



CITY OF KIRKLAND

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To: Houghton Community Council

From: Eric R. Shields, AICP, Director
Lauri Anderson, AICP, Consultant

Date: September 14, 2007

Subject: Miscellaneous Zoning Code Amendments, File No. ZON06-00033,
including Proposed Amendments to the Municipal Code and Subdivision
Ordinance

I. RECOMMENDATION

Conduct courtesy hearing on proposed amendments, and make recommendation to the Planning Commission prior to their public hearing, scheduled for October 25, 2007.

II. INTRODUCTION

The Planning staff periodically forwards packages of potential miscellaneous Zoning Code amendments to the Planning Commission for consideration. The amendments are selected from an on-going list of issues, code interpretations, requests from the public, requests from the City Council, and needs identified by staff. Enclosed is the most recent package of proposed amendments. This package also includes proposed amendments to the Municipal Code and Subdivision Ordinance.

The amendments have been reviewed by the Planning Commission in two study sessions (July 26 and September 13). The amendments will be the subject of a hearing before the Planning Commission on October 25, 2007, and consideration by the City Council in November or December.

Zoning Code amendments are reviewed through either Process IV (Chapter 160 KZC) or Process IVA (Chapter 161 KZC). Process IVA is an abbreviated process intended for amendments that promote clarity, eliminate redundancy, or correct inconsistencies. Because the current set of amendments goes beyond those purposes, we are processing it through Process IV.

Amendments to the Subdivision Ordinance are to be considered by the Planning Commission, with a recommendation forwarded to the City Council, under Municipal Code Section 22.04.050.

Under both processes, the Houghton Community Council courtesy hearing is scheduled to provide early input to the Planning Commission and City Council on the amendment package. After City Council adoption of the final amendments, they will be brought back to the Houghton Community Council for review under the Council's disapproval jurisdiction.

III. AMENDMENT OVERVIEW

The enclosed amendments address a wide range of issues--from simple clarifications of language to more substantive policy matters. They affect many different chapters of the Zoning Code. Among other changes, they would result in codification of one Zoning Code Interpretation--I-06-3 (Structures and Improvements in Required Yards)--and elimination of another: I-04-2 (Calculation of Average Building Elevation - Use of Historic Grades).

These amendments are part of a larger amendment package. However, the amendments proposed for zones outside of the Houghton area have not been included for your ease of review.

Attachment 1 (Key to Draft Amendments) contains a list of the issues that the amendments are intended to address, cross-referencing the code sections of the actual amendment language (Attachments 2 and 3). Staff recommends that the Houghton Community Council use Attachment 1 as a reference when reviewing the amendments in Attachments 2 and 3, so that you can compare the intended purpose of the amendment with the actual language. Attachments 4 and 5 contain the two Code Interpretations that are proposed to be addressed. The other attachments provide background information related to proposed amendments.

IV. POLICY ISSUES

While some of the amendments are quite simple and presumably non-controversial, others raise policy issues that need to be considered. These include the following (references are to the Municipal or Zoning Code sections that would be amended):

Municipal Code Chapter 22 - Subdivision Ordinance

- A. 22.04.030 and 22.08.030 – Revise binding site plan sections to allow Planning Director approval of binding site plans. A binding site plan is a mechanism established in state law that can be used to segregate property without going through a subdivision process for the following purposes: divisions for sale or lease of commercially or industrially zoned property, divisions for lease of travel trailers or mobile homes, and divisions for sale or lease of condominiums. Currently, a binding site plan can only be processed through Process IIB or III

(hearing by the Hearing Examiner or Planning Commission and approval by the City Council). For projects that have been approved by the City through building or zoning permit review and now want to convert to a binding site plan to clarify ownership/lease rights, the higher-level process seems burdensome. These amendments would allow the Planning Director to approve the binding site plan if it is consistent with the approved city permit.

- B. 22.12.100 through 22.12.140 and 22.12.370. Eliminate references to Houghton Community Council review for preliminary plats. The preliminary plat review process is Process IIA, with the hearing and decision by the Hearing Examiner. There is no City Council review of Process IIA permits and no disapproval review by the Houghton Community Council.
- C. 22.16.125, 22.20.025 and 22.26.020 – Provide means of modifying easements and other plat features other than Alteration of Plats, Process IIA. Currently, for plats (10 lots or more) and short plats (9 lots or fewer), there is no process to make minor modifications to the mylar (final map of the subdivision) after recording with King County. Instead, either a new short plat must be processed, a Process IIA permit for the subdivision must be obtained, or the plat must be modified with separate documents (rather than a revised mylar), potentially resulting in inaccurate mylars on file with the City. These amendments allow for minor modifications to plat and short plat mylars after recording.

Zoning Code

- D. 5.10.045 and 115.59, Average Building Elevation. The City currently calculates maximum height on a lot using “average building elevation” or ABE (see Attachment 6 for the plate from the Zoning Code describing the calculation). ABE is, basically, the average elevation of the existing topography under the proposed building footprint. ABE is calculated using all “wall segments” of the building. This calculation is complicated and may involve dozens of wall segments. Consistently, with building permit submittals, this calculation is done inaccurately and revisions are required. There is substantial public confusion over how to do the calculations and what they mean.

The proposed amendments are an effort to simplify the calculations and make them more understandable to the public. They also clarify that, unless fill has been placed on the site, existing grade is to be used to determine ABE. This is a reversal of Interpretation No. 04-2--which allowed use of historic grades for determining “predevelopment topography”--prompted by a City Council discussion of the issue with the last round of Miscellaneous Zoning Code Amendments.

The Planning Commission requested some actual examples of implementing the ABE change. Staff reviewed three building permits, one with a moderate slope (5%) and two with steeper slopes (18% and 24.5%), believing that the differences on lots with less slope would be very minor. The results are as follows:

Example 1: Lot with 24.5% slope (under the house footprint) and 34 building segments

ABE using existing methodology	171.19'
ABE using proposed methodology	170.95'

Difference = .24' (approximately 3")

Example 2: Lot with 18% slope (under the house footprint) and 24 building segments

ABE using existing methodology	197.06'
ABE using proposed methodology	195.96'

Difference = 1.1' (approximately 1')

Example 3: Lot with 5% slope (under the house footprint) and 23 building segments

ABE using existing methodology	264.80'
ABE using proposed methodology	264.81'

Difference = .01' (less than 1/4")

Staff notes that the proposed new regulations are more similar to those found in King County, and that this would be helpful if annexation proceeds.

- E. 5.10.305, 5.10.790, 25.10.050, PR, and other commercial zones. These amendments eliminate the distinction between the "fast food restaurant" and "restaurant" uses and regulate based on whether or not drive-in or drive-through facilities are permitted. The revised rules also bring forward some of the other "fast food restaurant" standards and apply them to drive-in or drive-through restaurants.
- F. 20.10.010 and 20.10.020, RM, and multiple other commercial and multifamily zones. These amendments reduce the required side yards for detached dwelling units in commercial and multifamily zones to 5', rather than a minimum of 5' but a combined width of 15'. The amendments are being proposed to reflect the fact

that detached dwelling unit lot sizes are generally smaller in commercial and multifamily zones, making it impractical to provide the larger setbacks. For example, in the RM zone, minimum lot sizes range from 1,800 sq.ft. to 5,000 sq.ft.

- G. 30.15.020, WD1, and multiple other zones allowing attached dwelling unit uses. These amendments would extend the zero lot line opportunities for attached dwelling units to all zones with that use listing. This change was approved for many zones in the last round of Miscellaneous Zoning Code Amendments.
- H. 95.52, Landscaping. This amendment would prohibit noxious plants in all landscaped areas in the City. Currently, the standards that prohibit invasive plants apply only to required landscaping. An effective date is written into the proposed amendment so that the public can be made aware of the requirement and so that existing landscaping will not be subject to code enforcement actions.

In tandem with this amendment, a “prohibited plants” section of the “Kirkland Plant List” would have to be established.

The Planning Commission is recommending that this prohibited plants list include the State’s Prohibited Plant List (see Attachment 7) and the King County Weed Board’s Class A, B and C Noxious Weed Lists (see Attachment 8). Although the State and County already have jurisdiction over individual City properties in enforcement of these planting prohibitions, much of the County’s work is educational. Adoption by the City of these lists would support State and County public education and enforcement efforts.

The Planning Commission has advised staff that some plants on the County’s “Non-Designated Noxious Weed” and “Noxious Weeds of Concern” lists (see the last three pages of Attachment 8) also should be prohibited by the City. Staff is recommending that English ivy, old man’s beard, yellow archangel, Scotch broom, yellow flag iris, fragrant water lily, reed canarygrass, the knotweeds, and the blackberries be among those targeted.

- I. 105.18, Pedestrian Access. This amendment would require that easements be recorded to ensure that required pedestrian pathways between adjacent properties remain open and usable by the public.
- J. 115.43, Garage Setback Requirements for Detached Dwelling Units in Low Density Zones. This amendment would rewrite the rules for garage setbacks. A number of issues have arisen with this code section (see Attachment 9 for a memo prepared by Eric Shields to the City Council on this topic). The proposed amendment is an attempt to simplify and clarify the intent of the regulations,

while allowing for modifications to the standards as long as the goals of the garage setback regulations are achieved.

Highlights of the changes include the following:

- A new requirement that properties served by an open public alley or an easement or tract serving as an alley, use that alley to enter all garages on the property.
- A new requirement that side-entry garages minimize blank walls facing the street, access easement or tract.
- Elimination of the existing “garage offset” requirement and replacement with differing setbacks for the front façade and the garage, itself. The proposed amendment states only that the required front yard for the garage is 8’ greater than the required front yard for the rest of the front façade. In the RS zone, this would mean that the required front yard for the non-garage portion of the front façade would be 20’, while the garage portion of the front façade (if the garage doors face the street) would be 28’. A builder could choose to set all of the house at 28’ from the front property line, and a dominant garage could result. However, staff believes that this scenario is unlikely, as the builder would be losing a significant portion (8’+) of buildable area. Staff was concerned that a lesser setback difference might not be adequate incentive to design a house with the garage doors set back from the front façade.
- As the garage setback applies only to front yards, houses on an access easement or tract 21’ or less in width (required rear yards--typically 10’) would not have different setbacks for the garage. Staff believes that Zoning Code Section 105.47, which requires a 20’ long parking pad between an access easement or tract and the garage, would essentially provide a 10’ setback difference for the house and garage (see Attachment 10).
- Revision to the minimum lot width for applying the garage setback standards. A 50’-wide lot with a 50% garage width limitation might not be able to accommodate a 20’-wide garage (with required side-yard setbacks). The 50% garage width requirement applies only to lots 55’-wide or wider to ensure the ability to construct a 20’-wide garage.
- New “deviation” criteria. In cases where the garage requirements cannot be met by reason of size, configuration, topography or location of the subject property, a design that minimizes the dominant appearance of the

garage when viewed from the street may allow for a deviation from the requirements.

- K. 115.150, Vehicle Size in Residential Zones Limited. This amendment extends the prohibitions on oversize vehicles in residential zones to boats. The City has received complaints about boat parking on residential lots and has used this code section to control that parking, but clarification is needed. Too, it more strictly regulates the time period in which an oversize vehicle can be parked on a residential lot for loading and unloading.
- L. 117.40.1 and 117.40.2, Review Processes for Personal Wireless Facilities. This amendment would reduce the review process for attachment of antennas to existing buildings within a public park. Currently, the review process is Process I. The amendment would reduce the process to a Planning Official decision. This amendment was prompted by comparing cases—one in which an antenna on a ball field light in a park was a Planning Official decision (even though it was more visible) and the other in which a small antenna on a park building required a Process I permit. This amendment also recognizes that park projects go through a comprehensive City review.
- M. 130, Rezones. This amendment makes major changes to how the City processes rezone applications. It clarifies that rezones initiated by the City or through the Private Amendment Request process are legislative. It eliminates “project” rezones and does not require project completion prior to rezoning. These changes were prompted by the requirements of State law as clarified in recent court cases.

V. OTHER POTENTIAL AMENDMENTS

There are a few other Zoning Code amendments proposed for consideration that have not yet been drafted. General feedback on the policy issues will allow staff to transmit your recommendations prior to the Planning Commission’s public hearing. These amendments are:

- A. Change to the Municipal Code removing the requirement that a vicinity map be published in the newspaper for street vacations. Although these maps have been published in the past, the column width of the newspaper results in an illegible map. Staff is recommending deleting this requirement as the map is not useful to readers.
- B. Change to the noise limitations in Chapter 115 to allow testing and operation of emergency generators. Current regulations limit maximum environmental noise of power equipment to State standards, and also limit hours of operation. These limits would likely be exceeded by operation of emergency power generators,

particularly in residential areas. Bellevue and Redmond have amended their noise ordinances to exempt standby generators. Bellevue's rules exempt sounds created by portable and stationary generators when there is "no electrical service available from the primary supplier due to natural disaster or power outage." Redmond's language exempts "sounds caused by emergency residential generators when operating as necessary for their intended purpose." As generators may require weekly testing—for example, 10 minutes once per week for oil circulation, etc.—staff recommends language similar Redmond's be incorporated into any draft amendment. The Planning Commission has asked staff to provide some options for review, including differentiating between treatment of residential generators, non-residential generators in commercial areas, and non-residential generators for businesses next to residential areas.

- C. Changes to several mixed use zones to specify more clearly the expectations for ground floor commercial uses and/or prohibitions on ground-floor residential uses. Attachment 11 is a matrix showing the treatment of ground floor commercial uses and residential prohibitions in the various zones in the City. As you will note, the regulations vary from zone to zone and are somewhat unclear. In the past, for example, staff has had to interpret whether ground floor residential parking or lobbies are considered "residential uses."

The Planning Commission has asked staff to eliminate the ground-floor residential prohibitions and replace them with a minimum retail/commercial square footage that must be provided on the ground floor. The Commission is particularly concerned that this requirement relate to frontages on streets and pedestrian-ways, as is currently the case in the Totem Lake and Rose Hill zones (TL and RH).

V. CONCLUSION

To streamline the review on September 24, you should feel free to contact Planning Staff prior to the courtesy hearing with questions concerning the proposed amendments. You can reach Lauri Anderson at (206) 525-5240 (or lwanderson4@msn.com), or Paul Stewart at (425) 587-3227 (or pstewart@ci.kirkland.wa.us).

ATTACHMENTS

1. Key to Draft Amendments, September 14, 2007
2. Subdivision Code Amendments
3. Zoning Code Amendments
4. Interpretation No. 04-2
5. Interpretation No. 06-3

6. Plate 17, Calculating ABE
7. State Prohibited Plants List
8. King County Noxious Weed Lists
9. Memo from Eric Shields to City Council re: Garage Setback Requirements
10. Zoning Code Section 105.47
11. Matrix of requirements for commercial/residential uses on the ground floor