



CITY OF KIRKLAND
Planning and Community Development Department
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www.kirklandwa.gov

MEMORANDUM

To: Kurt Triplett, City Manager

From: Eric Shields, Planning Director
Nancy Cox, Development Review Manager

Date: April 5, 2012

Subject: RENEWAL OF AN INTERIM ORDINANCE TO EXTEND LAND USE PERMIT APPROVALS DURING THE ECONOMIC DOWNTURN

RECOMMENDATION

Staff recommends that the City Council:

- Hold a public hearing; and
- Adopt the proposed ordinance to renew for an additional six months the Interim Ordinance that extends approval periods for land use permits while code amendments are drafted.

BACKGROUND DISCUSSION

In recognition of the hardship to the development community brought by the economic recession, a series of interim ordinances have been adopted by the City Council to extend the expiration dates of zoning permits. The last interim ordinance (Ordinance 4300) was adopted on November 1, 2011 and will expire on May 1, 2012. Since interim ordinances are intended to last for a limited time, the City Council directed staff to work with the Economic Development Committee to find an ongoing solution.

Staff met with the Economic Development Committee in March. The Committee recommended that the permit expiration dates be extended permanently. Permit expiration extensions are included in a code amendment project that is now underway, but the code amendments are not expected to be completed until later this year, well after the current Interim Ordinance expires.

Codified Rules (these are currently superseded by the Interim Rules, below)

For subdivisions, the applicant must record the plat within 4 years after plat approval. There are no extensions.

For zoning permits, the applicant must submit a complete building permit application or start construction within 4 years. Construction must be completed in 6 years. There are no extensions granted after permit approval, though extensions can be made for phased construction prior to permit approval.

For design review, the applicant must submit complete building permit application within 1 year of DRB approval. Project construction must be completed in 3 years. The DRB may allow longer for submitting a building permit and the Planning Official may grant a 1 year extension on submitting a permit or completing construction.

Note: The Planning Commission is currently considering a code amendment to allow the DRB to extend the time to complete construction up to ten years to address large phased projects such as Parkplace or the Totem Lake Mall redevelopment. If approved, this would supersede the interim rules.

Interim Rules (Ordinance 4300 currently in effect)

Subdivisions (short plats and preliminary plats) – An applicant may request to extend the four year recordation period to 6 years. An applicant who has previously sought a two year extension may seek an additional one year extension for a total of 7 years. An applicant may request both extensions at any time after final approval of the plat.

Zoning Permits (includes design review and other specified permits) – An applicant may request no more than two one year extensions from the scheduled expiration date. The extension applies to both the time to begin construction or to submit to the City a building permit application, and the time to substantially complete construction for the development activity. An applicant may request both extensions at any time after final approval of the land use permit or approval.

Use of the Interim Regulations

As of February 27, 2012 the City has processed and approved 31 requests for extensions. 27 of the 31 have been for short plats, two for preliminary subdivisions, and 2 for zoning permits.

Attachment 1- Ordinance 4300

cc: File MIS09-00022

ORDINANCE NO. 4300

AN INTERIM ORDINANCE OF THE CITY OF KIRKLAND RELATING TO LAND USE AND ZONING, PROVIDING INTERIM OFFICIAL CONTROLS REGARDING LAND USE PERMIT EXTENSIONS FILE NO. MIS09-00022, MODIFYING AND EXTENDING ORDINANCE NO. 4219 THROUGH NOVEMBER 3, 2011, AND APPROVING A SUMMARY FOR PUBLICATION.

WHEREAS, the Kirkland Zoning Code contains regulations relating to the lapse of approval of zoning permits; and

WHEREAS, the Kirkland Municipal Code contains regulations relating to the recordation time limit for plats; and

WHEREAS, due to the current economic downturn developers have had to delay or suspend their land use projects; and

WHEREAS, the Master Builders Association of King County on behalf of their members requested regulatory relief in the form of the extension of land use and building permit applications beyond those which are typically allowed while economic circumstances beyond their control remain; and

WHEREAS, developers have requested temporary relief from current permit expiration regulations to keep land use permits active; and

WHEREAS, it is the City Council's desire to provide reasonable and temporary relief to help mitigate the impacts of the economic downturn; and

WHEREAS, the adoption of interim regulations will provide the development community time to find relief to help mitigate the impacts of the economic downturn; and

WHEREAS, the interim regulations are procedural in nature, and therefore exempt from State Environmental Policy Act (SEPA) review; and

WHEREAS, the City Council, after holding a public hearing, Ordinance No. 4219 passed on December 1, 2009, after holding a public hearing, the City Council adopted interim regulations that extend land use approvals; and

WHEREAS, on June 1, 2010, the City Council, after holding a public hearing, renewed Ordinance No. 4219 through December 1, 2010; and

WHEREAS, on November 16, 2010, the City Council held a public hearing on renewal of Ordinance No. 4219 through May 16, 2011; and

WHEREAS, on May 3, 2011, the City Council held a public hearing on renewal of Ordinance No. 4219 through November 3, 2011; and

WHEREAS, the City Council desires to renew Ordinance No. 4219 through November 3, 2011, with certain modifications, as set forth in this Ordinance; and

WHEREAS, the City has the authority to adopt an interim zoning ordinance pursuant to RCW 35A.63.220 and RCW 36.70A.390;

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

Section 1. Upon receipt of a written request from the applicant, the Planning Director is hereby authorized to extend without fee: 1) the time to begin construction or to submit to the City a complete building permit application, or 2) the time to substantially complete construction for the development activity. In the event an applicant requests an extension of the time to begin construction or submit a complete building permit application, the applicant shall automatically receive a corresponding extension of the time to complete construction for development activity. The authorization may apply to pending land use permits or approvals for one year from the scheduled expiration date for the following types of land use permits: Reasonable Use (Kirkland Zoning Code Section 90.140); Cottage, Carriage and 2/3 Unit Homes (Kirkland Zoning Code Chapter 113); Personal Wireless Facility (Kirkland Zoning Code Chapter 117); Planned Unit Development (Kirkland Zoning Code Chapter 125); Design Board Review (Kirkland Zoning Code Sections 142.35 through 142.55); Process I (Kirkland Zoning Code Chapter 145), IIA (Kirkland Zoning Code Chapter 150), and IIB (Kirkland Zoning Code Chapter 152). The one year extensions authorized by this Section shall apply in addition to other extensions that may be available under the Kirkland Zoning Code. An applicant may not request more than two extensions under this Section. An applicant may request both extensions at any time after final approval of the land use permit or approval. If an applicant has previously sought only one extension, then the applicant shall request the second extension within 180 days prior to the expiration of the first extension period. This Section shall not apply to land use permits or approvals that are expired.

Section 2. Applicability. Section 1 of this Ordinance shall apply to and take precedence over any conflicting provisions in Kirkland Zoning Code Sections 90.140.8, 113.45, 117.100, 125.80, 142.55, 145.115, 150.135 and 152.115 until such time as this ordinance is repealed or expires. Any extensions granted under Section 1 of this Ordinance shall remain in effect until expiration of the applicable extension periods, even if that occurs after this Ordinance is repealed or expires.

Section 3. Upon receipt of a written request from the applicant, the Planning Director is hereby authorized to extend, without fee, the four year recordation period for approved plats from 4

years to 6 years. An applicant who has previously sought a two year extension under this Section may seek an additional one year extension, which would extend the recordation period to a total of 7 years. An applicant may not request more than two extensions under this Section. An applicant may request both extensions at any time after final approval of the plat. If an applicant has previously sought only one extension, then the applicant shall request the second extension within 180 days prior to the expiration of the first extension period. This Section shall not apply to land use permits or approvals that are expired.

Section 4. Applicability. Section 3 of this Ordinance shall apply to and take precedence over any conflicting provisions in Kirkland Municipal Code Sections 22.16.130 and 22.20.370 until such time as this ordinance is repealed or expires. Any extensions granted under Section 3 of this Ordinance shall remain in effect until expiration of the applicable extension periods, even if that occurs after this Ordinance is repealed or expires.

Section 5. Vesting. The Planning Director shall not issue an extension under Section 1 or Section 3 of this Ordinance if a Title of the Zoning or Municipal Code has been amended affecting the property for which the permit was issued or the permit application pertains unless the applicant agrees in writing to abide by the applicable amended provisions.

Section 6. The interim regulations adopted by this Ordinance shall continue in effect for a period of up to one hundred eighty (180) days from the effective date of this Ordinance, unless repealed, extended, or modified by the City Council.

Section 7. Findings of Fact.

- A. The recitals set forth on pages 1-2 above are hereby adopted as findings of fact.
- B. The Kirkland Zoning Code and Municipal Code provide for opportunities to obtain time extensions for various applications and approvals; however these time extensions are of limited duration and are not of sufficient length to enable extensions beyond the current economic downturn.
- C. Providing for extensions of certain development-related applications and approvals may aid the local economy by helping the construction industry to weather the economic downturn while preserving the investments made in the development permitting process.
- D. Maintaining the viability of development applications and approvals will help to ensure that the development industry is in a position to respond more quickly once favorable economic conditions return.

Section 8. Duration. The Council may adopt extensions of this Ordinance after any required public 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. Houghton Community Council. To the extent the subject of this Ordinance, pursuant to Ordinance No. 2001, is subject to the disapproval jurisdiction of the Houghton Community Council, this Ordinance shall become effective within the Houghton Community Municipal Corporation only upon approval of the Houghton Community Council or the failure of said Community Council to disapprove this Ordinance within 60 days of the date of passage of this Ordinance.

Section 11. Except as provided in Section 10, this Ordinance shall be in force and effect five days from and after its passage by the Kirkland City Council and publication, pursuant to Kirkland Municipal Code 1.08.017, in the summary form attached to the original of this ordinance and by this reference approved by the City Council as required by law.

Passed by majority vote of the Kirkland City Council in open meeting this 3rd day of May, 2011.

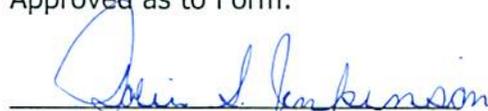
Signed in authentication thereof this 3rd day of May, 2011.


MAYOR

Attest:


City Clerk

Approved as to Form:


City Attorney

PUBLICATION SUMMARY
OF ORDINANCE NO. 4300

AN INTERIM ORDINANCE OF THE CITY OF KIRKLAND RELATING TO LAND USE AND ZONING, PROVIDING INTERIM OFFICIAL CONTROLS REGARDING LAND USE PERMIT EXTENSIONS FILE NO. MIS09-00022, MODIFYING AND EXTENDING ORDINANCE NO. 4219 THROUGH NOVEMBER 3, 2011, AND APPROVING A SUMMARY FOR PUBLICATION.

SECTIONS 1 - 8. Provide for the interim official controls regarding land use permit and plat extensions and extends Ordinance No. 4219 through November 3, 2011.

SECTION 9. Provides a severability clause for the ordinance.

SECTION 10. Provides that the effective date of the ordinance is affected by the disapproval jurisdiction of the Houghton Community Council.

SECTION 11. 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 3rd day of May, 2011.

I certify that the foregoing is a summary of Ordinance 4300 approved by the Kirkland City Council for summary publication.



City Clerk

ORDINANCE O-4354

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO LAND USE AND ZONING, PROVIDING INTERIM OFFICIAL CONTROLS REGARDING LAND USE PERMIT EXTENSIONS, FILE NO. MIS09-00022, AS ADOPTED BY ORDINANCE 4300, AND EXTENDING ORDINANCE 4300 THROUGH NOVEMBER 1, 2012.

WHEREAS, the City Council has the authority to adopt interim regulations pursuant to RCW35A.63.220 AND 36.70A.390; and

WHEREAS, by Ordinance No. 4219 passed on December 1, 2009 after holding a public hearing, the City Council adopted interim regulations that extend land use approvals; and

WHEREAS, on June 1, 2010, the City Council, after holding a public hearing, renewed Ordinance No. 4219 through December 1, 2010; and

WHEREAS, on November 16, 2010, the City Council held a public hearing on renewal of Ordinance No. 4219 through May 16, 2011;

WHEREAS, on May 3, 2011, the City Council held a public hearing on renewal of Ordinance No. 4219 with additional provisions related to the opportunity for second extensions; and

WHEREAS, by Ordinance No. 4300 passed on May 3, 2011, the City Council adopted modified interim regulations that extend land use approvals through November 3, 2011;

WHEREAS, on November 3, 2011, the City Council held a public hearing on renewal of Ordinance No. 4300 through May 1, 2012.

WHEREAS, the City Council desires to renew Ordinance No. 4300 through November 1, 2012;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Kirkland as follows:

Section 1. Findings of Fact. The City Council hereby adopts the findings of fact made in Ordinance No. 4300 by reference. The City Council further finds that renewal of Ordinance No. 4300 through November 1, 2012 is necessary in order to help mitigate the impacts of the current economic downturn.

Section 2. Extension of Ordinance 4300. Ordinance 4300 is hereby renewed, to remain in effect through November 1, 2012. Ordinance 4300 thereafter may be renewed for one or more six month periods if a subsequent public hearing is held and findings of fact are made prior to each renewal.

Section 3. Houghton Community Council. To the extent the subject of this Ordinance, pursuant to Ordinance No. 2001, is subject to the disapproval jurisdiction of the Houghton Community Council, this Ordinance shall become effective within the Houghton Community

Municipal Corporation only upon approval of the Houghton Community Council or the failure of said Community Council to disapprove this Ordinance within 60 days of the date of passage of this Ordinance.

Section 4. Effective Date. Except as provided in Section 3, this Ordinance shall be in effect five days from and after its passage by the Kirkland City Council and publication, pursuant to Kirkland Municipal Code 1.08.017.

Passed by majority vote of the Kirkland City Council in regular, open meeting this _____ day of _____, 2012 and approved by the City Council as required by law.

Signed in authentication thereof this _____ day of _____, 2012.

Mayor

Attest:

City Clerk

Approved as to Form:

City Attorney