



CITY OF KIRKLAND
Planning and Community Development Department
123 Fifth Avenue, Kirkland, WA 98033 425.587-3225
www.ci.kirkland.wa.us

MEMORANDUM

To: Kurt Triplett, City Manager

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

Date: November 4, 2010

Subject: SECOND RENEWAL OF INTERIM ORDINANCE NO. 4219 TO EXTEND
LAND USE PERMIT APPROVALS DURING THE ECONOMIC DOWNTURN

RECOMMENDATION

Staff recommends that the City Council hold a public hearing and consider the second renewal of an Interim Ordinance that extends approval periods for land use permits. The extension opportunity is available to applicants with pending zoning permits and plats. The Interim Ordinance has been in effect for one year. Staff recommends that the Council consider renewing it for another 180 days while the economic downturn continues.

BACKGROUND DISCUSSION

The original request for additional time for permits came early in 2009 from the Master Builders Association to address the severe economic hardship due to the local and national economy. Building and grading permits were addressed first. The Council passed an ordinance extending the timeframes for building and grading permits in April, 2009. An ordinance to continue the extension for building and grading permits is on the Council's November 16th agenda.

The idea of land use permit extensions came up during a City Council meeting in September, 2009 and subsequently was brought to the Economic Development Committee. After reviewing information about what other jurisdictions are doing, the Economic Development Committee directed staff to take a land use permit extension ordinance to the full Council for consideration. An interim Ordinance No. 4219 (see Attachment 1) was prepared and approved in December, 2009 and renewed in June, 2010. Interim ordinances must be renewed every six months to remain in effect. Therefore, the second renewal is the subject of the public hearing on Council's November 16th agenda.

Zoning Permits

Ordinance 4219 extends the time by one year an applicant has to: 1) start construction or submit a complete building permit, or 2) complete construction. The ordinance does

not allow an applicant to extend both periods. It does not apply to permits that have expired.

Subdivision Permits

Ordinance 4219 addresses Kirkland Municipal Code provisions related to increasing the time an applicant has to get a plat recorded from 4 years to 6 years. It does not apply to permits that have expired.

Use in First Year

Seven (8) short plat applicants and two (2) zoning permit applicants have taken advantage of the extension opportunity.

Attachment

1 Ordinance 4219

cc: File MIS09-00022

ORDINANCE NO. 4219

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, 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;

WHEREAS, the City Council held a public hearing on December 1, 2009; 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 either: 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. 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 extension authorized by this Section shall apply in addition to other extensions that may be available under the Kirkland Zoning Code. 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 one-year extension granted under Section 1 of this Ordinance shall remain in effect until expiration of the applicable one-year period, 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. 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 extension granted under Section 3 of this Ordinance shall remain in effect until expiration of the extension, 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.

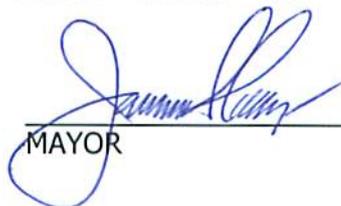
Section 9. Severability. Should any provision of this Ordinance or its application to any person or circumstance be held invalid, the remainder of the ordinance or the application of the provision to any other persons or circumstances shall not be affected.

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 1st day of December, 2009.

Signed in authentication thereof this 1st day of December, 2009.



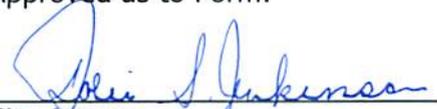
 MAYOR

Attest:



City Clerk

Approved as to Form:



City Attorney

**PUBLICATION SUMMARY
OF ORDINANCE NO. 4219**

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).

SECTION 1. Describes the authorization process for zoning permit extensions.

SECTION 2. Describes the applicability of Section 1 in relation to existing Kirkland Zoning Code provisions.

SECTION 3. Describes the authorization process for plat extensions.

SECTION 4. Describes the applicability of Section 3 in relation to existing Kirkland Municipal Code provisions.

SECTION 5. Provides that permit extensions authorized by the Planning Director must comply with the applicable regulations in effect at the time the extension is granted.

SECTION 6. Establishes the duration of the interim controls.

SECTION 7. Sets forth findings of fact in support of the Ordinance.

SECTION 8. Sets forth the process by which the Ordinance may be extended.

SECTION 9. Provides a severability clause for the Ordinance.

SECTION 10. Provides that the Ordinance may be subject to 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 Kirkland Municipal Code 1.08.017 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

O-4219

City of Kirkland. The Ordinance was passed by the Kirkland City Council at its meeting on the 1st day of December, 2009.

I certify that the foregoing is a summary of Ordinance 4219 approved by the Kirkland City Council for summary publication.


City Clerk

ORDINANCE NO. 4271

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 4219, AND EXTENDING ORDINANCE 4219 THROUGH MAY 16, 2011.

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; and

WHEREAS, the City Council desires to renew Ordinance No. 4219 through May 16, 2011;

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. 4219 by reference. The City Council further finds that renewal of Ordinance No. 4219 through May 16, 2011 is necessary in order to help mitigate the impacts of the current economic downturn.

Section 2. Extension of Ordinance 4219. Ordinance 4219 is hereby renewed, to remain in effect through May 16, 2011. Ordinance 4219 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 _____, 20__ and approved by the City Council as required by law.

SIGNED IN AUTHENTICATION thereof this ___ day of _____, 20__.

Mayor

Attest:

City Clerk

Approved as to Form:

City Attorney