



CITY OF KIRKLAND

Planning and Community Development Department
123 Fifth Avenue, Kirkland, WA 98033 425.587-3225
www.ci.kirkland.wa.us

MEMORANDUM

To: Design Review Board

From: Jeremy McMahan

Date: June 17, 2010

Subject: Zoning Code Amendments - Parking Modification Authority, File ZON10-00002

RECOMMENDATION

Recent e-mails (attached) have asked the Design Review Board to weigh in on a Zoning Code amendment recommended by staff and the Planning Commission to correct a previous code drafting error. That error had inadvertently assigned authority for parking modifications to the DRB. Staff recommends that the DRB review the e-mails and decide if the Board wishes to make a recommendation to the City Council on the amendment.

BACKGROUND

The City is currently in the process of updating the Kirkland Zoning Code (KZC) with miscellaneous code amendments (file ZON10-00002). A public hearing was held by the Planning Commission for this project on May 27, 2010. Final action by the City Council is scheduled for July 6, 2010. One of the proposed amendments is to change the decision maker of modifications to KZC Chapter 105 from the Design Review Board (DRB) to the Planning Official.

KZC Section 105.103 contains the review process and criteria required to modify regulations in KZC Chapter 105 – *Parking Areas, Vehicle and Pedestrian Access, and Related Improvements*. An applicant, through application of this code section may propose to modify the following standards:

- Access easement standards
- Parking area design standards
- Pedestrian access requirements
- Number of required parking spaces
- Location of required parking stalls
- Curbing requirements
- Screening requirements for access easements or tracts
- Surface materials for parking areas and driveways

If the proposed development requires approval through Design Review Board, Process I (Planning Director), IIA (Hearing Examiner), or IIB (City Council), then a modification to the parking and related standards is currently required to be reviewed as part of that process, otherwise, the Planning Official makes the final decision. In these review processes, a modification to number of required parking spaces is based upon a recommendation of the

Public Works Traffic Engineer pursuant to KZC Chapter 105 decisional criteria. The DRB, Planning Director, Hearing Examiner, and Planning Commission are responsible for considering technical code requirements.

In June 2007, the City Council adopted miscellaneous KZC code amendments (Ordinance O-4097). One of the changes inadvertently added Design Review to the list of review processes described above. Consequently, the DRB is now required to review proposed modifications to parking and access related standards as part of a Design Board Review application. While it makes sense for the DRB to decide on design related modifications to parking lot design standards and/or pedestrian access issues, it was not the intention for the DRB to decide on modifications to more technical standards found in this chapter.

An example of the technical nature of these modifications involves a request to reduce the number of required parking stalls. A decision regarding this type of request would be based upon a recommendation by the City Traffic Engineer. In order for the City Traffic Engineer to make a recommendation, the following is required by code:

For a modification to KZC [105.20](#) and [105.45](#), a decrease in the required number of spaces may be granted if the number of spaces proposed is documented by an adequate and thorough parking demand and utilization study to be sufficient to fully serve the use. The study shall be prepared by a licensed transportation engineer or other qualified professional, and shall analyze the operational characteristics of the proposed use which justify a parking reduction.

The scope of the study shall be proposed by the transportation engineer and approved by the City traffic engineer. The study shall provide at least two days of data for morning, afternoon and evening hours, or as otherwise approved or required by the City traffic engineer. Approval of a parking reduction shall be solely at the discretion of the City.

A decrease in the minimum required number of spaces may be based in whole or part on the provision of nationally accepted TDM (transportation demand management) measures. Data supporting the effectiveness of the TDM measures shall be provided as part of the parking demand and utilization study and approved by the City traffic engineer.

Based on the requirements described above, approval to reduce the number of required parking stalls is more of a technical matter where the Planning Official relies on the expertise of the **City's Traffic Engineer**. **In contrast, the DRB's primary responsibility is to review projects for consistency with the design guidelines for the associated design district as authorized by KZC 142.35.3.**

Staff recommended that the DRB not be involved with modifications regarding the number of required parking stalls, access easement standards, location of parking areas, curbing requirements, screening requirements for access easement or tracts, and surface materials for **parking areas and driveways**. **These items were not intended to be a part of the DRB's purview** with the June 2007 code amendments.

On May 27, 2010, the Planning Commission held a public hearing and considered public testimony on this topic. One person spoke against the proposed change. Following **deliberation, the Planning Commission agreed with staff's recommendation to remove the DRB** as the decision maker for modification to KZC Chapter 105 which includes decisions to reduce the number of required parking stalls for a project. As a result, if the amendment is approved by the City Council the DRB would only be involved with modifications regarding KZC Section 105.18. **The Planning Commission's recommendation will be presented to the City Council at the July 6, 2010 Council meeting.**

Jeremy McMahan

From: Margaret Carnegie [carnegiema@verizon.net]
Sent: Friday, June 18, 2010 11:03 AM
To: Eric Shields
Cc: Jeremy McMahan
Subject: Parking Modification Process

This message is to request that the parking modification process stays with the Design Review Board. I strongly believe the process should be open to the public and have transparency that currently takes place when the DRB is part of the process. Thank you for considering this request. mc

Jeremy McMahan

From: Andrew G. Chavez [agchavez32@gmail.com]
Sent: Wednesday, June 16, 2010 8:23 PM
To: Eric Shields; Jeremy McMahan; Jon Regala
Subject: Please Keep parking modification process open and transparent to the public and part of DRB

To: City of Kirkland Design Review Board along with Planning Department members Eric Shields, Jeremy McMahan and Jon Regala

Subject: Request to Keep Parking Modification Process Open and Transparent to the Public and Keep within the DRB

From: Andrew G. Chavez

Date: June 16, 2010

I am respectfully requesting that the Design Review Board (DRB) add an item to its agenda for the June 28, 2010 meeting. The timing of this discussion is important because it is an item which impacts the DRB and which is scheduled for discussion and potential action by the City Council at its first meeting in July 2010.

The City is considering a set of amendments to the Zoning Code. Among those amendments is a provision which would remove the DRB from the parking modification approval process. Instead, parking modifications (on projects which otherwise require DRB process and approval) would be done by the Planning Official.

My request is to ask that the City keep the parking modification process open and transparent to all of us who care and keep this with the DRB.

Thanks for your support in this regard.

Andrew G. Chavez

IMPORTANT: *This email, and any attachments, are Proprietary and may contain information that is privileged or confidential or both. If you are not the intended recipient, please delete this message and any attachments and notify me immediately by return email. Thank You.*

To: City of Kirkland Design Review Board along with Planning Department members Eric Shields, Jeremy McMahan and Jon Regala

Subject: Request for agenda item for your upcoming June 28, 2010 meeting

From: Bea Nahon

Date: June 16, 2010

I am respectfully requesting that the Design Review Board (DRB) add an item to its agenda for the June 28 meeting. I think that this item can be addressed in a short period of time and it should not add significantly either to the length of the meeting nor to the preparation time. The timing of this discussion is important because it is an item which impacts the DRB and which is scheduled for discussion and potential action by the City Council at its first meeting in July 2010.

The City is considering a set of amendments to the Zoning Code. Among those amendments is a provision which would remove the DRB from the parking modification approval process. Instead, parking modifications (on projects which otherwise require DRB process and approval) would be done by the Planning Official.

By way of background, up until mid-2007 parking modifications were addressed by the Planning Official. In 2007, the relevant section of the Zoning Code was amended with the intent of modifying the code to require that the DRB consider modifications to pedestrian pathways. Due to the way in which that amendment was drafted, parking modifications for DRB projects were also brought under the scope of DRB. In other words, it was a mistake.

However, as can happen with many mistakes in life, from what I have observed this mistake has brought more benefits than detriments.

The current proposed amendment, which would change the parking modification process to what it was pre-2007, is part of a larger list of proposed changes to the Zoning Code. The Planning Commission met on May 27 to consider the entire set of proposed changes. At that meeting, the Planning Commission voted on the entire list of proposed changes in one collective vote (i.e. the vote was on the proposed changes as a whole and not an item by item vote) and the Planning Commission voted in the majority to recommend approval of the changes to the City Council.

However, during that Planning Commission meeting, I was struck by a comment by one of the Commissioners who noted that this particular change (to take parking modifications away from the DRB and return it to the Planning Official) should be approved because the DRB did not want to address parking modifications as part of their role. It was that comment which made me realize that we have not heard an open discussion by the group of people who are best qualified to consider the pros and cons of this particular item – namely you, the members of the DRB.

There are some items in our Zoning Code which come under the purview of the planning official if a variance is requested. However, those are all comparatively minor items such sign modifications or minor expansions – the latter having specific provisions in the code to protect neighboring properties. By comparison, there is no provision in the Zoning Code to protect neighboring properties from the potential negative impacts of a parking modification granted to an adjacent new development. Of the variances that can be approved outside of the public process, none has the public interest or impact that parking does.

And so, I am asking the DRB to openly discuss and deliberate this question. ***If you are reviewing a project and if a parking modification request is part of the applicant's proposal, should that be included as part of the DRB's scope? Do you object to its inclusion? And most important, how are the City and citizens of Kirkland best served?***

I hope that you will discuss this on June 28 and that your discussion will consider the following:

Is this matter within the scope of DRB capabilities and experience?

- While each of you have different backgrounds, many of you work on projects which are subject to parking requirements according to local codes. As part of your day-to-day role as architects and design professionals, you design space for parking, circulation, including the necessary provisions for the number of required spaces as well as the various types (e.g. special needs, compact, etc.). You are the ideal professionals to consider the proposed design and potentially suggest ways to increase the number of spaces to achieve code (or close the gap between code and proposal) within the context of the proposal as a whole.
- With your knowledge and experience, you can thoughtfully consider the input of the applicant and their architect, together with that of the Planning Official, Public Works and the public. If this process is reverted to the Planning Official, then you have limited or no ability to suggest design changes (re: parking) that would be helpful to the project in this regard and the public is excluded entirely. The DRB process is the only public opportunity to have all of those perspectives considered as part of the overall project approval.

How are the citizens of Kirkland, especially those who are in the immediate vicinity, best served?

- Now that parking modifications are part of the DRB role, the public can see the proposed parking provisions as part of the online DRB packet along with the comparison of the proposal to the Zoning Code. If this process is reverted to the Planning Official, the public has no way to even know that a modification is under consideration or approved – and therefore, the public has no way to provide any input, suggestions, concerns, etc. This is especially a matter of concern for neighboring properties which are the most directly impacted by spillover parking – and who, if this reverts back to the old process - won't even know about the parking reductions until after it has already been approved.
- We are all best served by increased transparency and open process in government functions and this is no exception. Every item that goes “behind closed doors” leads to skepticism and distrust of the City and/or its staff. By having these matters considered in open air and by allowing the public to hear qualified professionals such as you discuss these matters, it adds credibility to the process.

Does this cause an unreasonable burden for the DRB to include this in their role?

- I do not believe this causes an unreasonable burden. Consider that the calculations of how many spaces are going to be provided, along with the circulation and layout, has to be provided by the applicant in any circumstance. Similarly, the planning staff and Public Works have to do the calculations and comparison to the Zoning Code – again, in any circumstance. While this may add some additional time to the presentation, discussion and to the DRB materials, the burden is small and the benefits of access to information and transparency for public interest are large.

Is it preferable to have some other body or official address parking modifications?

- The DRB is the only authoritative body that can address this in open air. The Parking Advisory Board is a non-authoritative body and moreover, would require a separate set of meetings (i.e. separate from the DRB process) if somehow this could be assigned to them, which complicates matters for the applicant and the public (also note that the PAB meets during working hours which precludes attendance for many citizens).
- Assigning this back to the Planning Official takes the public out of the process, which is not preferable. Our current Planning Officials are capable and knowledgeable about the Zoning Code and are aware of the overall parking supply and the impacts of spillover parking. However, these are not the last people who will ever hold these positions and our Zoning Code should be drafted in a way that contemplates current and future issues without regard to the confidence that we have in the personnel who are currently in place. Further, I believe that the capabilities and recommendations of our staff, combined with public input and DRB review, conducted in open air, significantly enhances the process and respect for the outcome.

Other benefits or detriments?

- If parking modifications are considered by the DRB in open air as part of public process, this is a significant deterrent to fraud. Parking is expensive – either to provide the actual spaces and/or to pay into the City's in-lieu fund. An unscrupulous developer could find it financially advantageous to persuade or otherwise motivate a planning official to agree to a parking modification. I don't believe this has ever happened here and moreover, I am confident that our staff would not only reject such an offer, they would promptly notify authorities in the event such an offer was made. But the harsh reality is that these sorts of events take place in cities and a "behind closed doors" process is fuel for the fire. As noted above, our current planning officials are not the last people who will ever hold these positions. Or said in a more positive way, by having the parking modification process take place in open air as part of regular public process, it adds to the system of internal controls as a safeguard, and the likelihood of this type of fraud is significantly reduced.
- Our current Zoning Code requirements for parking are the cause of debate. There is a likelihood that a change in the requirements could occur which ideally will resolve many if not all of these debates. However, whether we are operating under the current Zoning Code or one that is modified in the future, the Zoning Code in place is that which we are required to adhere to. In fact, the open public discussion of why a variance is or is not appropriate for a particular proposal may well help the process of updating the Zoning Code by raising and discussing issues in open air.

Thank you for your consideration of this important and time-sensitive matter and I look forward to your discussion. I hope that you will determine that the value of transparency in process far outweighs any possible arguments for reverting this significant public-interest process away from the DRB.

Respectfully submitted,

Bea Nahon
 PO Box 3209
 Kirkland WA 98083-3209

