



CITY OF KIRKLAND

Planning and Community Development Department
123 Fifth Avenue, Kirkland, WA 98033 425.587.3225
www.ci.kirkland.wa.us

To: David Ramsay, City Manager

From: Eric R. Shields, AICP, Director
Michael Bergstrom, AICP, Consultant

Date: October 27, 2006

Subject: NOVEMBER 8, 2006 SEPA APPEAL HEARING AND
POSSIBLE FINAL ACTION ON PROPOSED ZONING CODE
AMENDMENTS: SINGLE-FAMILY FLOOR AREA RATIOS
AND SETBACK ENCROACHMENTS
- ZONING CASE FILE NO. ZON05-00019
- SEPA CASE FILE NO. SEP05-00024
- SEPA APPEAL CASE FILE NO. APL06-00008

NOTE: Council members should also refer to their packets from the August 1 and September 26, 2006 meetings. These packets are available on-line or through the following links. If you would like a hard copy please let us know.

http://www.ci.kirkland.wa.us/_shared/assets/3a_StudySession4281.pdf

http://www.ci.kirkland.wa.us/_shared/assets/3a_StudySession4573.pdf

- I. RECOMMENDATION:
- A. Conduct a hearing on the appeal of the SEPA Determination of Nonsignificance (DNS) for this proposal, and affirm the issuance of the DNS.
 - B. Adopt the proposed amendments to the Kirkland Zoning Code. The Council may do by adopting the enclosed ordinance, with or without options discussed in this memo.

II. BACKGROUND DISCUSSION:

The City Council met in study sessions on August 1 and September 26, 2006 to review Planning Commission recommendations for changes to the City's Floor Area Ratio regulations that apply to detached dwelling units in low density zones. Those recommendations also addressed allowable encroachments into required yards. On September 26, the Council directed Staff to prepare an ordinance for consideration, to include alternatives for some of the proposed amendments.

The amendments address the following Zoning Code components:

- A. FAR in the RS 5.0 and RSX 5.0 zones.
- B. The FAR exemption for accessory structures located more than 20 feet from primary structures.
- C. The treatment of vaulted space in FAR calculations.
- D. Allowable setback encroachments.

An ordinance has been prepared (enclosed) which addresses the above components, based on direction given by the City Council at the study sessions. Optional approaches to some of these components are discussed later in this memo, as requested by the Council.

The ordinance reflects a delayed effective date (Sections 6 and 7 of the ordinance), in response to concerns addressed both by builders and the Planning Commission. The effective date would be sixty days after ordinance publication, or January 15, 2007, whichever is later. This is to allow builders and architects a reasonable window of time to complete and submit permit drawings that are being prepared under current regulations.

Before the Council takes action on the ordinance, it must first conduct a hearing on the appeal of the SEPA Determination of Nonsignificance (DNS) that was issued for the proposal.

III. SEPA APPEAL:

As required by the State Environmental Policy Act, the SEPA Responsible Official reviewed the proposal and issued a Threshold Determination (WAC 197-11-310). The Threshold Determination issued by the Responsible Official was a Determination of Non-Significance, which means that it was determined that there will be “no probable significant adverse environmental impacts” from the proposal (WAC 197-11-340) (see Enclosure 1). A timely appeal of the DNS was filed by Mr. Mike Nykreim.

KMC 24.02.105 contains provisions and procedures for appeals of a Threshold Determination (“SEPA appeal”). Because the proposed amendments require a legislative action, the City Council is the appropriate body to review the SEPA appeal. The Council must hold a public hearing on the appeal, and may continue the hearing, if needed, to a later date. At the close of the hearing, the City Council may Affirm, Reverse, or Modify the decision being appealed.

KMC 24.02.105(d) How to Appeal provides that the appeal must be in writing and must contain a brief and concise statement of the matter being appealed, the specific components or aspects that are being appealed, the appellant’s basic

rationale or contentions on appeal, and a statement demonstrating standing to appeal. It may also contain whatever supplemental information the appellant wishes to include.

A copy of Mr. Nykreim's appeal is enclosed (see Enclosure 2). Oskar Rey of the City Attorney's Office has prepared the City's response to the appeal and will be available at the November 8 City Council meeting to represent the City's position (see Enclosure 4).

If the City Council affirms the DNS issuance, it may then consider and take action on the proposed amendments. If the DNS is reversed or modified, no action can be taken on the amendments until the resulting environmental review process is completed.

IV. SUMMARY OF THE PROPOSED ORDINANCE AND OPTIONS:

The proposed ordinance would result in four changes to the Kirkland Zoning Ordinance. Those amendments are addressed in Sections 1 – 4 of the enclosed ordinance, and are summarized here, along with options where appropriate:

- A. FAR in RS 5.0 and RSX 5.0 Zones. Sections 1 and 2 of the enclosed ordinance would change the allowable F.A.R. in the RS 5.0 and RSX 5.0 zones from 60% of the site area to 50% of the site area. It would allow an increase to 60% for the first 5,000 square feet of site area if (1) The primary roof form of all structures has a minimum pitch of 4' vertical : 12' horizontal, and (2) A setback of at least 7.5 feet is provided along each side yard.

No options were requested or prepared for these amendments.

- B. Accessory Structure Exemption. Section 3 of the ordinance would change the exemption for certain detached accessory structures. Currently, any accessory structure located more than 20 feet from the primary structure is not included in the allowable F.A.R.

As written, Section 3 would limit this exemption to the first 500 square feet of an Accessory Dwelling Unit (ADU) in an accessory structure located more than 20 feet from the primary structure. In other words, the exemption would apply only to ADUs and not other accessory structure space such as a garage, and only to the first 500 square feet of the ADU.

This appears to reflect the direction of the majority of the City Council. However, the Council asked for options to consider, and the options

developed by Staff address (1) total removal of the exemption (as recommended by Planning Commission), (2) size of the exemption, (3) height limits on exempted accessory space, and (4) applying the exemption to any accessory structure regardless of use. The Council could substitute any of the following options for the language currently shown in Section 3, changing the current text of KZC 115.42.1.c:

1. Remove the exemption entirely (Planning Commission recommendation):

e. ~~Accessory structures located more than 20 feet from the main structure (see KZC 115.30 for additional information on the required distance between structures.~~

Staff observations: This option may work against two City objectives: (1) Encourage ADUs and (2) Encourage alley-oriented or detached garages in rear yards.

2. Allow an 800 sq. ft. exemption for ADUs, rather than 500 sq. ft.:

c. The first 800 square feet of an Accessory Dwelling Unit contained in an Accessory structures, when such accessory structure is located more than 20 feet from the main structure (see KZC 115.30 for additional information on the required distance between structures).

Staff observations: 800 sq. ft. may more realistically reflect typical ADU size. On the other hand, a 500 sq. ft. limitation does not prohibit a larger ADU; it just removes incentive for larger ADUs.

3. Allow the exemption for ADUs only if they are in an accessory structure less than 15' in height:

c. The first (((500/800))) square feet of an Accessory Dwelling Unit contained in an Accessory structures, when such accessory structure is located more than 20 feet from the main structure, but only if said structures are 15 feet or less in height (see KAC 115.30 for additional information on the required distance between structures).

Staff observations: This option may cause an owner to choose between a detached garage and a detached ADU. If the garage

already exists, it would prohibit adding an ADU above the garage unless there were excess FAR available.

4. Allow the exemption for any accessory structure, regardless of use:

- c. The first (((500/800))) square feet of Accessory structures located more than 20 feet from the main structure (see KZC 115.30 for additional information on the required distance between structures).

Staff observations: This allows an owner to choose between using the exemption for an ADU, a detached garage, or some portion or combination thereof. It provides flexibility.

5. Allow the exemption only for structures less than 15' in height, regardless of use of such structure:

- c. The first (((500/800))) square feet of Accessory structures located more than 20 feet from the main structure, but only if said structures are 15 feet or less in height (see KZC 115.30 for additional information on the required distance between structures).

Staff observations: Like the option above, this allows an owner to choose between using the exemption for an ADU, a detached garage, or some portion or combination thereof. But it removes the option of placing an ADU over a garage.

- C. Vaulted Space. Section 3, as written, would require that floor area with a ceiling height greater than 16 feet be counted twice toward F.A.R., except that the first 100 square feet of such area would count only once toward F.A.R. This introduces a new KZC 115.42.2, and changes existing KZC 115.42.2 to 115.42.3. Currently, the Zoning Code does not address vaulted space, and as a result such space, regardless of floor area or height, is counted only once toward F.A.R.

The 100 square foot limitation was the concept that received most discussion at the September 26 City Council study session. Therefore, that is the concept embodied in Section 3 of the enclosed ordinance. However, the Council requested options for this amendment, and Staff has developed the following ones for consideration:

1. No change to existing approach (Planning Commission recommendation):

(No changes to the Zoning Code text necessary).

Staff observations: This option would continue the current practice of counting vaulted space only once. This can potentially result in a substantial increase in building volume.

2. Require that all vaulted space exceeding a prescribed height (16' proposed) count twice toward FAR:

2. Floor area with a ceiling height greater than 16 feet shall be calculated at twice the actual floor area.

Staff observations: This would reduce overall building volume in some cases, but may remove an architectural element desired by many owners. However, vaulted spaced up to the point the ceiling reaches 16 feet in height, which could occur with a stepped or sloping ceiling, would continue to count only once toward FAR. Therefore, this option would have no effect on vaulted space up to a height of 16 feet.

3. Allow a greater amount of vaulted space to count only once toward FAR (greater than 100 sq. ft. of such space):

2. Floor area with a ceiling height greater than 16 feet shall be calculated as follows:

- a. The first (((200/300))) square feet of such floor area shall be calculated only once toward allowable

F.A.R.; and

- b. Floor area in excess of the first (((200/300))) square feet shall be calculated at twice the actual floor area toward allowable F.A.R.

Staff observations: 300 sq. ft. is equivalent to 10% of a 3,000 sq. ft. house and may reflect a good proportionality. However, when combined with vaulted space up to the 16 foot height (which would only count once toward FAR), the total amount of vaulted space could substantially increase the volume of a structure.

4. Allow a certain percentage (e.g. 10%) of total area of vaulted space to count only once toward FAR:

2. Floor area with a ceiling height greater than 16 feet shall be calculated as follows:
 - a. Floor area equal to or less than 10% of the total gross floor area shall be calculated only once toward allowable F.A.R.:
 - b. Floor area exceeding 10% of the total gross floor area shall be calculated at twice the actual floor area toward allowable F.A.R.

Staff observations: While this option might make sense on the surface, it is complex in its application. As with Option 2, the total combined vaulted space (up to 16 feet and above 16 feet) could substantially increase the volume of a structure.

- D. Setback Encroachments. Section 4 would require that building-mounted architectural features, such as chimneys, bay windows, cornices, etc, extend no closer than 4 feet to any property line. Currently, the Zoning Code allows these features to extend 18 inches from the wall of the structure, or within 3.5 feet from a side property line in a single-family zone.

No options were requested or prepared for this amendment.

V. CONCLUSION:

The City Council should conduct a hearing on the SEPA appeal filed by Mike Nykreim for this proposal. For the reasons stated in Oskar Rey's response (Enclosure 4), we believe the issuance of the DNS should be affirmed. If the DNS is affirmed, the Council should deliberate on the proposed amendments and options presented in this memo, and take final action on the proposed ordinance.

ENCLOSURES:

1. SEPA Materials
2. Nykreim Appeal
3. June 7, 2006 Letter from Eric Shields to Mike Nykreim RE: SEPA Appeal Review Process
4. City Attorney Response to Nykreim Appeal Ordinance
Summary Publication Ordinance

CITY OF KIRKLAND
123 FIFTH AVENUE, KIRKLAND, WASHINGTON 98033-6189
(425) 587-3225



DETERMINATION OF NONSIGNIFICANCE (DNS) .

CASE #: SEP05-00024

DATE ISSUED: 5/19/2006

DESCRIPTION OF PROPOSAL -----

Amendments to the Kirkland Zoning Code affecting permitted Floor Area Ratios in residential zones.

PROPONENT:

LOCATION OF PROPOSAL -----

CITY-WIDE

LEAD AGENCY is The City of Kirkland

The lead agency for this proposal has determined that it does not have a probable significant adverse impact on the environment. An environmental impact statement (EIS) is not required under RCW 43.21.030 (2) (c). This decision was made after review of a completed environmental checklist and other information on file with the lead agency. This information is available to the public upon request.

There is no comment period for this DNS.

Responsible official:

5/19/06
Date

Eric Shields, Director
Department of Planning and Community Development
425-587-3225

Address: City of Kirkland
123 Fifth Avenue
Kirkland, WA 98033-6189

You may appeal this determination to **NANCY COX** at Kirkland City Hall, 123 Fifth Avenue, Kirkland, WA 98033 no later than 5:00 p.m., Friday, June 02, 2006 by **WRITTEN NOTICE OF APPEAL.**

You should be prepared to make specific factual objections. Contact Nancy Cox to read or ask about the procedures for SEPA appeals.

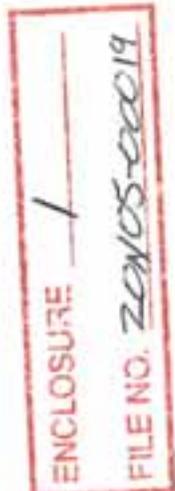
Please reference case # SEP05-00024.

cc: Case # SEP05-00024

Distributed By: _____

Date: _____

SEPA_A, rev. 5/19/2006





CITY OF KIRKLAND ENVIRONMENTAL CHECKLIST

Purpose of Checklist:

The State Environmental Policy Act (SEPA), Chapter 43.21C RCW, requires all governmental agencies to consider the environmental impacts of a proposal before making decisions. An environmental impact statement (EIS) must be prepared for all proposals with probable significant adverse impacts on the quality of the environment. The purpose of this checklist is to provide information to help you and the City identify impacts from your proposal, and to reduce or avoid impacts from the proposal, whenever possible.

Instructions for Applicants:

This environmental checklist asks you to describe some basic information about your proposal. Answer the questions briefly with the most precise information known, or give the best description you can.

You must answer each question accurately and carefully to the best of your knowledge. In most cases, you should be able to answer the questions from your own observations or project plans without the need to hire experts. If you really do not know the answer, or if a question does not apply to your proposal, write "do not know" or "does not apply." Complete answers to the questions now may avoid unnecessary delays later.

Some questions ask about governmental regulations, such as zoning, shoreline, and landmark designations. Answer these questions if you can. If you have problems, the City staff can assist you.

The checklist questions apply to all parts of your proposal, even if you plan to do them over a period of time or on different parcels of land. Attach any additional information that will help describe your proposal or its environmental effects. The City may ask you to explain your answers or provide additional information reasonably related to determining if there may be significant adverse impacts.

Use of Checklist for Non-project Proposals:

Complete this checklist for non-project proposals also, even though questions may be answered "does not apply." IN ADDITION, complete the SUPPLEMENTAL SHEET FOR NON-PROJECT ACTIONS (Part D).

For non-project actions, the references in the checklist to the words "project," "applicant," and "property or site" should be read as "proposal," "proposer," and "affected geographic area," respectively.

A. BACKGROUND

1. Name of proposed project, if applicable: **Zoning Code Amendments – Floor Area Ratios (FAR) for Detached Dwelling Units in Low Density Residential Zones and Allowable Setback Encroachments. File No. ZON05-00019, SEP05-00024.**

2. Name of applicant: *City of Kirkland.*
3. Tax parcel number: *City-wide.*
4. Address and phone number of applicant and contact person:
Paul Stewart, Deputy Director, Planning & Community Development, City of Kirkland, 123 Fifth Avenue, Kirkland, WA 98033-6189. (425) 587-3227.
5. Date checklist prepared:
May 9, 2006.
6. Agency requesting checklist:
City of Kirkland.
7. Proposed timing or schedule (including phasing, if applicable):
Amendments are anticipated to be adopted by City Council in Summer, 2006.
8. Do you have any plans for future additions, expansion, or further activity related to or connected with this proposal?
New construction of or additions to detached single-family structures will be subject to the revised regulations. Additional revisions to FAR regulations are possible but not proposed at this time. Any such additional revisions will be reviewed through a separate SEPA review process.
9. List any environmental information you know about that has been prepared, or will be prepared, directly related to this proposal.
None.
10. Do you know whether applications are pending for governmental approvals of other proposals directly affecting the property covered by your proposal? If yes, explain.
Any building permit applications which are currently vested or will become vested prior to the adoption and effective date of the proposal will not be affected by the proposal. It is possible that some proposed building activity that is in the design phase but not yet vested by means of a complete building permit application will, depending on the timing of vesting, be subject to the new regulations. Any permit applications vested after the effective date of the proposal will be subject to the new or amended regulations.
11. List any government approvals or permits that will be needed for your proposal, if known.

City Council adoption of the proposed amendments by ordinance. Houghton Community Council approval or lack of disapproval for amendments within its jurisdiction.

12. Give brief, complete description of your proposal, including the proposed uses, the size and scope of the project and site including dimensions and use of all proposed improvements. There are several questions later in this checklist that ask you to describe certain aspects of your proposal. You do not need to repeat those answers on this page.

The proposal would revise existing Zoning Code regulations governing allowable Floor Area Ratios (FAR) for single-family detached dwelling units in Low Density Residential Zones, affecting some or all of the following zones: RS 35, RSX 35, RS 12.5, RSX 12.5, RS 8.5, RSX 8.5, RS 7.2, RSX 7.2, RS 5.0, RSX 5.0, PLA 6C, PLA 6E, and PLA 16. The proposal would (a) reduce maximum allowable FAR for some zones, (b) change the manner in which FAR is calculated, (c) clarify FAR provisions through text changes and addition of graphic illustrations (Plates), and (d) expand the geographical area to which the FAR regulations apply to include the jurisdiction of the Houghton Municipal Corporation (if the Houghton Community Council so elects). It would also reduce the extent to which certain building elements may encroach into required yards. A complete copy of the proposal is attached to this checklist, in a memo dated May 3, 2006. The proposal is likely to change to some extent as a result of industry and public input during the public review process.

13. Location of the proposal. Give sufficient information for a person to understand the precise location of your proposed project, including a street address, if any, and section, township, and range, if known. If a proposal would occur over a range of area, provide the range or boundaries of the site(s). Provide a legal description, site plan, vicinity map, and topographic map, if reasonably available. While you should submit any plans required by the agency, you are not required to duplicate maps or detailed plans submitted with any permit applications related to this checklist.

The proposed amendments will apply city-wide, unless the Houghton Community Council elects to disapprove the amendments within its jurisdiction.

any, generally describe and give approximate quantities, if known.

N/A - Proposal is a non-project action.

b. Are there any off-site sources of emissions or odor that may affect your proposal? If so, generally describe.

N/A - Proposal is a non-project action.

c. Proposed measures to reduce or control emissions or other impacts to air, if any:

N/A - Proposal is a non-project action.

3. WATER

a. Surface

1) Is there any surface water body on or in the immediate vicinity of the site (including year-round and seasonal streams, saltwater lakes, ponds, wetlands)? If yes, describe type and provide names. If appropriate, state what stream or river it flows into.

N/A - Proposal is a non-project action.

2) Will the project require any work over, in, or adjacent to (within 200 feet) the described waters? If yes, please describe and attach available plans.

N/A - Proposal is a non-project action.

3) Estimate the amount of fill and dredge material that would be placed in or removed from surface water or wetlands and indicate the area of the site that would be affected. Indicate the source of fill material.

N/A - Proposal is a non-project action.

4) Will the proposal require surface water withdrawals or diversions? Give general description, purpose, and approximate quantities if known.

N/A - Proposal is a non-project action.

5) Does the proposal lie within a 100-year floodplain? If so, note location on the site plan.

N/A - Proposal is a non-project action.

6) Does the proposal involve any discharges of waste materials to surface waters? If so, describe the type of waste and anticipated volume of discharge.

N/A - Proposal is a non-project action.

b. Ground

1) Will ground water be withdrawn, or will water be discharged to ground water? Give general description, purpose, and approximate quantities if known.
N/A - Proposal is a non-project action.

2) Describe waste material that will be discharged into the ground from septic tanks or other sources, if any (for example: Domestic sewage; industrial, containing the following chemicals...; agricultural; etc.) Describe the general size of the system, the number of such systems, the number of houses to be served (if applicable), or the number of animals or humans the system(s) are expected to serve.
N/A - Proposal is a non-project action.

c. Water Runoff (including storm water):

1) Describe the source of runoff (include storm water) and method of collection and disposal, if any (include quantities, if known). Where will this water flow? Will this water flow into other waters? If so, describe.
N/A - Proposal is a non-project action.

2) Could waste materials enter ground or surface waters? If so, generally describe.
N/A - Proposal is a non-project action.

d. Proposed measures to reduce or control surface, ground, and runoff water impacts, if any:
N/A - Proposal is a non-project action.

4. PLANTS

a. Check or circle types of vegetation found on the site:

- deciduous tree: alder, maple, aspen, other
- evergreen tree: fir, cedar, pine, other
- shrubs
- grass
- pasture
- crop or grain
- wet soil plants: cattail, buttercup, bullrush, skunk cabbage, other
- water plants: water lily, eelgrass, milfoil, other

- _____ other types of vegetation
 N/A - Proposal is a non-project action.
- b. What kind and amount of vegetation will be removed or altered?
 N/A - Proposal is a non-project action.
- c. List threatened or endangered species known to be on or near the site.
 N/A - Proposal is a non-project action.
- d. Proposed landscaping, use of native plants, or other measures to preserve or enhance vegetation on the site, if any:
 N/A - Proposal is a non-project action.

5. ANIMALS

- a. Circle any birds and animals which have been observed on or near the site or are known to be on or near the site:
 birds: hawk, heron, eagle, songbirds, other
 mammals: deer, bear, elk, beaver, other
 fish: bass, salmon, trout, herring, shellfish, other
 N/A - Proposal is a non-project action.
- b. List any threatened or endangered species known to be on or near the site.
 N/A - Proposal is a non-project action.
- c. Is the site part of a migration route? If so, explain.
 N/A - Proposal is a non-project action.
- d. Proposed measures to preserve or enhance wildlife, if any:
 N/A - Proposal is a non-project action.

6. ENERGY AND NATURAL RESOURCES

- a. What kinds of energy (electric, natural gas, oil, wood stove, solar) will be used to meet the completed project's energy needs? Describe whether it will be used for heating, manufacturing, etc.
 N/A - Proposal is a non-project action.
- b. Would your project affect the potential use of solar energy by adjacent properties? If so, generally describe.
 N/A - Proposal is a non-project action.

- c. What kinds of energy conservation features are included in the plans of this proposal? List other proposed measures to reduce or control energy impacts, if any:
N/A - Proposal is a non-project action.

7. ENVIRONMENTAL HEALTH

- a. Are there any environmental health hazards, including exposure to toxic chemicals, risk of fire and explosion, spill, or hazardous waste, that could occur as a result of this proposal? If so, describe.
N/A - Proposal is a non-project action.

- 1) Describe special emergency services that might be required.
N/A - Proposal is a non-project action.
- 2) Proposed measures to reduce or control environmental health hazards, if any:
N/A - Proposal is a non-project action.

b. Noise

- 1) What types of noise exist in the area which may affect your project (for example: traffic, equipment, operation, other)?
N/A - Proposal is a non-project action.
- 2) What types and levels of noise would be created by or associated with the project on a short-term or a long-term basis (for example: traffic, construction, operation, other)? Indicate what hours noise would come from the site.
N/A - Proposal is a non-project action.
- 3) Proposed measures to reduce or control noise impacts, if any:
N/A - Proposal is a non-project action.

8. LAND AND SHORELINE USE

- a. What is the current use of the site and adjacent properties?
The proposal will affect properties that lie within a Low Density Zone, and on which future development or redevelopment may occur. The sites include a combination of currently vacant properties and properties with existing single-family residential structures, as well as possibly some non-conforming uses.
- b. Has the site been used for agriculture? If so, describe.

- b. Approximately how many units, if any, would be eliminated? Indicate whether high, middle, or low-income housing.
The proposal is not expected to have any effect on the number of housing units that might be demolished in the future in order to accommodate redevelopment.
- c. Proposed measures to reduce or control housing impacts, if any:
The proposal is intended to reduce and control the impacts of new single-family residential development on adjacent residential development, by ensuring that new or expanded residences are in scale with their surroundings.

10. AESTHETICS

- a. What is the tallest height of any proposed structure(s), not including antennas; what is the principal exterior building material(s) proposed?
Proposal is a non-project action, and will not affect allowable building heights.
- b. What views in the immediate vicinity would be altered or obstructed?
If allowable FAR is reduced as a result of this proposal, future impacts on existing views should be somewhat less than without the FAR reduction.
- c. Proposed measures to reduce or control aesthetic impacts, if any:
The proposal is intended to reduce and control aesthetic impacts of new single-family residential development on adjacent residential development, by ensuring that new or expanded residences are in scale with their surroundings.

11. LIGHT AND GLARE

- a. What type of light or glare will the proposal produce? What time of day would it mainly occur?
N/A - Proposal is a non-project action.
- b. Could light or glare from the finished project be a safety hazard or interfere with views?
N/A - Proposal is a non-project action.
- c. What existing off-site sources of light or glare may affect your proposal?
N/A - Proposal is a non-project action.
- d. Proposed measures to reduce or control light and glare impacts, if any:
N/A - Proposal is a non-project action.

12. RECREATION

- a. What designated and informal recreational opportunities are in the immediate vicinity?
N/A - Proposal is a non-project action.
- b. Would the proposed project displace any existing recreational uses? If so, describe.
N/A - Proposal is a non-project action.
- c. Proposed measures to reduce or control impacts on recreation, including recreation opportunities to be provided by the project or applicant, if any:
N/A - Proposal is a non-project action.

13. HISTORICAL AND CULTURAL PRESERVATION

- a. Are there any places or objects listed in, or proposed for, national, state, or local preservation registers known to be on or next to the site? If so, generally describe.
N/A - Proposal is a non-project action.
- b. Generally describe any landmarks or evidence of historic, archaeological, scientific, or cultural importance known to be on or next to the site.
N/A - Proposal is a non-project action.
- c. Proposed measures to reduce or control impacts, if any:
N/A - Proposal is a non-project action.

14. TRANSPORTATION

- a. Identify public streets and highways serving the site, and describe proposed access to the existing street system. Show on-site plans, if any.
N/A - Proposal is a non-project action.
- b. Is site currently served by public transit? If not, what is the approximate distance to the nearest transit stop?
N/A - Proposal is a non-project action.
- c. How many parking spaces would the completed project have? How many would the project eliminate?
N/A - Proposal is a non-project action.
- d. Will the proposal require any new roads or streets, or improvements to existing roads or streets, not including driveways? If so, generally describe (indicate whether public or

private).

N/A - Proposal is a non-project action.

- e. Will the project use (or occur in the immediate vicinity of) water, rail, or air transportation? If so, generally describe.

N/A - Proposal is a non-project action.

- f. How many vehicular trips per day would be generated by the completed project? If know, indicate when peak volumes would occur.

N/A - Proposal is a non-project action.

- g. Proposed measures to reduce or control transportation impacts, if any:

N/A - Proposal is a non-project action.

15. PUBLIC SERVICES

- a. Would the project result in an increased need for public services (for example: fire protection, police protection, health care, schools, other)? If so, generally describe.

N/A - Proposal is a non-project action.

- b. Proposed measures to reduce or control direct impacts on public services, if any.

N/A - Proposal is a non-project action.

16. UTILITIES

- a. Circle utilities currently available at the site: electricity, natural gas, water, refuse service, telephone, sanitary sewer, septic system, other

N/A - Proposal is a non-project action.

- b. Describe the utilities that are proposed for the project, the utility providing the service, and the general construction activities on the site or in the immediate vicinity which might be needed.

N/A - Proposal is a non-project action.

C. SIGNATURE

The above answers are true and complete to the best of my knowledge. I understand that the lead agency is relying on them to make its decision.

Signature: 

Date Submitted: May 10, 2006

D. SUPPLEMENTAL SHEET FOR NONPROJECT ACTIONS

(Do not use this sheet for project actions)

Because these questions are very general, it may be helpful to read them in conjunction with the list of the elements of the environment.

When answering these questions, be aware of the extent the proposal, or the types of activities likely to result from the proposal, would affect the item at a greater intensity or at a faster rate than if the proposal were not implemented. Respond briefly and in general terms.

1. How would the proposal be likely to increase discharge to water; emissions to air; production, storage, or release of toxic or hazardous substances; or production of noise?
The proposed amendments will have no effect on these elements of the environment.

Proposed measures to avoid or reduce such increases are:
None necessary.

2. How would the proposal be likely to affect plants, animals, fish, or marine life?
The proposed amendments will not affect plants, animals, fish, or marine life.

Proposed measures to protect or conserve plants, animals, fish, or marine life are:
None necessary.

3. How would the proposal be likely to deplete energy or natural resources?
The proposed amendments will not deplete energy or natural resources.

Proposed measures to protect or conserve energy and natural resources are:
None necessary.

4. How would the proposal be likely to use or affect environmentally sensitive areas or areas designated (or eligible or under study) for governmental protection; such as parks, wilderness, wild and scenic rivers, threatened or endangered species habitat, historic or cultural sites, wetlands, floodplains, or prime farmlands?
The proposed amendments will not use or affect environmentally sensitive areas.

Proposed measures to protect such resources or to avoid or reduce impacts are:
None necessary.

5. How would the proposal be likely to affect land and shoreline use, including whether it would allow or encourage land or shoreline uses incompatible with existing plans?
The proposal will amend the City's regulations governing the maximum size of single-family



CITY OF KIRKLAND

Planning and Community Development Department
123 Fifth Avenue, Kirkland, WA 98033 425.587.3225
www.ci.kirkland.wa.us

To: Interested Parties

From: Eric R. Shields, AICP, Director
Michael Bergstrom, AICP, Consultant *MB*

Date: May 3, 2006

Subject: Potential Revisions to City of Kirkland Floor Area Ratios (FAR) and Allowable Building Element Encroachments, File No. ZON05-00019 and SEP05-00024

The following options have been prepared by Planning and Community Development Staff for consideration through Process IV pursuant to chapter 160 KZC. These options are based on prior input from the City Council and Planning Commission, and are intended to serve as a basis for public discussion.

The options reflect different approaches that could be used to address the following components of current FAR regulations and provisions for setback encroachments: (A) Allowable FAR in the RS 5.0 and RSX 5.0 zones; (B) the exemption from FAR calculation for certain detached accessory structures; (C) the exemption from FAR calculation for vaulted space within a structure; and (D) the extent to which certain building elements may encroach into required setbacks. In addition, the options reflect the possibility of extending FAR regulations to the Houghton area of the city.

A. FAR in RS/RSX 5.0 Zones

OPTION 1: Reduce from 60% to 50% (Staff recommended option).

Amend KZC 15.10.010, Special Regulation No. 2, as follows:

2. Floor Area Ratio (F.A.R.) allowed for the subject property is as follows:
 - a. In RS 35 zone, F.A.R. is 20 percent of lot size.
 - b. In RS 12.5 zones, F.A.R. is 35 percent of lot size.
 - c. In RS 8.5 zones, F.A.R. is 50 percent of lot size.
 - d. In RS 7.2 zones, F.A.R. is 50 percent of lot size.
 - e. In RS 5.0 zones, F.A.R. is ~~60~~ 50 percent of lot size.

This special regulation is not effective within the disapproval jurisdiction of the Houghton Community Council.

See KZC 115.42, Floor Area Ratio (F.A.R.) Calculation for Detached Dwelling Units in Low Density Residential Zones, for additional information.

AND Amend KZC 17.10.010, Special Regulation No. 2, as follows:

2. Floor Area Ratio (F.A.R.) allowed for the subject property is as follows
 - a. In RSX 35 zone, F.A.R. is 20 percent of lot size.
 - b. In RSX 12.5 zones, F.A.R. is 35 percent of lot size.
 - c. In RSX 8.5 zones, F.A.R. is 50 percent of lot size.
 - d. In RSX 7.2 zones, F.A.R. is 50 percent of lot size.
 - e. In RSX 5.0 zones, F.A.R. is ~~60~~ 50 percent of lot size.

See KZC 115.42, Floor Area Ratio (F.A.R.) Calculation for Detached Dwelling Units in Low Density Residential Zones, for additional information.

OPTION 2: Reduce from 60% to 50%, with incentives/standards to reach 60%.

Amend KZC 15.10.010, Special Regulation No. 2, as follows:

2. Floor Area Ratio (F.A.R.) allowed for the subject property is as follows:
 - a. In RS 35 zone, F.A.R. is 20 percent of lot size.
 - b. In RS 12.5 zones, F.A.R. is 35 percent of lot size.
 - c. In RS 8.5 zones, F.A.R. is 50 percent of lot size.
 - d. In RS 7.2 zones, F.A.R. is 50 percent of lot size.
 - e. In RS 5.0 zones, F.A.R. is ~~60~~ 50 percent of lot size; provided, that F.A.R. may be increased up to 60 percent of lot size, if the following criteria are met:
 - i. The primary roof form of all structures on the site is peaked, with a minimum pitch of 4' vertical:12' horizontal; and
 - ii. A setback of at least 7.5' is provided along each side yard; and
 - iii. The garage utilizes an alley for its primary vehicular access and is setback within 5 feet of the rear property line, as provided by KZC 115.115.3.o (this requirement is not effective within the disapproval jurisdiction of the Houghton Community Council).

This special regulation is not effective within the disapproval jurisdiction of the Houghton Community Council.

See KZC 115.42, Floor Area Ratio (F.A.R.) Calculation for Detached Dwelling Units in Low Density Residential Zones, for additional information.

AND Amend KZC 17.10.010, Special Regulation No. 2, as follows:

2. Floor Area Ratio (F.A.R.) allowed for the subject property is as follows
 - a. In RSX 35 zone, F.A.R. is 20 percent of lot size.
 - b. In RSX 12.5 zones, F.A.R. is 35 percent of lot size.
 - c. In RSX 8.5 zones, F.A.R. is 50 percent of lot size.
 - d. In RSX 7.2 zones, F.A.R. is 50 percent of lot size.
 - e. In RSX 5.0 zones, F.A.R. is ~~60~~ 50 percent of lot size; provided, that F.A.R. may be increased up to 60 percent of lot size, if the following criteria are met:

- i. The primary roof form of all structures on the site is peaked, with a minimum pitch of 4' vertical:12' horizontal; and
- ii. A setback of at least 7.5' is provided along each side yard; and
- iii. The garage utilizes an alley for its primary vehicular access and is setback within 5 feet of the rear property line, as provided by KZC 115.115.3.o.

See KZC 115.42, Floor Area Ratio (F.A.R.) Calculation for Detached Dwelling Units in Low Density Residential Zones, for additional information.

B. Detached Accessory Structures

OPTION 1: Remove Exemption.

Amend KZC 115.42 Floor Area Ratio (F.A.R.) Calculation for Detached Dwelling Units in Low Density Residential Zones as follows:

1. Gross floor area for purposes of calculating F.A.R. and maximum floor area for detached dwelling units in low density residential zones does not include the following:
 - a. Attic area with less than five feet of headroom.
 - b. Floor area with a ceiling height, including the horizontal supporting members for the ceiling, less than six feet above finished grade. The ceiling height will be measured along the outside perimeter of the building (see Plate 23).
 - c. ~~Accessory structures located more than 20 feet from the main structure (see KZC 115.30 for additional information on the required distance between structures).~~
 - d. c. Uncovered and covered decks, porches, and walkways.

~~2. This section is not effective with the disapproval jurisdiction of the Houghton Community Council.~~

OPTION 2: Exempt up to 500 sq. ft. of one story accessory structures (Staff recommended option).

Amend KZC 115.42 Floor Area Ratio (F.A.R.) Calculation for Detached Dwelling Units in Low Density Residential Zones as follows:

1. Gross floor area for purposes of calculating F.A.R. and maximum floor area for detached dwelling units in low density residential zones does not include the following:
 - a. Attic area with less than five feet of headroom.

- b. Floor area with a ceiling height, including the horizontal supporting members for the ceiling, less than six feet above finished grade. The ceiling height will be measured along the outside perimeter of the building (see Plate 23).
- c. No more than 500 sq. ft. of an Accessory Dwelling Unit or garage contained in an Aaccessory structures. Such structure shall be located more than 20 feet from the main structure, shall be no more than 15 feet in height above finished grade and, if a garage, shall utilize an alley for primary vehicle access (see KZC 115.30 for additional information on the required distance between structures).
- d. Uncovered and covered decks, porches, and walkways.

~~2. This section is not effective with the disapproval jurisdiction of the Houghton Community Council.~~

OPTION 3: Exempt up to 800 sq. ft. of the portion of accessory structure containing an ADU.

Amend KZC 115.42 Floor Area Ratio (F.A.R.) Calculation for Detached Dwelling Units in Low Density Residential Zones as follows:

1. Gross floor area for purposes of calculating F.A.R. and maximum floor area for detached dwelling units in low density residential zones does not include the following:
 - a. Attic area with less than five feet of headroom.
 - b. Floor area with a ceiling height, including the horizontal supporting members for the ceiling, less than six feet above finished grade. The ceiling height will be measured along the outside perimeter of the building (see Plate 23).
 - c. No more than 800 square feet of the floor area of an Accessory Dwelling Unit within an Aaccessory structures, if such accessory structure is located more than 20 feet from the main structure (see KZC 115.30 for additional information on the required distance between structures).
 - d. Uncovered and covered decks, porches, and walkways.

~~2. This section is not effective with the disapproval jurisdiction of the Houghton Community Council.~~

OPTION 4: Combination of Options 2 and 3 (Note: The Planning Commission did not specifically request this option).

Amend KZC 115.42 Floor Area Ratio (F.A.R.) Calculation for Detached Dwelling Units in Low Density Residential Zones as follows:

1. Gross floor area for purposes of calculating F.A.R. and maximum floor area for detached dwelling units in low density residential zones does not include the following:
 - a. Attic area with less than five feet of headroom.
 - b. Floor area with a ceiling height, including the horizontal supporting members for the ceiling, less than six feet above finished grade. The ceiling height will be measured along the outside perimeter of the building (see Plate 23).
 - c. No more than 800 sq. ft. of an Accessory Dwelling Unit contained in an Accessory structures. Such structure shall be located more than 20 feet from the main structure, and shall be no more than 15 feet in height above finished grade (see KZC 115.30 for additional information on the required distance between structures).
 - d. Uncovered and covered decks, porches, and walkways.

~~2. This section is not effective with the disapproval jurisdiction of the Houghton Community Council.~~

OPTION 5: No change to existing accessory structure exemption.

C. Vaulted Space

OPTION 1: Count vaulted space twice, where the ceiling height exceeds a specified dimension (Staff recommended option).

Amend KZC 115.42 Floor Area Ratio (F.A.R.) Calculation for Detached Dwelling Units in Low Density Residential Zones as follows:

1. Gross floor area for purposes of calculating F.A.R. and maximum floor area for detached dwelling units in low density residential zones does not include the following:
 - a. Attic area with less than five feet of headroom.
 - b. Floor area with a ceiling height, including the horizontal supporting members for the ceiling, less than six feet above finished grade. The ceiling height will be measured along the outside perimeter of the building (see Plate 23).
 - c. Accessory structures located more than 20 feet from the main structure (see KZC 115.30 for additional information on the required distance between structures).
 - d. Uncovered and covered decks, porches, and walkways.

~~2. This section is not effective with the disapproval jurisdiction of the Houghton Community Council.~~

2. Floor area with a ceiling height greater than 16 feet shall be calculated at twice the actual floor area.

OPTION 2: No change to existing treatment of vaulted space.

D. Allowable Setback Encroachments

OPTION 1: Eliminate allowances for wall-mounted encroachments.

Amend KZC 115.115.3 as follows:

3. Structures and Improvements – No improvement or structure, including chimneys, bay windows, greenhouse windows, cornices, awnings, and canopies, may be in a required yard except as follows:
 - a. – c. No change
 - d. ~~Chimneys, bay windows, greenhouse windows, eaves, cornices, awnings, and canopies may extend up to 18 inches into any required yard. Eaves on bay windows may extend an additional 18 inches beyond the bay window. The total horizontal dimension of the elements that extend into a required yard, excluding eaves and cornices, may not exceed 25 percent of the length of the façade of the structure. See Plate 10. Eaves may extend up to 18 inches into any required yard.~~
 - e. – o. No change.

OPTION 2: Reduce allowances for wall-mounted encroachments (Staff recommended option).

Amend KZC 115.115.3 as follows:

3. Structures and Improvements – No improvement or structure may be in a required yard except as follows:
 - a. – c. No change
 - d. Eaves may extend up to 18 inches into any required yard. Chimneys, bay windows, greenhouse windows, ~~eaves~~, cornices, awnings, and canopies may extend up to ~~18~~ 12 inches into any required yard. Eaves on bay windows may extend an additional ~~18~~ 12 inches beyond the bay window. The total horizontal dimension of the elements that

extend into a required yard, excluding eaves and cornices, may not exceed 25 percent of the length of the façade of the structure. See Plate 10.

e. – o. No change.

OPTION 3: No change to existing setback allowances.

Additional options have been evaluated over the past several months and are not being recommended by PCD Staff for further consideration at this time. They include:

- Reducing allowable FAR for lots that do not meet the minimum lot size of the underlying zone. For example, if a 6,000 sq. ft. lot exists in the RS 7.2 zone, the 50% FAR could be reduced to 45% or some other number.
- Further reducing the extent to which certain building elements are allowed to encroach into required setbacks. For example, limiting such encroachments to 6 inches, rather than 12 inches or the current 18 inches.
- Requiring the larger side elevation of a structure to maintain the larger side yard setback. While the current side yard setbacks of the RS zone would not be changed from a combined total of at least 15 feet, the larger façade would be required to maintain a setback of 7.5 feet or 10 feet



CITY OF KIRKLAND

Planning and Community Development Department
123 Fifth Avenue, Kirkland, WA 98033 425.587.3225
www.ci.kirkland.wa.us

MEMORANDUM

To: Eric Shields, AICP, SEPA Responsible Official

From: Michael Bergstrom, AICP, Consultant *MB*

Date: May 16, 2006

File: SEP05-00024

Subject: ENVIRONMENTAL DETERMINATION FOR POTENTIAL AMENDMENTS TO THE KIRKLAND ZONING CODE REGULATING (1) MAXIMUM ALLOWABLE FLOOR AREA RATIOS (F.A.R.) FOR DETACHED DWELLING UNITS IN LOW DENSITY RESIDENTIAL ZONES, AND (2) ALLOWABLE SETBACK ENCROACHMENTS.

Background:

The City adopted Floor Area Ratio (FAR) regulations in the late 1990's in an effort to control the size of new or expanding houses. The regulations were intended to result in houses that are sized in proportion to the lot on which they are built, while reasonably accommodating the demands of the housing market. In recent months, City staff and City Council members have heard concerns from some members of the community that the FAR regulations are not effectively controlling the size of new or remodeled homes and the impacts related thereto. In response, the City Council has directed Staff to work with the Planning Commission and develop recommended changes to the regulations.

Over the past several months, Staff has worked with the City Council, Planning Commission, and Houghton Community Council in study sessions to develop options for consideration through the public review process. We have also met with industry representatives to obtain preliminary feedback and input. The City has received some input to date from the public at large and additional input is expected once the formal public hearing process gets underway. Staff has obtained sufficient input and direction to develop a proposal, including options, for public review and evaluation pursuant to SEPA. The proposal is likely to change to some extent as a result of additional public input during the public review process.

The proposal is considered a "Non-Project Action" pursuant to WAC 197-11-704(2)(b)(ii) (SEPA Definitions). The proposal is not categorically exempt from the environmental review requirements pursuant to WAC 197-11-800, and therefore an Environmental Checklist and Threshold Determination are required. An environmental checklist has been prepared for this action, and is enclosed.

Eric R. Shields, Director
May 16, 2006
SEP05-00024
Page 2

A memo dated May 3, 2006 is attached to the environmental checklist, and describes the proposal and the various options that will be the subject of public review. The memo also identifies some options that had been evaluated but are not being recommended by Planning and Community Development Staff for further consideration. However, given that the City Council will make the ultimate decision on which options to adopt, including options not currently being forwarded by the staff, they are included for evaluation pursuant to SEPA.

Environmental Issues

Due to the non-project nature of the proposed amendments, no environmental issues were identified. Future development projects proposed in accordance with the amendments will be subject to, and reviewed pursuant to, the applicable provisions of SEPA.

Conclusions and Recommendation:

Based on my review of all available information and adopted policies of the City, I recommend that a Determination of Non-Significance (DNS) be issued for this proposal.

SEPA ENCLOSURES

Environmental Checklist, with proposal attached.

Review by Responsible Official:

I concur



I do not concur

Comments:


Eric Shields, Director

5/18/06
Date

To: Eric Shields Re: Appeal of
 From: Mike Nykreim File # ZON05-00019
 101 10th Ave Date: 6-2-6
 Kirkland, WA 98033

Phone: home 425-822-8031
 off 425-827-2234
 CEU 425-466-2611



Email MIKE@KIRKLANDBUILDERSGROUP.COM
 APPEALS (SEPA)

RECEIVED

JUN - 2 2006

PLANNING DEPARTMENT

Any person wishing to file an appeal must do the following:

1. Deliver the appeal to the Planning Department within fourteen (14) days of the date the determination is issued by the responsible official. (An appeal of a determination of significance must be filed within seven (7) days of the date it is published under Section 85 of Municipal Code Chapter 24.02.) The appeal must be in the form of a written notice of appeal and must contain a brief and concise statement of the matter being appealed, the specific components or aspects that are being appealed, the appellant's basic rationale or contentions on appeal, and a statement demonstrating standing to appeal. The appeal may also contain whatever supplemental information the appellant wishes to include.
2. Submit to the Planning Department a filing fee along with the appeal.

* Appeal is on behalf of any person who is of stand by any communication to St. concerning their issue.

* My Standing: Owner & Taxpayer of Kirkland property since 1978.

Owner & co owner of 12 homes &/or lots in the City.

Reason: lack of City Wide notification to affected property owners.

(B) Violation of GMA & SEPA.

Request: City Staff to complete Full

Environmental Impact Statement as to the effects on our environment for our City's current land use policies contributing to SPRUW.

ENCLOSURE &
 FILE NO. ZON05-00019



June 7, 2006

Mike Nykreim
101 10th Avenue
Kirkland, WA 98033

RE: Appeal of SEPA Determination; File No. ZON05-00019

Dear Mr. Nykreim:

This confirms that the City received your appeal of the City's issuance of a Determination of Non-Significance (DNS) with respect to the non-project action on the proposed Kirkland Zoning Code amendments to the City's floor area ratio (FAR) regulations. Your appeal was filed on June 2, 2006 within the applicable 14 day appeal period for State Environmental Policy Act (SEPA) determinations.

I would like to explain the process by which your SEPA appeal will be heard. Both state law and the Kirkland Municipal Code (KMC) encourage the hearing of SEPA appeals as part of the process of deciding the underlying government action. See Wash. Rev. Code Section 43.21C.075(2); Wash. Admin. Code (WAC) 197-11-680(3); KMC 24.02.105(f). In addition, the City may not provide for more than one appeal of a threshold determination at the administrative level. See WAC 197-11-680(3).

In this case, the proposed FAR amendments will be considered by the Kirkland Planning Commission. The Planning Commission will make a recommendation to the Kirkland City Council. The City Council will consider the public comments and the Planning Commission's recommendation and ultimately decide which amendments to the FAR regulations to adopt, if any.

Based on the applicable law, and since the City Council is the final decision maker with respect to the proposed FAR amendments, the City Council is the governmental body to hear your SEPA appeal in connection with its consideration of the proposed FAR amendments. Since the Planning Commission only makes recommendations, the Commission is not the appropriate forum for the appeal and will not consider your SEPA appeal as a part of its deliberations. Its role will be limited to making recommendations to the City Council regarding the proposed FAR amendments.

Please let me know if you have any questions regarding the process by which your SEPA administrative appeal will be heard.

Sincerely,

PLANNING & COMMUNITY DEVELOPMENT


Eric Shields, AICP
Director

ENCLOSURE 3
FILE NO. ZON05-00019



CITY OF KIRKLAND

City Attorney's Office

123 Fifth Avenue, Kirkland, WA 98033 425.587.3030

www.ci.kirkland.wa.us

MEMORANDUM

To: Dave Ramsay, City Manager

From: Oskar Rey, Assistant City Attorney *OBR*

Date: October 27, 2006

Subject: SEPA Appeal Hearing re Zoning Code Amendments to Floor Area Ratio Regulations;
SEPA Case File No. ZON05-00024;
SEPA Appeal Case File No. APL06-00008

I. INTRODUCTION

This Memo is a response to the SEPA¹ Appeal filed by Mike Nykreim. Mr. Nykreim appeals the City's issuance of a determination of non-significance ("DNS") in connection with proposed amendments to Kirkland Zoning Code ("KZC") single-family floor area ratio ("FAR") regulations. Mr. Nykreim contends that the City was required to issue a determination of significance ("DS") instead of a DNS with respect to proposed FAR regulations.² Staff recommends that the Council affirm the issuance of the DNS and deny Mr. Nykreim's SEPA Appeal. The Council should hear and decide this appeal prior to considering the proposed FAR regulations.³

II. BACKGROUND AND PROCEDURAL HISTORY

The City originally adopted FAR regulations in the late 1990s. In 2005, in response to concerns expressed by some members of the community about the size and scale of new and remodeled homes, the City Council directed staff to develop proposed amendments to the existing FAR regulations (Planning Dept. File No. ZON05-00019). In the meantime, staff worked with the City Council and Planning Commission in study sessions to develop options for consideration during the public review process. Staff also met with members of the building and real estate industries on April 13, 2006 to obtain input and feedback.

The City issued a DNS with respect to the proposed FAR regulations on May 19, 2006. Staff Report, Enclosure 1. The issuance of the DNS was based, in part, on the City of Kirkland Environmental Checklist

¹ "SEPA" is an abbreviation of State Environmental Policy Act, RCW Chapter 43.21C.

² Issuance of a DS would require the City to prepare an Environmental Impact Statement with respect to the proposed FAR regulations.

³ Where possible, this Memo will cite to file documents that accompany the Planning Department Staff Report ("Staff Report") to which this Memo is an attachment. Documents that are not a part of the Staff Report are included with this Memo as attachments.

ENCLOSURE 4
FILE NO. ZON05-00019

dated May 10, 2006 ("Checklist") which assessed the potential environmental impacts of the FAR regulations. Staff Report, Enclosure 1 (the Checklist accompanies the DNS issued by the City). A significant portion of the Checklist is devoted to "project actions."⁴ The adoption of legislation, such as FAR regulations, constitutes a "non-project action."⁵ Many questions on the Checklist are geared towards project actions and are not applicable to non-project actions. However, the City also completed a non-project action supplement to the Checklist with specific questions geared towards non-project actions.

The answers on the Checklist regarding non-project actions illustrate the minimal effect the FAR regulations would have on the environment. Adoption of the proposed FAR regulations would, if anything, result in reductions in the size of detached dwelling units in low density residential zones. Therefore, the regulations would have no effect on plants, animals, natural resources or environmentally sensitive areas. Moreover, it is reasonable to expect that the proposed FAR regulations would reduce the impact of new development on existing residential uses and neighborhoods.

Mr. Nykreim filed a timely appeal of the City's issuance of a DNS on June 2, 2006. No other party has appealed.

III. LEGAL ISSUES AND ANALYSIS.

SEPA encourages or requires the hearing of SEPA appeals together with the hearing on the underlying action. RCW 43.21.075. The matters to be considered and decided upon a SEPA appeal are limited to the matters raised in the written appeal. KMC Section 24.02.105(i)(1). The initial decision to issue a DNS shall be accorded substantial weight. KMC Section 24.02.105(i)(2). After conducting the hearing, the City Council shall affirm, reverse or modify the decision being appealed. KMC Section 24.02.105(h)(1). Staff will prepare a written decision memorializing the City Council's decision.

In his one page written appeal, Mr. Nykreim does not explain how he thinks the proposed FAR regulations would impact the environment. Rather, he makes two assertions: (1) that there should have been city-wide notification to affected property owners; and (2) that issuance of the DNS violates SEPA and the GMA. Mr. Nykreim also does not explain why he thinks there was a violation of SEPA or the GMA. He merely requests that staff complete "a full Environmental Impact Statement as to the effects on our environment for our City's current Land Use Policies contributing to sprawl." For the reasons that follow, the City gave proper notice of the proposed FAR regulations and complied with SEPA and the GMA. In addition, Mr. Nykreim has not demonstrated that he has standing to appeal the issuance of the DNS.

A. Notice was Proper.

Mr. Nykreim's appeal does not indicate whether he is contesting (1) the notice given for the consideration of the FAR regulations in general; or (2) the notice given for the issuance of the DNS. In both cases, the notice given by the City was proper and complied with state and local regulations.

Preliminarily, it should be noted that a SEPA appeal is not the appropriate vehicle for challenging the notice given for the underlying action. SEPA appeals are limited in scope to whether an agency complied with

⁴ A project action "involves a decision on a specific project, such as a construction or management activity located in a defined geographic area." WAC 197-11-704(2)(a).

⁵ WAC 197-11-704(2)(b)(i).

SEPA—in this case whether the City should have issued a DS or a DNS. In any event, the City provided proper notice of the proposed FAR amendments pursuant to Process IV in the Kirkland Zoning Code (KZC Chapter 160). Under KZC Section 160.40, the City was required to publish notice of public hearings on the proposed FAR amendments in the official City newspaper at least 14 days prior to the hearing date and post copies of the notice on the notification boards of the City. The City did so in this case. Attachment 1 to this Memo (Affidavits of Publication of Hearing Notice dated May 25, 2006 and June 1, 2006). The City is not required to notify property owners individually of proposed amendments to the KZC.⁶

The City also provided proper notice of issuance of the DNS. The City distributed the DNS in accordance with its standard distribution procedures. Again, the City is not required to notify property owners individually of the issuance of a DNS.

B. The City Complied with SEPA and the GMA.

Under SEPA, an agency must make a “threshold determination” with respect to all actions that are not “categorically exempt.” In making the threshold determination, the agency must consider whether the action would have “significant adverse environmental impact.” WAC 197-11-330. If the action would have probable significant adverse impact, then the agency issues a DS and the applicant is required to prepare an environmental impact statement (“EIS”). If not, then the agency issues a DNS.⁸

As stated earlier, the City is not required to issue a DS unless the proposed action will result in substantial adverse environmental impact. A review of the Checklist and other SEPA documents makes clear that the proposed FAR regulations will not have a substantial impact on the environment.

Cases addressing SEPA challenges typically involve project actions. See, e.g., Moss v. City of Bellingham, 109 Wash.App. 6, 31 P.3d 703 (2001)(issuance of a mitigated DNS upheld for 79 acre 172 lot subdivision). However, in a case similar to this one, the Court upheld the issuance of a DNS for proposed zoning code changes. See Trepanier v. City of Everett, 64 Wash.App. 380, 824 P.2d 524 (1992). In Trepanier, a person who worked, lived and owned property in Everett challenged the City of Everett's issuance of a DNS with respect to zoning code amendments. Mr. Trepanier argued that some of the proposed amendments would “reduce allowable densities and development potential within Everett, thereby transferring growth that cannot occur in Everett to unincorporated Snohomish County.” Id. 64 Wash.App at 383. The Court dismissed this argument, and upheld the issuance of the DNS, stating that:

His argument is based on the unsupported assumption that reducing densities in some areas will *necessarily* result in reduced development potential within Everett to such an extent that development will be forced into unincorporated Snohomish County. Trepanier's argument is fatally flawed because his bare assertion that the new code will likely create

⁶ The City did more than what is legally required to provide notice of the proposed FAR amendments by, for example, meeting with construction and real estate representatives to get input and feedback on the proposed amendments and sending out several e-mail notices to interested parties and list serve subscribers.

⁷ If an action is categorically exempt, no SEPA consideration is required. Since the adoption of regulations is not categorically exempt, the City was required to perform a threshold determination, which it did by issuing a DNS on May 19, 2006.

⁸ An agency can issue a mitigated DNS in cases where significant impacts can be eliminated through specified mitigation measures.

serious adverse impacts on unincorporated Snohomish County has absolutely no factual support in the record.

Likewise, in this case, Mr. Nykreim has provided no factual support for his belief that the proposed FAR regulations will contribute to "sprawl." Moreover, the regulations in Trepanier involved reduction in density. Although Kirkland's proposed FAR regulations may impact building size, they do not cause a reduction of residential density.

Mr. Nykreim has not specified how he believes the City's issuance of a DNS violates the Growth Management Act ("GMA"). Since this is an appeal of a SEPA determination, GMA compliance is not within the proper scope of the appeal. Moreover, there is nothing in the GMA that prohibits the City from amending its FAR regulations. In any event, the City complied with the GMA by providing the State with notice of the proposed FAR amendments pursuant to RCW 36.70A.106. Attachment 2 to this Memo (State acknowledgement of receipt of proposed amendments).

C. Mr. Nykreim Lacks Standing.

Mr. Nykreim states that he is a Kirkland property owner and taxpayer. However, in order to have standing to appeal a SEPA determination, he must also establish that he will be adversely affected by the City's decision not to prepare an EIS. Trepanier, 64 Wash.App. at 383.

Again, the Trepanier case provides guidance on the question of standing. To establish standing, Mr. Nykreim must do more than state that he is a Kirkland resident and property owner. Rather, he must show that he will be "specifically and perceptibly harmed by the proposed action." Trepanier, 64 Wash.App. at 382. Since he has not done so, he lacks standing to appeal the issuance of the DNS.

IV. CONCLUSION

Staff recommends that the Council affirm the issuance of the DNS and dismiss Mr. Nykreim's SEPA appeal.

STATE OF WASHINGTON, COUNTY OF KING }
AFFIDAVIT OF PUBLICATION

PUBLIC NOTICE

Jody Barton, being first duly sworn on oath that she is the Legal Advertising Representative of the

King County Journal

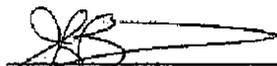
a daily newspaper, which newspaper is a legal newspaper of general circulation and is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in King County, Washington. The King County Journal has been approved as a Legal Newspaper by order of the Superior Court of the State of Washington for King County.

The notice in the exact form annexed was published in regular issues of the King County Journal (and not in supplement form) which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

Public Notice

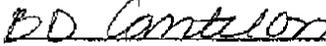
was published May 25, 2006.

The full amount of the fee charged for said foregoing publication is the sum of \$155.40.



Jody Barton
Legal Advertising Representative, King County Journal

Subscribed and sworn to me this 25th day of May, 2006.



B D Cantelon
Notary Public for the State of Washington, Residing in Kent, Washington
PO Number:



**CITY OF KIRKLAND
NOTICE OF HEARING
MAY 25, 2006**

REQUEST: Potential revisions to Floor Area Ratio (FAR) regulations governing maximum allowable gross floor area for detached dwelling units in low density residential zones. The revisions, if adopted, could reduce the allowable Floor Area Ratio in some of all of the following zones: RS 35, RSX 35, RS 12.5, REX 12.5, RS 8.5, RSX 8.5, RS 7.2, RSX 7.2, RS 5.0, RSX 5.0, PLA 6C, PLA 6E, and PLA 16, and could extend FAR regulations to low density residential zones located within the jurisdiction of the Houghton Municipal Corporation.

LOCATION: The proposal affects property city-wide.

APPLICANT: City of Kirkland
PUBLIC HEARINGS: A public hearing will be held by the KIRKLAND PLANNING COMMISSION on June 8, 2006 at 7:00 p.m. or as soon thereafter as possible AND a public Meeting will be held by the HOUGHTON COMMUNITY COUNCIL on June 19, 2006 at 7:00 p.m. or as soon thereafter as possible both in the Council Chamber at 123 6th Avenue.

The Houghton Community Council's public meeting is to allow the Community Council to make

recommendations to the Planning Commission and City Council. The Planning Commission's hearing is the official hearing of the City. The Planning Commission will prepare a recommendation to the City Council for their final decision at a public meeting. The date of the City Council meeting has not been set.

PUBLIC COMMENT: During the meetings, anyone may speak or submit written comments. Before the meetings, written comments may be submitted to the Houghton Community Council and/or the Planning Commission in care of Paul Stewart of the Planning Department, 123 6th Avenue, Kirkland, WA 98033 or pstewart@city.kirkland.wa.us. Please refer to File No. ZON05-00019 and include your name, mailing address and e-mail address.

FOR MORE INFORMATION: You may view the official file No. ZON05-00019 available at the Planning Department or contact project planner, Paul Stewart at 425-587-3227. People requiring a disability accommodation may call 425-587-3060 or for TTY service call 425-587-3111 prior to the meetings.

Publishing Date: May 25, 2006
Published in: the King County Journal
May 25, 2006. #860405

RECEIVED
MAY 26 2006

BY _____ AM
PLANNING DEPARTMENT PM

Attachment 1

26 May 2006 - 01:00:15

STATE OF WASHINGTON, COUNTY OF KING }
AFFIDAVIT OF PUBLICATION

PUBLIC NOTICE

Jody Barton, being first duly sworn on oath that she is the Legal Advertising Representative of the

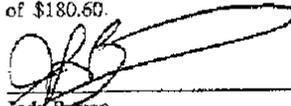
King County Journal

a daily newspaper, which newspaper is a legal newspaper of general circulation and is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in King County, Washington. The King County Journal has been approved as a Legal Newspaper by order of the Superior Court of the State of Washington for King County. The notice in the exact form annexed was published in regular issues of the King County Journal (and not in supplement form) which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

Public Notice

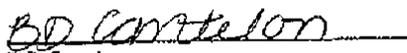
was published June 5, 2006.

The full amount of the fee charged for said foregoing publication is the sum of \$180.60.



Jody Barton
Legal Advertising Representative, King County Journal

Subscribed and sworn to me this 5th day of June, 2006



B D Cantelon
Notary Public for the State of Washington, Residing in Kent, Washington
PO Number:



**CITY OF KIRKLAND
REVISED-NOTICE OF HEARING
FLOOR AREA RATIO
REGULATIONS**

June 1, 2006
PROPOSAL: Potential revisions to Floor Area Ratio (FAR) regulations governing maximum allowable gross floor area for detached dwelling units in low density residential zones. The revisions, if adopted, could revise the allowable Floor Area Ratio in some of all of the following zones: RS 35, RSX 35, RS 12.5, RSX 12.5, RS 8.5, RSX 8.5, RS 7.2, RSX 7.2, RS 5.0, RSX 5.0, PLA 8C, PLA 8E, and PLA 16, and could extend FAR regulations to low density residential zones located within the jurisdiction of the Houghton Municipal Corporation.

LOCATION: The proposal affects property city-wide.

APPLICANT: City of Kirkland
PUBLIC HEARINGS: A public hearing will be held by the KIRKLAND PLANNING COMMISSION on June 8, 2006 at 7:00 p.m. (or as soon thereafter as possible) AND a courtesy hearing will be held by the HOUGHTON COMMUNITY COUNCIL on June 27, 2006 at 7:00 p.m. (or as soon thereafter as possible), both in the Council Chamber at 123 6th Avenue. Please note that hearing before the Houghton Community Council was originally scheduled for June 19. That meeting has been rescheduled to June 27th, 2006.

The Houghton Community Council's public meeting is to allow the Com-

munity Council to make recommendations to the Planning Commission and City Council. The Planning Commission's hearing is the official hearing of the City. The Planning Commission will prepare a recommendation to the City Council for their final decision at a public meeting. The date of the City Council meeting has not been set.

PUBLIC COMMENT: During the meetings, anyone may speak or submit written comments. Before the meetings, written comments may be submitted to the Planning Commission and/or the Houghton Community Council in care of Paul Stewart of the Planning Dept., 123 6th Avenue, Kirkland, WA 98033 or pstewart@ci.kirkland.wa.us. Please refer to File No. ZON05-00019 and include your name, address, e-mail address and phone number.

FOR MORE INFORMATION: To view the Planning Commission public hearing packet and related materials go to the following link: <http://www.ci.kirkland.wa.us/department/Planning.htm>.

You may view the official file (File No.ZON05-00019) available at the Planning Department or contact Paul Stewart at 425-587-3227. People requiring a disability accommodation may call 425-587-3000 or for TTY service call 425-587-3111 prior to the meetings.

Publishing Date: June 5, 2006
Published in the King County Journal June 5, 2006. #860710



AM _____ PM
PLANNING DEPARTMENT
BY _____

2005-0019



STATE OF WASHINGTON

DEPARTMENT OF COMMUNITY, TRADE AND ECONOMIC DEVELOPMENT

128 - 10th Avenue SW • PO Box 42525 • Olympia, Washington 98504-2525 • (360) 725-4000

20105-00019
RECEIVED
MAY 23 2006
AM
PLANNING DEPARTMENT
BY _____

May 19, 2006

Michael Bergstrom
Contract Planner
City of Kirkland
123 Fifth Avenue
Kirkland, Washington 98033-6189

Dear Mr. Bergstrom:

Thank you for sending the Washington State Department of Community, Trade and Economic Development (CTED) the following materials as required under RCW 36.70A.106. Please keep this letter as documentation that you have met this procedural requirement.

City of Kirkland - Proposed amendment to the Kirkland Zoning Code for single-family floor area regulations and allowable building encroachments into required yards. These materials were received on 05/19/2006 and processed with the Material ID # 10375.

We have forwarded a copy of this notice to other state agencies. If this is a draft amendment, adopted amendments should be sent to CTED within ten days of adoption and to any other state agencies who commented on the draft.

If you have any questions, please call me at (360) 725-3063.

Sincerely,

Linda Weyl
for

Sam Wentz
GIS Coordinator
Growth Management Services

Enclosure

Attachment 2

STATE AGENCIES REVIEWING DEV REGS

Revised August 9, 2005

Cities and counties need to send their development regulations to the agencies' representatives, as listed below, at least 60 days ahead of adoption. Adopted development regulations should be sent to Washington State Department of Community, Trade and Economic Development (CTED) immediately upon publication, as well as to any state agencies that commented on the draft regulation. A jurisdiction does *not* need to send its regulation to the agencies which have been called ahead and that have indicated the local plan will not be reviewed. The jurisdiction should keep a record of this contact with state agencies and the state agencies response.

Elizabeth McNagay
Department of Social and Health Services
Post Office Box 45848
Olympia, Washington 98504-5848
(360) 902-8164 Fax: 902-7889
Email: mcnagac@dshs.wa.gov

SEPA/GMA Coordinator
Department of Ecology
Post Office Box 47600
Olympia, Washington 98504-7600
(360) 407-6960 Fax: (360) 407-6904
Email: gmacoordination@ecy.wa.gov

Steve Penland
Department of Fish and Wildlife
Post Office Box 43155
Olympia, Washington 98504-3155
(360) 902-2598 Fax: (360) 902-2946
Email: penlastp@dfw.wa.gov

Harriet Beale
Puget Sound Water Quality Action Team
Post Office Box 40900
Olympia, Washington 98504-0900
(360) 725-5442 Fax: (360) 407-7333
Email: hbeale@psat.wa.gov

Review Team
Department of Community, Trade and
Economic Development
Growth Management Services
Post Office Box 42525
Olympia, Washington 98504-2525
(360) 725-3000 Fax: (360) 753-2950
Email: reviewteam@cted.wa.gov

Bill Wiebe
Department of Transportation
Post Office Box 47300
Olympia, Washington 98504-7370
(360) 705-7965 Fax: 705-6813
Email: wiebeb@wsdot.wa.gov

Anne Sharar
Department of Natural Resources
Post Office Box 47001
Olympia, Washington 98504-7001
(360) 902-1739 Fax: (360) 902-1776
Email: anne.sharar@wadnr.gov

Rebecca Barney
Department of Corrections
Post Office Box 41112
Olympia, Washington 98504-1112
(360) 753-3973 Fax: (360) 586-8723
Email: rmbarney@doc1.wa.gov

John Aden
Department of Health
Division of Drinking Water
Post Office Box 47822
Olympia, Washington 98504-7822
(360) 236-3157 Fax: (360) 236-2252
Email: John.Aden@doh.wa.gov

ORDINANCE 4065

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO ZONING, PLANNING, AND LAND USE AND AMENDING TITLE 23 (THE KIRKLAND ZONING CODE) OF THE KIRKLAND MUNICIPAL CODE; AMENDING CERTAIN PROVISIONS RELATING TO FLOOR AREA RATIOS (F.A.R.) FOR DETACHED DWELLING UNITS IN LOW DENSITY RESIDENTIAL ZONES, AND FOR ALLOWABLE STRUCTURES AND IMPROVEMENTS IN REQUIRED YARDS, AND AMENDING PORTIONS OF CHAPTER 15 KZC (SINGLE-FAMILY RESIDENTIAL (RS) ZONES), CHAPTER 17 KZC (SINGLE-FAMILY RESIDENTIAL ANNEXATION (RSX) ZONES), AND CHAPTER 115 KZC (MISCELLANEOUS USE DEVELOPMENT AND PERFORMANCE STANDARDS) (FILE NO. ZON05-00019).

WHEREAS, the City Council has received from the Kirkland Planning Director a recommendation to amend certain portions of the Kirkland Zoning Code, Ordinance 3719 as amended (Title 23 of the Kirkland Municipal Code), relating to Floor Area Ratios (F.A.R.) for detached dwelling units in low density residential zones, and also relating to allowable structures and improvements in required yards, and bearing Kirkland Department of Planning and Community Development File No. ZON05-00019; and

WHEREAS, pursuant to the City of Kirkland's Concurrency Management System, KMC Title 25, this action is exempt from the concurrency management process; and

WHEREAS, prior to making said recommendation, the Planning Commission, following notice thereof as required by RCW 35A.63.070, on June 8, 2006 and July 13, 2006, held a public hearing on the proposal and considered the comments received at the hearings; and

WHEREAS, pursuant to the State Environmental Policy Act, there has accompanied the proposal and recommendation through the entire consideration process a Determination of Nonsignificance (DNS), including supporting environmental documents, issued by the Responsible Official on May 19, 2006, pursuant to WAC 197-11-340 and WAC 197-11-390; and

WHEREAS, an appeal of said DNS was received on June 2, 2006; and

WHEREAS, on November 8, 2006 the City Council held a hearing on the DNS appeal and considered all information and material within the scope of the appeal, and at the conclusion of said hearing the City Council affirmed the issuance of the DNS; 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;

NOW, THEREFORE, the City Council of the City of Kirkland do ordain as follows:

Section 1. KZC 15.10.010, Special Regulation No. 2 is hereby amended to read as follows:

2. Floor Area Ratio (F.A.R.) allowed for the subject property is as follows:
- a. In RS 35 zones, F.A.R. is 20 percent of lot size.
 - b. In RS 12.5 zones, F.A.R. is 35 percent of lot size.
 - c. In RS 8.5 zones, F.A.R. is 50 percent of lot size.
 - d. In RS 7.2 zones, F.A.R. is 50 percent of lot size.
 - e. In RS 5.0 zones, F.A.R. is ~~60~~ 50 percent of lot size; provided, that F.A.R. may be increased up to 60 percent of lot size for the first 5,000 square feet of lot area if the following criteria are met:
 - i. The primary roof form of all structures on the site is peaked, with a minimum pitch of 4 feet vertical: 12 feet horizontal; and
 - ii. A setback of at least 7.5 feet is provided along each side yard.

This special regulation is not effective within the disapproval jurisdiction of the Houghton Community Council.

See KZC 115.42, Floor Area Ratio (F.A.R.) Calculation for Detached Dwelling Units in Low Density Residential Zones, for additional information.

Section 2. KZC 17.10.010, Special Regulation No. 2 is hereby amended to read as follows:

2. Floor Area Ratio (F.A.R.) allowed for the subject property is as follows:
- a. In RSX 35 zones, F.A.R. is 20 percent of lot size.
 - b. In RSX 12.5 zones, F.A.R. is 35 percent of lot size.
 - c. In RSX 8.5 zones, F.A.R. is 50 percent of lot size.
 - d. In RSX 7.2 zones, F.A.R. is 50 percent of lot size.
 - e. In RSX 5.0 zones, F.A.R. is ~~60~~ 50 percent of lot size; provided, that F.A.R. may be increased up to 60 percent of lot size for the first 5,000 square feet of lot area if the following criteria are met:
 - i. The primary roof form of all structures on the site is peaked, with a minimum pitch of 4 feet vertical: 12 feet horizontal; and
 - ii. A setback of at least 7.5 feet is provided along each side yard.

See KZC 115.42, Floor Area Ratio (F.A.R.) Calculation for Detached Dwelling Units in Low Density Residential Zones, for additional information.

Section 3. KZC 115.42 is hereby amended to read as follows:

1. Gross floor area for purposes of calculating F.A.R. and maximum floor area for detached dwelling units in low density residential zones does not include the following:
 - a. Attic area with less than five feet of headroom.
 - b. Floor area with a ceiling height, including the horizontal supporting members for the ceiling, less than six feet above finished grade. The ceiling height will be measured along the outside perimeter of the building (see Plate 23);
 - c. The first 500 square feet of an Accessory Dwelling Unit contained in an Accessory structures, when such accessory structure is located more than 20 feet from the main structure (see KZC 115.30 for additional information on the required distance between structures).
 - d. Uncovered and covered decks, porches, and walkways.
 2. Floor area with a ceiling height greater than 16 feet shall be calculated as follows:
 - a. The first 100 square feet of such floor area, in aggregate, shall be calculated only once toward allowable F.A.R.;
 - b. Floor area in excess of the first 100 square feet shall be calculated at twice the actual floor area toward allowable F.A.R.
- ~~2.3. This section is not effective within the disapproval jurisdiction of the Houghton Community Council.~~

Section 4. KZC 115.115.3 is hereby amended to read as follows:

3. Structures and Improvements – No improvement or structure may be in a required yard except as follows:
 - a. – c. No change.
 - d. Chimneys, bay windows, greenhouse windows, eaves, cornices, awnings, and canopies may extend up to 18 inches into any required yard. Eaves on bay windows may extend an additional 18 inches beyond the bay window. The total horizontal dimension of the elements that extend into a required yard, excluding eaves and cornices, may not exceed 25 percent of the length of the façade of the structure. Except for properties located within the disapproval jurisdiction of the Houghton Community Council, chimneys, bay windows, greenhouse windows, cornices, awnings, and/or canopies may not extend closer than 4 feet to any property line. See Plate 10.
 - e. – o. No change.

Section 5. 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 6. 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, but in no event sooner than sixty (60) days from and after its passage by the Kirkland City Council and publication, or on January 15, 2007, whichever is later, as provided in Section 7.

Section 7. Except as provided in Section 6, this ordinance shall be in full force and effect sixty (60) days from and after its passage by the Kirkland City Council and publication, or on January 15, 2007, whichever is later, pursuant to Section 1.08.017 Kirkland Municipal Code, 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 8. 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 regular, open meeting this _____ day of _____, 2006.

SIGNED IN AUTHENTICATION thereof this _____ day of _____, 2006.

Mayor

Attest:

City Clerk

Approved as to Form:

City Attorney

ORDINANCE 4065
PUBLICATION SUMMARY

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO ZONING, PLANNING, AND LAND USE AND AMENDING TITLE 23 (THE KIRKLAND ZONING CODE) OF THE KIRKLAND MUNICIPAL CODE; AMENDING CERTAIN PROVISIONS RELATING TO FLOOR AREA RATIOS (F.A.R.) FOR DETACHED DWELLING UNITS IN LOW DENSITY RESIDENTIAL ZONES, AND FOR ALLOWABLE STRUCTURES AND IMPROVEMENTS IN REQUIRED YARDS, AND AMENDING PORTIONS OF CHAPTER 15 KZC (SINGLE-FAMILY RESIDENTIAL (RS) ZONES), CHAPTER 17 KZC (SINGLE-FAMILY RESIDENTIAL ANNEXATION (RSX) ZONES), AND CHAPTER 115 KZC (MISCELLANEOUS USE DEVELOPMENT AND PERFORMANCE STANDARDS) (FILE NO. ZON05-00019).

Section 1. Identifies the specific amendments to Ordinance 3719, as amended, the Kirkland Zoning Code, affecting allowable Floor Area Ratios (F.A.R.) in the RS 5.0 zone.

Section 2. Identifies the specific amendments to Ordinance 3719, as amended, the Kirkland Zoning Code, affecting allowable Floor Area Ratios (F.A.R.) in the RSX 5.0 zone.

Section 3. Identifies the specific amendments to Ordinance 3719, as amended, to KZC 115.42, affecting the manner in which Gross Floor Area for the purpose of calculating Floor Area Ratio (F.A.R.) is determined with respect to certain detached accessory structures and vaulted spaces.

Section 4. Identifies the specific amendments to Ordinance 3719, as amended, to KZC 115.115.3, affecting allowable structures and improvements in required yards.

Section 5. Addresses severability.

Section 6. Establishes that this ordinance will be effective within the disapproval jurisdiction of the Houghton Community Council Municipal Corporation upon approval by 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, but no sooner than sixty days after publication as provided in Section 7, or January 15, 2007, whichever is later.

Section 7. 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 sixty days after publication of said summary, or January 15, 2007, whichever is later.

Section 8. Directs the City Clerk to certify and forward a complete certified copy of this ordinance 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 regular meeting on the _____ day of _____, 2006.

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

Attest:

City Clerk