WHEREAS, amendments to the Comprehensive Plan and/or Zoning Code are necessary; and

WHEREAS, a moratorium on acceptance of applications for any new development that would add or create in excess of 500 square feet of gross floor area in CBD Zones 1, 2, 3, 4, 6, 7, and 8 is required in order to allow sufficient time to draft Comprehensive Plan and/or Zoning Code amendments; and

WHEREAS, the City will establish a work plan to study and develop Comprehensive Plan and/or Zoning Code amendments that address the concerns identified above; and

WHEREAS, the City is authorized pursuant to RCW 35A.63.220 and RCW 36.70A.390 to adopt a moratorium for the purpose of preserving the status quo while Comprehensive Plan and/or Zoning Code amendments are considered, prepared and enacted.

NOW THEREFORE, the City Council of the City of Kirkland do ordain as follows:

Section 1. Imposition of Moratorium. A moratorium is hereby imposed in Central Business District (CBD) Zones 1, 2, 3, 4, 6, 7, and 8 on the application for, intake of, review of, or issuance of any development permit which would add or create in excess of 500 square feet of gross floor area except as provided in Sections 2, 3, 4, 5, and 6.

Section 2. The moratorium established in Section 1 of this Ordinance shall not apply to any building permit application for a development which has been granted Design Board Review approval and would be considered vested,

on or before the effective date of this Ordinance, in the manner set forth in Kirkland Zoning Code Section 142.35(10).

Section 3. The moratorium established in Section 1 of this Ordinance shall not apply to development permits that became vested on or before the effective date of this Ordinance in accordance with RCW 19.27.095 and RCW 58.17.033.

Section 4. The moratorium established in Section 1 of this Ordinance shall not apply to applications for substantial development permits, conditional use permits, or variances under the Shoreline Management Act, Chapter 90.58 RCW, and Kirkland Municipal Code Chapter 24.06.

Section 5. The moratorium established in Section 1 of this Ordinance shall not apply to the Park/Public Use (P) Zone, publicly owned property, or public right-of-way.

Section 6. The moratorium established in Section 1 of this Ordinance shall not apply to the Bank of America/Merrill Gardens Mixed Use Project at 101 Kirkland Avenue, File No. DRC07-00006, Case No. APL08-00001 ("Bank of America Project"). Design Review for the Bank of America Project was approved by the City Design Review Board (DRB) on January 16, 2008, but the City Council reversed the DRB decision on August 5, 2008. The applicant for the Bank of America Project appealed the City Council decision to King County Superior Court, and that appeal is currently pending. (Case No. 08-2-29048-4SEA).

Section 7. Duration and Scope of Moratorium. The moratorium imposed by this Ordinance shall continue in effect for an initial period of sixty (60) days, unless repealed, extended, or modified by the City after public hearing and the entry of findings of fact pursuant to RCW 35A.63.220 and RCW 36.70A.390.

Section 8. 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 November 15, 2008, to hear and consider public comment and testimony regarding this moratorium. Following such hearing, the City Council may adopt findings of fact, and may extend the moratorium for a period up to six (6) months. If a period of more than six months is required to complete consideration of any changes to the Comprehensive Plan and/or Zoning Code, the Council may extend this Ordinance after any required hearing, pursuant to RCW 35A.63.220 and RCW 36.70A.390.

Section 9. 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 any other persons or circumstances shall not be affected.

Section 10. Effective Date. This Ordinance shall be in force and effect five days from and after its passage by the Kirkland City Council and publication, as required by law.

Passed by majority vote of the Kirkland City Council in open meeting
this 16th day of September, 2008.

Signed in authentication thereof this 16th day of
September, 2008.



MAYOR

Attest:



City Clerk

Approved as to Form:



City Attorney