ORDINANCE NO. 4035

AN ORDINANCE of the City Council of the City of Kent, Washington, amending Chapter 12.04, Kent City Code, specifically Section 12.04.117, Section 12.04.210, Section 12.04.221, Section 12.04.227, and Section 12.04.263, related to the administration of subdivisions, binding site plans, and lot line adjustments [ZCA-2011-3].

RECITALS

A. Local planning legislation arises from many sources, including, but not limited to, Federal, State or regional mandates; changes to local community vision; complaints; need for clarity; updated technologies, business operations or strategies that make existing codes outdated; and conflicts with updated regulations in other City departments.

B. The City has determined that amendments to Chapter 12.04, Kent City Code (KCC), are necessary to reflect an improved permitting process, provide clarifications, reflect updated state regulations, and ensure development standards reflect the intent of the subject code provisions.

C. The City has determined that an amendment to Section 12.04.117 is necessary to clarify that pre-application conferences for subdivisions and short subdivisions are encouraged, but not required. This

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amendment also eliminates the application process for a tentative subdivision or tentative short subdivision.

D. Language requiring that an approved printed computer plot closure on all lots, streets, alleys and boundaries was inadvertently deleted from Section 12.04.210 in a previous code amendment, and should be reinserted into the code.

E. In order to be consistent with state regulations for the expiration of a preliminary plat approval, Section 12.04.221 should be amended by removing the existing language, and adopting the state expiration regulations by reference to RCW 58.17.140. This amendment also eliminates extensions of the expiration period.

F. The City has determined that amendments to Section 12.04.227 are necessary to clarify what constitutes a major or minor alteration of an approved preliminary plat or short plat. This amendment includes language that treats major land alterations as new applications for the purposes of vesting.

G. The development standards for the SR-1 zone conflict with the purpose and intent of cluster developments, where small lots are encouraged in order to provide additional protection and buffering of sensitive areas. The City has determined that an amendment to Section 12.04.263 will allow developments subject to clustering in the SR-1 zone to use the SR-8 development standards, with the exception of lot size, lot width, density, and other clustering requirements outlined in this section.

H. The City’s State Environmental Policy Act (SEPA) Responsible Official has determined that the proposed amendments are procedural in nature and thus categorically exempt from further SEPA review.

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I. On November 8, 2011 notice was sent to the Washington State Department of Commerce and expedited review was requested as required under RCW 36.70A.106(3)(b). On November 23, 2011, the City was granted expedited review and was informed that it had met the Growth Management Act notice requirements under RCW 36.70A 106.

J. The Land Use and Planning Board discussed this matter at its November 14, 2011 workshop and after holding a Public Hearing on November 28, 2011 recommended approval of the amendments including Option B of the plat expiration amendment, as presented at that hearing.

K. The Economic and Community Development Committee considered this matter at a meeting held December 12, 2011, and after holding a Public Hearing on March 12, 2012, to consider further options for the plat expiration amendment, recommended approval of the amendments, including a new Option B of the plat expiration amendment, as presented at that hearing.

L. The City Council declined to consider this matter at its March 20, 2012 meeting, at which time the City Council instead directed that the proposal be reconsidered by the Economic and Community Development Committee.

M. The Economic and Community Development Committee considered this matter again at its meeting held April 9, 2012, and after holding a Public Hearing on April 9, 2012, to consider further options for the plat expiration amendment, recommended approval of the amendments, including a new Option D of the plat expiration amendment, which modified Option B, as presented at the Public Hearing on March 12, 2012.

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N. The City Council again considered this matter at its April 17, 2012 meeting.

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

ORDINANCE

SECTION 1. - Amendment. Section 12.04.117 of the Kent City Code is amended as follows:

Sec. 12.04.117. Pre-application review.

A. Applications for a tentative subdivision or tentative short subdivision pre-application meeting and review shall be filed with planning services. Pursuant to KCC 12.01.080, a pre-application meeting—conference is required—encouraged for all subdivisions, all and Type I and Type II short subdivisions, and only for Type I short subdivisions which that require SEPA review. The scale and information required for a pre-application meeting—conference and the number of copies to be filed shall be in accordance with the requirements of the planning manager application checklist.

B. Planning services shall transmit copies of the tentative plat to the fire, public works, and parks departments, public utility agencies serving the area, and to any other department or agency deemed necessary.

C. A meeting on the tentative plat shall be held that is attended by planning services, other city departments that receive copies of the tentative plat, and the subdivider. Recommendations by the various departments for revision of the tentative plat should be discussed at such
meeting. These recommendations and potential conditions of approval of the application shall be recorded in writing and mailed to the subdivider by planning services.

D. The recommendations of the city departments shall be based on whether the tentative plat is:

1. In conformance with the purpose and regulations of this chapter;
2. In conformance with fire safety regulations;
3. In conformance with the transportation master plan and appropriate design and construction standards established for the area in which the subdivision or short subdivision will be developed;
4. In conformance with sewer, water, and other utility plans for the area; and
5. Not detrimental to the natural environment or its surroundings.

SECTION 2. Amendment. Section 12.04.210 of the Kent City Code is amended as follows:


A. A final plat or final short plat shall be prepared by a professional land surveyor licensed in the state of Washington, based on the Washington State Plane Coordination System, and be submitted to planning services along with all forms required and with the number of originals and copies requested.

B. The final plat or final short plat submitted for filing shall comply with the conditions of preliminary approval and Chapter 58.09 RCW, Chapter 332-130 WAC, and Chapter 58.17 RCW. The original drawing shall be in black ink on mylar or photographic mylar.
C. In addition to other requirements as specified in this section, the final plat or final short plat shall contain or be accompanied by the following:

1. Signature of the owner of the property on the face of the final plat or final short plat mylar;

2. A notarized certificate of the owner, contract purchaser, grantor of a deed of trust, or other holder of beneficial title to the property being subdivided indicating that the subdivision or short subdivision is made with free consent and in accordance with their desires, and if the subdivision or short subdivision is subject to deeding of property, the notarized certificate shall be signed by all parties having any ownership interest in the lands subdivided. For purposes of this section, ownership interest shall include legal and equitable property interests, including, but not limited to, present, future, contingent, or whole fee interests, together with a beneficiary's interest pursuant to a trust and contract interest pursuant to a specifically enforceable contract for the purchase of the real property;

3. Certification by the responsible health agencies that the methods of sewage disposal and water service are acceptable;

4. Certification by the public works department that the subdivider has complied with either of the following alternatives:

   a. All improvements have been installed in accordance with the requirements of these regulations, or
b. Certain improvements have been deferred according to KCC 12.04.205(D), deferred improvements;

5. The subdivider shall furnish the city a current plat or short plat certificate or title report from a title insurance company, produced no more than forty-five (45) calendar days prior to final plat or final short plat application, that documents the ownership and title of all interested parties in the plat or short plat, subdivision, short subdivision, or dedication and that lists all liens and encumbrances. The legal description in the title report shall be identical to the legal description on the face of the plat or short plat. The city reserves the right to require updates of the certificate or title report at any time prior to signing the final plat or final short plat by the short subdivision committee chairman;

6. Any person signing for a corporation must provide documentation that shows they have the authority to execute on behalf of the said corporation;

7. Copies of any restrictive covenants as may be used in the subdivision or short subdivision;

8. Certification of approval to be signed by the King County assessor;

9. Certification of approval to be signed by the King County recorder;

10. Certificate of approval by the chairman of the short subdivision committee;

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11. Copies of any bylaws for a homeowners' association, if created.

12. Approved printed computer lot closure on all lots, alleys and boundaries.

D. All subdivisions and short subdivisions shall be surveyed by a land surveyor licensed in the state of Washington. All lot, tract, parcel, and right-of-way corners and angle points shall be set in accordance with Chapter 58.09 RCW. Street monuments shall be in accordance with city of Kent design and construction standards and shall be installed per those same standards. Sufficient intervisible monuments shall be set to ensure that any property within the subdivision or short subdivision can be readily resurveyed at a later time or as may be specified by the public works department. All final plats and final short plats shall be based on at least two city of Kent horizontal control points and reference the North American Datum of 1983/1991 Adjustment (NAD 83/91) or its successor as may be adopted by the public works department survey section.

E. If any utility companies and/or utility districts have existing easements within the proposed plat or short plat, the applicant or its assigns shall have these easements removed or shall have their rights subordinated to the city of Kent if they fall within dedicated right-of-way or tracts for public use.

F. The final plat or final short plat must be submitted to planning services for review as to compliance with all terms of the preliminary approval; terms of bonding or the completion of all improvements; and completeness and accuracy of survey data and platting requirements.
G. Before a final short plat is filed with King County, it shall be signed by the chairman of the short subdivision committee when the plat is determined to be in compliance with all applicable short subdivision requirements.

H. After all final plat conditions for a subdivision have been met, planning services shall set a date for a public meeting for the city council to consider the final plat.

I. Before the final plat of a subdivision is submitted to the city council, it shall be signed by the city engineer and planning manager/director. After the final plat is approved by the city council, it shall be signed by the mayor and the city finance director.

J. An approved final plat or short plat shall be filed for record with King County and shall not be deemed approved until filed.

K. A conformed copy of the recorded plat or short plat shall be filed with planning services and the public works department.

SECTION 3. - Amendment. Section 12.04.221 of the Kent City Code is amended as follows:

Sec. 12.04.221. Subdivision preliminary plat expiration.

A. Subdivision preliminary plat approval shall lapse five (5) years from the date of approval unless remain valid for that period of time specified in Chapter 58.17 RCW, plus one (1) year. During this period, an applicant must submit a final plat based on the preliminary plat, or any phase thereof, and meeting all of the requirements of this chapter and Chapter 58.17 RCW, is submitted to the city council for approval, or the preliminary
plat shall lapse and become void within five (5) years from the date of subdivision preliminary plat approval. One (1) extension of one (1) year shall be granted to an applicant who files a written request with planning services at least thirty (30) calendar days before the expiration of the five (5) year period, if the applicant can show that he has attempted in good faith to obtain approval of the final plat within the five (5) year period.

B. Additional time extensions beyond the one (1) year period may be granted by the planning manager if the applicant can show unusual circumstances or situations which make it impossible to record the final plat within the six (6) year period. The applicant must file a written request with planning services for this additional time extension. The request must be filed at least thirty (30) calendar days prior to the subdivision preliminary plat expiration date. The request must include documentation as to the need for the additional time. Additional time extensions shall not be granted in greater than one (1) year increments.

B. In the case of a phased subdivision, final plat approval by the city council of any phase of the subdivision preliminary plat will constitute an automatic one (1) year extension for the filing of the final plat for the next phase of the subdivision.

SECTION 4. - Amendment. Section 12.04.227 of the Kent City Code is amended as follows:

Sec. 12.04.227. Procedure for alteration of a subdivision or short subdivision.

A. If an applicant wishes requesting to alter a subdivision or short subdivision or any portion thereof, except as provided in KCC 12.04.230, that person shall submit an a plat alteration application to the Permit 

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Center to planning services requesting the alteration. The application shall be accompanied by such submittal requirements as described in the application form, and applicable fees, and shall contain the signatures of all persons having an ownership interest in lots, tracts, parcels, sites or divisions within the subdivision or short subdivision or in that portion to be altered.

B. The planning manager—director shall have the authority to determine whether the proposed alteration constitutes a minor or major alteration. Major alterations are those which are not in response to staff review or public appeal and substantially change the basic design, density, increase the number of lots, substantially decrease open space, substantially change conditions of subdivision or short subdivision approval, or other similar requirements or provisions. Minor alterations are those that make minor changes to engineering design or lot dimensions, decrease the number of lots to be created, or increase open space, or other similar minor changes. Major alterations shall be treated as new applications for purposes of vesting.

C. If the subdivision or short subdivision is subject to restrictive covenants which were filed at the time of the approval, and the application for alteration would result in the violation of a covenant, the application shall contain an agreement signed by all parties subject to the covenants providing that the parties agree to terminate or alter the relevant covenants to accomplish the purpose of the alteration of the subdivision or short subdivision or any portion thereof.

D. If the alteration is requested prior to final plat or final short plat review and signature, a minor alteration may be approved with consent of the planning manager and the public works directors. A major plat or short plat alteration shall require consent of the short subdivision committee for

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short subdivisions or the hearing examiner for subdivisions after public notice and a public meeting or hearing is held. Planning services shall provide notice of the application for a major plat or short plat alteration to all owners of property within the subdivision or short subdivision, all parties of record, and as was required by the original subdivision or short subdivision application. The planning director manager shall have the authority to determine whether the proposed alteration constitutes a minor or major alteration pursuant to subsection (B) of this section.

E. If the alteration is requested after final plat or final short plat review and signature, but prior to filing the final plat or final short plat with King County, a plat or short plat alteration may be approved with consent of the short subdivision committee for short subdivisions or the city council for subdivisions. Upon receipt of an application for alteration, planning services shall provide notice of the application to all owners of property within the subdivision or short subdivision, all parties of record, and as was required by the original application. The notice shall establish a date for a public meeting or hearing.

F. If the alteration is requested after filing the final plat or final short plat with King County, a minor plat or short plat alteration may be approved with consent of the short subdivision committee in the case of short subdivisions or the city council for subdivisions. If the planning director manager determines that the proposed alteration is a major alteration, pursuant to subsection (B) of this section, then the planning director–manager may require replatting pursuant to this chapter. Upon receipt of an application for alteration, planning services shall provide notice of the application to all owners of property within the subdivision or short subdivision, all parties of record, and as was required by the subdivision or short subdivision plat application. The notice shall establish a date for a public meeting or hearing.
G. The city shall determine the public use and interest in the proposed alteration and may deny or approve the application for alteration. If any land within the alteration is part of an assessment district, any outstanding assessments shall be equitably divided and levied against the remaining lots, parcels, or tracts, or be levied equitably on the lots resulting from the alteration. If any land within the alteration contains a dedication to the general use of persons residing within the subdivision, such land may be altered and divided equitably between adjacent properties.

H. After approval of the alteration, the city shall order the applicant to produce a revised drawing of the approved alteration of the subdivision or short subdivision, which after signature the final plat or final short plat shall be filed with King County to become the lawful plat or short plat of the property.

I. This section shall not be construed as applying to the alteration or replatting of any plat or short plat of state-granted shore lands.

**SECTION 5. - Amendment.** Section 12.04.263 of the Kent City Code is amended as follows:

**Sec. 12.04.263. Clustering in urban separators.**

A. All subdivisions and short subdivisions in the SR-1 zoning district shall be required to be clustered pursuant to this section when the property is located wholly or partially within an urban separator as designated on the city of Kent comprehensive land use plan map.

B. Except as described in subsection C of this section, clustering subdivisions and short subdivisions shall be subject to the SR-8 zoning.
district development standards outlined in KCC Title 15. These standards include, but are not limited to, minimum lot size, width, yards, setbacks, parking, landscaping, signage, etc.

C. The provisions of KCC 12.04.235 through 12.04.250, as well as other applicable portions of this chapter, shall apply unless specifically exempted. In addition, the following standards shall apply to clustered subdivisions or short subdivisions:

1. **Location.** The cluster residential development shall be required in the SR-1 zoning district within urban separator areas.

2. **Permitted uses.** The cluster residential development option shall include only single-family residential uses.

3. **Minimum area.** No minimum area is established for a cluster residential development.

4. **Permitted density.** The maximum number of dwelling units permitted in a cluster development shall be no greater than the number of dwelling units allowed for the parcel as a whole for the zoning district in which it is located.

5. **Lot size.** The minimum lot size of individual building lots within a cluster subdivision or short subdivision is two thousand five hundred (2,500) square feet. New lots created by any subdivision or short subdivision action shall be clustered in groups not exceeding eight (8) units. There may be more than one (1) cluster per project. Separation between cluster groups shall be a minimum of one hundred twenty (120) feet.

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6. **Lot width.** The minimum lot width for individual building lots in a cluster subdivision or short subdivision shall be thirty (30) feet.

7. **Other development standards.** Development standards other than lot size, and lot width, and density shall be the same as are required within the SR-8 SR-1 zoning district.

8. **Common open space.** The common open space in a cluster subdivision or short subdivision shall be a minimum of fifty (50) percent of the nonconstrained area of the parcel. The nonconstrained area of the parcel includes all areas of the parcel, minus critical areas, as defined in RCW 36.70A.030(5) as currently and hereinafter amended, and buffers. The remainder of the nonconstrained area of the parcel shall be the buildable area of the parcel. The common open space tracts created by clustering shall be located and configured in the manner that best connects and increases protective buffers for environmentally sensitive areas, connects and protects area wildlife habitat, creates connectivity between the open space provided by the clustering and other adjacent open spaces as well as existing or planned public parks and trails, and maintains scenic vistas. Critical areas and buffers shall not be used in determining lot size and common open space requirements in a cluster subdivision or short subdivision. All natural features (significant stands of trees and rock outcropping), as well as critical areas (such as streams, steep slopes and wetlands and their buffers) shall be preserved.

Future development of the common open space shall be prohibited. Except as specified on recorded documents creating the common open space, all common open space resulting from lot clustering shall not be altered or disturbed in a manner that degrades adjacent environmentally sensitive areas, rural areas, agricultural areas, or resource lands; impairs scenic vistas and the connectivity between the open space provided by the administration.
clustered development and adjacent open spaces; degrades wildlife habitat; and impairs the recreational benefits enjoyed by the residents of the development. Such common open spaces shall be conveyed to residents of the development, conveyed to a homeowners’ association for the benefit of the residents of the development, or conveyed to the city with the city’s consent and approval.

**SECTION 6. - Savings.** The existing Chapter 12.04 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 7. - Severability.** If any one or more section, subsection, or sentence of this ordinance is held to be unconstitutional or invalid, that decision shall not affect the validity of the remaining portion of this ordinance and the same shall maintain its full force and effect.

**SECTION 8. - Corrections by City Clerk or Code Reviser.** Upon approval of the City Attorney, the City Clerk and the code reviser are authorized to make necessary corrections to this ordinance, including the correction of clerical errors; ordinance, section, or subsection numbering; or references to other local, state or federal laws, codes, rules, or regulations

**SECTION 9. - Effective Date.** This ordinance shall take effect and be in force thirty (30) days from and after its passage and publication as provided by law.

Suzette Cooke, Mayor

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I hereby certify that this is a true copy of Ordinance No. 1035 passed by the City Council of the City of Kent, Washington, and approved by the Mayor of the City of Kent as hereon indicated.

BRENDA JACOBER, CITY CLERK
(SEAL)