

V. ORGANIZATIONS

A. DESIGN REVIEW BOARD AND PROCESSES

Overview

The Design Review Board (DRB) consists of (7) seven members appointed by majority vote of the City Council, for four-year terms. In addition, the Planning & Community Development Director is required to sit on the DRB as a nonvoting member for purposes of advising the board on regulatory and urban design issues.

DRB members are required to be design professionals, building/construction experts, and residents of Kirkland capable of reading and understanding architectural plans and knowledgeable in matters of building and design. The majority of the Board must be comprised of architects, landscape architects, urban design and similar professionals. Attendance requirements for DRB members have been established by the Kirkland Municipal Code, and any members missing three or more consecutive meetings not excused by majority vote of the DRB can be recommended for removal by the City Council by majority vote.

The DRB is charged with reviewing and making decisions on “non-exempt” development activities for consistency with various design guidelines in the City’s Zoning Code. “Non-exempt” development activities include specific types of new buildings and additions to existing buildings, as well as renovations to facades identified as a historic structure or located within any of the six (6) zoning districts that require design review. In addition, the DRB reviews and approves certain types of Conceptual Master Plans, and is authorized to approve minor variations in development standards found in certain design guidelines, provided they comply with the adopted criteria.

DRB meetings are held the first and third Mondays of each month at 7pm in the City Hall Council Chambers. There are generally no more than two projects on the agenda per meeting, and all meetings are open to the public. Staff indicates that the number of meetings is sufficient and that there are no backlogs. Rules of Procedure and public participation are posted on the City’s website. Agendas, minutes and audio recordings are kept for each meeting and available on-line. On-call recording secretaries take minutes and audio recordings of DRB meetings and all minutes are up to date and posted online.

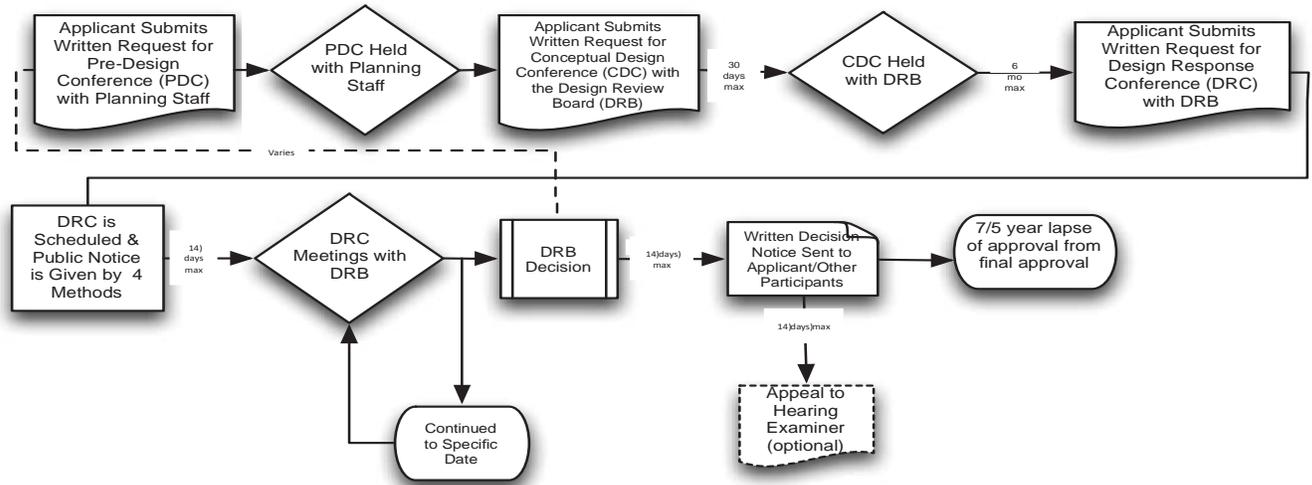
Design Review Board Approval Process

The Design Review Board (DRB) must approve projects located within any of the six (6) established design districts. Applicants with development projects requiring DRB approval (i.e., “non-exempt development projects) must comply with all Zoning Code

provisions contained in Chapter 142, before a building permit can be approved. However, applicants do have an option of submitting a building permit application at their own risk at any time during the design review process, which we agree is a good option for builders. There is also an Administrative Design Review process, which entails approval at the Planning Official level, which is good.

Figure 8 shows the basic process flow for DRB applications.

Figure 8
Existing DRB Basic Process Flow



As the above figure shows, the DRB process is fairly straightforward. Generally the Review Board process consists of three (3) broad steps: A Pre-design Conference; A Conceptual Design Conference; and A Design Response Conference. Additional steps are associated with these broad steps and summarized below, along with our recommended process changes.

1. Pre-Design Conference (PDC). This is the first step in the process before an applicant can apply for DRB approval. The applicant uses the City’s pre-submittal conference application to apply for and schedule the meeting. An application fee is required, which can be credited towards application fees when a formal application for DRB is made. PDC’s are scheduled a minimum of ten (10) business days in advance, and meetings are held on Tuesdays at 11am and 1:30pm and on Thursday afternoon as 1:30pm and 2:30pm. Submittal requirements include a vicinity map, conceptual drawings, which also show the location of all significant trees, (at least 6" diameter), existing and proposed contour lines if available (include parking lot, circulation system, and any natural features).

The PDC application currently can't be filled in, submitted, paid for or scheduled on line.

105. Recommendation: The City should allow Predesign Conference (PDC) applications and electronic plans to be submitted, scheduled and paid for online.

PDC is held by a team of City staff, which generally includes staff from Planning, Public Works, Building and Fire. The purpose of the PDC is for the applicant to ask questions and staff to discuss any issues and comprehensive plan, zoning code and design guideline requirements that may apply to the project. The PDC is also intended to assist the applicant in preparing for the conceptual design conference and written notes are kept on the meeting.

Interviews with staff indicated that the meetings are not consistently run by Planning Staff as intended.

See our recommendations under “Process Issues” regarding Planning Project Manager Systems.

2. Conceptual Design Conference (CDC) is the next step in the process. The applicant submits a completed application form, various submittal requirements and the required fee to the Planning & Community Development Department. Submittal requirements include: Four (4) copies of simple and clear graphic materials in 11x17” format illustrating:
 - The site, including topography, aerial photography, existing uses and structures, and existing vegetation;
 - Vicinity map;
 - Site and context analysis;
 - Conceptual site plan(s) and massing diagrams;
 - Three alternative massing and siting concepts;
 - Design departures (if any) being considered;
 - Graphic or written materials indicating the development objectives for the project.

The CDC is scheduled within 30 calendar days of the application submittal. The CDC is a preliminary meeting with the DRB to review the site context and project objectives prior to detailed project design work. The applicant can ask

the DRB, questions about the design regulations, design guidelines and other applicable provisions of the Comprehensive Plan. The DRB also has the opportunity to designate which design regulations, design guidelines and other applicable provisions of the Comprehensive Plan apply to the proposed development based primarily on the location and nature of the proposed development, as well as determine what models, drawings, perspective, 3-D Cad Models or other application materials the applicant will be required to submit.

Staff and board member interviews indicated that the CDC is a necessary step that allows applicants to get thorough feedback and direction from the DRB before spending money on the final design. However, we are not convinced. It appears that the PDC meeting could be strengthened to require applicant's to provide the submittal materials necessary so that staff can provide the applicant with adequate feedback and direction to proceed with a DRB submittal, without the need for an intermediate CDC submittal.

106. Recommendation: The Land Use Management Division should review the submittal requirements for the PDC with the goal of obtaining enough information from the applicant so that adequate feedback and direction can be provided to the applicant in order to make a formal DRB submittal without the need for an intermediate CDC submittal.

3. After the CDC, the applicant submits a formal DRB application and fee along with all required submittal materials noted as part of the CDC, and submittal requirements noted on the application within 6 months of the CDC. A "Design Response Conference" (DRC) is scheduled with the DRB as soon as practicable, but generally no longer than 60 calendar days of receiving the completed application.
4. Public Notice is typically given by four (4) methods, at least 14 calendar days prior to the first DRB meeting (note: staff indicates that 3 meetings are typically held with the DRB before the applicant gains approval) including, distribution to all property owners within 300 feet of any boundary of the subject property; community groups; publishing the notice once in the official newspaper of the City; the applicant erecting public notice sign(s) conspicuously on or near the subject property facing the public right-of-way, or primary vehicular access road; and posting of the notice on the City's website by City staff.

Interviews with staff indicate that the Department Administrative Staff handle the publishing, adjacent property notice, and website posting. Staff also confirms property owner posting. The Public notice process is handled electronically (with the exception of property posting) and occurs as early as possible in the process so that ample notice is extended to the public, which is a good practice.

5. Following public notice, staff prepares a staff report, which is edited by a planning supervisor, then finalized by the planner. The Staff Report is then transmitted electronically to the Department's Administrative Staff for assembly into both electronic and paper agenda packets, and posting on the City's webpage. Agenda packets are distributed to Board members and the applicant a minimum of seven calendar days in advance of the meeting.

Interviews with staff and a board member indicated a need for a more structured, condensed, checklist staff report template that includes a staff recommendation, to ensure that any staff assigned to process DRB cases presents consistent information to the Board. In addition, there is a need for a presentation template to ensure that assigned staff presents consistent, relevant information to the DRB.

See recommendations under "Staff Reports and Presentations regarding creating checklist format staff report templates and presentation templates.

Further, it was revealed that DRB members prefer paper packets, since they do not have laptops available to review packets at the hearing electronically. As such, staff has to continue to request and distribute paper submittal materials.

107. Recommendation: The Planning & Community Development Department should budget for laptop computers or iPads for use at the hearing daises for each DRB member, so that agenda packets can be transmitted and viewed electronically on laptop computers without the need for preparing and distributing paper agenda packets.

In addition, Board members indicated that agenda packets are intended to be delivered approximately nine days prior to the meeting; however they are often distributed only six to seven days prior to the meeting. Members expressed a need to have nine days to review plans prior to the meeting.

108. Recommendation: The Development Review Manager should discuss the timeline for delivering agenda packets to DRB members.

6. A Design Response Conference (DRC) is held by the DRB. At the DRC the DRB reviews the design plans and provides direction to the applicant on issues to be resolved for final approval. The DRC order of presentation includes a staff Power Point presentation, followed by the applicant's presentation. The Board then solicits comments from interested members of the public. If Board finds that the application does not meet specified requirements, it may indicate what areas have not been met and outline for the applicant the options available to meet the requirements through conditional approval or continuing to allow the applicant to revise and resubmit. The Board can also deny the application or continue the DRC to gather additional information necessary for its decision on the design review application. If the conference is continued to a specific date, no further public notice is required; otherwise notice is redistributed. If the project is approved, the DRB makes a motion that adopts the approved project drawings or adopt with changes and/or conditions. The terms of approval or conditional approval become conditions of approval on each subsequent development permit and no subsequent development permit will be issued unless it is consistent with the DRB approval or conditional approval.
7. Per the City's Zoning Code, A Notice of Decision is sent to the applicant within 14 calendar days of the DRB decision. Administrative staff sends a Notice of Decision to the applicant (and all other parties who participated) electronically and via regular mail. If the application is denied, the decision indicates the reasons for denial. The applicant then has the option of appealing the decision to the Hearing Examiner. The final DRB decision is considered the date of distribution of the written decision or, if the decision is appealed, the date of the City's final decision on the appeal.

109. Recommendation: The Land Use Management Division should review the Notice of Decision time frame stipulated by the Zoning Code and amend the code, so that the notice is distributed within four days, so that it is consistent with other processes.

8. If the applicant submits a complete application for a building permit for the approved DRB development within 180 days of the final decision, the vesting date for the building permit application is the date of the final DRB decision.

Interviews with Staff indicate that the Department has not established staff review or overall processing goals/performance standards for Design Review projects. Performance Standards should be established and monitored for these projects to streamline reviews and processing.

See our recommendations under the “Performance Standards Section” about establishing processing performance standards for the DRB.

B. HEARING EXAMINER

Overview

The Hearing Examiner (HE) is appointed by the City Manager to provide independent reviews of certain types of appeals of city departments, land use permits and zoning violations. The City currently contracts with the City of Seattle to provide Hearing Examiner services.

According to Chapter 3.34 of the KMC, the purpose of the HE is “to separate application of city regulations from planning, policy making and legislative functions; to provide a high level of expertise in the conduct of administrative and quasi-judicial hearings arising from the application of this code, the Kirkland Zoning Code and the rules and procedures developed under this code and the Kirkland Zoning Code; to protect and promote the interests of the community; and to ensure fairness and due process in public hearings.” As such, the HE is intended to be autonomous from the supervision or influence of the City Manager or any City official. Hearings are governed by constitutional principles, state law, the Kirkland Municipal Code and Zoning Code, the Comprehensive Plan, and the rules of procedure for hearing examiner proceedings.

The HE is charged with conducting public hearings in accordance with the City’s adopted rules of procedure for the various proceeding types, and making decisions on code enforcement cases (e.g., Notices of Civil Violations), and either issuing a recommendation to the City Council or a decision on all Process IIA and IIB application types. In addition, the HE conducts hearings and makes decisions on appeals arising from decisions of the Planning & Community Development Director and other City Departments. The HE also has the power to issue a summons to compel the attendance of witnesses and to preserve order but it appears that this has never been needed. Decision-making is based on available information, the record and findings of fact. Since Appeal hearings are quasi-judicial proceedings, state and local law prohibits anyone from contacting the HE about the merits of an appeal or for the purpose of influencing a decision, except during a hearing.

The Planning & Community Development Department acts as staff for the HE, scheduling hearing dates, sending out notices, preparing and distributing staff reports, setting up the room for the hearing, and recording minutes of proceedings. The order of presentation at Hearings includes the HE introduction, department presentation

(generally PowerPoint), applicant/appellant's presentation, testimony from others, rebuttals and closing arguments.

Interviews revealed that the HE is well served by staff and that meetings are very consistent and efficient. Agenda, audio recordings and minutes are prepared and maintained for all proceedings and are available on line via the City's website.

Given the current volume of HE permit application cases, code enforcement cases and appeals, the number of meetings is adequate to accommodate the caseload without creating backlogs. Further, when needed for more complex cases, the HE may schedule a Prehearing Conference to clarify issues and address procedural matters to facilitate an efficient hearing. HE meetings are held on the first and third Thursday of each month at 9a.m. in the City Hall Council Chambers.

Recently, the HE drafted a "Guide to Hearings Before the Hearing Examiner," to assist staff, applicants, and appellants with the understanding and navigating the Hearing Examiner meeting process, which are governed by rigorous state and local laws. The "Guide" has not yet been reviewed and approved by the City and is not yet available for use. We reviewed the "Guide," and feel it would be an excellent tool for citizens, applicants and staff. The "Guide" should be reviewed, edited, finalized and posted on the City's website along with the other handouts, applications and guides. It should also be made available in paper form at the Department's front counter. Staff should create a basic flow chart of the HE processes and include it as part of the "Guide."

110. Recommendation: The Planning & Zoning Department should review and finalize the "Guide to Hearings Before the Hearing Examiner," and post it on the Department's website, as well as at the front counter. A basic flow chart of the HE processes should be created and included as part of the "Guide."

Interviews with Staff indicated that other department/division appeals, including Fire and Solid Waste utilize the Hearing Examiner (HE) for their appeal process as well. Because the Planning & Community Development Department staff are the most versed in supporting HE hearings, staff handles the HE appeals hearings for the other departments, when they arise. Because the volume of appeal cases from these other departments is so low, the Planning & Community Development Department staff has agreed to handle these cases; however, this additional workload has not been formally acknowledged and factored into the Department's workload.

111. Recommendation: The Planning & Community Development Department should acknowledge and factor in the additional workload created by processing appeal cases for other departments through the HE process.

C. HOUGHTON COMMUNITY COUNCIL

Overview

The Houghton Community Council (HCC) is the elected council for the Houghton Community Municipal Corporation (HCMC), which was created pursuant to the provisions of Chapter 35.14 of the Revised Code of Washington (RCW). The territory of the HCMC is identical to the territory within the boundaries of the former Town of Houghton. Every four years, all the constituents within the Houghton territory vote to decide whether HCMC should remain in place.

The HCC is composed of the seven Council members of the former Town of Houghton. Currently, one seat is vacant, and the City is actively recruiting to fill the position. The HCC conducts meetings on the fourth Monday of each month in the City Hall Council Chambers at 7pm.

The HCC is responsible for reviewing and approving both current planning projects (Process IIB) and long-range projects (e.g., Process IV & IVA) that are within the former boundary of the Town of Houghton. Planning & Community Development Department Staff and the HCC instituted a joint hearing process with the HCC and Hearing Examiner to streamline current planning permit processing and prevent processing delays, which we applaud. Current planning permit projects within the HCMC boundary are often scheduled for a joint hearing with the Hearing Examiner and a combined public notice can be published, mailed to surrounding property owners and posted. Staff reports and agenda packets are transmitted electronically, posted on the City's website and mailed to the HCC and Hearing Examiner in advance of the scheduled joint Hearing, which is good. Each decision/action of the HCC is approved by resolution by majority vote of the members prior to the Hearing Examiner's final decision. The Hearing Examiner then factors the HCC's decision into the Hearing Examiner's final decision. Interviews indicate that this process works well.

City codes give the HCC "Disapproval Jurisdiction," over projects within the HCMC boundary. This means that when the City Council approves a resolution or ordinance within the disapproval jurisdiction of the Houghton Community Council the Ordinance becomes effective within their jurisdiction after the approval by a majority of the entire membership of the HCC by Resolution or the failure of the HCC to disapprove the Ordinance, by resolution, within 60 calendar days of City Council approval.

Interviews with HCC members indicated that they are well served by current planning staff and that they are provided them with thorough staff reports/memos, presentations and agendas and minutes and audio recordings of proceedings are taken of every proceeding and are up-to-date. Activity levels for development projects have been

very low over the past few years, with only three to four meetings per year. As such, the number of meetings scheduled annually is more than sufficient to accommodate the caseload.

Long Range planning projects within the HCC boundary are processed similarly by the Planning & Community Development Department, except that joint hearings are held with the Planning Commission rather than the Hearing Examiner, since the Planning Commission is responsible for reviewing and making recommendations on legislative acts in the City. HCC interviewees indicated that they received good service from staff and feel the joint hearing process helps to streamline the process.

However, interviewees did indicate that the neighborhood planning process is arduous and needs to be restructured. For example, both staff and HCC interviewees indicated that the planning process can take up to two years to complete due to the public participation component. They also indicated that participants are not adequately informed about the time commitment required to participate, so participants filter in and out of the process, which impedes progress, while new participants are brought up to speed.

In addition, some interviewees' believe that the document drafting and revision process is partly responsible for the lengthy planning process because participants struggle to follow the myriad of changes that occur. To help simplify the document drafting and revision process, interviewees suggested that staff should consistently use conventional strike out and bold text to clearly show text changes and edits.

112. Recommendation: The Policy & Planning Division should consistently use conventional strike out and bold text to clearly show text changes and edits in long-range policy document amendments within the HCMC.

Joint Study Sessions with City Council

Interviews with staff and HCC members indicated that the HCC periodically meets with the City Council in a joint session to discuss issues and facilitate trust and ensure that objectives and goals are in alignment, which is excellent.

D. PLANNING COMMISSION

Overview

The Planning Commission consists of seven (7) members. Currently, there are no vacancies. Members are appointed for four-year terms by a majority vote of the City Council. The Commission meets twice per month, on the second and fourth Thursdays at 7 p.m. in the City Hall Council Chambers. Agendas, minutes and audio recordings are kept for each meeting and available on-line.

Attendance requirements for Commissioners have been established by the Kirkland Municipal Code (KMC), and members are expected to attend no less than 80% of all meetings annually, unless the required is waived by City Council. A commissioner may be removed by majority vote of the city council.

The principle responsibility of the Commission is to act as a planning advisory board for all legislative matters relating to land use, comprehensive planning and zoning, including but not limited to, such things as adopting or amending the zoning code text and map, and subdivision regulations. The Planning Commission only deals with legislative issues (no permit applications). They make recommendations to the City Council on plan and code changes. The Commission also provides direction on and makes recommendations for the Planning & Community Development Department work program, and appoints Planning Commission members to serve on other city committees, advisory groups and task forces.

Joint Study Sessions with City Council

Interviews with staff and PC members indicated that like the HCC, the PC periodically meets with the City Council in a joint session to discuss issues and facilitate trust and ensure that objectives and goals are in alignment, which is a good practice. Moreover, PC members may attend City Council meetings to present their recommendation on controversial projects, which we support.

New Member Orientation

Interviews with staff indicated that new members are provided with training and given a comprehensive orientation session to introduce them to staff, procedural rules, scope of review, etc., which is consistent with Best Practices. As the budget permits, PC members should also attend periodic training session sponsored by the American Planning Association and other professional industry-related organizations to help keep them abreast of the latest trends and legal issues.

113. Recommendation: Planning Commission members should attend training sessions, as the budget permits, that are sponsored by the American Planning Association and other professional industry-related organizations periodically, to keep them abreast of the latest trends and legal issues.

Staff Support

The Commissioners we interviewed feel the Commission is well served by the staff in the Planning & Community Development Department.

