

ORDINANCE 2962

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO THE STATE ENVIRONMENTAL POLICY ACT, ADMINISTRATIVE APPEALS OF DECISIONS MADE BY THE CITY PURSUANT TO SAID ACT, AND AMENDING SECTION 24.02.105 OF THE KIRKLAND MUNICIPAL CODE.

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

Section 1. Section 24.02.105 of the Kirkland Municipal Code be and it hereby is amended to read as follows:

24.02.105 Administrative appeals.

(a) Appealable Decisions. Only the following decisions of the City are appealable under this section:

(1) The issuance of a declaration of nonsignificance, including mitigation measures and conditions that are required as part of that declaration of nonsignificance;

(2) The issuance of a declaration of significance;

(3) The adequacy of a final EIS or a final SEIS and any conditions or denials of the proposed action under the authority of SEPA.

(b) Who May Appeal. Only the following may appeal:

(1) The applicant or proponent;

(2) Any agency with jurisdiction;

(3) Any individual or other entity who is specifically and directly affected by the proposed action.

(c) Time to Appeal.

(1) An appeal of a DS or DNS must be filed with the environmental coordinator within seven days of the date the declaration is final. Except for DNS's listed in WAC 197-11-340(2), a DNS is final on the day it is issued by the responsible official. DNS's listed in WAC 197-11-340(2) are final fifteen days after issuance by the responsible official. A DS is final on the date it is published under Section 85 of this chapter.

(2) An appeal on the adequacy of a final EIS or final SEIS or any condition or denial of the proposed action under the authority of SEPA must be filed with the environmental coordinator within seven days of the date the City decides upon the proposed action.

(d) How to Appeal. The appeal must be in the form of a written notice of appeal, and must contain a brief and concise statement of the matter being appealed, the specific components or aspects that are being appealed, the appellant's basic rationale or

contentions on appeal, and a statement demonstrating standing to appeal. The appeal may also contain whatever supplemental information the appellant wishes to include.

(e) Who Will Hear and Decide Upon the Appeal.

(1) Threshold Determinations: Appeals of threshold determinations will be heard and decided upon by the hearing examiner using the appeal provisions, as applicable, of process I of the Kirkland Zoning Code, Ordinance No. 2740, as amended Sections 145.55 - 145.100, except that:

(A) The matters to be considered and decided upon in appeal are limited to the matters raised in the notice of appeal; and

(B) The decision of the responsible official shall be accorded substantial weight; and

(C) All testimony will be taken under oath.

(D) The decision of the hearing examiner shall be the final decision on any appeal of a threshold determination including a mitigated determination of nonsignificance.

(2) Adequacy of Environmental Impact Statements and Conditions of the proposed Action or Denials Based on SEPA. Appeals of final EIS or final SEIS adequacy and conditions or denials based on SEPA will be heard and decided upon as follows:

(A) If the proposed action required approval through the quasi-judicial process that includes a public hearing in Ordinance Nos. 2766 or 2740, as amended, or Chapter 24.04 of the Kirkland Municipal Code, the appeal will be heard and decided upon using the procedures established for appealing the decision on the proposed action, except as listed in subparagraphs (i) and (ii) of this section. To the greatest extent possible, these appeals will be consolidated with any appeal that is filed on the proposed action.

(B) In all other cases, the appeal will be heard and decided upon by the hearing examiner, using the provisions as applicable of process I of the Kirkland Zoning Code, Ordinance No. 2740, as amended, except that:

(i) The matters to be considered and decided upon in the appeal are limited to the matters raised in the notice of appeal; and

(ii) All testimony will be taken under oath.

(iii) The decision of the hearing examiner may be appealable [appealed] to the city council under subsection (f) of this section.

(f) Further Appeal to City Council. Following the completion of the appeal under subsection (e)(2) of this section, any individual or entity who has a right to appeal, and who has appeared and given testimony at this prior hearing, may, to the extent

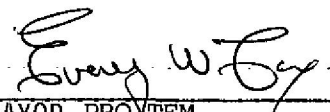
permitted by RCW 43.21C.060 appeal [any] a decision to condition or deny a proposed action [~~under the authority of RCW 43.21C.060~~] to the city council. This appeal must be filed with the environmental coordinator within seven days of the decision on the prior appeal, and must contain the information specified in subsection (d) of this section. The city council may, at its option, either hold [~~its own~~] a public hearing on the matter, or without a public hearing review the record of the appeal under subsection (e)(2) of this section. In either case the city council shall rely [~~If the city council relies~~] on the record of the appeal under subsection (e)(2) of this section, [~~it~~] and may make whatever decision is appropriate so long as this is supported by the record. [~~If the city council holds its own public hearing on the matter, the appeals provisions, as applicable of process IIA of the Kirkland Zoning Code, Ordinance No. 2740, as amended, will be followed except that:~~

- (1) The matters to be considered and decided upon in the appeal are limited to the matters raised in the notice of appeal[~~and~~
- (2) All testimony will be taken under oath].


Section 2. 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 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 regular, open meeting this 7th day of July, 1986.

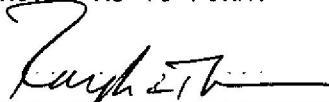
Signed in authentication thereof this 7th day of July, 1986.


MAYOR PROTEM

ATTEST:


Director of Administration & Finance
(ex officio City Clerk)

APPROVED AS TO FORM:


City Attorney

SUMMARY OF ORDINANCE 2962


AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO THE STATE ENVIRONMENTAL POLICY ACT, ADMINISTRATIVE APPEALS OF DECISIONS MADE BY THE CITY PURSUANT TO SAID ACT, AND AMENDING SECTION 24.02.105 OF THE KIRKLAND MUNICIPAL CODE.

Section 1. Amends the administrative appeals provisions of Section 24.02.105 of the Kirkland Municipal Code to clarify the requirement in SEPA that there be only one administrative appeal of a threshold decision, including a mitigated declaration of nonsignificance, and that that administrative appeal will be held by the hearing examiner. Section 1 further clarifies, consistent with SEPA, that in those limited instances where a second appeal of decisions to condition or deny a proposed action may be permitted under RCW 43.21C.060 be made to the Kirkland City Council, that the appeal shall be considered by the City Council on the basis of the record developed during the public hearing on the first administrative appeal.

Section 2. Authorizes publication of the Ordinance by this Summary, which Summary is approved by the City Council, pursuant to Section 1.08.17, Kirkland Municipal Code and establishes the effective date as five days after Summary publication.

The full text of this Ordinance will be mailed without charge to any person upon request made to the Director of Administration and Finance for the City of Kirkland. The Ordinance was passed by the Kirkland City Council at its regular meeting on the 7th day of July, 1986.

I certify that the foregoing is a summary of Ordinance 2962 approved by the Kirkland City Council for summary publication.


Director of Administration
and Finance (ex officio
City Clerk)