

CITY OF KIRKLAND

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**DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT
MEMORANDUM**

To: Interpretation No. 04-2
From: Eric Shields, AICP, Planning Director
Date: August 9, 2004
Subject: CALCULATION OF AVERAGE BUILDING ELEVATION –
USE OF HISTORIC GRADES

ISSUE

How is “average building elevation” to be determined on a previously developed site that is proposed for redevelopment? Is the average building elevation to be calculated from the grade of the property prior to the original development or from the developed topography immediately prior to redevelopment?

INTERPRETATION

A survey stamped and signed by a professional land surveyor showing the historic or pre-development grades on the property may be used to calculate average building elevation on a site that has been previously developed. If a survey is not available, then the existing developed grade of the property shall be used.

APPLICABLE CODE SECTIONS

- 5.10.045 Average Building Elevation – The average elevation of the topography, prior to any development activity, at the center of all exterior walls of a building or structure...
- 5.10.357 Height of Structure – The vertical distance measured from the average building elevation to the highest point of any element or feature of a structure, excluding the exceptions identified in KZC 115.60.
- 5.10.210 Development Activity – Any work, condition or activity which requires a permit or approval under this code or the Uniform Building Code.

ANALYSIS

KZC 170.60(1) states that the Planning Director is required to base Zoning Code interpretations on: a) the defined or common meaning of words; b) the general purpose of the provision being interpreted; and c) the logical or likely meaning of the provision viewed in relation to the Comprehensive Plan. Following is a discussion of each criterion:

a) Defined or common meaning of the words: Average building elevation (ABE) is defined in KZC 5.10.045 as the average elevation of the topography, prior to any development activity. Webster's New Twentieth Century Dictionary (1983, at page 83) defines "any" as: to an indefinite extent; at all; in any degree. "Development activity" is defined in KZC 5.10.210 as "[a]ny work, condition which requires a permit or approval under this code or the Uniform Building Code." Therefore it follows that the phrase prior to any development activity means that the building elevation is to be calculated as though no development activity had ever taken place.

b) The general purpose of the provision: The Use Zone Charts for each zone in the City identify a maximum "height of structure" for each permitted use. KZC 5.10.357 states that "height of structure" is measured above average building elevation. Therefore, the apparent purpose of ABE is to establish a common and certain benchmark for calculating the height of a structure in relationship to the maximum permitted height. By defining ABE as the topographic elevation prior to "any" development activity, it appears that the intent was to use historic grades so that development follows the contour of the natural topography and is not penalized by or does not benefit from past alteration of the topography. See Interpretation File 89-11.

c) The logical or likely meaning of the provision viewed in relation to the Comprehensive Plan: I have not identified any provisions of the Comprehensive Plan that have a direct bearing on this interpretation.

A problem with using the pre-development topography on a previously developed site is in establishing what that topography actually was, since the previous development likely altered the topography to some degree and perhaps significantly. Unless there is specific documentation, such as an historical survey, determining the pre-development topography is a matter of speculation and subject to dispute. If the purpose of calculating ABE is to provide a certain elevation from which to measure height, it is important that the ABE be based on credible documentation. The most reliable documentation would be survey conducted prior to the original development.

In most cases, however, such a survey is not available and as noted above, speculative reconstruction of the topography is inaccurate. Therefore, when a survey is not available, it is reasonable to establish ABE using the existing topography immediately prior to the current proposed development activity.

To my knowledge, the City of Kirkland has consistently applied average building elevation calculations consistent with this interpretation.

NOTE: Plate 17 in Chapter 180 KZC shows an example of how average building elevation is calculated. The first line of the plate, following the title, states "A, B, C, D... Existing Ground Elevation at the Midpoint..." This reference to "existing" elevation appears to contradict the language in the definition of "average building elevation" as discussed above. Near the bottom of the plate are the words "existing topography before development activity" which are more consistent

with the definition, but do not reflect its exact words. These inconsistencies are unfortunate and should be corrected, but they do not affect the clear meaning of the wording of the definition of average building elevation found in KZC 5.10.045.

CITY OF KIRKLAND

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**DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT
MEMORANDUM**

To: Interpretation No. 06-3
From: Eric R. Shields, AICP
Planning Director
Date: December 13, 2006
Subject: KZC 115.115(3), Structures and Improvements in Required Yards

ISSUE

Does Ordinance No. 4065, Section 4, which amends KZC 115.115(3)(d) (structures and improvements in required yards) apply to all structures in all zones, or just to detached dwelling units and their accessory structures located in low density zones that are subject to FAR regulations?

INTERPRETATION

The amendments to KZC 115.115(3)(d), as embodied in Ordinance No. 4065, Section 4, only apply to detached dwelling units and their accessory structures located in low density zones in which FAR provisions apply (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). Ordinance No. 4065 does not apply to any other structures, regardless of zone.

BACKGROUND

On November 8, 2006, the City Council adopted Ordinance No. 4065 addressing allowable floor area ratios (FAR) in low density zones and allowed structures and improvements in required yards. Adoption of the ordinance followed numerous study sessions, meetings, and public hearings held by the Houghton Community Council, Planning Commission, and City Council in response to concerns expressed by some Kirkland residents that many new single-family residences were out of scale with their lot or with their surroundings. The City embarked on a review of FAR and other regulations that influence the perceived mass of single-family dwellings and ultimately arrived at amendments to the Kirkland Zoning Code embodied in Ordinance No. 4065.

Ordinance No. 4065, effective January 15, 2007, revises the following KZC provisions: (1) Allowable FAR in the RS/RSX 5.0 zones (KZC 15.10.010 and 17.10.010), (2) calculation of square footage in detached structures toward FAR (KZC 115.42(1)), (3) calculation of vaulted space toward FAR (KZC 115.42(2)), and (4) allowances for improvements in required yards (KZC 115.115(3)(d)).

ATTACHMENT 5

The first three changes summarized above clearly apply only to low density zones. The fourth change, affecting improvements in required yards, could be interpreted to apply to all structures in all zones. At issue is whether that fourth change, specifically the wording of Ordinance No. 4065, Section 4, amending KZC 115.115(3)(d), was intended by the City Council to apply to all structures regardless of zone. It is my interpretation that the intent was to apply the changes of Section 4, Ordinance No. 4065, only to detached dwelling units and their accessory structures in low density zones.

INTERPRETATION CRITERIA

KZC 170.60(1) authorizes the Planning Director to issue interpretations of any of the provisions of the Zoning Code. This section requires the Planning Director to base a decision on three considerations, addressed below:

A. The defined or common meaning of the words of the provision.

The definition or common meaning of the words of Section 4 of Ordinance No. 4065 is not at issue. Section 4 reads clearly.

B. The general purpose of the provision as expressed in the provision.

Ordinance No. 4065 evolved from a City Council-initiated review of the regulations that influence the size of detached dwelling units in low density zones. The review addressed maximum Floor Area Ratios allowed in low density zones, Floor Area calculation provisions in KZC 115.42, and allowed structures and improvements in required yards (KZC 115.115(3)). The noted provisions affect not only detached dwelling units, but also structures that are accessory thereto.

The review originated from a concern about the size of structures in low density zones. The review was advertised, processed, reviewed pursuant to SEPA, and presented to the public as such. It was discussed and debated in the public forum (study sessions, public hearings, public meetings) as such. Clearly, the review of the regulations and the related public participation and the deliberation of the official review and legislative bodies focused solely on structures in low density zones.

The intent of Ordinance No. 4065, as the culmination of the review and public discussion, was to address concerns related to the size of detached dwelling units and their accessory structures in low density zones, and nothing else. Any application of Section 4 of that Ordinance to any other structure, regardless of zone, would be contrary to the purpose of Ordinance No. 4065.

C. The logical or likely meaning of the provision viewed in relation to the Comprehensive Plan.

The Comprehensive Plan does not directly speak to the issue at hand. However, some general direction can be found in Framework Goal FG-3:

Maintain vibrant and stable residential neighborhoods and mixed-use development, with housing for diverse income groups, age groups, and lifestyles.

The discussion found in the Comprehensive Plan for Goal FG-3 states, in part:

Maintaining vibrant and safe neighborhoods as desirable places to live is a high priority....

An essential part of this diversity is maintaining the integrity of existing single-family neighborhoods...

Ordinance No. 4065 was adopted to help maintain the vibrancy, stability, desirability, and integrity of residential neighborhoods while recognizing changing trends in the housing market. Goal FG-3 specifically emphasizes single-family neighborhoods. The purpose of the Ordinance was to help mitigate the visual and privacy impacts of large new homes on existing neighboring homes, specifically in single-family neighborhoods. The need for such mitigation was identified in low density zones, but not in other zones. Consequently, Ordinance No. 4065 intended only to address low density zones, since that is where the concern was identified, and only those zones that are subject to FAR regulation.

Comprehensive Plan Framework Goal FG-16 is also relevant:

Promote active citizen involvement and outreach education in development decisions and planning for Kirkland's future.

The discussion of this Goal states, in part:

Kirkland's future will be determined by a myriad of independent action taken by individuals and groups who live, work, shop, and play here. Planning for the future offers the opportunity for all community members to cooperatively identify a vision for the City's future and to coordinate their actions in achieving that vision....the City should actively encourage community participation from all sectors of the City in the ongoing preparation and amendment of plans and implementing actions...

Broad community participation was sought and received throughout the review process that led to Ordinance No. 4065. Despite substantial public participation, every concern or issue raised spoke directly to detached dwelling units and their accessory structures in low density zones that are subject to FAR regulations. No concerns or issues were raised with respect to

other structures or other zones. It is clear that the general public, like the City Council, was concerned only with the issue of FAR and house size and related building features in low density zones.

CONCLUSION

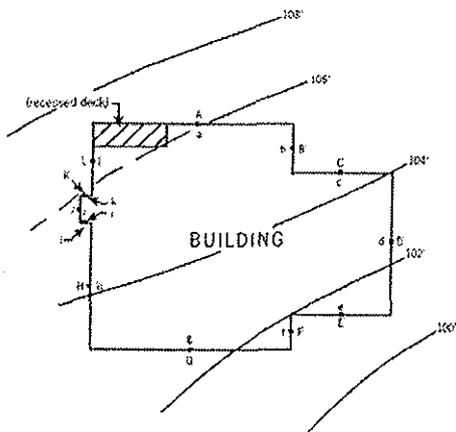
Ordinance No. 4065 was intended to only apply to certain residential structures in certain low density zones, and not to any other structures regardless of zone. Therefore, it will be interpreted and administered as such until KZC 115.115(3)(d) is amended to reflect the true intent of the City Council.

Plate 17

CALCULATING AVERAGE BUILDING ELEVATION

A, B, C, D... Existing Ground Elevation at Midpoint of Wall Segment*
 a, b, c, d... Length of Wall Segment Measured on Outside of Wall*

*Wall Segment includes the perimeter of a deck, unless the deck has no walls at or below the deck level and no roof above the deck.



Midpoint Elevation	Wall Segment Length
A = 106.1	a = 30'
B = 104.7	b = 9'
C = 104.4	c = 17'
D = 102.2	d = 25'
E = 101.6	e = 13'
F = 101.7	f = 6'
G = 102.5	g = 34'
H = 104.2	h = 22'
I = 105.0	i = 2'
J = 105.5	j = 6'
K = 106.0	k = 2'
L = 106.8	l = 12'

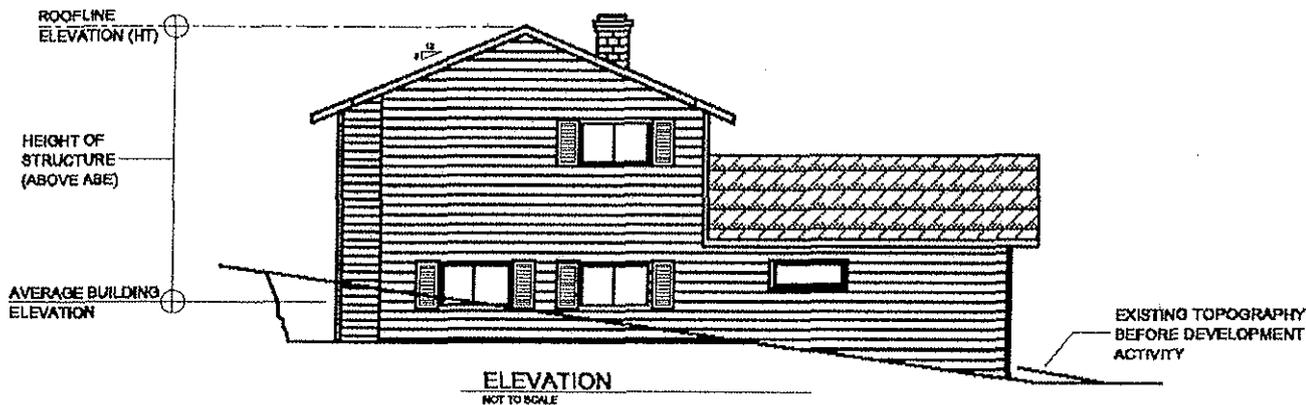
Site Plan
 Not to scale

FORMULA:

$$\frac{(A \times a) + (B \times b) + (C \times c) + (D \times d) + (E \times e) + (F \times f) + \dots + (L \times l)}{a + b + c + d + e + f + \dots + l} = \text{Average Building Elevation (ABE)}$$

EXAMPLE:

$$\frac{(106.1)(30) + (104.7)(9) + (104.4)(17) + (102.2)(25) + (101.6)(13) + (101.7)(6) + (102.5)(34) + (104.2)(22) + (105.0)(2) + (105.5)(6) + (106.0)(2) + (106.8)(12)}{30 + 9 + 17 + 25 + 13 + 6 + 34 + 22 + 2 + 6 + 2 + 12} = \frac{18,500.10}{178} = 103.93 \text{ ABE}$$



NOTE: PLEASE INCLUDE THE ELEVATION OF THE ROOFLINE ON THE SITE PLAN AND INDICATE ON THE ELEVATION DRAWINGS WHERE THE AVERAGE BUILDING ELEVATION (CALCULATED ABOVE) STRIKES THE BUILDING