

ORDINANCE NO. 2860

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO ZONING, PLANNING AND LAND USE AND AMENDING THE LAND USE AND AMENDING ORDINANCE 2740 AS AMENDED, THE KIRKLAND ZONING ORDINANCE.

Whereas, the City Council has received from the Kirkland Planning Commission a recommendation to amend certain sections of the text of the Kirkland zoning ordinance, Ordinance 2740 as amended, all as set forth in that certain report and recommendation of the Planning Commission dated March 21, 1985 and bearing Kirkland Department of Planning and Community Development File No. IV-84-110; and

Whereas, prior to making said recommendation the Planning Commission, following notice thereof as required by RCW 35A.63.070, on March 21, 1985, held a public hearing on the amendment proposals and considered the comments received at said hearing (as well as the recommendations made by the Houghton Community Council); and

Whereas, pursuant to the State Environmental Policies Act there has accompanied the legislative proposal and recommendation through the entire consideration process, a final declaration of non-significance (including supporting environmental documents) issued by the responsible official pursuant to WAC 197-11-340 and WAC 197-11-390; and

Whereas, in regular public meeting the City Council considered the report and recommendation of the Planning Commission, now, therefore,

Be it ordained by the City Council of the City of Kirkland as follows:

Section 1. Zoning text amended: The following specified sections of the text of Ordinance 2740 as amended, the Kirkland zoning ordinance, be and they hereby are amended to read as follows:

CHAPTER 120 - VARIANCES

- 120.05 User Guide
- 120.10 Process for Deciding Upon a Proposed Variance
- 120.15 Application Information
- 120.20 Criteria for Granting a Variance
- 120.25 What May not be Varied
- 120.30 Statements From Other Decision Making Bodies

120.05 User Guide

This Chapter establishes a mechanism whereby the provision of this Code can be varied on a case-by-case basis if the application of these provisions would result in an unreasonable and unusual hardship. While almost any provision may be varied, there are some limitations.

If you are interested in applying to see if a provision of this Code can be varied in a particular case, or if you wish to participate in the City's decision on a proposed variance, you should read this Chapter.

120.10 Process for Deciding Upon a Proposed Variance

The City will use Process IIA, described in Chapter 150 of this Code to review and decide upon an application for a Variance.

120.15 Application Information

In addition to the application materials required in Chapter 150 of this Code, the applicant shall submit a completed application on the form provided by the Planning Department, along with all the information listed on that form.

120.20 Criteria for Granting a Variance

The City may grant a Variance only if it finds that--

1. The Variance will not be materially detrimental to the property OR IMPROVEMENTS in the area of the subject property or to the City IN PART OR as a whole; and
2. The Variance is necessary because of special circumstances regarding the size, shape, topography, or location of the subject property, or the location of a preexisting improvement on the subject property that conformed to the Zoning Code in effect when the improvement was constructed; and

3/ THE VARIANCE WILL ONLY GRANT THE SUBJECT PROPERTY THE SAME GENERAL RIGHTS ENJOYED BY OTHER PROPERTY IN THE SAME AREA AND ZONE AS THE SUBJECT PROPERTY; AND

4/ 3. The Variance will ~~only~~ NOT CONSTITUTE A grant OF SPECIAL PRIVILEGE TO the subject property WHICH IS INCONSISTENT WITH the ~~same~~ general rights ~~as~~ THAT this Code allows to other property in the same area and zone as the subject property ~~and~~.

5/ The Variance is the minimum necessary to allow the subject property the general rights described in paragraphs 3 and 4 above.

120.25 What May Not Be Varied

The City may grant a Variance to any of the provisions of this Code except--

1. The City may not grant a Variance to any provision establishing the uses that are permitted to locate or that may continue to operate in any zone; and
2. The City may not grant a Variance to any of the procedural provisions of this Code; and
3. The City may not grant a Variance to any provision if this Code specifically provides that that provision may be modified through some other mechanism. This restriction does not apply to the permits described in Chapters 125, 130 and 135 of this Code; and
4. The City may not grant a Variance to any provision that specifically states that its requirements are not subject to Variance.

120.30 Statements from Other Decision Making Bodies

Prior to the hearing on the Variance, the Planning Official may present the requested Variance to either or both the Board or the Community Council and the Planning Commission for their comments. Either group may, by written motion, comment on the requested Variance. The Planning Official shall explain any motion to the hearing examiner.

Section 2. If any section, subsection, sentence, clause, phrase, part or portion of this ordinance, including those parts adopted by reference, is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 3. To the extent that the subject matter of this ordinance is subject to the disapproval jurisdiction of the Houghton Community Council as created by Ordinance 2001, said plan shall become effective within the Houghton community either upon approval of the Houghton Community Council, or upon failure of said community council to disapprove this ordinance within 60 days of its passage.

Section 4. Except as provided in Section 3, this ordinance shall be in full force and effect five days from and after its passage by the City Council and publication or posting as required by law.

Passed by majority vote of the Kirkland City Council in regular, open meeting this 1st day of April 1985.

Signed in authentication thereof this 1st day of April, 1985.

Doris Cooper
MAYOR

ATTEST:

Tam J. Aderson
Director of Administration & Finance
(ex officio City Clerk)

APPROVED AS TO FORM:

Ray E. [Signature]
City Attorney

CERTIFICATION OF POSTING

I hereby certify under penalty of perjury that the foregoing ordinance was posted on the 2nd day of April, 19

9338B/131A/ES:rd

Jarvis Perry
Deputy City Clerk