

ORDINANCE O-4379

AN ORDINANCE OF THE CITY OF KIRKLAND IMPOSING AND EXTENDING A MORATORIUM WITHIN NEIGHBORHOOD BUSINESS (BN) ZONES ON THE ACCEPTANCE OF APPLICATIONS FOR THE REVIEW AND/OR ISSUANCE OF DEVELOPMENT PERMITS FOR ANY NEW DEVELOPMENT, ADDITION OR ALTERATION AS SUCH TERMS ARE DEFINED IN THIS ORDINANCE.

WHEREAS, the Neighborhood Business (BN) Zones in the Kirkland Zoning Code currently contain no residential density limit; and

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

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

WHEREAS, a moratorium on acceptance of development permit applications for any new development, additions or alterations to existing developments in the BN Zones is required in order to allow sufficient time to consider Comprehensive Plan and Zoning Code amendments; and

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

WHEREAS, the Planning Commission was directed to propose potential Comprehensive Plan and Zoning Code amendments and the Planning Commission has presented a recommendation to the City Council; and

WHEREAS, the City Council reviewed the recommendation of the Planning Commission at the October 2, 2012, City Council meeting, is continuing to review the recommendation, and, on October 16, 2012, will direct the preparation of ordinances to amend the Comprehensive Plan and Zoning Code; 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; and

WHEREAS, on November 15, 2011, the City Council passed Ordinance 4335A establishing an immediate moratorium on the acceptance of development permit applications in the BN Zones, which ordinance required a public hearing on the moratorium be held no later than January 14, 2012; and

WHEREAS, on January 3, 2012, the City Council held a public hearing and adopted Ordinance 4343, revising the moratorium and continuing it through May 15, 2012; and

WHEREAS, on May 1, 2012, the City Council held a public hearing and adopted Ordinance 4355, extending the moratorium for one six-month period, through November 12, 2012; and

WHEREAS, pursuant to the Growth Management Act, RCW Ch. 36.70A, the City is allowed to amend its Comprehensive Plan only one-time per year; and

WHEREAS, in one of the BN zones, a mediation process including a property developer, neighbors, and the City is underway and may further inform the City Council's consideration of Comprehensive Plan and Zoning Code amendments; and

WHEREAS, a short extension of the moratorium, at this time, through December 31, 2012, will allow the City to adopt changes to the Zoning Code in the BN Zone at the same time that the City amends its Comprehensive Plan, which will ensure internal consistency between these documents and will maintain the status quo on development in the BN zones prior to the effective date of new Comprehensive Plan and Zoning Code amendments; and

WHEREAS, RCW 35A.63.220 and RCW 36.70A.390 allow the City to extend a moratorium for one or more six month periods following a public hearing and the adoption of findings of fact; and

WHEREAS, a public hearing regarding the moratorium was held on October 16; 2012;

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 the Neighborhood Business (BN) Zones on the application for, intake of, review of, or issuance of any subdivision, short subdivision, land use approval, land use permit, building permit, variance, license, and/or other approval for any new use, change in use, new development, or additions or alterations to existing development (collectively such approvals and permits are referred to herein as "Development Permits"), except as provided in Section 2.

Section 2. Scope of Moratorium. The moratorium established in Section 1 of this Ordinance shall not apply to:

- A. Development Permits that became vested on or before the effective date of Ordinance 4355A in accordance with RCW 19.27.095 and/or RCW 58.17.033 and/or any other applicable law.

- B. Those Development Permits necessary to correct existing life/safety issues that pose a threat to property or residents or occupants of an existing structure.
- C. Building permits, including electrical, mechanical, plumbing and sign permits, for the repair, maintenance or alteration of existing structures, provided, no new floor area is created.

Section 3. Duration of Moratorium. The moratorium imposed by this Ordinance shall continue in effect for a period of approximately two and one-half months from the effective date in Section 8, specifically, to December 31, 2012, 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 and RCW 36.70A.390.

Section 4. Definition. As used in this Ordinance "Development Permit" shall have the meaning set forth in Kirkland Zoning Code 5.10.215.

Section 5. Findings of Fact.

- A. The above recitals are hereby incorporated as findings of fact;
- B. While mixed used development with residential and commercial uses is encouraged in the City's commercial districts, development should also be compatible in scale and character so as to fit well with surrounding uses;
- C. Existing Neighborhood Business (BN) zoning regulations are perceived as being inadequate in regulating the scale and density of development consistent with Comprehensive Plan policies;
- D. Under the Growth Management Act, Ch. 36.70A RCW, development regulations must be consistent with and implement the Comprehensive Plan;
- E. New development or the investment in existing development represented by additions or alterations to existing development and uses within the BN Zones prior to review of the Comprehensive Plan and Zoning Code and possible amendments thereto compromises the ability to ensure consistency;
- F. New development or the investment in existing development represented by the additions or alterations to existing development and uses within the BN Zones prior to completion of such review would be detrimental to the health and safety of the citizens of the City of Kirkland, and would allow the establishment of vested rights potentially contrary to and inconsistent with those amendments to the

Comprehensive Plan and Zoning Code that the City may adopt;


- G. The City Council directed the Planning Commission to propose potential Comprehensive Plan and Zoning Code amendments for the BN Zones. The Planning Commission held several study meetings and a hearing during which opportunities for interested parties to speak were provided;
- H. The Planning Commission presented its recommendations to the City Council at a Study Session on September 18, 2012;
- I. The City Council reviewed the Planning Commission recommendation at the October 2, 2012, City Council meeting, is continuing to review the recommendation, and, on October 16, 2012, will direct the preparation of ordinances to amend both the Comprehensive Plan and Zoning Code;
- J. In one of the BN zones, a mediation process including a property developer, neighbors, and the City is underway and may further inform the City Council's consideration of Comprehensive Plan and Zoning Code amendments;
- K. Extension of the moratorium is required to maintain current conditions while the mediation process progresses;
- L. The Growth Management Act, RCW 36.70A.130(2), generally limits the City to amending the Comprehensive Plan only once a year;
- M. The City staff will bundle all proposed Comprehensive Plan amendments for review and adoption by the City Council on December 11, 2012; and
- N. A short extension of the moratorium is required to allow amendments to the Comprehensive Plan and Zoning Code resulting from the current BN Zone review and planning process to be adopted concurrently, which will ensure internal consistency and maintain the status quo on development in the BN zones prior to the effective date of the Comprehensive Plan and Zoning Code amendments.

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 any other persons or circumstances shall not be affected.

Section 7. This ordinance shall be in force and effect five days from and after its passage by the Kirkland City Council and publication pursuant to Section 1.08.017, Kirkland Municipal Code in the summary form attached to the original of this ordinance and by this reference approved by the City Council.

Passed by majority vote of the Kirkland City Council in open meeting this 16th day of October, 2012.

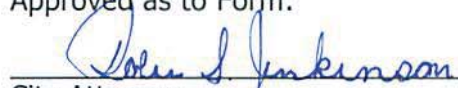
Signed in authentication thereof this 16th day of October, 2012.

  
MAYOR

Attest:

  
City Clerk

Approved as to Form:

  
City Attorney

PUBLICATION SUMMARY  
OF ORDINANCE O-4379

AN ORDINANCE OF THE CITY OF KIRKLAND IMPOSING AND EXTENDING A MORATORIUM WITHIN NEIGHBORHOOD BUSINESS (BN) ZONES ON THE ACCEPTANCE OF APPLICATIONS FOR THE REVIEW AND/OR ISSUANCE OF DEVELOPMENT PERMITS FOR ANY NEW DEVELOPMENT, ADDITION OR ALTERATION AS SUCH TERMS ARE DEFINED IN THIS ORDINANCE.

SECTION 1. Imposes a moratorium in the Neighborhood Business (BN) Zones on applications for Development Permits.

SECTION 2. Sets forth exceptions to the application of the moratorium.

SECTION 3. Establishes duration of moratorium as a period of two months from the effective date of ordinance.

SECTION 4. Provides a definition of "Development Permit."

SECTION 5. Adopts findings of fact.

SECTION 6. Provides for severability should any ordinance provisions be held invalid.

SECTION 7. Authorizes publication of the ordinance by summary, which summary is approved by the City Council pursuant to Section 1.08.017 Kirkland Municipal Code and establishes the effective date as five days after publication of summary.

The full text of this Ordinance will be mailed without charge to any person upon request made to the City Clerk for the City of Kirkland. The Ordinance was passed by the Kirkland City Council at its meeting on the 16th day of October, 2012.

I certify that the foregoing is a summary of Ordinance O-4379 approved by the Kirkland City Council for summary publication.

  
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City Clerk