



CITY OF KIRKLAND
Planning and Community Development Department
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MEMORANDUM

To: Kurt Triplett, City Manager
From: Eric Shields, Planning Director
Date: December 17, 2012
Subject: Nonconforming Density Zoning Code Amendments
File No. ZON12-00002

RECOMMENDATION

Council conducts a public hearing and adopts the proposed ordinance.

BACKGROUND DISCUSSION

As part of the package of 2012 miscellaneous Zoning Code amendments, the Planning Commission recommended amendments to regulations governing nonconforming density. The recommended amendments would remove construction cost limits on maintenance and remodeling of structures with nonconforming density, as well as generally simplify the regulations.

The City Council adopted the package of Zoning Code amendments in August, 2012 but held out the nonconforming density amendments for further consideration. On November 7, 2012, the Council reviewed the Planning Commission recommended amendments along with several other regulatory approaches. At that time, the Council directed that the proposed amendments be revised to provide more flexibility for property owners to remodel and redevelop structures with nonconforming density without being required to bring the density into conformance.

The attached ordinance reflects the direction provided by the City Council. Because the revised amendments are a significant departure from the recommendations of the Planning Commission, a public hearing on the amendments has been scheduled.

ORDINANCE O-4399

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO ZONING, PLANNING, AND LAND USE AND AMENDING CHAPTER 162 OF THE KIRKLAND ZONING ORDINANCE 3719 AS AMENDED, AND APPROVING A SUMMARY ORDINANCE FOR PUBLICATION, FILE NO. ZON12-00002.

WHEREAS, the City Council received a recommendation from the Kirkland Planning Commission to amend certain sections of the text of the Kirkland Zoning Code, Ordinance 3719 as amended, and certain sections of the text of the Kirkland Municipal Code, as amended all as set forth in that certain report and recommendation of the Planning Commission dated July 26, 2012 and bearing Kirkland Department of Planning and Community Development File No.ZON12-00002; and

WHEREAS, prior to making said recommendation, the Kirkland Planning Commission and Houghton Community Council , following notice thereof as required by RCW 35A.63.070, on June 14, 2012, held a joint public hearing, on the amendment proposals and considered the comments received at said hearing; and

WHEREAS, pursuant to the State Environmental Policy Act (SEPA), there has accompanied the legislative proposal and recommendation through the entire consideration process, a SEPA Addendum to Existing Environmental Documents issued by the responsible official pursuant to WAC 197-11-625; and

WHEREAS, in regular public meeting the City Council considered the environmental documents received from the responsible official, together with the report and recommendation of the Planning Commission; and.

WHEREAS, on August 7, 2012, the City Council adopted most of the proposed amendments, but held back amendments to Kirkland Zoning Code ("KZC") Chapter 162 regulating structures with nonconforming density for further review; and

WHEREAS, on November 7, 2012, the City Council reviewed the proposed amendments to KZC Chapter 162 and directed that changes be made for consideration at a public hearing; and

WHEREAS, on January 2, 2013, the City Council held a public hearing regarding the amendments to KZC Chapter 162.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Kirkland as follows:

Section 1. Zoning text amended: The following specified sections of the text of Ordinance 3719 as amended, the Kirkland Zoning Ordinance, as set forth in Attachment A attached to this ordinance and incorporated by reference.

Section 2. If any section, subsection, sentence, clause, phrase, part or portion of this ordinance, including those parts adopted by reference, is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 3. To the extent the subject matter of this ordinance, pursuant to Ordinance 2001, is subject to the disapproval jurisdiction of the Houghton Community Council, this ordinance shall become effective within the Houghton Community Municipal Corporation only upon approval of the Houghton Community Council or the failure of said Community Council to disapprove this ordinance within 60 days of the date of the passage of this ordinance.

Section 4. Except as provided in Section 4 this ordinance shall be in full force and effect five days from and after its passage by the Kirkland City Council and publication, pursuant to Kirkland Municipal Code 1.08.017, in the summary form attached to the original of this ordinance and by this reference approved by the City Council, as required by law.

Section 5. A complete copy of this ordinance shall be certified by the City Clerk, who shall then forward the certified copy to the King County Department of Assessments.

Passed by majority vote of the Kirkland City Council in open meeting this ___ day of _____, 2013.

Signed in authentication thereof this _____ day of _____, 2013.

MAYOR

Attest:

City Clerk

Approved as to Form:

City Attorney

**ATTACHMENT A
FILE NO. ZON12-00002
2012 MISCELLANEOUS CODE AMENDMENTS
KIRKLAND ZONING CODE
NONCONFORMING DENSITY**

New text is underlined. Existing text to be deleted is covered by a ~~strike-through~~.

162.35.

[No changes to KZC 160.35.1 through 160.35.11]

12. Nonconforming Density – Multifamily Structures in Multifamily Zones

Within areas designated by the Zoning Code for multi-family use, a structure with nonconforming density may be maintained, repaired, remodeled or redeveloped consistent with other provisions of this chapter, provided, that the density within the structure is no greater than the density contained in the structure prior to maintenance, repair, remodeling or redevelopment and that any expansion of the structure complies with all applicable zoning regulations.

~~12~~13. Any Other Nonconformance

If any nonconformance exists on the subject property, other than as specifically listed in the prior subsections of this section, these must be brought into conformance if:

- a. The applicant is making any alteration or change or doing any other work in a consecutive 12-month period to an improvement that is nonconforming or houses, supports or is supported by the nonconformance, and the cost of the alteration, change or other work exceeds 50 percent of the replacement cost of that improvement; or
- b. The use on the subject property is changed and this code establishes more stringent or different standards or requirements for the nonconforming aspect of the new use than this code establishes for the former use.

~~162.60~~ Special Provisions for Continued Uses – Density

~~The provisions of this section set forth when, and under what circumstances, residential property with nonconforming density may continue in existence or be rebuilt or redeveloped. An existing lawful use of a residential structure which became nonconforming as to density either as a result of amendatory Ordinance No. 2347 or due to other zoning changes implemented to bring about conformity with the Comprehensive Plan shall be allowed to continue in existence, or be remodeled, repaired or maintained subject to the conditions listed below. Redevelopment or rebuilding may not occur unless the structure is destroyed by fire or other casualty (see subsection (4) of this section).~~

- ~~1. The provisions of this section apply only to multifamily structures in areas designated by the Comprehensive Plan for multifamily use.~~

- ~~2. Any change in use shall conform to the Comprehensive Plan and zoning regulations in effect at the time such change is made.~~
- ~~3. Any change in density shall comply with the provisions of this section.~~
- ~~4. Ordinary repairs and maintenance may be carried out consistent with the provisions of this chapter; provided, that there shall be no limitation on the amount or cost of such repairs and maintenance.~~
- ~~5. Remodeling may be carried out consistent with the provisions of this chapter; provided, that within any 24-month period, the value of all improvements may not exceed 50 percent of either the assessed valuation of the existing structure based on the King County assessed valuation of the structure, or the value of the existing building as determined by the most current Building Standards as published by the International Conference of Building Officials, whichever is greater. If there is no King County assessment for the structure to be remodeled, the most current Building Standards as published by the International Conference of Building Officials shall be used to determine valuation remodeled density must be at least 75 percent of that contained in the original structure. The major exterior dimensions of the structure shall not exceed the major exterior dimensions of the previous structure. Except as noted in this subsection and subsection (7) of this section, this provision shall not reduce any requirements of the zoning, building, or fire codes in effect when the structure is remodeled.~~
- ~~6. Residential property with nonconforming density shall not be subject to the provisions of this chapter relating to destruction by fire or other casualty. In the event a residential structure that is nonconforming as to density is destroyed to any extent by fire or other casualty, the structure may be rebuilt as a residential structure; provided, however, that the number of dwelling units, gross floor area of the structure, and major exterior dimensions of the structure shall not exceed the same dimensions or standards of the previous structure. This subsection shall not reduce any requirements of the zoning, building, or fire codes in effect when the structure is rebuilt. The property owner shall also have the option of rebuilding the structure at a reduced density, as described in subsection (5) of this section. The provisions of this subsection shall only be available if an application for a building permit is filed within 12 months of fire or other casualty and construction is commenced and completed in conformance with the provisions of the building code then in effect.~~
- ~~7. Should the number of parking stalls provided on-site be insufficient to meet zoning regulations in effect at the time of remodeling, this deficiency shall be allowed to remain with the remodel; provided, that the number of stalls may not be reduced from the number of stalls on-site with the original structure. Any surplus of parking stalls above those required by the zoning regulations in effect at the time of remodeling may be eliminated.~~
- ~~8. The owner of a continued use nonconforming as to density may request the issuance of a "certificate of continued use" which shall identify the property, existing use, density and site characteristics for which the certificate is issued and which shall include the provisions of this chapter.~~

PUBLICATION SUMMARY
OF ORDINANCE O-4399

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO ZONING, PLANNING, AND LAND USE AND AMENDING CHAPTER 162 OF THE KIRKLAND ZONING ORDINANCE 3719 AS AMENDED, AND APPROVING A SUMMARY ORDINANCE FOR PUBLICATION, FILE NO. ZON12-00002.

SECTION 1. Amends Kirkland Zoning Code ("KZC") Section 162.35 relating to nonconforming density and repeals KZC Section 162.60.

SECTION 2. Provides a severability clause for the ordinance.

SECTION 3. Provides that, to the extent the Ordinance is subject of the disapproval jurisdiction of the Houghton Community Council, it will become effective in the Houghton Community Municipal Corporation upon approval of the Houghton Community Council, or the failure of said Community Council to disapprove the Ordinance within 60 days of the passage of the Ordinance.

SECTION 4. Authorizes publication of the ordinance by summary, which summary is approved by the City Council pursuant to Section 1.08.017 Kirkland Municipal Code and establishes the effective date as five days after publication of summary.

SECTION 5. Provides a certified copy of the ordinance shall be provided to the King County Department of Assessments.

The full text of this Ordinance will be mailed without charge to any person upon request made to the City Clerk for the City of Kirkland. The Ordinance was passed by the Kirkland City Council at its meeting on the _____ day of _____, 2013.

I certify that the foregoing is a summary of Ordinance _____ approved by the Kirkland City Council for summary publication.

City Clerk