ORDINANCE NO. 2796

AN ORDINANCE of the City of Kent, Washington, regarding Planning Department Housing Element Work Program, designating procedures for amendments to the Comprehensive Plan, Zoning Map and Zoning Text, if any should result from the Work Program; granting to the Planning Commission the authority to consider and make recommendations on zoning map amendments, in lieu of the Hearing Examiner; specifying that amendments to the Comprehensive Plan may be made simultaneous with, or prior to, amendments to the Zoning Code; and providing for public notice procedures for public hearings held on amendments proposed as a result of this program.

WHEREAS, the City Council, by Resolution 1123, evidenced a desire to achieve reduction in the density of multifamily housing through revisions to Kent's Comprehensive Plan and Zoning Code; and

WHEREAS, the City Council, by Resolution 1172, directed the Planning Department to conduct a study and proposed update of the housing element of the City's Comprehensive Plan, including an area by area analysis of multifamily density for East Hill, West Hill and Valley Floor Planning Areas; and

WHEREAS, the Council directed that the results of said area-wide study are to be proposed for implementation through text and/or map zoning amendments to be presented to the Council; and

WHEREAS, the Council had directed that Planning to work with the City Council to develop a work program for the area by area analysis; and

WHEREAS, RCW 35A.63.020 empowers a city council to authorize the Planning Commission to hear and make recommendations to the City Council on Zoning Map amendments; and
WHEREAS, public notice and opportunity for input on the Work Program process, procedure and results is of the highest priority to the City Council; and

WHEREAS, the Council is desirous of establishing procedural rules for conducting the Work Program, and for implementation of proposals generated thereby, which are both expedient in its process and generous in its opportunities for public hearing and input; NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF KENT, WASHINGTON DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. The Planning Department shall conduct a study and proposed update of the housing element of the City's Comprehensive Plan, including an area by area analysis of residential density. The result of the area by area study are to be proposed for implementation through amendments to the Comprehensive Plan, Zoning Text, and/or official Zoning Maps. Rules for Work Program procedure, process, hearings and recommendations to the City Council shall be as defined in Section 2.

Section 2.

1. Planning Commission


The Planning Commission is to hold at least one public hearing on any proposed amendments to the Comprehensive Plan. The amendment must be processed either concurrent with or prior to any proposed rezone. Upon completion of the hearing or hearings on the comprehensive plan or successive parts thereof, the Planning Commission, after making such changes in the plans as it deems necessary, is to transmit a copy of its recommendations for the plan, or successive parts thereof, to the City Council through the Mayor, who is to acknowledge receipt thereof and direct the Clerk to certify thereon the date of receipt.
2. **Zoning Map Amendments.**

A. **Authorization.** The Planning Commission, in lieu of the Hearing Examiner, is authorized to conduct the hearings on all Zoning Map amendments proposed as a result of this work program. The Commission shall receive and examine available information, conduct public hearings, prepare a record thereof and enter findings of fact and conclusions based upon those facts, together with a recommendation to the City Council, for such proposals.

B. **Report by Planning Department.** Department shall coordinate and assemble relevant information regarding any proposed amendment the comments and recommendations of other City departments and governmental agencies having an interest in the proposal and shall prepare a report summarizing the factors involved and the Planning Department analysis and supportive recommendations. At least seven calendar days prior to the scheduled hearing, the report shall be filed with the Commission and copies thereof shall be made available for use by any interested party for the cost of reproduction.

C. **Conflict of Interest.**

Planning Commission members shall not conduct or participate in any hearing or decision in which the Planning Commission members have a direct or indirect personal interest which might exert such influence upon the Commission that might interfere with their decision-making process. Any actual or potential conflict of interest shall be disclosed to the parties immediately upon discovery of such conflict.

Participants in the land use regulatory process have the right, insofar as possible, to have the Planning Commission members free from personal interest or prehearing contacts on land use regulatory matters considered by them. It is recognized that there is a countervailing public right to free access to public officials on any matter. If such personal or prehearing interest contact impairs the members' ability to act on the matter, such person shall so state and shall abstain therefrom to the end that the proceeding is fair and has the appearance of fairness, unless all parties agree in writing to have the matter heard by said member. No Council member, City official, or any other person shall attempt to interfere with, or improperly influence the Planning Commission members in the performance of their designated duties.
D. Public Hearing. Before rendering a decision or recommendation on any proposal, the Commission shall hold at least one public hearing thereon.

The Commission shall have the power to prescribe rules and regulations for the conduct of hearings under this Ordinance and also to administer oaths, and preserve order.

E. Recommendation or Decision.

i. The Commission's recommendation or decision may be to grant or deny the proposal, or the Commission may recommend or require such conditions, modifications and restrictions as the Commission finds necessary to make the proposal compatible with its environment and carry out the objectives and goals of the Comprehensive Plan and amendments thereto, the Zoning Code, the Subdivision Code, and other codes and ordinances of the City. Conditions, modifications and restrictions which may be imposed are, but are not limited to, additional setbacks, screenings in the form of landscaping and fencing, covenants, easements and dedications of additional roads rights-of-way.

ii. If the zoning amendment is in conflict with the Comprehensive Plan, or there are no policies that relate to the zoning amendment, or the policies are not complete, then a Comprehensive Plan amendment shall be processed either concurrent with or prior to the rezone.

iii. In regard to proposals for zoning amendments, the findings and conclusions shall be submitted to the City Council, which shall have the final authority to act on such applications.

F. Commission's Decision and Recommendation--Findings Required. The Commission shall render an oral recommendation at the conclusion of the final hearing on any matter. Thereafter, the Commission shall make and enter written findings from the record and conclusions therefrom which support such recommendation, which written findings and recommendation shall be rendered within fourteen calendar days of the conclusion of the hearing. The copy of such recommendation including findings and conclusions, shall be transmitted by first class mail, to all parties of record in the case requesting the same. There shall be kept on file in the Planning Department a signed affidavit which shall attest that each mailing was sent in compliance with this provision.
In addition, the Commission shall file a recommendation with the City Council at the expiration of the period provided for a rehearing or within fourteen days of the conclusion of a rehearing, if one is conducted.

G. Reconsideration. Any aggrieved person feeling that the recommendation of the Commission is based on erroneous procedures, errors of law or fact, error in judgment, or the discovery of new evidence which could not be reasonably available at the prior hearing, may make a written request for reconsideration by the Commission within fourteen days of the date the recommendation is rendered. This request shall set forth the specific errors or new information relied upon by such appellant, and the Commission may, after review of the record, take further action as they deem proper.

H. Appeal of Commission's Recommendation. Any party who feels aggrieved by the Commission's recommendation may submit an appeal in writing to the Council within fourteen calendar days from the date the final recommendation of the Commission is rendered, requesting a review of such recommendation. Such appeal shall be upon the record established and made at the hearing held by the Commission, provided that new evidence which was not available at the time of the hearing held by the Commission may be included in such appeal. The term "new evidence" shall mean only evidence discovered after the hearing held by the Commission and shall not include evidence which was available or which could reasonably have been available and was simply not presented at the hearing for whatever reason.

Such written appeal shall allege specific errors of fact, specific procedural errors, omissions from the record, errors in the interpretation of the Comprehensive Plan or new evidence which was not available at the time of the hearing held by the Commission.

Upon such written appeal being filed within the time period allotted and upon payment of fees as required, a hearing shall be held by the City Council. Such hearing shall be held in the manner set out in resolution adopted by the City Council containing appeal procedure for Hearing Examiner decisions. If the Commission has recommended approval of the proposal, such recommendation shall be considered by the City Council at the same time as the consideration of the appeal.
3. **Text Amendments.** The Planning Commission shall conduct at least one public hearing on all proposed Zoning Text amendments. The Planning Commission shall make a recommendation to the City Council. Conduct procedures of the Planning Commission for proposals under this Work Program shall be as provided in Kent City Code Chapter 2.32.

II. **City Council Review.**

1. **Comprehensive Plan.**

   Within 60 days of its receipt from the Planning Commission of the recommendation for the Comprehensive Plan, the City Council is required to consider it at a public meeting. The City Council is to approve, disapprove, or modify the Comprehensive Plan, or refer it back to the Planning Commission for further proceedings. In the latter event, the City Council must specify the time within which the Planning Commission is to report back to the City Council its findings and recommendations on the matters referred to it. An affirmative vote of at least a majority of the total members of the City Council is required for the adoption of a resolution to approve the Comprehensive Plan or its parts. Consideration of a Comprehensive Plan amendment shall be undertaken prior to, or simultaneous with, consideration of any proposed rezone. The Comprehensive Plan, or its successive parts, must be filed with an appropriate city official and be available for public inspection.

2. **Zoning Map Amendments.** Any Zoning Map amendment proposal requiring action by the City Council shall be taken by the adoption of a resolution or ordinance by the Council. When taking any such final action, the Council shall make and enter findings of fact from the record and conclusions therefrom which support its action. The City Council may adopt all or portions of the Commission's findings and conclusions.

   In the case of an ordinance for rezone of property, the ordinance shall not be placed on the Council's agenda until all conditions, restrictions, or modifications which may have been stipulated by the Commission have been accomplished or provisions for compliance made to the satisfaction of the Legal Department.
The action of the Council, approving, modifying, or rejecting a recommendation of the Commission, shall be final and conclusive, unless within twenty calendar days from the date of the Council action an aggrieved party or person applies for a writ of certiorari to the Superior Court of Washington for King County, for the purpose of review of the action taken.

3. **Zoning Text Amendments.** The City Council may affirm, modify or disaffirm any recommendation of the Planning Commission with regard to text amendments.

### III. Public Hearing Notice Requirements.

1. **Planning Commission.**

   A. **Comprehensive Plan.** Notice of the time, place and purpose of the public hearing is to be given by at least one publication in a newspaper of general circulation in the City at least ten days prior to the date of the hearing. Notice of the hearing must also be given to press, radio and television as required by Ch. 42.30 RCW, that is; to each local newspaper of general circulation and to each local radio or television station which has on file with the City Council a written request to be notified of such meetings.

   B. **Zoning Map Amendments.** As a minimum, notice of public hearing shall be given by publication, in a newspaper of general circulation in the area, at least ten (10) days prior to the public hearing. Additional mailing or posting of the notices may, at the option of the Planning Commission, be required.

   C. **Zoning Text Amendments.** Notice of a public hearing shall be given by publication, in a newspaper of general circulation in the area, at least ten (10) days prior to the public hearing and by posting the notice in three (3) general public locations.

   D. **Simultaneous Hearings.** In the event that the Planning Commission shall consider simultaneously any of the above categories of actions, the Commission shall employ the public hearing notice requirements for the action considered which ensures the maximum public notice opportunities.

2. **City Council.**

   A. **Comprehensive Plan.** Notice of the time, place and purpose of the public hearing is to be given by at least
one publication in a newspaper of general circulation in the City at least ten days prior to the date of the hearing. Notice of the hearing must also be given to press, radio and television as required by CH. 42.30 RCW, that is; to each local newspaper of general circulation and to each local radio or television station which has on file with the City Council a written request to be notified of such meetings.

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D. Simultaneous Hearings. In the event that the Planning Commission shall consider simultaneously any of the above categories of actions, the Commission shall employ the public hearing notice requirements for the action considered which ensures the maximum public notice opportunities.

Section 3. Effective Date. This ordinance shall take effect and be in force five (5) days from and after its passage, approval and publication as provided by law.

DAN KELLEHER, MAYOR

ATTEST:

MARIE JENSEN, CITY CLERK
APPROVED AS TO FORM:

SANDRA DRISCOLL, CITY ATTORNEY

PASSED the 16 day of Aug, 1988.
APPROVED the 18 day of Aug, 1988.
PUBLISHED the 19 day of Aug, 1988.

I hereby certify that this is a true copy of Ordinance No. 2796, passed by the City Council of the City of Kent, Washington, and approved by the Mayor of the City of Kent as hereon indicated.

MARIE JENSEN, CITY CLERK (SEAL)