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Introduced by BILL REAMS

1 April 7, 1980

Proposed No. 79-1364

3 ORDINANCE NO. **4828**

4 AN ORDINANCE relating to the protection and
5 preservation of landmarks, and landmark sites
6 and districts in King County; creating a
7 Landmarks Commission; establishing procedures
8 for designation and preservation of landmarks
9 and landmark sites and districts; providing
10 for enforcement and prescribing penalties
11 for violations.

12 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

13 SECTION 1. Findings and Declaration of Purpose.

14 The King County Council finds that:

15 (1) The protection, enhancement, perpetuation and use
16 of buildings, sites, districts, structures and objects of
17 historical, cultural, architectural engineering, geographic and
18 archeological significance located in King County is necessary in
19 the interest of the prosperity, civic pride and general welfare
20 of the people of King County.

21 (2) Such cultural and historic assets are a significant
22 part of the heritage, education and economic base of King County,
23 and the economic, cultural and aesthetic standing of the County
24 cannot be maintained or enhanced by disregarding the heritage
25 of the County and by allowing the unnecessary destruction or
26 defacement of such assets.

27 (3) Present preservation programs and activities are
28 inadequate to insure present and future generations of King
29 County residents and visitors a genuine opportunity to appreciate
30 and enjoy our historical and cultural heritage.

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1 (4) The purposes of this ordinance are to:

2 (a) designate, preserve, protect, enhance and per-
3 petuate those sites, buildings, districts, structures
4 and objects which reflect significant elements of
5 the county's, state's and nation's cultural, aesthetic,
6 social, economic, political, architectural, archeo-
7 logical engineering, historic and other heritage;

8 (b) foster civic pride in the beauty and accomplish-
9 ments of the past;

10 (c) stabilize and improve the economic vitality and
11 values of landmarks, sites, districts, buildings,
12 structures and objects;

13 (d) protect and enhance the county's tourist industry;

14 (e) promote the continued use of outstanding sites,
15 districts, buildings, structures and objects for
16 the education, inspiration and welfare of the people
17 of King County;

18 (f) promote and continue private incentives for owner-
19 ship and utilization of landmark buildings, sites,
20 districts, structures and objects;

21 (g) assist, encourage and provide incentives to
22 private owners for preservation, restoration,
23 redevelopment and use of landmark buildings, sites,
24 districts, structures and objects.

25 SECTION 2. Definitions.

26 The following words and terms shall, when used in this
27 ordinance, be defined as follows unless a different meaning
28 clearly appears from the context:
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1 (1) "Alteration" is any construction, demolition,
2 modification, restoration or remodeling for which permit from
3 the Manager of the King County Building and Land Development
4 Division or his designee is required.

5 (2) "Certificate of Appropriateness" is written
6 authorization issued by the Commission or its designee permitting
7 an alteration or significant change in one or more significant
8 features of a designated landmark, landmark site or district.

9 (3) "Commission" is the Landmarks Commission created
10 by this ordinance.

11 (4) "Community Landmark" is an easily identifiable
12 visual feature of a neighborhood or the county which has been
13 designated pursuant to Section 4(2) of this ordinance but which
14 may be altered or changed without application for or approval of
15 a Certificate of Appropriateness.

16 (5) "Council" is the King County Council.

17 (6) "Designation" is the act of the Commission
18 determining that a landmark, landmark site or district meets
19 the criteria established by this ordinance for protection and
20 preservation.

21 (7) "Designation Report" is a report issued by the
22 Commission after an action meeting setting forth its determina-
23 tion to designate a landmark, landmark site or district and
24 specifying the significant feature or features thereof.

25 (8) "Historic Preservation Officer" is the King County
26 Historic Preservation Officer or his designee.

27 (9) "Incentives" are such compensation, rights or
28 privileges or combination thereof, which the council, or other
29 local, state or federal public body or agency, by virtue of
30 applicable present or future legislation, may be authorized
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1 to grant to or obtain for the owner(s) of designated landmarks,
2 landmark sites or districts. Examples of economic incentives
3 include but are not limited to tax relief, conditional use
4 permits, rezoning, street vacation, planned unit development,
5 transfer of development rights, facade easements, gifts,
6 preferential leasing policies, private or public grants-in-aid,
7 beneficial placement of public improvements, or amenities, or the like

8 (10) "Improvement" is any building, structure, or
9 other object constituting a physical improvement of real property.

10 (11) "Interested Person of Record" is any individual,
11 corporation, partnership or association which notifies the
12 commission or the council in writing of its interest in any
13 matter before the commission.

14 (12) "Landmark" is an improvement or object designated
15 as a landmark pursuant to this ordinance.

16 (13) "Landmark District" is a contiguous geographic
17 area designated as a landmark district pursuant to this ordinance.

18 (14) "Landmark Site" is a site, with or without
19 improvements, designated as a landmark site pursuant to this
20 ordinance.

21 (15) "Manager" is the Manager of the King County
22 Building and Land Development Division or his designee.

23 (16) "Nomination" is a proposal that any object, site,
24 improvement or area be designated a landmark, landmark site, or
25 landmark district.

26 (17) "Object" is any tangible thing, including any
27 ship, which may or may not be attached to real property.

28 (18) "Owner" is a person having a fee simple interest,
29 a substantial beneficial interest of record or a substantial
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1 beneficial interest known to the commission in an object, site
2 or improvement. Where the owner is a public agency or government,
3 that agency shall specify the person or persons to receive notices
4 hereunder.

5 (19) "Party of Record" includes the commission, the
6 owner, the applicant, the person in charge, and the nominator
7 of any proposed landmark, landmark site or district.

8 (20) "Person" is any individual, partnership, corpor-
9 ation, group or association.

10 (21) "Person in Charge" is the person or persons in
11 possession of an object, improvement, lot or parcel including
12 but not limited to a mortgagee or vendee in possession, an
13 assignee of rents, a receiver, executor, trustee, lessee, tenant,
14 agent, or any other person directly or indirectly in control of
15 an object, improvement or lot or parcel of real property.

16 (22) "Preliminary Determination" is a decision of the
17 Commission determining whether or not an object, improvement,
18 site or district which has been nominated for designation is of
19 significant value and is likely to satisfy the criteria for
20 designation.

21 (23) "Significant Change" is any alteration in a
22 significant feature not requiring a permit from the Manager
23 but for which the commission's designation report requires a
24 certificate of appropriateness prior to alteration.

25 (24) "Significant Feature" is any characteristic of
26 an improvement, object, site, or district which the Commission
27 has designated pursuant to this ordinance as of importance to
28 the historic value of the property for which the preliminary
29 determination or the designation report requires a certificate of
30 appropriateness prior to alteration.

1 SECTION 3. Landmarks Commission.

2 (1) There is hereby created the King County Landmarks
3 Commission ("commission") which shall consist of nine members
4 selected as follows:

5 (a) The nine (9) members of the Commission shall be
6 appointed by the King County Executive, subject to confirmation
7 by the Council, provided that no more than four (4) members shall
8 reside within any one municipal jurisdiction. The members shall
9 have demonstrated an active interest in historic preservation.

10 (b) The King County Executive may solicit nominations
11 for persons to serve as members of the commission from the King
12 County Association of Historical Organizations, the American
13 Institute of Architects (Seattle Chapter), the Seattle King County
14 Bar Association, the Seattle Master Builders, the Chambers of
15 Commerce, and other professional and civic organizations familiar
16 with landmark preservation.

17 (2) All appointments shall be made for a three-year
18 term. In the event of a vacancy, an appointment shall be made
19 to fill the vacancy in the same manner and with the same qualifi-
20 cations as if at the beginning of the term, and the person
21 appointed to fill the vacancy shall hold the position for the
22 remainder of the unexpired term. Any member may be reappointed to
23 serve not more than two consecutive three-year terms. A member
24 shall be deemed to have served one term if such member resigns
25 at any time after appointment or if such member serves more than
26 two years of an unexpired term. The members of the commission
27 shall serve without compensation except for out-of-pocket expenses
28 incurred in connection with commission meetings or programs.

29 (3) The King County Executive shall appoint the
30 chairman of the commission from among the commission members.
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1 Within six months of its first meeting, the commission shall
2 adopt rules and regulations, including procedures consistent with
3 this ordinance. The members of the commission shall be governed
4 by the King County Code of Ethics, KCC ch. 3.04 as hereafter
5 amended. The commission shall not conduct any public hearing
6 required under this ordinance until rules and regulations have
7 been filed with the County Clerk.

8 (4) A majority of the current appointed and confirmed
9 members of the commission shall constitute a quorum for the trans-
10 action of business. All official actions of the commission
11 shall require a majority vote of the members present and voting.
12 No member shall be eligible to vote upon any matter required
13 by this ordinance to be determined after a hearing unless that
14 member has attended the hearing or familiarized him or herself
15 with the record.

16 (5) The Director of the King County Department of
17 Planning and Community Development shall provide staff support
18 to the commission and shall assign a professionally qualified
19 member of the Department's staff to act as a full-time historic
20 preservation officer. The historic preservation officer shall
21 be an employee of the Department of Planning and Community
22 Development. Under the direction of the commission, the historic
23 preservation officer shall be the custodian of the commission's
24 records. The historic preservation officer or his or her
25 designee shall conduct official correspondence, assist in
26 organizing the commission, organize and supervise the commission
27 staff and the clerical and technical work of the commission to
28 extent required to administer this ordinance.

1 (6) The commission shall meet at least once each month
2 for the purpose of considering and holding public hearings on
3 nominations for designation and applications for certificates of
4 appropriateness. Where no business is scheduled to come before
5 the commission seven (7) days before the scheduled monthly
6 meeting, the Chairman of Commission may cancel the meeting. All
7 meetings of the commission shall be open to the public. The
8 commission shall keep minutes of its proceedings, showing the
9 action of the commission upon each question, and shall keep
10 records of all official actions taken by it, all of which shall
11 be filed in the office of the historic preservation officer and
12 shall be public records.

13 (7) At all hearings before and meetings of the commis-
14 sion, all oral proceedings shall be electronically recorded.
15 Such proceedings may also be recorded stenographically by a court
16 reporter if any interested person at his or her expense shall
17 provide a court reporter for that purpose. A tape recorded
18 copy of the electronic record of any hearing or part thereof
19 shall be furnished to any person upon request and payment of
20 the reasonable expense thereof.

21 SECTION 4. Criteria for Designation.

22 (1) An object, improvement, site or district may
23 be designated as a King County landmark, landmark site or
24 district if it is more than forty years old or, in the case of
25 a landmark district, contains improvements that are more than
26 forty years old, and possesses integrity of location, design,
27 setting, materials, workmanship, feeling and association, and:

28 (a) is associated with events that have made
29 a significant contribution to the broad patterns of national,
30 state or local history; or
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1 (b) is associated with the lives of persons
2 significant in national, state or local history; or

3 (c) embodies the distinctive characteristics
4 of a type, period, style or method of design or construction,
5 or that represents a significant and distinguishable entity
6 whose components may lack individual distinction; or

7 (d) has yielded or may be likely to yield,
8 information important in prehistory or history; or

9 (e) is an outstanding work of a designer or
10 builder who has made a substantial contribution to the art; or

11 (2) An object, improvement, site or district may be
12 designated a community landmark because of its prominence of
13 spatial location, contrasts of siting, age or scale, it is an
14 easily identifiable visual feature of a neighborhood or the
15 county and contributes to the distinctive quality or identity of
16 such neighborhood or county. An improvement or site qualifying
17 for designation solely by virtue of satisfying criteria set out
18 in this section shall be designated a community landmark and
19 shall not be subject to the provisions of Section 8.

20 (3) Cemeteries, birthplaces, or graves of historical
21 figures, properties owned by religious institutions or used
22 for religious purposes, structures that have been moved from
23 their original locations, reconstructed historic buildings,
24 properties primarily commemorative in nature, and properties
25 that have achieved significance within the past forty years
26 shall not be considered eligible for designation. However,
27 such a property will qualify if they are integral parts of
28 districts that meet the criteria set out in Section 4(1) above
29 or if it is:

1 (a) a religious property deriving primary
2 significance from architectural or artistic distinction or
3 historical importance; or

4 (b) a building or structure removed from its
5 original location but which is significant primarily for its
6 architectural value, or which is the surviving structure most
7 importatly associated with a historic person or event; or

8 (c) a birthplace, grave or residence of a historical
9 figure of outstanding importance if there is no other appropriate
10 site or building directly associated with his or her productive
11 life; or

12 (d) a cemetery that derives its primary signifi-
13 cance from graves of persons of transcendent importance, from
14 age, from distinctive design features, or from association
15 with historic events; or

16 (e) a reconstructed building when accurately
17 executed in a suitable environment and presented in a dignified
18 manner [or] as part of a restoration master plan, and when no
19 other building or structure with the same association has
20 survived; or

21 (f) a property primarily commemorative in intent
22 if design, age, tradition, or symbolic value has invested it
23 with its own historical significance; or

24 (g) a property achieving significance within
25 the past forty years if it is of exceptional importance.

26 SECTION 5. Nomination Procedure.

27 Any person, including the historic preservation officer
28 and any member of the commission, may nominate any site, improve-
29 ment, district or object for designation as a landmark or landmark
30 site or district. The nomination or designation of an object or
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1 improvement as a landmark shall constitute nomination or
2 designation of the site on which the object or improvement is
3 located as a landmark site unless the nomination provides other-
4 wise. Nominations shall be made on official nomination forms
5 provided by the historic preservation officer, shall be filed with
6 the historic preservation officer, and shall include all data
7 required by the commission. Nominations found to be in order by
8 the historic preservation officer shall be considered by the
9 commission at a public meeting. The historic preservation
10 officer, his or her designee, or the commission may amend or
11 complete any nomination. The historic preservation officer
12 shall mail a copy of any nomination and of any amendment thereto
13 to the owner upon completion.

14 SECTION 6. Preliminary Determination Procedure.

15 (1) Upon receipt by the historic preservation officer
16 of any nomination for designation, the officer shall review the
17 nomination, consult where necessary with the person or persons
18 submitting the nomination and the owner and prepare any amendments
19 to or additional information on the nomination deemed necessary
20 by the officer. The historic preservation officer may refuse to
21 accept any nomination for which inadequate information is
22 provided by the person or persons submitting the nomination.

23 It is the responsibility of the person or persons
24 submitting the nomination to perform such research as is necessary
25 for a preliminary determination by the commission. The historic
26 preservation officer may assume responsibility for gathering the
27 required information, or appoint an expert or experts to carry
28 out this research in the interest of expediting the preliminary
29 determination. The certificate of appropriateness procedure set
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1 out in section 8 of this ordinance shall not be enforced until
2 after a preliminary determination of significance by the
3 commission.

4 (2) When the historic preservation officer is satisfied
5 that the nomination contains sufficient information and complies
6 with the commission's regulations for nominations, the officer
7 shall give notice in writing to the owner of the property or
8 object and to the person submitting the nomination that a
9 preliminary determination on the nomination will be made by the
10 commission. The notice shall contain the date, time and place
11 of hearing, the address and description of the property, and shall
12 state that, upon a preliminary determination of significance, the
13 certificate of appropriateness procedure set out in section 8 of
14 this ordinance will apply, together with a statement that, upon a
15 preliminary determination of significance, no significant feature
16 may be changed without first obtaining a certificate of appropriate-
17 ness from the commission, whether or not a building or other
18 permit is required. A copy of the provisions of section 8 shall
19 be included with the notice.

20 (3) The historic preservation officer shall, after
21 mailing the notice required herein, refer the nomination and all
22 supporting information to the commission for consideration on the
23 date specified in the notice. No nomination shall be considered
24 by the commission less than fourteen (14) calendar days after
25 notice has been mailed to the owner and person submitting the
26 nomination except where the historic preservation officer or
27 members of the commission have reason to believe that immediate
28 action is necessary to prevent the destruction, demolition, or
29 defacing of an object, improvement, site or district, in which
30 case the notice setting the hearing shall so state.

1 (4) The commission shall make a preliminary determination
2 on each nomination referred to it only at a public meeting. The
3 commission shall consider the nomination documents, supporting
4 materials, and any written statements concerning the nomination
5 which are submitted no later than three (3) days before the
6 meeting at which a nomination is considered. Upon review of
7 such materials, the commission shall determine whether the object,
8 improvement, site or district nominated is of significant value
9 and likely to satisfy the criteria for designation set out in
10 Section 4 of this ordinance. Such determination shall be effective
11 as of the date of the public meeting at which it is made. Where
12 the commission makes a preliminary determination to approve the
13 nomination for consideration for designation, it shall:

14 (a) specify the boundaries of the nominated
15 property, the significant particular features thereof, and such
16 other description of the site, improvement, district or object
17 as it deems appropriate;

18 (b) set a date, which shall be not less than
19 thirty (30) nor more than forty-five (45) calendar days from the
20 date of preliminary approval of nomination at which a public
21 hearing on the designation shall be held as provided in Section 7.

22 (5) Within five (5) working days after the commission
23 has made a preliminary determination approving a nomination for
24 further designation procedures, the historic preservation officer
25 shall file a written notice of such action with the Manager
26 and mail copies of the same, certified mail/return receipt
27 requested, to the owner, the person submitting the nomination
28 and interested persons of record. Such notice shall include:

29 (a) a copy of the commission's preliminary
30 determination;

1 (b) a statement that while proceedings pursuant
2 to this ordinance are pending, or six (6) months from the date of
3 the notice, whichever is shorter, and thereafter if the designa-
4 tion is approved by the commission, the certificate of appro-
5 priateness procedures set out in Section 8 of this ordinance, a
6 copy of which shall be enclosed, shall apply to the described
7 object, site, improvement or district, whether or not a building
8 or other permit is required;

9 (c) the date, time and place of the commission
10 hearing on the designation;

11 (d) A statement that all proceedings to review
12 the action of the commission at the hearing on approval of
13 designation will be based on the record made at such hearing
14 and that no further right to present evidence on the issue
15 of designation is afforded pursuant to this ordinance.

16 (6) Where the commission rejects a nomination, it
17 shall so notify the owner, the person submitting the nomination
18 and interested persons of record setting forth its reasons why
19 approval of the nomination for further designation procedures
20 is not warranted. Any interested person of record may appeal
21 rejection of the nomination as provided in Section 11(1) of
22 this ordinance.

23 SECTION 7. Designation Procedure.

24 (1) The commission may approve or deny designation
25 of a site, improvement or object only after a public hearing.
26 At the designation hearing the commission shall receive evidence
27 and hear argument only on the issues of (1) whether the district,
28 site, improvement or object meets the criteria for designation
29 of landmarks, landmark sites or districts specified in Section 4
30 of this ordinance and merits designation as a landmark, landmark
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1 site or district and, (2) the significant features of the
2 district, site, improvement or object. The hearing may be
3 continued from time to time in the discretion of the commission.
4 The decision of the commission shall be made at the next regularly
5 scheduled public meeting of the commission after the close of
6 the public hearing.

7 (2) Whenever the commission approves the designation
8 of all or any portion of the district, site, improvement or
9 object under consideration for designation as a landmark, landmark
10 site or district it shall, within fourteen (14) calendar days
11 of the public meeting at which the decision is made, issue a
12 written designation report which shall include:

13 (a) the boundaries of the nominated property and
14 such other description of the improvement or object sufficient
15 to identify its ownership and location;

16 (b) the significant features and such other
17 information concerning the district, site, improvement or object
18 as the commission deems appropriate;

19 (c) findings of fact and reasons supporting the
20 designation and section (b) above with specific reference to the
21 criteria for designation set forth in Section 4 of this ordinance;

22 (d) a statement that no significant feature may
23 be changed, whether or not a building or other permit is required,
24 without first obtaining a certificate of appropriateness from
25 the commission pursuant to the provisions of section 8 of this
26 ordinance, a copy of which shall be included in the designation
27 report.

28 (3) Whenever the commission rejects the nomination of
29 all or any portion of the district, site, improvement or object
30 under consideration for designation as a landmark, landmark site
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1 or district it shall, within fourteen (14) calendar days of the
2 public meeting at which the decision is made, issue a written
3 decision including findings of fact and reasons supporting its
4 determination that the criteria set forth in section 4 of this
5 ordinance have not been met.

6 (4) A copy of the commission's designation report or
7 decision rejecting a nomination shall be delivered or mailed to
8 the owner, to interested persons of record and the Manager
9 within five (5) working days after it is issued.

10 If the commission rejects the nomination, it shall
11 include in the notice to the Manager a statement that the
12 provisions of Section 8 of this ordinance no longer apply to
13 the district, site, improvement, or object. Any interested
14 person of record may appeal the approval or rejection of a
15 designation in the manner provided in Section 11(2) of this
16 ordinance.

17 (5) If the commission approves the designation of all
18 or any portion of a district, site, improvement or object, the
19 provisions of Section 8 of this ordinance shall apply to the
20 designated district, site, improvement, object or portion thereof.
21 A copy of the commission's designation report shall be filed with
22 the County Recorder together with a legal description of the
23 designated property and notification that the provisions of
24 Sections 8 and 13 of this ordinance apply.

25 SECTION 8. Certificate of Appropriateness Procedure.

26 (1) At any time after a designation report and notice
27 has been filed with the Manager and for a period of six (6) months
28 after notice of a preliminary determination of significance has
29 been mailed to the owner and filed with the Manager, a certificate
30 of appropriateness must be obtained from the commission before any
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1 person may make alterations or significant changes to the
2 significant features or characteristics of the district, site,
3 improvement or object suggested for preservation in the preliminary
4 determination of significance or thereafter specified in the
5 designation report. This requirement shall apply whether or not
6 the proposed change or alteration also requires a building or
7 other permit, provided that the requirements of this section shall
8 not apply to any district, site, improvement or object located
9 within incorporated cities or towns in King County.

10 (2) Application for a certificate of appropriateness
11 may be made by filing an application for such certificate
12 with the historic preservation officer on forms provided by the
13 commission, or by filing with the Manager an application for a
14 permit to make alterations or significant changes for which a
15 certificate of appropriateness is required because of the pendency
16 of designation proceedings or the terms of a designation report.
17 The application for a certificate of appropriateness shall
18 include all information and materials deemed necessary by the
19 commission. The Commission may consider or issue a certificate
20 of appropriateness without the submission of final drawings,
21 plans and specifications.

22 (3) If an application is made to the Manager for a
23 permit for which a certificate of appropriateness is required
24 before such certificate has been obtained, the Manager shall
25 promptly refer such application to the historic preservation
26 officer and such application shall be deemed an application for
27 a certificate of appropriateness. The Manager may continue to
28 process such permit application, but shall not issue any such
29 permit until the time has expired for filing with the Manager
30 the notice of denial of a certificate of appropriateness or a
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1 certificate of appropriateness has been issued pursuant to this
2 ordinance.

3 (4) After the commission has commenced proceedings for
4 the consideration of any application for a certificate of
5 appropriateness for a particular alteration or significant change
6 by giving notice of a hearing pursuant to subsection 5 of this
7 section, no other application for the same or a similar alteration
8 or significant change may be made until such proceedings and all
9 administrative appeals therefrom pursuant to this ordinance have
10 been concluded.

11 (5) Within thirty (30) calendar days after the filing
12 of an application for a certificate of appropriateness with the
13 commission or the referral of an application to the commission
14 by the Manager pursuant to subsection 3 of this section, the
15 commission shall hold a public hearing thereon. The historic
16 preservation officer shall mail notice of the hearing to the
17 owner, the applicant, if the applicant is not the owner, and
18 parties of record at the designation proceedings, not less than
19 ten (10) calendar days before the date of the hearing. No hearing
20 shall be required if the commission, the owner and the applicant,
21 if applicant is not the owner, agree in writing to a stipulated
22 certificate approving the requested alterations or changes or
23 modifications thereof. The commission may, by rule adopted
24 pursuant to this ordinance, authorize the historic preservation
25 officer to issue a certificate of appropriateness by agreement
26 with the owner. If the commission orders a certificate of appro-
27 priateness, such certificate shall be issued forthwith and the
28 historic preservation officer shall promptly file a copy of such
29 certificate with the Manager.
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1 (6) If the commission declines to issue a certificate
2 of appropriateness, it shall at a public meeting forward written
3 recommendations to the council with specific findings in respect
4 to the factors enumerated in Sections 9 and 10 of this ordinance
5 not later than ninety (90) calendar days after the referral of
6 the application by the Manager to the commission, or after the
7 filing of an application for a certificate of appropriateness
8 with the historic preservation officer, and shall mail a copy of
9 said findings and recommendations to the owner, the applicant,
10 the Manager, and interested persons of record within five (5)
11 working days after the recommendations are adopted. In forwarding
12 its recommendations to the council, the commission shall also
13 furnish to the Clerk of the Council copies of the application for
14 a certificate of appropriateness and such final drawings, plans
15 and specifications as were used by the commission in developing
16 its recommendations.

17 (7) Within ninety (90) calendar days of receipt of the
18 commission's recommendations, the Council may by adoption of an
19 ordinance approve, condition or deny a certificate of appropriate-
20 ness. Should the council not take action within ninety (90) days,
21 the Clerk of the Council shall automatically issue a certificate
22 of appropriateness at the end of the ninety (90) day period.

23 SECTION 9. Criteria for Issuing, Denying, and
24 Conditioning Certificates of Appropriateness.

25 In considering any application for a certificate of
26 appropriateness the commission and the council shall consider the
27 following criteria:
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1 (1) The extent to which the proposed alteration or
2 significant change would adversely affect the specific features
3 or characteristics specified in the latest of the preliminary
4 determination of significance or the designation report;

5 (2) The reasonableness or lack thereof of the proposed
6 alteration or significant changes in light of other alternatives
7 available to achieve the objectives of the owner and the applicant;

8 (3) The extent to which the proposed alteration or
9 significant change may be necessary to meet the requirements
10 of any other law, statute, ordinance, regulation, code or
11 ordinance; and

12 (4) The extent to which the proposed alteration or
13 significant change is necessary or appropriate to achieving
14 for the owner or applicant a reasonable return on the site,
15 improvement or object, taking into consideration the factors
16 specified in Section 10 of this ordinance and the economic
17 consequences of denial.

18 SECTION 10. Criteria and Procedures for Evaluation
19 of Economic Impact.

20 (1) At the public hearing on any application for a
21 certificate of appropriateness the commission shall, when
22 requested by the property owner, consider evidence of the economic
23 impact on the owner of denial or partial denial of a certificate.
24 In no case may a certificate be denied, in whole or in part,
25 where the commission establishes that the denial or partial denial
26 will, when available incentives are utilized, deprive the owner of
27 a reasonable economic use of the object, improvement, or site.

28 A certificate of appropriateness shall be granted,
29 subject to conditions stipulated by the commission, if a struc-
30 tural evaluation by the owner and confirmed by the commission
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1 demonstrates that the significant feature or features at issue
2 are beyond reasonable repair and a hazardous condition exists.

3 (2) In determining whether denial or partial denial
4 of a certificate of appropriateness will permit the owner a
5 reasonable economic use of an object, improvement or site the
6 commission shall consider the following factors:

7 (i) the market value of the site, improvement
8 or object in its existing condition taking into consideration
9 the ability to maintain, operate or rehabilitate the site,
10 improvement or object (a) with the alterations or changes
11 sought by the owner and (b) without the alterations or changes
12 sought by the owner. Available incentives shall be included
13 in both calculations of market value.

14 (ii) the owner's yearly net return on the site,
15 improvement or object, to the extent available, during the five
16 years prior to the hearing;

17 (iii) Estimates of the owner's future net yearly
18 return on the site, improvement or object with and without the
19 alterations or changes sought by the owner and with available
20 incentives;

21 (iv) The net return and the rate of return
22 necessary to attract capital for investment (a) in such site,
23 improvement or object and in the land on which the site, improve-
24 ment or object is situated without the alterations or changes
25 sought by the owners and available incentives, if such information
26 is available or, if such information is not available, (b) in a
27 comparable site, improvement or object and in the land on which
28 such comparable site, improvement or object is situated; and
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1 (v) The net return and rate of return realized on
2 comparable sites, improvements or objects not subject to this
3 ordinance.

4 Upon written request from the commission, the owner or
5 person in charge shall provide the commission with such information
6 as is necessary and sufficient to make the determinations required
7 hereunder.

8 (3) Upon reasonable notice to the owner, the commission
9 may appoint an expert or experts to provide advice and/or testi-
10 mony concerning the value of the property, the availability of
11 incentives and the economic impacts of approval, denial or
12 partial denial of a certificate of appropriateness.

13 SECTION 11. Reconsideration; Appeals from Decisions
14 of the Commission.

15 (1) Any interested person of record aggrieved by a
16 preliminary determination of the commission finding that a district,
17 site, improvement or object is ineligible for designation may,
18 within thirty-five (35) calendar days of the date of notice of the
19 determination, petition the commission for reconsideration of that
20 determination on the ground that the determination was based on
21 errors or omissions of fact or that new information bearing on the
22 determination and not discoverable by the petitioner at the time
23 of the determination is available. The petition for reconsidera-
24 tion shall be filed with the historic preservation officer and
25 shall be accompanied by a statement of the grounds for the
26 petition and supporting documents. Within sixty (60) calendar
27 days of a petition for reconsideration, the commission shall,
28 after review of the record, affirm, modify or reverse its prior
29 determination and may render a revised determination. The commis-
30 sion may, in its discretion, hold a hearing on the petition for
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1 reconsideration. The action of the commission denying recon-
2 sideration and affirming its preliminary determination that a
3 district, site, improvement or object is ineligible for designation
4 shall be final unless, within twenty (20) calendar days from the
5 date of the action, an interested person of record obtains a writ
6 of certiorari from the superior court of King County, state of
7 Washington, for the purpose of review of the action taken.

8 (b) If the commission determines, upon reconsideration,
9 that the district, site, improvement or object is eligible for
10 designation, a hearing on the designation shall be scheduled
11 pursuant to section 7, and the provisions of section 8 shall
12 apply.

13 (2) Any interested person of record aggrieved by a
14 decision of the commission designating or rejecting a nomination
15 for designation of a district, site, improvement or object or
16 issuing or denying a certificate of appropriateness may, within
17 thirty-five (35) calendar days of mailing of notice of such
18 designation or rejection of nomination, or of such issuance or
19 denial of a certificate of appropriateness appeal such decision in
20 writing to the Council. The written notice of appeal shall be
21 filed with the historic preservation officer and the clerk of the
22 council and shall be accompanied by a statement setting forth the
23 grounds for the appeal, supporting documents, and argument.

24 (a) If, after examination of the written appeal
25 and the record, the council determines, that: (1) An error in
26 fact may exist in the record, it shall remand the proceeding
27 to the commission for reconsideration or, if the council
28 determines that: (2) the decision of the commission is based
29 on an error in judgment or conclusion, it may modify or reverse
30 the decision of the commission.

1 (b) The council's consideration shall be based
2 upon the record only; however, the council may at its discretion
3 publicly request additional information of the appellant, the
4 commission or the historic preservation officer.

5 (c) The council shall take final action on any
6 appeal from a decision of the commission by adoption of an
7 ordinance, and when so doing, it shall make and enter findings of
8 fact from the record and reasons therefrom which support its
9 action. Said findings and reasons shall set forth and demonstrate
10 the manner in which the action carries out and helps to implement
11 the goals, objectives and criteria set forth in this ordinance
12 and other King County policies and objectives. The council may
13 adopt all or portions of the commission's findings and reasons.

14 (d) The action of the council approving or rejecting
15 a decision or recommendation of the commission shall be final
16 unless within twenty days from the date of the action an interested
17 person of record obtains a writ of certiorari from the superior
18 court of King County, state of Washington, for the purpose of
19 review of the action taken.

20 SECTION 12. Funding Procedures.

21 (1) The commission shall have the power to make grants
22 of funds received by it from private sources and from local, state
23 and federal programs for purposes of maintaining, purchasing or
24 restoring improvements, sites or districts it deems significant
25 pursuant to the goals, objectives and criteria set forth in this
26 ordinance if such improvements, sites or districts have been
27 nominated or designated as landmarks pursuant to this ordinance.
28 The commission shall establish rules and regulations governing
29 procedures for applying for and awarding of grant monies pursuant
30 to this section.
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1 (2) The commission may, at the request of the historic
2 preservation officer and King County Department of Planning and
3 Community Development, review proposals submitted to that Depart-
4 ment for funds made available for grants to be made by the
5 Department through the Housing and Community Development Act of
6 1974, 42 U.S.C., § 5301 et seq., the State and Local Fiscal
7 Assistance Act of 1972, 31 U.S.C., § 1221 et seq., the Museum
8 Assistance Program and other applicable local, state and federal
9 funding programs. Upon review of such grant proposals, the
10 commission shall make recommendations to the Department concerning
11 which proposals should be funded, the amount of the grants that
12 should be awarded, the conditions that should be placed on the
13 grant, and such other matters as the commission deems appropriate.
14 The historic preservation officer shall keep the commission
15 apprised of the status of grant proposals, deadlines for submis-
16 sion of proposals and the recipients of grant funds.

17 SECTION 13. Violations - Civil Penalty.

18 Any person violating or failing to comply with the
19 provisions of section 8 of this ordinance shall incur a civil
20 penalty of up to five hundred dollars per day and each day's
21 violation or failure to comply shall constitute a separate
22 offense; provided, however, that no penalty shall be imposed
23 for any violation or failure to comply which occurs during
24 the pendency of legal proceedings filed in any court challenging
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1 the validity of the provision or provisions of this ordinance,
2 as to which such violations or failure to comply is charged.

3 INTRODUCED and READ for the first time this 29th day
4 of October, 1980.

5 PASSED this 7th day of April, 1980.

6 KING COUNTY COUNCIL
7 KING COUNTY, WASHINGTON

8 [Signature]
9 Chairman

10 ATTEST:

11 [Signature] DEPUTY
12 Clerk of the Council

13 APPROVED this 22^d day of April, 1980.

14 [Signature]
15 King County Executive