Ordinance No. 2802

(Amending or Repealing Ordinances)

CFN=131 – Zoning Codes
Passed 9/20/1988
Relating to zoning and hearing examiner decisions; repealing KCC Section 15.04.080; establishing Section 15.04.080 planned unit development; and amending KCC chapter 2.54 relating to hearing examiner decisions regarding planned unit developments

Repealed by Ord. 3409 (Sec. 15.04.080)

Amended by Ord. 3511 (Secs. 2.54.100 now 2.32.090; 2.54.110 now 2.32.100; 2.54.120 now 2.32.110; 2.54.130 now 2.32.120; 2.54.140 now 2.32.130; 2.54.150 now 2.32.140; Sec. 2.54.100 now 2.32.090)

Amended by Ord. 3560 (Sec. 2.32.090(B))

Amended by Ord. 3574 (Sec. 2.54.160 now 2.32.150; 2.54.170 now 2.32.160 & 2.54.180 now 2.32.170)

Amended by Ord. 4044 (Sec. 2.32.130)

The date ["Beginning July 1, 1998"] has led to confusion. This date will be deleted from cover sheets of ordinance/resolution revision pages. This cover sheet will be deleted on electronic pages only, no other deletions or changes have been made to the document – 6/21/2012
ORDINANCE NO. 2802

AN ORDINANCE of the City of Kent, Washington, relating to zoning and Hearing Examiner decisions; repealing Kent City Code Section 15.04.080; establishing Section 15.04.080 Planned Unit Development; and amending Kent City Code Chapter 2.54 relating to Hearing Examiner decisions regarding Planned Unit Developments.

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

Section 1. Repealer. Section 15.04.080, Kent City Code, is here by repealed.

Section 2. A new Section, Section 15.04.080, Kent City Code, is added as follows:

15.04.080 Planned Unit Development (PUD).

General Purpose. The intent of the PUD is to create a process to promote diversity and creativity in site design, and protect and enhance natural and community features. The process is provided to encourage unique developments which may combine a mixture of residential, commercial, and industrial uses. By using flexibility in the application of development standards, this process will promote developments that will benefit citizens that live and work within the City of Kent.

A. ZONING DISTRICTS WHERE PERMITTED. PUD's are permitted in all zoning districts with the exception of the A-1 Agricultural zone.

B. PERMITTED USES

1. Principally Permitted Uses. The principally permitted uses in PUD'S shall be the same as those permitted in the underlying zoning classifications.

2. Conditional Uses. The conditional uses in PUD's shall be the same as those permitted in the underlying zoning classification. The conditional use permit review process may be consolidated with that of the PUD pursuant to procedures specified in section F below.

3. Accessory Uses. Accessory uses and buildings which are customarily incidental and subordinate to a principally permitted use are also permitted.
4. Exceptions.

a. In single family residential zoning districts (RA and R1) attached side by side (not vertically stacked) residential units may be permitted in a PUD.

b. In residential PUD's of ten (10) acres or more, commercial uses may be permitted. Commercial uses shall be limited to those uses permitted in the Neighborhood Convenience District.

C. DEVELOPMENT STANDARDS. The following development standards are minimum requirements for a Planned Unit Development:

1. Minimum Lot Size - Exclusion. The minimum lot size requirements of the districts outlined in the zoning code shall not apply to PUD's.

2. Minimum Site Acreage. Minimum site acreage for a PUD is established according to the zoning in which the PUD is located, as follows:

<table>
<thead>
<tr>
<th>Zones</th>
<th>Minimum Site Acreage</th>
</tr>
</thead>
<tbody>
<tr>
<td>RA - R1(7.2-20)</td>
<td>5 acres</td>
</tr>
<tr>
<td>Multifamily (MRD, MRG, MRM, MRH)</td>
<td>None</td>
</tr>
<tr>
<td>Commercial, Office and Manufacturing Zones</td>
<td>None</td>
</tr>
</tbody>
</table>

3. Minimum Perimeter Building Setback. The minimum perimeter building setback of the underlying zone shall apply. Multifamily Transition Area requirements shall apply to any multifamily developments (15.08.215 Kent City Code), except where specifically exempted by Administrative Design Review (15.09.045 Kent City Code). The Hearing Examiner may reduce building separation requirements to the minimum required by Building and Fire Departments according to criteria set forth in Section F.(l) of this chapter. If an adjacent property is undevelopable under the Kent City Zoning Code, the perimeter building setback requirement may be waived by the Hearing Examiner.

4. Maximum Height Of Structures. The maximum height of structures of the underlying zone shall apply. Multifamily Transition Area requirements shall apply to any multifamily developments (15.08.215 Kent City Code), except where specifically exempted by Administrative Design Review (15.09.045 Kent City Code). The Hearing Examiner may authorize additional height in CC, GC, DC, CM, M1, M2, and M3 zones where proposed development in the PUD is compatible with the scale and character of adjacent existing developments.

5. Open Space. The standard set forth herein shall apply to PUD residential developments only. Each PUD shall provide a minimum of 35 percent of the total site area for common open space. In mixed-use PUD's containing residential uses, thirty-five (35) percent of the area used for residential use shall be reserved as open space.
For the purpose of this section, open space shall be defined as land which is not used for buildings, dedicated public right-of-ways, traffic circulation and roads, parking areas, or any kind of storage. Open space includes but is not limited to: privately owned woodlands, open fields, streams, wetlands, severe development areas, sidewalks, walkways, landscaped areas, gardens, court yards, or lawns. Common open space may provide for either active or passive recreation.

Open space within a PUD shall be available for common use by the residents, tenants and/or the general public, depending on the type of project.

6. Streets. If streets within the development are required to be dedicated to the City for public use, such streets shall be designed in accordance with the standards outlined in the Kent Subdivision Code and other appropriate City standards. If streets within the development are to remain in private ownership and remain as private streets, the following standards shall apply:

a. Minimum Private Street Pavement Widths For Parallel Parking In Residential Planned Unit Development's

<table>
<thead>
<tr>
<th></th>
<th>No Parking</th>
<th>Parking One Side</th>
<th>Parking Both Sides</th>
</tr>
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<tr>
<td></td>
<td>(Feet)</td>
<td>(Feet)</td>
<td>(Feet)</td>
</tr>
<tr>
<td>One-Way Streets</td>
<td>20</td>
<td>29</td>
<td>38</td>
</tr>
<tr>
<td>Two-Way Streets</td>
<td>22</td>
<td>31</td>
<td>40</td>
</tr>
</tbody>
</table>

The above minimum widths may be modified upon review and approval by the Kent Fire Chief and the Kent Traffic Engineer providing they are sufficient to maintain emergency access and traffic safety. A maintenance agreement for private streets within a PUD shall be required by the Hearing Examiner as a condition of PUD approval.

b. Vehicle Parking Areas. Adequate vehicular parking areas shall be provided. The required number of parking spaces may vary from the requirements of Kent City Code 15.05 and shall be approved by the Hearing Examiner based upon a parking need assessment study submitted by the applicant and approved by the Planning Director. Vehicular parking areas may be provided by on-street parking and/or off-street parking lots. The design of such parking areas shall be in accordance with the standards outlined in Chapter 15.05, Kent City Code.

c. One-Way Streets. One-Way loop streets shall be no more than 1,500 feet long.

d. On-Street Parking. On-street parking shall be permitted. Privately owned and maintained "no parking" and/or "fire lane" signs may be required as determined by the Kent Traffic Engineer and Kent Fire Department Chief.
7. Pedestrian Walkways. Pedestrian walkways shall be constructed of material deemed to be an "all weather surface" by the Public Works Director and Planning Director.

8. Landscaping.
   a. Minimum perimeter landscaping of the underlying zone shall apply. Additional landscaping shall be required as provided in Chapter 15.07 and 15.08.215 of the Kent City Code.
   b. All PUD developments shall ensure that parking areas are integrated with the landscaping system and provide screening of vehicles from view from public streets. Parking areas shall be conveniently located to buildings and streets while providing for landscaping adjacent to buildings and pedestrian access.
   c. Solid waste collection areas and waste reduction/recycling collection areas shall be conveniently and safely located for on-site use and collection, and attractively site screened.

9. Signs. The sign regulations of Chapter 15.06, Kent City Code shall apply.

10. Platting. If portions of the PUD are to be subdivided for sale or lease, the procedures of the Kent Subdivision Code as amended shall apply. Specific development standards (lot size, street design, etc.) shall be provided as outlined in Kent City Code Section 15.04.080 E.

11. Green River Corridor. Any development located within the Green River Corridor Special Interest District shall adhere to the Green River Corridor Special Interest District Regulations.

12. View Regulation. View regulations as specified in Kent City Code 15.08.060 shall apply to all PUD's.

13. Shoreline Master Program. Any development located within 200 feet of the Green River shall adhere to Kent Shoreline Management regulations.

D. DENSITY BONUS STANDARDS. The density of residential development for PUD's shall be based on the gross density of the underlying zoning district.

The Hearing Examiner may recommend a dwelling unit density not more than twenty (20) percent greater than permitted by the underlying zone upon findings and conclusions that the amenities or design features which promote the purposes of this section, as listed below, are provided:

1. Open Space. A four (4) percent density bonus may be authorized if at least ten (10) percent of the open space is in concentrated areas for passive use. Open space shall include significant natural features of the site, including but not limited to fields, woodlands, watercourses, permanent and seasonally wetlands. Excluded from the open space definition are the areas within the building footprints, land used for parking,
vehicular circulation, right-of-ways and areas used for any kind of storage.

2. **Active Recreation Areas.** A four (4) percent density bonus may be authorized if at least ten (10) percent of the site is utilized for active recreational purposes, including but not limited to jogging/walking trails, pools, children's play areas, etc.

Only that percentage of space contained within accessory structures that is directly used for active recreation purposes can be included in the ten (10) percent active recreation requirement.

3. **Storm Water Drainage.** A two (2) percent density bonus may be authorized if storm water drainage control is accomplished using natural on-site drainage features. Natural drainage feature many include streams, creeks, ponds, etc.

4. **Native Vegetation.** A four (4) percent density bonus may be authorized if at least fifteen (15) percent of the native vegetation on the site is left undisturbed in large open areas.

5. **Parking Lot Size.** A two (2) percent density bonus may be authorized if off-street parking is grouped in areas of sixteen (16) stalls or less. Parking areas must be separated from other parking areas or buildings by significant landscaping in excess of Type V standards as provided in Section 15.05.070, Kent City Code. At least fifty (50) percent of these parking areas must be designed as outlined above to receive the density bonus.

6. **Mixed Housing Types.** A two (2) percent density bonus may be authorized if a development features a mix of residential housing types. Single family residences, attached single units, condominiums, apartments, and townhomes are examples of housing types. The mix need not include some of every type.

7. **Project Planning/Management.** A two (2) percent density bonus may be granted if a design/development team is used. Such a team would include a mixture of architects, engineers, landscape architects, and designers. A design/development team is likely to produce a professional development concept that would be consistent with the purpose of the regulations.

These standards are thresholds, and partial credit is not given for partial attainment. The site plan must at least meet the threshold level of each bonus standard in order for density bonuses to be given for that standard.

E. **APPLICATION PROCESS.** The application process includes the following steps: informal review process, State Environmental Policy Act, community information meeting, development plan review, and public hearing before the hearing examiner.

1. **Informal Review Process.** An applicant shall meet informally with the Planning Department at the earliest possible date to discuss the proposed PUD. The purpose of this meeting is to develop a project that will meet the needs of the applicant and the objectives of the city as defined in this ordinance.
2. SEPA. The State Environmental Policy Act, regulations, and City SEPA requirements shall be completed prior to development plan review.

3. Development Plan Review. After informal review and completion of the SEPA process, a proposal shall next be reviewed by City staff through the development plan review process. Comments received by the project developer under the development review process shall be used to formalize the proposed development prior to being presented at a public hearing before the Hearing Examiner.

   a. A community information meeting shall be required for any proposed PUD located in a residential zone or within 200 feet of a residential zone. At this meeting the applicant shall present the development proposed to interested residents. Issues raised at the meeting may be used to refine the PUD plan.
      
      Notice shall be given in at least one (1) publication in the local newspaper at least ten (10) days prior to the public hearing. Written notice shall be mailed first class to all property owners within a radius of not less than two hundred (200) feet of the exterior boundaries of the property being subject to the application. Any alleged failure of any property owner to actually receive said notice of hearing shall not invalidate the proceedings.

   b. Non-residential PUD's not located within 200 feet of a residential zone shall not require a community information meeting.

5. Public Notice And Hearing Examiner Public Hearing. The Hearing Examiner shall hold at least one (1) public hearing on the proposed PUD and shall give notice thereof in at least one (1) publication in the local newspaper at least ten (10) days prior to the public hearing. Written notice shall be mailed first class to all property owners within a radius of not less than two hundred (200) feet of the exterior boundaries of the property being subject to the application. Any alleged failure of any property owner to actually receive said notice of hearing shall not invalidate the proceedings.

6. Consolidation Of Land Use Permit Processes. The PUD approval process may be used to consolidate other land use permit processes which are required by other sections of this code. The public hearing required for the PUD may serve as the public hearing for conditional use permit, subdivision, shoreline substantial development, and/or rezoning if such land use permits are a part of the overall PUD application. When another land use permit is involved which requires City Council approval, the PUD shall not be deemed to be approved until the City Council has approved the related land use permit. In the event that at a public hearing is required for any of the above categories of actions, the Hearing Examiner shall employ the public hearing notice requirements for all actions considered which ensures the maximum notice to the public.
7. Hearing Examiner Decision. The Hearing Examiner shall issue a written decision within fourteen (14) days from the date of the hearing. Parties of record will be notified in writing of the decision. The decision is final unless notice of appeal is filed with the City Clerk within fourteen (14) days of receipt by the developer of the decision.

8. Effective Date. In approving a PUD, the Hearing Examiner shall specify that the approved PUD shall not take effect unless or until the developer files a completed development permit application within the time periods required by the Kent City Code as set forth in Section 6 below. No official map or zoning text designations shall be amended to reflect the approved PUD designation until such time as the PUD becomes effective.

F. REVIEW CRITERIA FOR PLANNED UNIT DEVELOPMENT. Upon receipt of a complete application, as determined by the Planning Director, for a residential PUD, the Planning Department shall review the application and make its recommendation to the Hearing Examiner. The Hearing Examiner shall determine whether to grant, deny or condition an application based upon the following review criteria:

1. Residential Planned Unit Development Criteria
   a. The proposed PUD project shall have a beneficial effect upon the community and users of the development which would not normally be achieved by traditional lot-by-lot development and shall not be detrimental to existing or potential surrounding land uses as defined by the Comprehensive Plan.

   b. Unusual environmental features of the site shall be preserved, maintained and incorporated into the design to benefit the development and the community.

   c. The proposed PUD project shall provide areas of openness by using techniques such as clustering, separation of building groups, and use of well-designed open space and/or landscaping.

   d. The proposed PUD project shall promote variety and innovation in site and building design. Buildings in groups shall be related by common materials and roof styles, but contrast shall be provided throughout the site by the use of varied materials, architectural detailing, building scale and orientation.

   e. Building design shall be based on a unified design concept, particularly when construction will be in phases.

2. Non-Residential Planned Unit Development Criteria
   a. The proposed project shall have a beneficial effect which would not normally be achieved by traditional lot-by-lot development and not be detrimental to present or potential surrounding land uses as defined by the Comprehensive plan.

   b. Unusual environmental features of the site shall be preserved, maintained and incorporated into the design to benefit the development and the community.
c. The proposed project shall provide areas of openness by the clustering of buildings, and by the use of well-designed landscaping and open spaces. Landscaping shall promote a coordinated appearance and break up continuous expanses of building and pavement.

d. The proposed project shall promote variety and innovation in site and building design. It shall encourage the incorporation of special design features such as visitor entrances, plazas, outdoor employee lunch and/or recreation areas, architectural focal points and accent lighting.

e. Building design shall be based on a unified design concept, particularly when construction will be in phases.

G. TIME LIMITS.

1. Application For Development Permit. The applicant shall apply for a development permit no later than one (1) year following final approval of the PUD. The application for development permit shall contain all conditions of the PUD approval.

2. Extensions. An extension of time for development permit application may be requested in writing by the applicant. Such an extension may be granted by the Planning Director for a period not to exceed one (1) year. If a development permit is not issued within one year (or eighteen months, including extension) the PUD approval shall become null and void and the PUD shall not take effect.

H. Modifications Of The Plan. Requests for modifications of final approved plans shall be made in writing and shall be submitted to the Planning Department in the manner and form prescribed by the Planning Director. The criteria for approval of a request for a major modification shall be those criteria covering original approval of the permit which is the subject of the proposed modification.

1. Minor Modifications. Modifications are deemed minor if the following criteria are satisfied:

   (a) No new land use is proposed; and

   (b) No increase in density, number of dwelling units or lots is proposed; and

   (c) No changes in the general location or number of access points is proposed; and

   (d) No reduction in the amount of open space is proposed; and

   (e) No reduction in the amount of parking is proposed; and

   (f) No increase in the total square footage of structures to be developed is proposed; and
(g) No increase in general height of structures is proposed.

Examples of minor modifications include but are not limited to lot line adjustments, minor relocations of buildings or landscaped areas, minor changes in phasing and timing, and minor changes in elevations of buildings.

2. Major Modifications. Major adjustments are those which, as determined by the Planning Director, substantially change the basic design, density, open space or other similar requirements or provisions. Major adjustments to the development plans shall be reviewed by the Hearing Examiner. The Hearing Examiner may review such adjustments at a regular public hearing. If a public hearing is held, the process outlined in Kent City Code 15.04.080.F. shall apply. The Hearing Examiner shall issue a written decision to approve, deny, or modify the request. Such a decision shall be final. The decision may be appealed to the City Council by the filing of written notice of appeal with the City Clerk within fourteen (14) days of the date of the Developer's receipt of the Hearing Examiners decision.

Section 3. Kent City Code Chapter 2.54 is amended as follows:

CHAPTER 2.54

LAND USE HEARING EXAMINER

2.54.010. TITLE. This Chapter shall be hereinafter known as the "Land Use Hearing Examiner Ordinance" or "Hearing Examiner," may be cited as such, will be hereinafter referred to as "this Chapter" and the same shall be and constitute a new section of Chapter 2 of the Kent City Code. (0.2233, §1)

2.54.020. GENERAL OBJECTIVES. It is the general objective of this Chapter to:

A. Provide a single, efficient, integrated land use regulatory hearing system;

B. Render land use regulatory decisions and recommendations to the City Council;

C. Provide a greater degree of due process in land use regulatory hearings;

D. Separate the land use policy formulation and the land use policy administration processes. (0.2233, §2)

2.54.030. CREATION OF LAND USE HEARING EXAMINER. The office of the Land Use Hearing Examiner, hereinafter referred to as Examiner, is created. The Examiner shall interpret, review, and implement land use regulations as provided in this Chapter and other ordinances. The term Examiner shall likewise include the Examiner Pro Tem. (0.2233, §3)
2.54.040. APPOINTMENT AND TERMS. The Hearing Examiner and Examiner Pro Tem shall be appointed by the City Administrator and shall serve at the pleasure of the City Administrator. (0.2233, §4)

2.54.050. COMPENSATION. The Examiner and Examiner Pro Tem may, at the discretion of the City Council, be classified as permanent part-time employees, or the City may contract with the Examiner and Examiner Pro Tem for the performance of duties described in this Chapter. The compensation to be paid the Examiner and Examiner Pro Tem shall be that established in the annual City budget. (0.2233, §5)

2.54.060. QUALIFICATIONS. The Examiner and Examiner Pro Tem shall be appointed solely with regard to their qualifications for the duties of the office which shall include, but not be limited to, persons with appropriate educational experience, such as an urban planner, or public administrator, with at least five years' experience, persons who have extensive experience in planning work in a responsible capacity, and persons with legal experience, particularly where the experience is in the area of land use management of administrative law. (0.2233, §6)

2.54.070. EXAMINER PRO TEM—QUALIFICATIONS AND DUTIES. The Examiner Pro Tem shall, in the event of the absence or the inability of the Examiner to act, have all the duties and powers of the Examiner. (0.2233, §7)

2.54.080. HEARING EXAMINER—CONFLICT OF INTEREST AND FREEDOM FROM IMPROPER INFLUENCE. The Examiner shall not conduct or participate in any hearing or decision in which the Examiner has a direct or indirect personal interest which might exert such influence upon the Examiner that might interfere with his or her 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 Examiner free from personal interest or prehearing contacts on land use regulatory matters considered by him or her. 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 Examiner's 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 Examiner. (0.2233, §8)

2.54.090. FREEDOM FROM IMPROPER INFLUENCE. No Council member, City official, or any other person shall attempt to interfere with, or improperly influence the Examiner in the performance of his or her designated duties. (0.2233, §9)

2.54.100. DUTIES OF THE EXAMINER.

A. Applications. The Examiner shall receive and examine available information, conduct public hearings, prepare a record thereof, and enter findings of fact and conclusions based
upon those facts, which conclusions shall represent the final action on the application, unless appealed, as hereinbelow specified, for the following types of applications:

1. Conditional use permits;
2. Shoreline permits;
3. Sign variances;
4. Planned unit developments.

The Examiner 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 the following applications:

a. Rezones;
b. Preliminary plats;
c. Planned-unit-developments;
d. Special use combining districts, including mobile home park combining districts.

e. Initial zoning designations for annexed areas or zoning designations for proposed annexations to become effective upon annexation.

The Examiner shall also conduct public hearings when required under the provisions of the State Environmental Policy Act; conduct public hearings relative to possible revocation of any conditional use permit; conduct such other hearings as the Council may from time to time deem appropriate.

B. Recommendation or Decision.

1. The Examiner's recommendation or decision may be to grant or deny the application, or the Examiner may recommend or require of the applicant such conditions, modifications and restrictions as the Examiner finds necessary to make the application compatible with its environment and carry out the objectives and goals of the comprehensive plan, 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. Performance bonds may be re-required to insure compliance with conditions, modifications and restrictions.

2. In regard to applications for rezones, preliminary and final plat approval, PUB's and special use combining districts the Examiner's findings and conclusions shall be submitted to the City Council, which shall have the final authority to act on such applications. The hearing by the Examiner shall constitute the hearing by the City Council. (0.2469, §2)
2.54.110. APPLICATIONS. Applications for all matters to be heard by the Examiner shall be presented to the Planning Department. When it is found an application meets the filing requirements of the Planning Department, it shall be accepted. The department shall be responsible for assigning a date of public hearing for each application which date shall not be more than one hundred days after the applicant has complied with all requirements and furnished all necessary data for the Planning Department. (0.2233, §11)

2.54.120. REPORT BY PLANNING DEPARTMENT. Department shall coordinate and assemble the comments and recommendations of other City departments and governmental agencies having an interest in the subject application and shall prepare a report summarizing the factors involved and the Planning Department findings and supportive recommendations. At least seven calendar days prior to the scheduled hearing, the report shall be filed with the Examiner and copies thereof shall be mailed to the applicant and shall be made available for use by any interested party for the cost of reproduction. (0.2233, §12)

2.54.130. PUBLIC HEARING. Before rendering a decision or recommendation on any application, the Examiner shall hold at least one public hearing thereon.

Notice of the time and place of the public hearing shall be given as provided in the ordinance governing the application. If none is specifically set forth, such notice shall be given at least ten days prior to such hearing.

The Examiner shall have the power to prescribe rules and regulations for the conduct of hearings under this Chapter and also to administer oaths, and preserve order. (0.2233, §13)

2.54.140. EXAMINER'S DECISION AND RECOMMENDATION--FINDINGS REQUIRED. When the Examiner renders a decision or recommendation, the Examiner shall make and enter written findings from the record and conclusions therefrom which support such decision, which decision shall be rendered within fourteen calendar days of the conclusion of the hearing. The copy of such decision including findings and conclusions, shall be transmitted by certified mail, return receipt requested, to the applicant and other parties of record in the case requesting the same.

In the case of applications requiring Council approval, the Examiner shall file a decision 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. (0.2233, §14)

2.54.150. RECONSIDERATION. Any aggrieved person feeling that the decision of the Examiner 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 Examiner within fourteen days of the date the decision is rendered. This request shall set forth the specific errors or new information relied upon by such appellant, and the Examiner may,
after review of the record, take further action as he or she deems proper. (0.2233, §15)

2.54.160. APPEAL OF EXAMINER'S DECISION. Any party who feels aggrieved by the Examiner's decision may submit an appeal in writing to the Council within fourteen calendar days from the date the final decision of the Examiner is rendered, requesting a review of such decision.

Such appeal shall be upon the record, established and made at the hearing held by the Examiner, provided that new evidence which was not available at the time of the hearing held by the Examiner may be included in such appeal. The term "new evidence" shall mean only evidence discovered after the hearing held by the Examiner 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 Examiner.

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 accordance with appeal procedures adopted by the City Council by resolution. If the Examiner 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. (0.2233, §16)

2.54.170. COUNCIL ACTION. Any application 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 Examiner'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 Council 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 decision of the Examiner, 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. (0.2233, §17)

2.54.180. CITY ADMINISTRATIVE STAFF TO BE CONSIDERED A "PERSON" OR "PARTY." For the purpose of Sections 2.54.60 and 2.54.64, the City's administrative staff shall be considered a "person" and/or "party" and shall have the same rights as any other person or party to make requests for reconsideration by the Hearing Examiner or to appeal decisions of the Hearing Examiner to the City Council. (0.2302, §1)
Section 4. Any act consistent with the authority and prior to the effective date of this ordinance is hereby ratified and confirmed.

Section 5. 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 6th day of SEPTEMBER, 1988.
APPROVED the 7th day of , 1988.
PUBLISHED the 9th day of , 1988.

I hereby certify that this is a true copy of Ordinance No. 2802, 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)

6040-220