



CITY OF KIRKLAND
 Planning and Community Development Department
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MEMORANDUM

To: Kurt Triplett, City Manager
From: Eric Shields, Planning Director
 Nancy Cox, Development Review Manager
Date: June 7, 2012
Subject: AMENDMENT TO INCREASE CERTAIN SEPA CATEGORICAL EXEMPTIONS, File PLN12-00493

RECOMMENDATION

Staff recommends that the City Council adopts the proposed ordinance amending KMC 24.02.060 to increase SEPA (State Environmental Policy Act) categorical exemptions to the maximum allowed by state law.

BACKGROUND DISCUSSION

WAC (Washington Administrative Code) 197-11-800 lists proposed actions that are categorically exempt from SEPA threshold determinations. It also provides for flexible thresholds for minor new construction. Flexible thresholds allow a jurisdiction to raise the exempt level (i.e. four dwelling units) to a maximum (i.e. 20 dwelling units) if approved by ordinance in the local jurisdiction. Kirkland has already raised some of the levels in KMC (Kirkland Municipal Code) 24.02.065

Following is a chart showing the allowable exemption levels and Kirkland’s current standing.

THRESHOLD LEVELS FOR SEPA CATEGORICAL EXEMPTIONS

| MINOR NEW CONSTRUCTION | LEVELS ALLOWED OUTRIGHT BY WAC | KIRKLAND’S LEVELS IN KMC | UPPER LEVEL ALLOWED BY WAC | REMAINING CAPACITY FOR KIRKLAND |
|-------------------------|--------------------------------|--------------------------|----------------------------|---------------------------------|
| Dwelling Units | 4 dwelling units | 9 dwelling units | 20 dwelling units | 11 dwelling units |
| Farming structure | 10,000 square feet | 10,000 square feet | 30,000 square feet | 20,000 square feet |
| Commercial plus parking | 4,000 SF + 20 stalls | 4,000 SF + 20 stalls | 12,000 SF + 40 stalls | 8,000 square feet + 20 stalls |
| Parking lot | 20 stalls | 20 stalls | 40 stalls | 20 stalls |
| Grading | 100 cubic yards | 500 cubic yards | 500 cubic yards | none |

The ordinance before the Council fills in the “remaining capacity” shown in the table (far right column) above by amending KMC 24.02.065. The Economic Development Committee reviewed and recommended this proposal on May 14, 2012. Other cities in the region have adopted the maximum level allowed, most notably Redmond, Sammamish and Kenmore. Redmond and Kenmore did not encounter any opposition when they made the change.

Second Engrossed Substitute Senate Bill 6406 (2ESSB 6406)

In the 2012 Legislative Session the Department of Ecology was directed via 2ESSB 6406 to convene an advisory committee that must make several changes to SEPA. One of the changes includes increasing existing maximum threshold levels. Until the committee completes its work, jurisdictions are permitted to increase their levels to the extent allowed by state law without legislative action. Work on 2ESSB has prompted staff to recommend moving ahead with raising levels in Kirkland. Now that 2ESSB is in effect, staff is recommending raising the level by ordinance to ensure full legislative policy review even though Council action is not technically required.

Streamlining Measure

Traffic is the primary potential environmental impact that is still analyzed through SEPA review. Other environmental concerns (i.e. stream, wetland, trees, etc.) are covered adequately by adopted codes and conditioned through the permit. By raising the exempt levels there will be fewer projects receiving traffic impact analysis through SEPA. This could result in a savings to the developer in the range of \$5,000 – \$10,000 (and 6-8 weeks of permit processing time) because they would not have to hire a traffic engineer, and pay SEPA review and concurrency fees. However, our traffic engineers have confirmed that the projects that will be exempt are still too small to have required mitigation through SEPA. Road impact fees are still applicable regardless of the size of project or SEPA review. Therefore, raising the levels is a streamlining measure that will not negatively impact the City.

Codifying traffic regulations is on the Planning Work Program for later this year or 2013. When this is done, SEPA review may not be necessary to conduct traffic impact analysis for development projects – a further streamlining measure.

ORDINANCE O-4361

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO SEPA PROCEDURES AND AMENDING SECTION 24.02.065 OF THE KIRKLAND MUNICIPAL CODE, FILE NO. PLN12-00493.

WHEREAS, the City seeks to streamline development review when possible; and

WHEREAS, the City has already raised the level of some categorical exemptions for minor new construction as allowed by state law; and

WHEREAS, the City can review projects and maintain environmental protection by using existing Kirkland rules and regulations to condition permits rather than SEPA; and

WHEREAS, Washington Administrative Code ("WAC") 197-11-800(1) allows cities, towns or counties to raise the exempt levels to the maximum specified in the section by implementing ordinance, and Kirkland has some remaining capacity to reach the maximum specified;

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

Section 1. Kirkland Municipal Code Section 24.02.065 is hereby amended to read as follows:

24.02.065 Threshold levels for categorical exemptions.

WAC 197-11-800 establishes certain actions as exempt from SEPA. Under (1)(c) of that section, the city establishes raised levels of exemptions for the following types of actions as exempt from SEPA except as provided in WAC 197-11-305 and 197-11-800(1)(a):

- (a) The construction or location of any residential structures of ~~nine~~ twenty or fewer dwelling units (WAC 197-11-800(1)(b)(i));
- (b) The construction of a barn, loafing shed, farm equipment storage building, produce storage or packing structure, or similar agricultural structure, covering 30,000 square feet, and to be used only by the property owner or his or her agent in the conduct of farming the property. This exemption shall not apply to feed lots (WAC 197-11-800 (1)(b)(ii));
- (c) The construction of an office, school, commercial, recreational, service or storage building with 12,000

square feet of gross floor area, and with associated parking facilities designed for forty automobiles WAC 197-11-800 (1)(b)(iii));

(d) The construction of a parking lot designed for forty automobiles (WAC 197-11-800 (1)(b)(iv));

(be) Any landfill or excavation of five hundred or fewer cubic yards throughout the total lifetime of the fill or excavation, and any fill or excavation classified as a Class I, II, or III forest practice under RCW 76.09.050 or regulations thereunder (WAC 197-11-800(1)(b)(v)).

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. This ordinance shall be in full 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