Ordinance No. 2863

(Amending or Repealing Ordinances)

CFN=131 Zoning Codes
Passed - 8/1/1989
On-Site Public Notification of Proposed Land Use Actions & Related Public Hearings

Amended by Ord. 3424 (Secs. 15.09.030, 15.09.040, & 15.09.050)
Amended by Ord. 3470 (Sec. 15.09.050)
Amended by Ord. 3511 (Sec. 12.04.260)
Amended by Ord. 3561
Amended by Ord. 3600 (Secs. 15.09.030 & 15.09.040)
Amended by Ord. 3752
Amended by Ord. 3906 (Ch. 12.04)
ORDINANCE NO.

AN ORDINANCE of the City of Kent, Washington, relating to providing on-site public notification of proposed land use actions and related public hearings, amending Kent City Codes Sections 12.04.260, 15.09.030, 15.09.040, and 15.09.050.

WHEREAS, the Kent City Council and Kent Planning Commission is desirous of providing maximum visible public notice at development sites of proposed land use action; and

WHEREAS, the current Kent City Code provides that on-site public notice of proposed land use action shall be provided, but no specifics as to the type of notice required is provided; and

WHEREAS, the applicant of proposed land use actions, residents affected by such action, and City residents as a whole would benefit from the providing of maximum notice of proposed land use actions; and

WHEREAS, the Kent City Council directed the Planning staff to develop alternatives for ensuring more visible on-site public notice; and

WHEREAS, the Planning Department presented said alternatives to the Kent City Council Planning Committee on November 1, 1988 and on January 3, 1989; and

WHEREAS, the Planning Department presented said alternatives to the Kent Planning Commission at a workshop on April 24, 1989 and at a public hearing on June 19, 1989; and

WHEREAS, the Kent City Planning Commission on June 19, 1989 recommended to the Kent City Council adoption of a generic 4 foot by 4 foot on-site public notice board; NOW, THEREFORE,
THE CITY COUNCIL OF THE CITY OF KENT, WASHINGTON DOES
HEREBY ORDAIN AS FOLLOWS:

Section 1. Section 12.04.260 of the Kent City Code is amended as follows:

12.04.260. PRELIMINARY PLAT PROCEDURES.


A. Application for a preliminary plat shall be filed with the Planning Department on forms prescribed by the Planning Department at least thirty-five (35) days prior to the Hearing Examiner hearing at which it is to be considered.

B. Twelve (12) copies of the preliminary plat shall be submitted, which shall be prepared by a land surveyor registered in accordance with the requirements of RCW 18.43.010.

(Application fees are contained in City of Kent Ordinance #2026).

12.04.262. Preliminary Plat Requirements. The following shall be part of the preliminary plat.

A. Vicinity Map. Adequate to show the location of the plat.

B. Preliminary Plat. Shall include or conform to the following:

1. The subdivision name and number, the name and address of the owner or owners, and the name and address of the licensed land surveyor and subdivision engineer.

2. The date of preparation, the true north point, a graphic scale and legal description of the property to be subdivided.

3. Preliminary plats shall be drawn to an appropriate engineering (decimal) scale.
4. Show the location of existing and proposed platted property lines, and existing section lines, streets, buildings, water courses, railroads, bridges, and any recorded public or private utility or roadway easements, both on the land to be subdivided and on the adjoining lands (land that abuts the proposed subdivision), to a distance of one-hundred (100) feet from the edge of the subject property.

5. Contours and/or elevations (at five-foot intervals minimum) shall be shown to that extent necessary to accurately predict drainage characteristics of the property. Contour lines shall be extended at least one hundred (100) feet beyond the boundaries of the proposed plat.

6. Give the names, locations, widths, and other dimensions of proposed streets, alleys, easements, parks and other open spaces, reservations, and utilities.

7. Indicate the acreage of land to be subdivided; the number of lots; the area of the smallest lot and the approximate square footage and approximate percent of total acreage in open space.

8. Indicate the approximate dimensions of each lot.

9. Include a statement of soil type, drainage conditions, present landscaping (describe any natural or man-made land cover), wildlife present, and any other environmental factors which may be prescribed by the Planning Department.

12.04.263. Referral to Other City Departments and Agencies. The Planning Department shall distribute four (4) copies of the preliminary map to the Engineering Department, one (1) copy to the Building Department; one (1) copy to the Health Agency; one (1) copy to the Fire Department, and one (1) copy to each of the public utility agencies serving the area in which the subdivision is to be constructed. Each department or agency may file recommendations with the Planning Department within (10) days of receipt of the preliminary plat; or in the event that a preliminary plat meeting would be called by the Planning Department, may present their recommendation at that time.
12.04.264. Preliminary Plat Meeting. The Planning Department shall compare the applicant’s tentative and preliminary plat and shall reach a decision within three (3) working days after the applicant’s submission, as to whether a preliminary plat meeting is necessary. A preliminary plat meeting may be deemed necessary when there are significant differences between the tentative and preliminary plats. The determination of the necessity of a preliminary plat meeting shall be based on the following considerations:

A. The degree of commonality between the two plans (i.e., is the preliminary plat a refinement of the tentative plat, or is it a completely new plat for the same property?).

B. The presence or absence of revisions present in the preliminary plat resulting from objections raised at the tentative plat meeting.

12.04.265. Hearing Examiner Public Hearing

A. The Hearing Examiner shall hold a public hearing on any preliminary plat and forward its recommendations to the Kent City Council. The Hearing Examiner public hearing shall be held within one hundred (100) days of the Planning Department’s acceptance of the application.

B. The Planning Department shall give notice in Notice of the public hearing shall be given in the following manner:

1. Three-One (1) notices of the public hearing shall be posted on or adjacent to the land to be subdivided at last ten (10) days prior to the public hearing. Public notice shall be accomplished through use of 4’ x 4’ plywood face generic notice board to be issued by the Kent Planning Department, and as follows:

Applicant shall apply to the City for issuance of the Notice Board, and shall deposit with the Kent Planning Department the amount of sixty dollars. Applicant shall be responsible for placement of the notice board in one (1) conspicuous place on or adjacent to the property
subject of the application at least 14 days prior to the date of the public hearing. Planning Department staff shall post laminated notice sheets and vinyl information packets on the board no later than 10 days prior to the hearing. Upon return of the Notice Board, in good condition, to the Planning Department by the applicant, $45 dollars of the initial notice board deposit shall be refunded to the applicant.

2. One (1) notice of the public hearing shall be given in a newspaper of general circulation within the county, and a newspaper of general circulation within the area in which property is located, at least ten (10) days prior to the public hearing.

3. Notice shall be given to all property owners within a radius of three hundred (300) feet of the exterior boundaries of the property, subject of the application. If the owner of the subject property also owns property lying adjacent to the subject property, the 300 foot radius must be taken from the exterior boundaries of this adjacent owned property. Such notice shall be sent ten (10) days prior to the public hearing.

   a. The failure of any property owner to receive said notice of hearing will not invalidate the proceedings.

12.04.266. Health Agency Recommendation. The health agencies responsible for approval of the proposed means of sewage disposal and water supply shall file with the City Council, prior to the Council's consideration of the preliminary plat, written statements as to the general adequacy of the proposed means of sewage disposal and water supply. (Applicant is responsible for submitting appropriate application forms to the Seattle-King County Health Department and for paying the health department review fee.)

12.04.267. City Council Action. After receiving the Hearing Examiner's recommendation, the City Council shall, at its next public meeting, set a date for a public meeting to consider the adoption or rejection of the recommendation. If at this
meeting the City Council deems that a change in the Hearing Examiner's recommendation is necessary, the change of the recommendation shall not be made until the City Council has conducted a public hearing and thereupon adopted its own recommendations and approved or disapproved the preliminary plat.

12.04.268. Expiration Date. Preliminary Plat approval shall lapse three (3) years from the date of approval unless a final plat based on the preliminary plat, or any phase thereof, is submitted within three (3) years from the date of preliminary plat approval. One one-year extension shall be granted to an applicant who files a written request with the City Council and Planning Department at least thirty (30) days before the expiration of this three-year period, if the applicant can show that he has attempted in good faith to submit the final plat within the three-year period.

Additional time extensions beyond this one-year time period may be granted by the City Council if the applicant can show unusual circumstances or situations which make it impossible to file the final plat within the four-year time period. The applicant must file a written request with the City Council and Planning Department for this additional time extension; this request must be filed at least thirty (30) days prior to the plat expiration date. The request must include documentation as to the need for the additional time period. Additional time extensions shall be granted in not greater than one (1) year increments.

In the case of a phased subdivision, final plat approval by the City Council of any phase of the preliminary plat will constitute an automatic one (1) year extension for the filing of the next phase of the subdivision.
Section 2. Section 15.09.030 of the Kent City Zoning Code is amended as follows:

15.09.030. CONDITIONAL USES.

A. Purpose.

1. Conditional use permits, revocable, conditional or valid for a time period may be issued by the Hearing Examiner for any of the uses or purposes for which such permits are required or permitted by the terms of this Code. The purpose of the conditional use permit is to allow the proper integration into the community of uses which may be suitable only on certain conditions in specific locations in a zoning district, or if the site is regulated in a particular manner.

2. Any use existing at the time of adoption of this code which is within the scope of uses permitted by a conditional use permit in the district in which the property is situated shall be deemed a conforming use without necessity of a conditional use permit.

3. Any expansion of an existing conditional use may be required to apply for a new conditional use permit if the Planning Director finds that there is a change in the nature of the use by such expansion.

B. Application. The owner or his agent may make application for a conditional use permit which shall be on a form prescribed by the Planning Department and filed with the Planning Department. Said application shall be submitted at least forty-five (45) days prior to the next regularly scheduled public hearing date, and shall be heard by the Hearing Examiner within one hundred (100) days of the date of said application--provided, however, that this period may be extended in any case for which an environmental impact statement is required.

1. Development plans shall be submitted drawn to scale, showing the actual dimensions and shape of the lot to be built upon; the exact sizes and locations on the lot of buildings
already existing, if any, and the location on the lot of the proposed building or alteration. Said plans shall show proposed landscaping, off-street parking, signs, ingress and egress and adjacent land uses. The plan shall include other information as may be required by the Planning Department.

C. Public Hearing. The Hearing Examiner shall hold a public hearing on any proposed conditional use, 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.

1. Notice shall be given to all property owners within a radius of at least two hundred (200) feet and, when determined by the Planning Director, a greater distance of the exterior boundaries of the property subject of the application. Such notice to be sent ten (10) days prior to the public hearing.

   a. The failure of any property owner to receive said notice of hearing will not invalidate the proceedings.

2. Public notices shall be posted in three one (1) conspicuous places on or adjacent to the property subject of the application at least ten (10) days prior to the date of the public hearing. Public notice shall be accomplished through use of 4' x 4' plywood face generic notice board to be issued by the Kent Planning Department, and as follows:

   Applicant shall apply to the City for issuance of the Notice Board, and shall deposit with the Kent Planning Department the amount of sixty dollars. Applicant shall be responsible for placement of the notice boards in one (1) conspicuous place on or adjacent to the property subject of the application at least 14 days prior to the date of the public hearing. Planning Department staff shall post laminated notice sheets and vinyl information packets on the board no later than 10 days prior to the hearing. Upon return of the Notice Board, in good condition, to the Planning Department by the applicant, $45 dollars of the initial notice board deposit shall be refunded to the applicant.
D. Standards and Criteria for Granting a Conditional Use Permit. A conditional use permit shall only be granted after the Hearing Examiner has reviewed the proposed use to determine if it complies with the standards and criteria listed below. A conditional use permit shall only be granted if such finding is made.

1. The proposed use in the proposed location will not be detrimental to other uses legally existing or permitted outright in the zoning district.

2. The size of the site is adequate for the proposed use.

3. The traffic generated by the proposed use will not unduly burden the traffic circulation system in the vicinity.

4. The other performance characteristics of the proposed use are compatible with those of other uses in the neighborhood or vicinity.

5. Adequate buffering devices such as fencing, landscaping, or topographic characteristics protect adjacent properties from adverse effects of the proposed use, including adverse visual or auditory effects.

6. The other uses in the vicinity of the proposed site are such as to permit the proposed use to function effectively.

7. The proposed use complies with the performance standards, parking requirements and other applicable provisions of this code.

8. Any other similar considerations that may be appropriate to a particular case.

E. Action of Hearing Examiner. Special conditions may be imposed on the proposed development to insure that the proposed use will meet the standards and criteria of Section 15.09.030.
subsection D in granting a conditional use permit. Guarantees and
evidence that such conditions are being complied with may be
required.

F. Appeal. The decision of the Hearing Examiner shall
be final, unless an appeal is made to the City Council within ten
days after the Hearing Examiner’s decision. Said appeal shall be
in writing to the City Council and filed with the City Clerk.

G. One Year Validity. Any conditional use permit
granted by the Hearing Examiner shall remain effective only for
one year unless the use is begun within that time or construction
has commenced. If not in use or construction has not commenced
within one year, the conditional use permit shall become invalid.

Section 3. Section 15.09.040 of the Kent City Code is
amended to the following:

15.09.040. VARIANCES. The Board of Adjustment shall
have the authority to grant a variance where practical
difficulties, unnecessary hardships and results inconsistent with
the general purposes of this code might result from the strict
application of certain provisions. A variance may not be granted
to allow a use that is not in conformity with the uses specified
by this code for the district in which the land is located.
(NOTE: Sign variances are heard by the Kent Hearing Examiner.)

A. Application. The owner or his agent may make
application for a variance which shall be on a form prescribed by
the Planning Department and filed with the Planning Department.
Said application shall be submitted at least forty-five (45) days
prior to the next regularly scheduled public hearing date, and
shall be heard by the Board of Adjustment within one hundred (100)
days of the date of said application—provided, however, that this
period may be extended in any case for which an environmental
impact statement is required.

B. Public Hearing. The Board of Adjustment shall hold
a public hearing on any proposed variance, and shall give notice
thereof in at least one publication in the local newspaper at least ten (10) days prior to the public hearing.

1. Notice shall be given to all property owners within a radius of at least two hundred (200) feet and, when determined by the Planning Director, a greater distance of the exterior boundaries of the property subject of the application. Such notice to be sent ten (10) days prior to the public hearing.

   a. The failure of any property owner to receive said notice of hearing will not invalidate the proceedings.

2. Public notices shall be posted in three one (1) conspicuous places on or adjacent to the property subject of the application at least ten (10) days prior to the date of the public hearing. Public notice shall be accomplished through use of 4’ x 4’ plywood face generic notice board to be issued by the Kent Planning Department, and as follows:

   Applicant shall apply to the City for issuance of the Notice Board, and shall deposit with the Kent Planning Department the amount of sixty dollars. Applicant shall be responsible for placement of the notice boards in one (1) conspicuous place on or adjacent to the property subject of the application at least 14 days prior to the date of the public hearing. Planning Department staff shall post laminated notice sheets and vinyl information packets on the board no later than 10 days prior to the hearing. Upon return of the Notice Board, in good condition, to the Planning Department by the applicant, $45 dollars of the initial notice board deposit shall be refunded to the applicant.

C. Conditions for Granting Variance. Before any variance may be granted, it shall be shown and the Board of Adjustment shall find:

   1. The variance shall not constitute a grant of special privileges inconsistent with a limitation upon uses of
other properties in the vicinity and zone in which the property, on behalf of which the application was filed, is located.

2. Such variance is necessary, because of special circumstances relating to the size, shape, topography, location or surroundings of the subject property, to provide it with use rights and privileges permitted to other properties in the vicinity and in the zone in which the subject property is located; and

3. That the granting of such variance will not be materially detrimental to the public welfare, or injurious to the property or improvements in the vicinity and zone in which the subject property is situated.

D. Board of Adjustment Action. The decision of the Board of Adjustment shall be final and conclusive, unless within ten (10) days from the date of action, the original applicant or an adverse party makes application to the King County Superior Court for a writ of certiorari, writ of prohibition, or a writ of mandamus.

E. One Year Validity. Any variance authorized by the Board of Adjustment shall remain effective only for one year, unless the use is begun within that time or construction has commenced. If not in use or construction has not commenced within one year, the variance shall become invalid.

Section 4. Section 15.09.050 of the Kent City Zoning Code is amended to add the following language:

15.09.050. AMENDMENTS.

A. Purpose. This code may be amended by the City Council by changing the boundaries of zoning districts (rezones which change the official zoning map) or by changing any other provisions thereof (text amendments which add, delete or otherwise modify the text of the zoning code) wherever the public necessity and convenience and the general welfare require such amendment, by following the procedures of this section.
1. An amendment may be initiated by:
   
a. Zoning code text and official zoning map amendments may be initiated by resolution of intention by the City Council. (Text amendments are heard by the Planning Commission and City Council; zoning map amendments are heard by the Hearing Examiner.)
   
b. Zoning code text amendments may be initiated by resolution of intention by the Planning Commission.
   
c. Official zoning map amendments (rezones), including the application of the C-suffix, may be initiated by application of one or more owners, or their agents, of the property affected by the proposed amendment, which shall be made on a form prescribed by the Planning Department and filed with the Planning Department. Said application shall be submitted at least forty-five (45) days prior to the next regularly scheduled public hearing date, and shall be heard by the Hearing Examiner within one hundred (100) days of the date of said application—provided, however, that this period may be extended in any case for which an environmental impact statement is required. (O. 2708 §1)

2. Public hearing. The Hearing Examiner shall hold at least one public hearing on any proposed amendment, and shall give notice thereof in at least one publication in the local newspaper at least ten (10) days prior to the public hearing.
   
a. Notice shall be given to all property owners within at least two hundred (200) feet and, when determined by the Planning Director, a greater distance of the exterior boundaries of the property subject of the application. Such notice to be sent ten (10) days prior to the public hearing.
   
The failure of any property owner to receive said notice of hearing will not invalidate the proceedings.
   
b. Public notices shall be posted in three-one (1) conspicuous places on or adjacent to the property subject of the application at least ten (10) days prior to the date of the
public hearing. Public notice shall be accomplished through use of 4’ x 4’ plywood face generic notice board to be issued by the Kent Planning Department, and as follows:

Applicant shall apply to the City for issuance of the Notice Board, and shall deposit with the Kent Planning Department the amount of sixty dollars. Applicant shall be responsible for placement of the notice boards in one (1) conspicuous place on or adjacent to the property subject of the application at least 14 days prior to the date of the public hearing. Planning Department staff shall post laminated notice sheets and vinyl information packets on the board no later than 10 days prior to the hearing. Upon return of the Notice Board, in good condition, to the Planning Department by the applicant, $45 dollars of the initial notice board deposit shall be refunded to the applicant.

3. Standards and Criteria for Granting a Request for Rezone. The following standards and criteria shall be used by the Hearing Examiner and City Council to evaluate a request for rezone. Such an amendment shall only be granted if the City Council determines that the request is consistent with these standards and criteria.

a. The proposed rezone is consistent with the Comprehensive Plan.

b. The proposed rezone and subsequent development of the site would be compatible with development in the vicinity.

c. The proposed rezone will not unduly burden the transportation system in the vicinity of the property with significant adverse impacts which cannot be mitigated.

d. Circumstances have changed substantially since the establishment of the current zoning district to warrant the proposed rezone.
e. The proposed rezone will not adversely affect the health, safety, and general welfare of the citizens of the City of Kent. (0.2708 §1)

4. The Hearing Examiner and the City Council shall use the standards and criteria provided in Section 15.09.050(D) to evaluate a request for rezone to M1-C. In addition, the Hearing Examiner and City Council shall evaluate a request for M1-C on the basis of the following standards and criteria. Such an amendment shall only be granted if the City Council determines the request is consistent with these standards and criteria.

a. The proposed rezone is in close proximity or contiguous to major arterial intersections identified on the Comprehensive Plan map as being appropriate locations for commercial type land uses.

b. Rezoning to M1-C shall not be speculative in nature but shall be based on generalized development plans and uses. (0.2708 §1)

5. Recommendation of the hearing examiner. Following the aforesaid public hearing, the Hearing Examiner shall make a report of findings and recommendations with respect to the proposed amendment and shall forward such to the City Council, which shall have the final authority to act on said amendment.

6. City Council Action. Within thirty (30) days of receipt of the Hearing Examiner’s recommendation, the City Council shall, at a regular public meeting, consider said recommendation.

If the application for an amendment is denied by the City Council, said application shall not be eligible for resubmittal for one year from date of said denial, unless specifically stated to be without prejudice. A new application affecting the same property may be submitted if, in the opinion of the Hearing Examiner, circumstances affecting the application have changed substantially.
Section 5. Any act consistent with the authority and prior to the effective date of this ordinance is hereby ratified and confirmed.

Section 6. Effective Date. This ordinance shall take effect and be in force thirty (30) 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 ___ day of ______, 1989.
APPROVED the ___ day of ______, 1989.
PUBLISHED the ___ day of ______, 1989.

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

(SEAL)
MARIE JENSEN, CITY CLERK