

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO LAND USE DEVELOPMENT AND SUBDIVISION OF LAND, EXTENDING THE ADDITIONAL AUTHORITY IN THE HEARING EXAMINER TO HEAR AND DECIDE CERTAIN LAND USE APPLICATIONS AND AMENDING CHAPTER 3.34 OF THE KIRKLAND MUNICIPAL CODE AND RECOGNIZING THE NEED TO REASSIGN TO THE PLANNING COMMISSION THE REVIEW OF DISCRETIONARY PERMITS IN THE CENTRAL BUSINESS DISTRICT.

Whereas, applications for quasi-judicial rezones, planned residential unit developments and subdivisions of land are presently under the ordinances of the City of Kirkland heard by the planning commission with recommendation to the City Council; and

Whereas, the present workload of the planning commission, including its primary responsibility for long range planning studies and review of the comprehensive plan (Land Use Policies Plan) is excessive and could result in untimely delay; and

Whereas, RCW 35A.63.170 and RCW 58.17.330 authorize the City Council to vest authority to hear and decide certain land use decisions in the hearing examiner; and

Whereas, RCW 35A.63.170 and RCW 58.17.330 authorize the City Council to vest authority to hear and decide certain land use decisions in the hearing examiner; and

Whereas, the City Council has determined that it is in the interest of effective administration of the Kirkland land use ordinances, rules and regulations to temporarily expand the jurisdiction of the hearing examiner in order to alleviate the present excessive workload of the planning commission; and

Whereas, the policies guiding city approval of discretionary permits in the Central Business District are over seven years old and due to be reviewed and updated during the first half of 1986, now, therefore

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

Section 1. Section 3.34.060 of the Kirkland Municipal Code relating to the establishment of a hearing examiner system, is hereby amended to read as follows:

Section 3.34.060 Expansion of hearing examiner's authority. Notwithstanding anything to the contrary in Title 22-Subdivisions (Ordinance 2766 subdivision of land) and Title 23-Zoning (Ordinance 2740, the Kirkland zoning ordinance) the hearing examiner, immediately upon the effective date of this ordinance, shall be vested with the power to hear and decide upon all quasi-judicial rezone applications pursuant to Section 130.30, et sez., of the zoning ordinance together with all development permit and preliminary subdivision applications except for those listed below:

a) Applications for Preliminary Planned Unit Developments which propose any of the following:

1. More than forty-nine residential dwelling units;
2. Commercial structures with gross floor area over 40,000 square feet or over 35 feet of height above average building elevation;
3. Any type of special needs housing: pursuant to Section 125.30 of the Kirkland zoning code.

b) Applications for Process III Master Plan permit in the following zones: Planned Areas 1, 10B, 12, 15A, 15B and 16.

c) Applications for Process III development permits in the following zones: FC II, Planned Areas 2, 3 and 9.

d) Applications for non-project quasi-judicial rezones to establish the following overlay zones: adult entertainment, historic landmark and equestrian.

e) Applications for any non-project quasi-judicial rezone which accompanies a Process IV permit (Comprehensive Plan or Zoning Text Amendment).

f) Any application for quasi-judicial rezone or other development permit within the CBD zone shall be heard by the planning commission if the application proposes any structure which exceeds 35 feet above average building elevation.

g) Any application for quasi-judicial rezone or other development permit within the P or CBD zones shall be heard by the Planning Commission if the application proposes any moorage facility.

Applications for quasi-judicial project rezones (Sec. 130.55 et seq., Ordinance 2740) and preliminary planned unit development applications shall, in coming before the hearing examiner, be processed in accordance with Process II-B as established in Chapter 152 of the zoning ordinance. Said Process II-B provides that the decision of the hearing examiner shall be a recommendation of the hearing examiner to the City Council.

All other development permit applications shall be processed in accordance with Process II-A, as established in Chapter 150 of the zoning ordinance. Said process provides that the decision of the hearing examiner shall be final subject only to appeal to the City Council within the time therein prescribed.

The additional authority and jurisdiction herein granted to the hearing examiner shall not include any jurisdiction or authority to consider, recommend or approve an application or petition to amend the Land Use Policies Plan (Comprehensive Plan), or the text including development standards and regulations of the zoning code or

subdivision ordinance. Any application which is coupled with or involves a pending application or petition for such legislative change, or amendment, to the comprehensive plan, zoning code or subdivision ordinance, shall not be heard by the hearing examiner, but shall be processed and decided upon by the planning commission and the City Council, using the procedures established therefor in the zoning ordinance and subdivision ordinance as appropriate. The additional authority and jurisdiction herein granted to the hearing examiner shall expire December 31, 1986, provided that the hearing examiner shall retain jurisdiction to hear and decide all applications then pending before the hearing examiner on which the hearing examiner has commenced or held the required hearing prior to December 31, 1986.

Section 2. Nothing in this ordinance shall be deemed to affect or limit the disapproval jurisdiction of the Houghton Community Council, and such jurisdiction shall continue pursuant to Ordinance 2001 as to any application heard and decided by the hearing examiner pursuant to this ordinance, to the same extent as such disapproval jurisdiction would apply, had the application been processed before the planning commission and the City Council.

Section 3. This ordinance shall be in force and effect five days from and after its passage by the Kirkland City Council and posting or publication, as required by law.

Passed by majority vote of the Kirkland City Council in regular, open meeting this 18th day of November, 1985

Signed in authentication thereof this 18th day of November, 1985.

Loris Cooper  
MAYOR

ATTEST:  
Thom J. Johnson  
Director of Administration & Finance  
(ex officio City Clerk)

APPROVED AS TO FORM:  
Gail Bond  
Acting City Attorney

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