



CITY OF KIRKLAND

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

Council Meeting: 03/06/2007

Agenda: New Business

Item #: 11. c.

To: David Ramsay, City Manager

From: Eric Shields, AICP, Planning Director

Date: February 16, 2007

Subject: EXEMPTION OF PREEXISTING ACCESSORY STRUCTURES FROM FLOOR AREA RATIO REGULATIONS; FILE NO. ZON05-00019

RECOMMENDATION:

Consider whether to exempt the entire area of preexisting accessory structures from single family floor area ratio regulations. If an exemption is desired, adopt the attached ordinance.

The ordinance would exempt from floor area ratio (FAR) calculations the entire area of a preexisting accessory structure which is separated from the main structure by 20 feet or more if a complete building permit for a new or enlarged main structure is submitted no later than March 6, 2008 (one year from ordinance adoption).

BACKGROUND DISCUSSION:

On November 8, 2006, the City Council adopted Ordinance 4065 which amended zoning regulations governing floor area ratios for single family houses. Among other things, the ordinance limits the area of an accessory structure that is exempted from FAR regulations. On lots less than 8,500 square feet in area, a maximum of 500 square feet of an accessory structure may be exempted provided that the area is used for either a garage or accessory dwelling unit (ADU). On lots 8,500 square feet or greater, the exemption is 800 square feet.

The original effective date of the ordinance was January 15, 2007. At the February 6, 2007 Council meeting, the Council adopted Ordinance 4086 which extended the effective date to May 19, 2007.

On January 27, 2007, Mr. Mark Jung wrote a letter to the City Council (attached) describing how the new FAR regulations have adversely affected his plans to build a new house on his property at 224 7th Ave. W. Mr. Jung recently built a detached garage with an upper story ADU next to the alley at the back of his property. There is also an older house on the property which Mr. Jung plans to demolish and replace with a larger house. The total area of the garage and ADU well exceeds the 500 square feet maximum FAR exemption allowed under the new FAR regulations. Consequently, the size of Mr. Jung's new house will have to be reduced from the planned size of 2,860 square feet to 2,160

square feet. Had he known of the change in regulations at the time the garage/ ADU was built, he would have chosen to eliminate the ADU in order to maintain the ability to build a larger house. Mr. Jung asks that the Council amend the FAR ordinance to exempt the entire area of a preexisting detached accessory structure from the FAR calculations.

Mr. Jung also spoke to the City Council at the February 6, 2007 meeting, after which the Council directed staff to bring back an ordinance and options to accommodate Mr. Jung's request.

OPTIONS:

1. The proposed ordinance would amend Ordinance 4065 by allowing the entire area of a preexisting accessory structure to be exempted from FAR calculations for a period of one year (until March 6, 2008). The intent is to give property owners who have constructed such accessory structures a reasonable time to submit a building permit application for the main house without causing the size of the house to be affected by the size of the accessory structure. After March 6, 2008, preexisting accessory structures would be subject to the new more limited FAR exemptions (500 square feet for lots less than 8,500 square feet; 800 square feet for lots 8500 square feet or larger).
2. The proposed ordinance could be amended to move the deadline for submitting a building permit application for the main house to either a sooner or later date than March 6, 2008.
3. The proposed ordinance could be amended to indefinitely exempt from FAR calculations the area of preexisting accessory structures. In this option there would be no deadline for preserving the entire exemption.
4. By not adopting the proposed ordinance, the new limited FAR exemptions would apply to preexisting accessory structures beginning on May 19, 2007. In this option, the area of an accessory structure in excess of the new exemptions (i.e. greater than 500/ 800 square feet) would be counted toward the maximum FAR and would consequently limit the size of the main house.

Attachments: Ordinance 4065
Ordinance 4086
Letter from Mark Jung

Cc: Mark Jung

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. On lots less than 8,500 square feet, the first 500 square feet of an Accessory Dwelling Unit or garage contained in an Accessory structures, when such accessory structure is located more than 20 feet from and behind the main structure (see KZC 115.30 for additional information on the required distance between structures).
 - d. On lots 8,500 square feet or greater, the first 800 square feet of an Accessory Dwelling Unit or garage contained in an accessory structure, when such accessory structure is located more than 20 feet from and behind the main structure (see KZC 115.30 for additional information on the required distance between structures).
 - d e. 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.

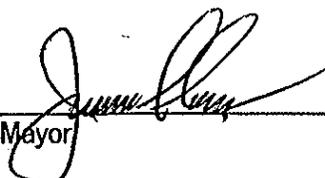
Section 7. Except as provided in Section 6, this ordinance shall be in full force and effect sixty (60) days from and after its passage by the Kirkland City Council and publication, or on January 15, 2007, whichever is later, pursuant to Section 1.08.017 Kirkland Municipal Code, in the summary form attached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

SIGNED IN AUTHENTICATION thereof this 8th day of November, 2006.



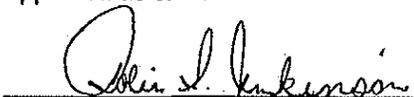
Mayor

Attest:



City Clerk

Approved as to Form:



City Attorney

ORDINANCE NO. 4086

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO ZONING, PLANNING AND LAND USE AND AMENDING SECTION 7 OF ORDINANCE NO. 4065 RELATING TO THE FLOOR AREA RATIOS (F.A.R.) TO CHANGE THE EFFECTIVE DATE OF THE ORDINANCE.

WHEREAS, on November 8, 2006, the City Council passed Ordinance 4056 with a deferred effective date of January 15, 2007, and

WHEREAS, the City Council wishes to amend the effective date of Ordinance 4065 to May 12, 2007;

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

Section 1. Section 7 of Ordinance No. 4065 is hereby amended to read as follows:

Section 7. Except as provided in Section 6, this ordinance shall be in full force and effect on May 12, 2007.

Section 2. This ordinance shall be in force and effect five days from and after its passage by the Kirkland City Council and publication, as required by law.

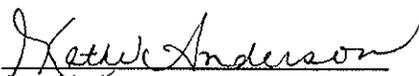
Passed by majority vote of the Kirkland City Council in open meeting this 6th day of February, 2007.

Signed in authentication thereof this 6th day of February, 2007.



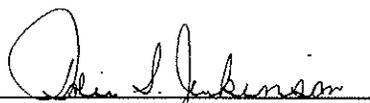
Mayor

Attest:



City Clerk

Approved as to Form:



City Attorney

Mark Jung
218 Main St.
PMB #421
Kirkland, WA 98033
Dear Mayor Lauringer,

cc: Council
Dave
Eric

1-27-2007

I am writing today to share my story of how the recent changes to the Floor Area Ratio Section of the Zoning Code have effected my family and our plan to build a new home where our existing home stands at 224 7th Ave West. Please consider our situation and the relief we request.

By limiting the FAR exemption to 500 SF for accessory structures more than 20 feet from a primary structure, the City has effectively changed the rules in the middle of our development project. We are now left contemplating the unthinkable in an environment where the rational answer appears to be to demolish a brand new 600 square foot ADU on our property.

Prior to the recent change to the zoning code we would have been allowed to build a new 2,860 SF main house in addition to the existing garage and ADU, but a 700 SF FAR exemption has been eliminated. The current Code limits the maximum floor area of a future main house to only 2,160 SF. I don't believe we could have anticipated this change, and we would never have built the ADU if we knew it would impact our future ability to build a reasonably sized main house.

The garage and ADU on our property were completed in September of 2006, and I believe the structure embodies the qualities Council desired in its recent deliberations about changes to the FAR:

- The ADU provides additional low-cost housing in Kirkland
- It is behind the house and faces the alley
- It uses knee walls and post-and-beam construction to create living space within the pitched roof structure rather than having a flat-roofed box look
- and its style is respectful of Kirkland's architectural heritage (See attached pictures)

This kind of construction is expensive. We spent over \$150,000 constructing only 600 square feet of living space and a 600 SF garage below.

My family and I have been looking forward to building a new house where we can all be comfortable, but that is not possible in only 2,100 SF. Even if we could comfortably live in a 2,100 SF home, the market demands more space. My real estate agent has told me that future development on my lot will require elimination of the ADU from the garage to regain that floor space for the main house. I could arrange for multiple real estate professionals to write in support of this point, but it is unnecessary. All you have to do is take a walk in my neighborhood to understand that a 2,100 SF home is not desirable, and a small home, without potential to be enlarged, will be at an enormous economic disadvantage. Eliminating the ADU not only represents a more than \$100,000 loss of investment, but it also represents a loss of income from rent, and the loss of one more affordable housing unit in Kirkland.

This change to the zoning code has come at an unreasonably high economic and emotional cost for my family. Planning Department staff have told me that the City will not consider a variance to the FAR requirement. So my family and I are left to appeal to you. Please pass an amendment to the zoning code that exempts existing accessory structures, more than 20 feet from the primary structure, from inclusion in the FAR calculation.

If you have questions or need additional information please contact me by phone (206) 409-4321 or by email kifire66@hotmail.com

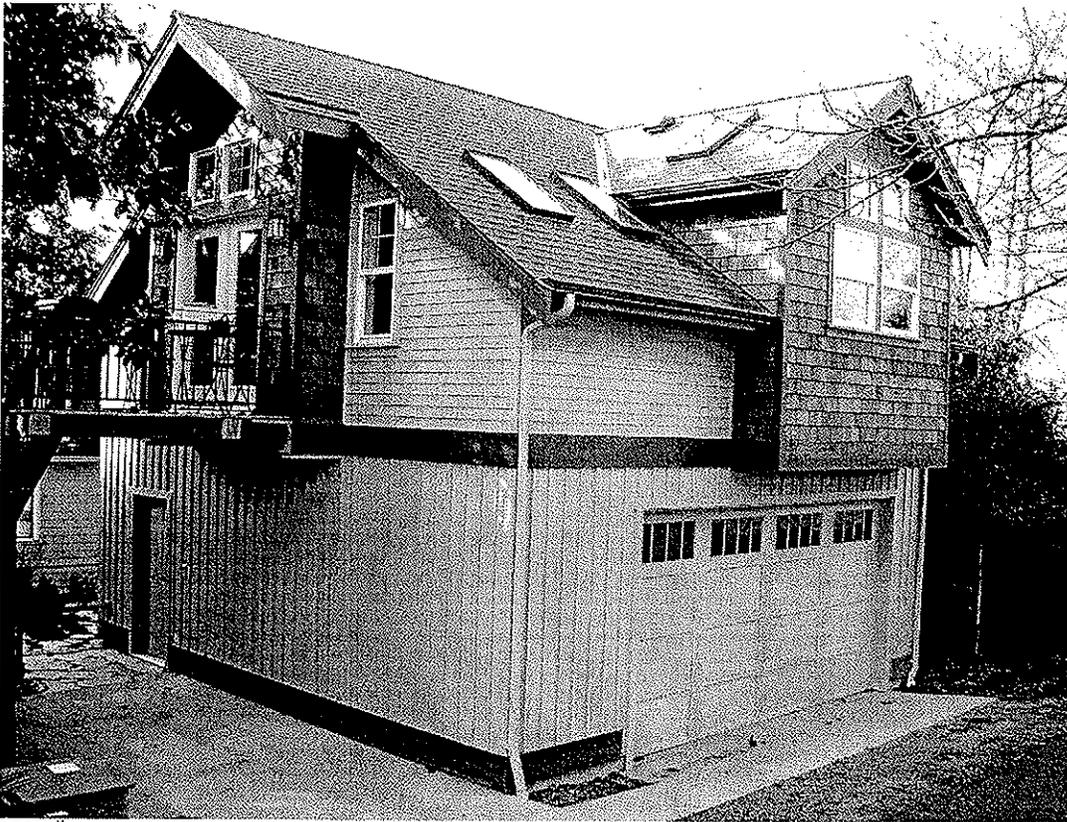
Respectfully,



Mark Jung

RECEIVED
JAN 30 2007
CITY OF KIRKLAND
CITY MANAGER'S OFFICE

CC: Eric Shields, Planning Director



222 7th Ave W--Garage and ADU above from alley—completed September 2006



224 7th Ave W—existing main house from 7th Ave W—constructed 1930, addition 1950s. Note the accessory structure is not visible from the street.

ORDINANCE 4087

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 AMENDING PORTIONS OF CHAPTER 115 KZC (MISCELLANEOUS USE DEVELOPMENT AND PERFORMANCE STANDARDS) (FILE NO. ZON05-00019).

WHEREAS, on November 8, 2006, the Kirkland City Council passed Ordinance No. 4065 which amended zoning regulations pertaining to maximum Floor Area Ratios (F.A.R.) for detached dwelling units in low density zones; and

WHEREAS, the Kirkland City Council has determined that the entire area of preexisting accessory structures should be exempted from the F.A.R calculation changes of Ordinance No. 4065 if a building permit for a new or enlarged main structure is submitted no later than March 6, 2008;

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

Section 1. 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. On lots less than 8,500 square feet, the first 500 square feet of an Accessory Dwelling Unit or garage contained in an accessory structure, when such accessory structure is located more than 20 feet from and behind the main structure (see KZC 115.30 for additional information on the required distance between structures)-; provided that, prior to March 6, 2008, the entire area of an accessory structure, for which a building permit was issued prior to March 6, 2007, shall not be included in the gross floor area used to calculate F.A.R.
 - d. On lots greater than or equal to 8,500 square feet, the first 800 square feet of an Accessory Dwelling Unit or garage contained in an accessory structure, when such accessory structure is located more than 20 feet from and behind the main structure (see KZC 115.30 for additional information on the required distance between structures)-; provided that, prior to March 6, 2008, the entire area of an accessory structure, for which a building permit was issued prior to March 6, 2007, shall not be included in the gross floor area used to calculate F.A.R.
 - e. 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.
- 3. *This section is not effective within the disapproval jurisdiction of the Houghton Community Council.*

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. This ordinance shall be in force and effect five days from and after its passage by the Kirkland City Council and publication, as required by law.

Section 4. The City Clerk's Office will forward a complete copy of this ordinance to the King County Department of Assessments.

Passed by majority vote of the Kirkland City Council in open meeting this _____ day of _____, 2007.

Signed in authentication thereof this _____ day of _____, 2007.

MAYOR

Attest:

City Clerk

Approved as to Form:

City Attorney