

ORDINANCE NO. 0004461

AN ORDINANCE relating to appeal procedures before the Zoning and Subdivision Examiner, establishing a uniform system for the processing of all applications and appeals heard by the Examiner, transferring authority to hear certain appeals to the Examiner from the Board of Appeals, amending Ordinance 263, Article 5, Sections 11, 12, 13 and 18, and KCC 20.24.130, 20.24.140, 20.24.150, 20.24.170 and 20.24.200, repealing Ordinance 263, Article 5, Sections 7, 10, 14, 15, 16, 17 and 19, and Ordinance 453, Section 1 and KCC 20.24.070, 20.24.080, 20.24.120, 20.24.160, 20.24.170, 20.24.180, 20.24.190 and 20.24.210 and substituting new sections therefor and adding new sections to KCC 20.24.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. Ordinance 263, Article 5, Section 7 (part)

and KCC 20.24.070 and 20.24.080 are each hereby repealed and the following substituted:

Recommendations to the Council.

(a) The Examiner shall receive and examine available information, conduct public hearings and prepare records and reports thereof and issue recommendations to the Council based upon findings and conclusions in the following cases:

(1) Applications for reclassifications of property;

(2) Applications for unclassified use permits;

(3) Applications for planned unit developments;

(4) Applications for preliminary plats;

(5) Applications for shoreline environment,

redesignations;

(6) Applications for boundary adjustments of local sewer service areas in accordance with the County

1 Sewerage General Plan, Ordinance 4035, Chapter 6,
2 required for development proposals (including but
3 not limited to short subdivisions and building
4 permits) which seek or need sewer service but
5 are located outside of existing designated local
6 sewer service areas;

7 (7) Applications for agricultural land variances;

8 (8) Applications for review of designations of
9 agricultural lands of county significance of
10 King County agricultural districts;

11 (9) Applications to revise the boundaries of
12 agricultural lands of county significance;

13 (10) Applications for current use assessment on open
14 space or timber lands except as provided in
15 KCC 20.36.140;

16 (11) Appeals from denials by the county assessor of
17 applications for current use assessments on farm
18 and agricultural lands;

19 (12) Appeals of permit denials or conditions imposed
20 on environmental grounds pursuant to KCC 20.44.010;

21 (13) Appeals from threshold determinations concerning
22 actions subject to Council approval;

23 (14) Other applications or appeals which the Council
24 may prescribe by ordinance.

25 (b) The Examiner's recommendation may be to grant or
26 deny the application or appeal, or the Examiner may recommend
27 that the Council adopt the application or appeal with such
28 conditions, modifications and restrictions as the Examiner finds
29 necessary to make the application reasonably compatible with the
30 environment and carry out applicable state laws and regulations

1 and the regulations, policies, objectives and goals of the
2 comprehensive plan, the community plans, the sewerage general
3 plan, the zoning code, the subdivision code and other official
4 laws, policies and objectives of King County.

5 NEW SECTION. SECTION 2. There is added to KCC 20.24 a
6 new section to read as follows:

7 Final Decisions by the Examiner.

8 (a) The Examiner shall receive and examine available
9 information, conduct public hearings and prepare records and
10 reports thereof, and issue final decisions based upon findings
11 and conclusions in the following cases:

12 (1) Appeals from the decisions of the administrator
13 for short subdivisions;

14 (2) Appeals from threshold determinations concerning
15 actions not subject to Council approval;

16 (3) Appeals from notices and orders issued pursuant
17 to KCC Title 23 or the Rules and Regulations VII of the King
18 County Department of Public Health;

19 (4) Appeals from decisions of the Department of Public
20 Works regarding permits or licenses in flood hazard areas pursuant
21 to KCC 21.54.090;

22 (5) Appeals from conditions imposed on final approvals
23 of subdivisions receiving extensions pursuant to KCC 19.28.050(e)
24 or (f);

25 (6) Appeals from decisions of the Zoning Adjustor on
26 conditional use permits or variances;

27 (7) Appeals from decisions regarding site plan
28 approvals pursuant to KCC 21.46.180 and pursuant to Ordinance
29 4122;

30 (8) Appeals from decisions regarding the abatement of
31 nonconforming uses;

1 (9) Applications for shoreline substantial development
2 permits when combined with other land use applications pursuant
3 to KCC 25.32.080.

4 (10) Other applications or appeals which the Council
5 may prescribe by ordinance.

6 (b) The Examiner's decision may be to grant or deny
7 the application or appeal, or the Examiner may grant the applica-
8 tion or appeal with such conditions, modifications and restrictions
9 as the Examiner finds necessary to make the application or appeal
10 compatible with the environment and carry out applicable state
11 laws and regulations and the regulations, policies, objectives
12 and goals of the comprehensive plan, the community plans, the
13 sewerage general plan, the zoning code, the subdivision code and
14 other official laws, policies and objectives of King County.

15 NEW SECTION. SECTION 3. A new section is hereby added
16 to KCC 20.24 as follows:

17 Notice of Appeal to Examiner - Contents. All notices
18 of appeal regarding any decision being appealed to the Zoning and
19 Subdivision Examiner pursuant to this chapter shall be filed with
20 the County department or division issuing the original decision
21 within ten (10) calendar days from the date of issuance of such
22 decision. All notices of appeal shall state with specificity the
23 decision being appealed and the reasons why the appealed decision
24 should be reversed or modified.

25 SECTION 4. Ordinance 263, Article 5, Section 10 and
26 KCC 20.24.120 are each hereby repealed and the following substi-
27 tuted:

28 Public Hearing. When it is found that an application
29 meets the filing requirements of the responsible County department
30 or an appeal meets the filing rules of the Examiner, it shall be

1 accepted and a date assigned for public hearing. For purposes
2 of proceedings identified in Section 1, the public hearing by
3 the Examiner shall constitute the hearing by the Council. Before
4 rendering a recommendation or decision on any application or
5 appeal the Examiner shall hold at least one public hearing
6 thereon, provided that the Examiner's review of appeals regarding
7 variances and conditional use permits shall be based upon the
8 record before zoning adjustor as provided by KCC 21.58.100.

9 NEW SECTION. SECTION 5. There is added to KCC 20.24 a
10 new section to read as follows:

11 Consolidation of Hearings. Whenever a project requires
12 more than one county permit or approval, the Hearing Examiner may
13 in his discretion order a consolidation of and conduct the
14 required public hearings to avoid unnecessary costs or delays.
15 Decisions of the Examiner to order and conduct consolidated
16 hearings shall be final in all cases.

17 SECTION 6. Ordinance 263, Article 5, Section 11 and
18 KCC 20.24.130 are hereby amended to read as follows:

19 Report by Department. When ((such)) an application or
20 appeal has been set for public hearing, the responsible county
21 department shall coordinate and assemble the reviews of other
22 departments and governmental agencies having an interest in the
23 subject application or appeal and shall prepare a report summariz-
24 ing the factors involved and the department findings and
25 recommendation or decision. At least ((seven)) fourteen calendar
26 days prior to the scheduled hearing the report, and in the case
27 of appeals any written appeal arguments submitted to the
28 county, shall be filed with the Examiner and copies thereof
29 shall be mailed ~~((to the applicant and shall be made available~~

1 ~~for use by any interested party~~ to all persons of record who
2 have not previously received said materials.

3 SECTION 7. Ordinance 263, Article 5, Section 12 and
4 KCC 20.24.140 are each hereby amended to read as follows:

5 Notice. Unless otherwise provided by ordinance, the
6 responsible county department shall cause ~~((Notice))~~ notice of
7 the time and place of the public hearing ~~((shall))~~ to be mailed
8 to all persons of record at least fourteen calendar days prior
9 to the scheduled hearing. Additional notice shall be given as
10 provided in the ordinance governing the particular type of
11 application or appeal.

12 SECTION 8. Ordinance 263, Article 5, Section 13 and
13 KCC 20.24.150 is hereby amended to read as follows:

14 Rules and Regulations. The examiner shall have
15 the power to prescribe rules and regulations for the conduct of
16 hearings before him subject to confirmation of the council; and
17 also to issue summons ~~((for))~~ and subpoena to compel the
18 appearance of witnesses and production of documents and materials,
19 to order discovery, to administer oaths, and to preserve order.

20 The privilege of cross-examination of witnesses shall be accorded
21 all interested parties or their counsel in accordance with the
22 rules of the examiner.

23 SECTION 9. Ordinance 263, Article 5, Section 14 and
24 KCC 20.24.160 are each hereby repealed and the following substi-
25 tuted:

26 Examiner findings. When the Examiner renders a decision
27 or recommendation, he shall make and enter findings of fact and
28 conclusions from the record which support his decision and the
29 findings and conclusions shall set forth and demonstrate the
30 manner in which the decision or recommendation is consistent

1 with, carries out and helps implement applicable state laws and
2 regulations and the regulations, policies, objectives and goals
3 of the comprehensive plan, the community plans, the sewerage
4 general plan, the zoning code, the subdivision code and other
5 official laws, policies and objectives of King County, and that
6 the recommendation or decision will not be unreasonably incompa
7 tible with or detrimental to affected properties and the general
8 public.

9 NEW SECTION. SECTION 10. There is added to KCC 20.24
10 a new section to read as follows:

11 Additional Examiner Findings - Reclassifications and
12 Shoreline Redesignations. When the Examiner issues a recommen-
13 dation regarding an application for a reclassification of
14 property or for a shoreline environment redesignation, the
15 recommendation shall include additional findings which support
16 the conclusion that at least one of the following circumstances
17 applies:

18 (1) The property is potentially zoned for the
19 reclassification being requested and conditions have been met
20 which indicate the reclassification is appropriate; or

21 (2) An adopted community plan or area zoning specifies
22 that the property shall be subsequently considered through an
23 individual reclassification application; or

24 (3) Where a community plan has been adopted but
25 subsequent area zoning has not been adopted, that the proposed
26 reclassification or shoreline redesignation is consistent with
27 the adopted community plan; or

28 (4) The applicant has demonstrated with substantial
29 evidence that (a) since the last previous area zoning or shoreline
30 environment designation of the subject property, authorized public
31

1 improvements, permitted private development or other conditions
2 or circumstances affecting the subject property have undergone
3 substantial and material change not anticipated or contemplated
4 in the community plan or area zoning; (b) the impacts from the
5 changed conditions or circumstances affect the subject property
6 in a manner and to a degree different than other properties in
7 the vicinity such that area rezoning or redesignation is not
8 appropriate; and (c) the requested reclassification or redesignig-
9 nation is required in the public interest.

10 SECTION 11. Ordinance 263, Article 5, Section 16 and
11 KCC 20.24.180 are each hereby repealed and the following substi-
12 tuted:

13 Written Recommendation or Decision.

14 (a) Within ten (10) days of the conclusion of a hearing
15 or rehearing, the Examiner shall render a written recommendation
16 or decision and shall transmit a copy thereof to all persons of
17 record.

18 (b). Recommendations of the Examiner in cases identified
19 in Section 1 may be appealed to the Council by an aggrieved party
20 party by filing a notice of appeal with the clerk of the Council
21 within fourteen (14) calendar days of the date the Examiner's
22 written recommendation is mailed. A copy of the notice shall
23 also be delivered to the Examiner. If no appeal is filed within
24 14 calendar days, the clerk of the Council shall place a proposed
25 ordinance which implements the Examiner's recommended action on
26 the agenda of the next available Council meeting for adoption,
27 provided the Council by motion may refer the matter to a Council
28 committee or remand to the Examiner for the purpose of further
29 hearing, receipt of additional information or further consideration
30 when determined necessary prior to the Council's taking final
31 action thereon.

1 (c) Decisions of the Examiner in cases identified in
2 Section 2 shall be final and reviewable pursuant to Section 15.

3 SECTION 12. Ordinance 453, Section 1 and Ordinance 263,
4 Article 5, Section 17 and KCC 20.24.190 are hereby repealed and
5 the following substituted:

6 Appeal to Council. If an appeal has been filed pursuant
7 to KCC 20.24.180(b), the appellant shall file within 21 calendar
8 days of the date of the Examiner's written recommendation a
9 written appeal statement specifying the basis for the appeal and
10 any arguments in support of the appeal. If no written appeal
11 statement or arguments are filed within the 21 calendar days, the
12 Clerk of the Council shall place a proposed ordinance which
13 implements the Examiner's recommended action on the Agenda of the
14 next available Council meeting. The Clerk of the Council shall
15 cause notice to be given to other parties of record that a notice
16 of appeal and appeal statement have been filed and that
17 written appeal statements or arguments in response thereto may
18 be submitted to the Clerk within fourteen (14) calendar days
19 of the date of such notification by the Clerk.

20 Consideration by the Council of the appeal shall be
21 based upon the record as presented to the Examiner at the public
22 hearing and upon written appeal statements based upon the record,
23 provided the Council also may allow parties a period of time for
24 oral argument based on the record. The Examiner may conduct a
25 conference with all parties to the appeal for the purpose of
26 clarifying or attempting to resolve certain issues on appeal,
27 provided that the deputy examiner who conducted the public hearing
28 on the proposal may not conduct the conference. Such conference
29 shall be informal and shall not be part of the public record.

1 If after consideration of the record, written appeal
2 statements and any oral argument the Council determines that:
3 (1) An error in fact or procedure may exist or additional infor
4 mation or clarification is desired, the Council shall remand the
5 matter to the Examiner; or (2) The recommendation of the Examiner
6 is based on an error in judgment or conclusion, the Council may
7 modify or reverse the recommendation of the Examiner; provided
8 the Council's Land Use Appeal Committee may retain the matter,
9 refer it to another Council/Committee or remand to the Examiner
10 for the purpose of further hearing, receipt of additional
11 information or further consideration when determined necessary
12 prior to the Council's taking final action thereon.

13 SECTION 13. Ordinance 263, Article 5, Section 18 and
14 KCC 20.24.200 are each amended to read as follows:

15 Council Action. The Council shall take final action
16 on any ~~((decision))~~ recommendation of the Examiner by motion of
17 concurrence approved by at least 5 members of the Council or by
18 adoption of an ordinance or motion and when so doing, it shall
19 make and enter findings of fact and conclusions from the record
20 ~~((and-conclusions-therefrom))~~ which support its action. Said
21 findings and conclusions shall set forth and demonstrate the
22 manner in which the action is consistent with, carries out and
23 helps ~~((to))~~ implement ~~((the-goals-and-objectives))~~ applicable
24 state laws and regulations and the regulations, policies,
25 objectives and goals of the comprehensive plan, the community
26 plans, the sewerage general plan, the zoning code, the subdivision
27 code and other official laws, policies and objectives for the
28 development of King County. The Council may adopt as its
29 own all or portions of the Examiner's findings and conclusions.
30
31
32
33

1 Any ordinance may contain reasonable conditions regarding
2 the manner of development or other aspects regarding use of the
3 property. Any ordinance also may contain conditions which must
4 be satisfied before the ordinance becomes effective and the
5 official zoning maps shall not be amended until said conditions
6 have been satisfied; provided, the ordinance shall also
7 designate the time period within which any such conditions
8 must be satisfied. All authority pursuant to such ordinance
9 shall expire if any of said conditions are not satisfied
10 within the designated time period and the property shall
11 continue to be subject to all laws, regulations and zoning as
12 if the ordinance had not been adopted; provided, the Council
13 may extend the period for satisfaction of said conditions if
14 after a public hearing by the Examiner the Council finds an
15 extension will be in the public interest and the extension was
16 requested by applicant within the initial time period. As an
17 alternative to the adoption, of an ordinance containing conditions,
18 the Council may adopt an ordinance subject to the execution of
19 a concomitant agreement between the County and the applicant
20 regarding the manner of development of the property, any required
21 improvements or any aspect regarding use of the property.

22 NEW SECTION. SECTION 14. There is added to KCC 20.24
23 a new section to read as follows:

24 Reconsideration of Final Action. The Council may
25 reconsider any action after it has become final if: (a) the
26 action was based in whole or in part on erroneous facts or
27 information; (b) the action when taken failed to comply with
28 existing laws or regulations applicable thereto; or (c) an
29 error of procedure occurred which prevented consideration of
30 the interests of persons directly affected by the action. The
31
32
33

1 Council upon reconsideration shall refer the matter to the Land
2 Use Appeal Committee to review the matter pursuant to the
3 procedures and authority for appeals pursuant to KCC 20.24.190.

4 SECTION 15. Ordinance 263, Article 5, Section 19 and
5 KCC 20.24.210 are each hereby repealed and the following substi-
6 tuted:

7 Review of Final Decisions.

8 (a) Decisions of the Council in cases identified in
9 Section 1 shall be a final and conclusive action unless within
10 twenty calendar days (or within thirty calendar days for decisions
11 approving or denying plats) from the date of the Council's
12 adoption of an ordinance an aggrieved person applies for a writ
13 of certiorari from the Superior Court in and for the county of
14 King, state of Washington, for the purpose of review of the
15 action taken, provided no development or related action may
16 occur during said 20-day (or 30-day for plat approvals) appeal
17 period.

18 (b) Decisions of the Examiner in cases identified in
19 Section 2 shall be a final and conclusive action unless within
20 twenty calendar days from the date of issuance of the Examiner's
21 decision an aggrieved person applies for a writ of certiorari
22 from the Superior Court in and for the county of King, state of
23 Washington, for the purpose of review of the action taken,
24 provided no development or related action may occur during said
25 20-day appeal period.

1 SECTION 16. Ordinance 263, Article 5, Section 15 and
2 KCC 20.24.170 are hereby repealed.

3 INTRODUCED and READ for the first time this 26th day
4 of March, 1979.

5 PASSED this 27th day of August, 1979.

6 KING COUNTY COUNCIL
7 KING COUNTY, WASHINGTON

8 Ruby Chow
9 Chairman

10 ATTEST:

11 John Hammond
12 Clerk of the Council

13 APPROVED this _____ day of _____, 19____.

14 _____
15 King County Executive

16 DEEMED ENACTED WITHOUT
17 COUNTY EXECUTIVE'S SIGNATURE

18 DATED: September 6, 1979