Ordinance No. 3681

["Beginning July 1, 1998"]

(Amending or Repealing Ordinances)

CFN=131 Zoning Codes
Passed – 3/2/2004
Master PUD – GMA Compliance Sec. 15.08.400(I)

Amends Ords. 3439;3600;3633;3639

Amended by Ord. 3746
AN ORDINANCE of the city council of the city of Kent, Washington, amending section 15.08.400(l) of the Kent City Code, to establish a process by which criteria are established to guide the planning manager in differentiating between minor and major modifications of master plans located in commercial, office, industrial, and manufacturing zoning districts consistent with planned action ordinances and development agreements.

RECITALS

A. The City Council desires to amend section 15.08.400(l) of the Kent City Code to establish a process by which criteria are established to guide the planning manager in differentiating between minor and major modifications of master plans located in commercial, office, industrial, and manufacturing zoning districts consistent with planned action ordinances and development agreements.

B. On April 1, 2003, the City adopted Ordinance No. 3639 amending section 15.08.400(l) of the Kent City Code. An appeal of Ordinance No. 3639 was filed with the Central Puget Sound Growth Management Hearings Board (the "Board") who issued a Final Decision and Order finding that Ordinance No. 3639 was noncompliant with RCW 36.70A.020(6) and (7) of the Growth Management Act (the "Act"). The Board established March 31, 2004, as the deadline for the City to take appropriate legislative action to achieve compliance with the Act.
C. On December 10, 2003, the City provided the required sixty (60) day notification under RCW 36.70A.106 to the state of Washington of the City's proposed amendment to section 15 08.400(1) of the Kent City Code, and the sixty (60) day notice period has lapsed.

D. After providing appropriate public notice, the Land Use and Planning Board held a public hearing on the proposed amendment on January 12, 2004.

E. On February 17, 2004, the Kent City Council considered this matter and authorized city staff to prepared the required ordinance.

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

ORDINANCE

SECTION 1. – Amendment. Section 15.08.400(1) of the Kent City Code entitled, “Modifications of plan,” is amended as follows:

Sec. 15.08.400. Planned unit developments, PUD.

... I. Modifications of plan. Requests for modifications of final approved plans shall be made in writing and shall be submitted to the planning services office in the manner and form prescribed by the planning manager. In commercial, office, and industrial and manufacturing zoning districts, where a master plan is consistent with a planned action ordinance and a development agreement, the determination of whether a proposed modification is minor or major modifications in master plans consistent with a planned action ordinance and development agreement shall be made at the sole discretion of the planning manager, provided, however, that the planning manager’s determination must be consistent with criteria established in either the planned action ordinance or the development agreement. If the planned action ordinance or the development agreement does not establish such criteria, the planning manager’s determination
shall be consistent with the criteria stated in subsection 1(1) and 1(2) below. The criteria for determining minor and major modifications in all other cases shall be as stated in subsection 1(1) and 1(2), below. 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 all the following criteria are satisfied:
   
   a. No new land use is proposed;
   b. No increase in density, number of dwelling units or lots is proposed;
   c. No change in the general location or number of access points is proposed;
   d. No reduction in the amount of open space is proposed;
   e. No reduction in the amount of parking is proposed;
   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 manager, 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 subsection (F) of this section shall apply. The hearing examiner shall issue a written decision to approve, deny or modify the request. Such a decision shall be final. Any appeals of this decision shall be in accordance with KCC 12.01 040.

**SECTION 2. – Application.** This ordinance may be applied to all Master Plan applications, including applications currently in process upon the effective date of this ordinance.
SECTION 3. - Savings. The existing section 15.08.400(1) of the Kent City Code, which is amended by this ordinance, shall remain in full force and effect until the effective date of this ordinance.

SECTION 4. - Ratification. Any act consistent with the authority and prior to the effective date of this ordinance is hereby ratified and affirmed.

SECTION 5. - Severability. If any one or more section, subsections, or sentences of this ordinance are held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this ordinance and the same shall remain in full force and effect.

SECTION 6. - Effective Date. This ordinance shall take effect and be in force thirty (30) days from and after passage as provided by law.

JIM WHITE, MAYOR

BRENDIA JACOBER, CITY CLERK

TOM BRUBAKER, CITY ATTORNEY

PASSED: 2 day of March, 2004
APPROVED: 2 day of March, 2004.
I hereby certify that this is a true copy of Ordinance No. 3681 passed by the City Council of the City of Kent, Washington, and approved by the Mayor of the City of Kent as hereon indicated.

[Signature]
BRENDA JACOBER, CITY CLERK

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