

RESOLUTION NO. 1336

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EDMONDS, WASHINGTON, ADOPTING FINDINGS OF FACT IN SUPPORT OF THE ADOPTION OF INTERIM ORDINANCE 3992, WHICH CLARIFIED THE EFFECT OF AN APPLICANT SUBMITTING AN APPLICATION THAT CANNOT BE RECONCILED WITH A PREVIOUSLY SUBMITTED APPLICATION ON THE SAME PROPERTY.

WHEREAS, the city council adopted interim ordinance 3992 on March 17, 2015; and

WHEREAS, pursuant to RCW 36.70A.390, interim ordinance 3992 was adopted on an emergency basis without first holding a public hearing; and

WHEREAS, RCW 36.70A.390 requires that a hearing be held on such an ordinance within sixty days of adoption; and

WHEREAS, the city council held a public hearing on Ordinance 3992 on June 2, 2015; and

WHEREAS, RCW 36.70A.390 also requires that findings of fact be adopted that justify the adoption of an interim ordinance immediately after such hearing (if such findings had not been adopted previously); NOW THEREFORE,

THE CITY COUNCIL OF THE CITY OF EDMONDS, WASHINGTON, HEREBY RESOLVES AS FOLLOWS:

Section 1. ADOPTION OF FINDINGS IN SUPPORT OF ORDINANCE 3992. The city council hereby adopts the following findings of fact in support of the adoption of Ordinance 3992:

1. The Washington courts have stated that land use applications are subject to the legal doctrine of *res judicata*, which affords every party one, but not more than one, fair adjudication of his or her application. *Lejeune v. Clallam County*, 64 Wn. App. 257, 266, 823 P.2d 1144, 1149 (1992).
2. It would be wasteful, confusing, and otherwise not in the public interest for the city staff to process multiple irreconcilable applications to develop the same property when it would be physically possible to construct only one such development.
3. The Edmonds Community Development Code (ECDC) had been silent on the legal effect of filing multiple irreconcilable applications to develop the same property.

4. In fairness to both the city and future applicants, the city council sought to clarify the legal effect of filing a subsequent irreconcilable application for development before such an application is filed.
5. The city had learned that it would likely be receiving such an application before the adoption of Ordinance 3992. The city still expects to receive such an application in the near future. So, this clarification of the ECDC is timely.
6. At least one applicant who could be filing such an application in the near future has been notified of the adoption of Ordinance 3992 before such filing, which effectively allows that applicant to chose between taking or not taking action that would effect a withdrawal of an earlier application.
7. Adopting this interim ordinance on an emergency basis ensured that the legal effect of filing such an application would be known by the applicant prior to filing so that the applicant could elect to file or not file with an understanding of the consequence.
8. The planning board has been asked to review Ordinance 3992 and to bring back a recommendation as to whether these provisions should be adopted on a permanent basis. It is anticipated that such recommendation will be brought to the city council in time for the city council to take action before the expiration of Ordinance 3992.

RESOLVED this 2nd day of June, 2015.

CITY OF EDMONDS


MAYOR, DAVE EARLING

ATTEST:


CITY CLERK, SCOTT PASSEY

FILED WITH THE CITY CLERK:
PASSED BY THE CITY COUNCIL:
RESOLUTION NO.

May 29, 2015
June 2, 2015
1336