



CITY OF KIRKLAND
Planning and Community Development Department
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MEMORANDUM

To: Kurt Triplett, City Manager
From: Eric Shields, Planning Director
Date: April 19, 2012
Subject: Extension of BN Zone Moratorium

RECOMMENDATION

If the City Council wishes to extend the existing moratorium on development within Neighborhood Business (BN) zones, adopt the attached ordinance.

BACKGROUND DISCUSSION

On November 15, 2011, the City Council adopted Ordinance 4335A establishing a development moratorium in the City's BN zones. On January 3, 2012, the City Council conducted a hearing on the moratorium and adopted Ordinance 4343 which revised and extended the moratorium for a total of six months. Unless it is extended, the moratorium will expire on May 15, 2012.

The moratorium was enacted to temporarily preclude new development in BN zones while the City reviews and potential amends BN zoning regulations and associated provisions of the Comprehensive Plan. The objective is to assure that the regulations and Plan are consistent with each other and reflect the City's intentions for development in the BN zones.

The Planning Commission was directed to review the Comprehensive Plan and zoning regulations and recommend amendments to the City Council. The Commission has incorporated this task into a broader review of regulations for a larger group of commercial zones. To date, the Commission has held several study meetings during which opportunities for interested parties to speak have been provided. The Commission reported its initial findings to the City Council on April 3, 2012. Another Planning Commission study session is scheduled for May 10, with a hearing likely to be held on either May 31 or June 7. Recommended code amendments will be presented to the City Council in July.

ORDINANCE O-4355

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) Zone in the Kirkland Zoning Code currently contains no residential density limit whatsoever; 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/or Zoning Code may be 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/or Zoning Code amendments; and

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

WHEREAS, the City has made substantial progress on the work plan but needs additional time to bring a proposed ordinance to the City Council for adoption of the necessary Comprehensive Plan and/or Zoning Code amendments; 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 extending it through May 15, 2012; and

WHEREAS, RCW 35A.63.220 and RCW 36.70A.390 allow the City to extend a moratorium for up to six months following a public hearing and the adoption of findings of fact; and

WHEREAS, a public hearing regarding the moratorium was held on May 1, 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 this Ordinance 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 six months from the effective date in Section 7, 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 to 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; and
- G. The City has made substantial progress in its work plan for adoption of regulations and Comprehensive Plan provisions for BN Zones. The City's Planning Commission has held several study meetings during which opportunities for interested parties to speak have been provided. The Commission reported its initial findings to the City Council on April 3, 2012. Another Planning Commission study session is scheduled for May 10, with a hearing likely to be held on either May 31 or June 7.

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. Effective Date. This Ordinance shall be in force and effect five days from and after its passage by the Kirkland City Council and publication as required by law.

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

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

MAYOR

Attest:

City Clerk

Approved as to Form:

City Attorney