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8-28-74

## CITY OF BELLEVUE, WASHINGTON

## ORDINANCE NO. 2131

AN ORDINANCE relating to a Hearing Examiner adding new sections 18.42.113, 18.42.114, 18.42.115, 18.42.116, 18.42.117, 18.42.118, 18.42.161 to the Bellevue Zoning Code; amending Sections 18.42.070, 18.42.080, 18.42.090, 18.42.100, 18.42.110, 18.42.112, 18.42.130, 18.42.140, 18.42.150, 18.42.160; amending Section 18.41.200 of Ordinance No. 1282 and Section 18.41.200 of the Bellevue Zoning Code; and repealing Sections 18.41.201, 18.41.202, 18.41.203, 18.41.204, 18.41.205, 18.41.206 of Ordinance No. 1282 and the Bellevue Zoning Code.

WHEREAS, there is an administrative need to separate the application of land use regulations from the planning procedures;

WHEREAS, the City is aware of the successful use of the hearing examiner system in other government sectors, and of the enthusiastic reception of the system by its participants; and

WHEREAS, the City would like to experiment with the appropriateness of the hearing examiner system to the City's administration of its planned residential unit development and planned unit development regulations,

THE CITY COUNCIL OF THE CITY OF BELLEVUE, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. Section 1, § 18.42.070 of Ordinance No. 1514 and section 18.42.070 of the Bellevue Zoning Code are each hereby amended to read as follows:

18.42.070 The initiation of project-- application. An application for approval of a proposed planned residential unit development shall be made to the Planning Department upon forms furnished by the City, and all such applications, together with all required attachments, shall be submitted in duplicate. Application shall be made by the owner or owners of the parcel or parcels intended to be developed as a unit, or his or their duly authorized agent or agents. The ownership of all parcels to be included must join in or be represented in the application.

In addition, the applicant shall be informed by the City administrative staff of the statutory power of Community Municipal Corporations organized in accordance with Chapter 73, Laws of 1967 (RCW, Chapter 35.14) to review and approve or disapprove projects in areas within their jurisdiction.

The procedure to be followed for approval of a Planned Residential Unit Development shall be composed of three steps:

1) Concept Design Review of the entire project proposal by the City Council;

2) Review of the preliminary development plan by the Hearing Examiner: and

3) Review of the final development plan by the Hearing Examiner and the City Council.

Discrete divisions of projects may be phased, in which case each complete phase may be processed separately through both preliminary development plan review and final development plan review.

In addition, in all cases, the preliminary development plan and the final development plan may be combined and together processed through review as a final development plan.

Section 2. Section 1, §18.42.080 of Ordinance No. 1514 and section 18.42.080 of the Bellevue Zoning Code are each hereby amended to read as follows:

18.42.080 Concept Design Review. The applicant shall submit as part of his application, sufficient data to permit a concept design review by the City Council. The primary purpose of the concept design review is to establish identification and qualification of all features of the project which would differ from those permitted by a conventional lot-by-lot development for the same underlying zoning use. Data to be considered may be comprised of maps, drawings or sketches, and/or a written statement generally describing and explaining the project with specific identification of those features which classify it as a Planned Residential Unit Development, and also including such basic information as the following:

1. A sketch or drawing of the proposed land use arrangement showing the approximate building location areas.

2. A sketch, drawing, and/or statement indicating proposed areas to meet specific compliance with requirements for traffic circulation, parking, pedestrian walks, and landscaping.

3. An identification and/or statement specifying those areas to be conveyed, dedicated, or reserved for parks, parkways, playgrounds, school sites, public buildings and similar public and semi public facilities.

4. An indication and/or statement of the proposed project sequence phasing for buildings, landscaped areas, open spaces, recreation space, utilities, and other improvements.

5. The above data may be prepared and submitted without undue elaboration but should provide sufficient detail to give the City Council and City staff enough information to understand and evaluate the project proposal and determine its qualification as a prospective planned residential unit development according to the policies, principles, considerations, and standards referred to in this chapter. The data submitted with the application will be available for public examination and copies may be furnished to the public or interested parties at a reasonable fee.

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Section 3. Section 1, § 18.42.090 of Ordinance No. 1514 and section 18.42.090 of the Bellevue Zoning Code are each hereby amended to provide as follows:

18.42.090 Routing--Staff Recommendations. Both upon receipt of an application for approval of a planned residential unit development and upon receipt of an application for review of the concept design proposal, the Planning Department shall route the same to all appropriate City departments. Each such department shall submit to the Planning Department recommendations and comments regarding the same. In addition, the Planning Department shall notify any Community Municipal Corporation which has the power of review over the particular project, of the receipt of the planned residential unit development application.

Section 4. Section 1, § 18.42.100 of Ordinance No. 1514 and section 18.42.100 of the Bellevue Zoning Code are each hereby amended to provide as follows:

18.42.100 City Council approval. After receiving the recommendations, comments, and decisions of the appropriate City departments, the Planning Department shall prepare and present its tentative recommendations and conclusions at a regular public meeting before the City Council. At the meeting, the Council may approve the concept design proposal, may approve the same with modifications, or may disapprove it.

Section 5. Section 1, § 18.42.110 of Ordinance No. 1514 and section 18.42.110 of the Bellevue Zoning Code are each hereby amended to read as follows:

18.42.110 Approval of concept design proposal--effect. Approval by the Council of the concept design proposal shall not vest in the applicant any rights whatsoever, but indicates only that the Council tentatively approves in principle the concept of the project proposed, and that the Council is willing to consider approval or disapproval of a final development plan after future processing of the preliminary development and final development plans.

Section 6. Section 1, § 18.42.112 of Ordinance No. 1514 and section 18.42.112 of the Bellevue Zoning Code are each hereby amended to read as follows:

18.42.112 Hearing--preliminary development plan. When it is found that an application meets the filing requirements for preliminary development plans, it shall be accepted and assigned for public hearing, before the Hearing Examiner. Before rendering a decision on any such application, the Examiner shall hold at least one public hearing thereon, notice of such public hearing to be advertised in a newspaper of general circulation throughout the city and by an official posting within the Municipal Building at least 10 days preceding the hearing. The Examiner may approve, disapprove, or approve with modifications, and/or conditions the preliminary development plan. When the Examiner renders a decision of recommendation, he shall make and enter findings from the record and conclusions thereof which support his decision and the findings and conclusions shall set forth and demonstrate the manner in which the decision recommended carries out and helps to implement the goals and objectives of Sections 18.42.010-, 020-, 030-, 040-, 050-, 060 and any of the modifications required by the City Council in its review of the concept design.

Section 7. A new section is hereby added to Chapter 18.42 of the Bellevue Zoning Code to read as follows:

18.42.113 Setting of hearings. The date of public hearings before the Examiner shall not be less than ten (10) days nor more than sixty (60) days from the time of filing the preliminary development plan or the final development plan with the Department.

Section 8. A new section is hereby added to Chapter 18.42 of the Bellevue Zoning Code to read as follows:

18.42.114 Hearings may be continued without public notice. If, for any reason, testimony on any matter set for public hearing, or being heard, cannot be completed on the date set for such hearing, the Examiner at such public hearing may, before adjournment or recess of such matters under consideration, publicly announce the time and place to, and at which, said hearing or meeting will be continued and no further notice is required.

Section 9. A new section is hereby added to Chapter 18.42 of the Bellevue Zoning Code to read as follows:

18.42.115 Report by the Planning Department. When an application has been set for public hearing, the Department shall coordinate and assemble the reviews of other departments and the governmental agencies having an interest in the subject of the application and shall prepare a report summarizing the factors involved and the Department findings and recommendation. At least seven days prior to the scheduled hearing the report shall be filed with the Examiner and copies thereof shall be mailed to the applicant and shall be made available for use by any interested party.

Section 10. A new section is hereby added to Chapter 18.42 of the Bellevue Zoning Code to read as follows:

18.42.116 Conduct of hearings - Rules and regulations. The Examiner shall have the power to prescribe rules and regulations for the conduct of hearings before him subject to confirmation of the Council; to administer oaths, and to preserve order. The privilege of cross examination of witnesses shall be accorded all interested parties or their counsel in accordance with the rules of the Examiner. Modifications or changes in such rules may be made, but such changes or modifications shall not become effective until thirty days following the date such changes or modifications are determined. Copies of the rules shall be made available to the public at the Planning Department Office.

Section 11. A new section is hereby added to Chapter 18.42 of the Bellevue Zoning Code to read as follows:

18.42.117 Reconsideration. Any aggrieved person feeling that the decision of the Examiner is based on errors of procedure or fact may make a written request for review by the Examiner within ten (10) working days of the conclusion of the hearing. This request shall set forth the alleged errors and the Examiner may, after a review of the record, take such further action as he deems proper and may render a revised decision.

*Handwritten notes:*  
18.42.117  
Reconsideration  
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This request shall set forth the alleged errors and the Examiner may, after a review of the record, take such further action as he deems proper and may render a revised decision.

If the Hearing Examiner disapproves the plan, that decision shall be final unless the applicant files notice of appeal to the Planning Commission with the City Clerk within ten working days of the Examiner's action. Upon receiving notice of appeal, the Planning Commission shall set a date for hearing of the subject with notice given as provided in section 18.42.112 of the Zoning Code. Following this hearing the Planning Commission may concur with the Examiner, may approve with or without modifications and/or conditions the preliminary development plans, or refer the subject to the Examiner for his reconsideration and subsequent report to the Planning Commission. The Planning Commission shall make findings of fact to support its recommendations or decision.

Section 12. A new section is hereby added to Chapter 18.42 of the Bellevue Zoning Code to read as follows:

18.42.118 Written decision. Within five (5) days of the conclusion of a hearing, the Examiner shall render a written decision and shall transmit a copy of his decision by registered mail to the applicant and other parties of record in the case requesting same. At the expiration of the 10-day period provided for a rehearing or within five (5) days of the conclusion of a rehearing, if one is conducted, the Examiner shall file his decision, together with the recommended implementary ordinance if required, with the Planning Department.

Section 13. Section 1, § 18.42.130 of Ordinance No. 1514 and section 18.42.130 of the Bellevue Zoning Code are each hereby amended to read as follows:

18.42.130 Routing - staff recommendations. After receiving the final development plan, the Planning Department shall route the same to all appropriate City Departments, and each department shall again submit to the Planning Department comments and recommendations. After receiving such information from the City departments, the Planning Department shall present a report as provided in section 18.42.115.

Section 14. Section 1, § 18.42.140 of Ordinance No. 1514 and section 18.42.140 of the Bellevue Zoning Code are each hereby amended to provide as follows:

18.42.140 Public hearing-- notice. The Planning Department shall give at least ten (10) days notice of the hearing before the Hearing Examiner upon a final development plan, by means of newspaper publication and placard posting in the manner required by section 18.42.112 of the Bellevue Zoning Code. The notice shall further state that interested persons may appear at the hearing and be heard.

Section 15. Section 1, § 18.42.150 of Ordinance No. 1514 and section 18.42.150 of the Bellevue Zoning Code are each hereby amended in part to provide as follows:

18.42.150 Hearing Examiner recommendations to Council - findings required. After the public hearing, the Hearing Examiner or the Planning Commission after a hearing on appeal, shall recommend the approval, approval with modifications and/or conditions or disapproval of the final development plan. The Examiner shall enter his reasons for such action in his records. The Examiner may recommend

approval or approval with modifications and/or conditions if he first concludes that the facts as submitted establish that under the plan, or under the plan as modified, that:

A. The proposed project will not be detrimental to present and potential surrounding land use, but will have a beneficial effect which could not be achieved except for the proposed planned residential unit development;

B. Land surrounding the proposed development can be planned in coordination with the proposed development and can be developed so as to be mutually compatible;

C. Streets and sidewalks, existing and proposed, are suitable and adequate to carry anticipated traffic within the proposed project and in the vicinity of the proposed project;

D. Utility services and other improvements, existing and proposed, are adequate for development;

E. Each phase of the proposed development, as it is planned to be completed contains the required parking spaces, open spaces, recreation spaces, landscape and utility areas necessary for creating and sustaining a desirable and stable environment;

F. The project conforms with the standards prescribed in Section 18.42.050 and 18.42.060.

Section 16. Section 1, § 18.42.160 of Ordinance No. 1514 and section 18.42.160 of the Bellevue Zoning Code are each hereby amended to read as follows:

18.42.160 Council consideration of final development plan. The hearing by the Examiner as provided for by Section 18.42.140 shall constitute the hearing by the Council; however, the Council may in its discretion hold a public hearing, with notice given as provided in section 18.42.112. The Council may approve the final development plan upon the recommendations of the Hearing Examiner or may disapprove the plan.

Section 17. A new section is hereby added to Chapter 18.42 of the Bellevue Zoning Code to read as follows:

18.42.161 Council action final. The Council shall take final action on the decision of the Examiner. If the final development plan is approved by the Council, or approved with modifications, the City Clerk shall file one copy of the final development plan, or a final development plan as modified, with the official records of the City, and a second copy shall be transmitted to the Division of Structural Safety. Action of the Council approving or rejecting a decision of the Examiner shall be final and conclusive unless within twenty (20) days from the date of such action an aggrieved party or person obtains a writ of certiorari from the Superior Court in and for King County, State of Washington, for the purpose of review of the action taken.

Section 18. Section 1, § 18.41.200 of Ordinance No. 1282 and Section 18.41.200 of the Bellevue Zoning Code are each hereby amended to provide as follows:

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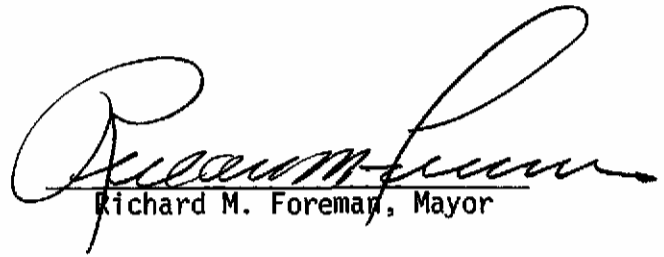
18.41.200 Procedure. The procedure for obtaining approval of a planned unit development shall be the same procedure for obtaining approval of a planned residential unit development as provided in Chapter 18.42.

Section 19. Sections 18.41.201, 18.41.202, 18.41.203, 18.41.204, 18.41.205, 18.41.206 of Ordinance No. 1282 and Sections 18.41.201, 18.41.202, 18.41.203, 18.41.204, 18.41.205, 18.41.206 of the Bellevue Zoning Code are hereby repealed.

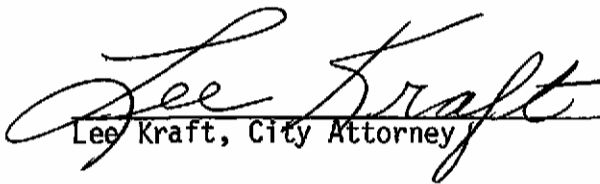
Section 20. This ordinance shall take effect and be in force 5 days after its passage, approval and legal publication.

PASSED by the City Council this 9 day of September, 1974 and signed in authentication of its passage this 9 day of September, 1974.

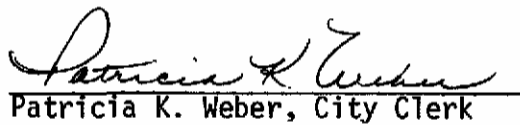
(SEAL)

  
Richard M. Foreman, Mayor

Approved as to form:

  
Lee Kraft, City Attorney

Attest:

  
Patricia K. Weber, City Clerk

Published Sept. 19, 1974