



CITY OF KIRKLAND
Planning and Community Development Department
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MEMORANDUM

Date: September 3, 2013

To: Planning Commission and Houghton Community Council

From: Joan Lieberman-Brill, AICP, Senior Planner
Nancy Cox, AICP, Development Review Manager
Paul Stewart, AICP, Deputy Director

Subject: 2013 MISCELLANEOUS ZONING/MUNICIPAL CODE AMENDMENTS
STUDY SESSION (CAM13-00669)

RECOMMENDATION

- Review the revised work program schedule.
- Review remaining “No” and “Minor” changes and several “Moderate” policy changes and provide direction to determine if additional information and staff response is needed at the next study sessions in October. Provide direction on the following two issues, for which continued discussion is required.
 - Holmes Point Overlay Amendments
 - Stand Alone Solar Array Amendments

BACKGROUND DISCUSSION

The roster of proposed 2013 Zoning Code and Municipal Code Amendments is Attachment 1 to this memorandum. Several items have been added since the previous study sessions in June. Amendments that you reviewed at the previous meetings in June have a check ✓ by them. Items that staff will introduce for review at this round of study sessions are red.

The revised work program will be presented at the study sessions. In the meantime a general schedule is provided as Attachment 2 to this memorandum. Another set of study sessions have been added to the work program in November to accommodate those remaining proposed amendments that will not be ready for review during the current round of September meetings. As a result, the joint public hearing with the Houghton Community Council is tentatively moved to January.

The Planning Commission (PC) and Houghton Community Council (HCC) reviewed drafts of most of the “no policy” and one “minor policy” amendments at previous June 24 and 27 study sessions, respectively. Follow this link to the [memorandum](#)

prepared for those meetings. Except for establishment of a time limit associated with tree permits, no changes to these draft amendments were requested by either advisory body. These draft amendments will be brought forward to the joint public hearing for public comment and deliberation.

AMENDMENTS GENERAL

Background information, proposed changes, and the staff recommendations for remaining No and Minor Policy amendments and several Moderate Policy amendments are provided below. Any requested changes to these drafts will be incorporated into revised drafts prepared for the next study sessions in November.

Please Note: Topics with an asterisk (*) denote items that are not within Houghton's jurisdiction.

Proposed changes are noted with strikeouts and underlines in red.

NO POLICY CHANGES

These amendments result in no changes to current policy but intend to clarify and fix inconsistencies in the Kirkland Zoning (KZC) or Municipal Codes (KMC).

5. *Add TL 1B Zone to Definition of Residential Zones – KZC Chapter 5 Section 5.10.785

Purpose: The TL 1B zone northwest of the Evergreen Hospital in Totem Lake was inadvertently left off the list of defined Residential Zones. It already is included in the definition of High Density Residential Zones. This amendment would correct this omission.

Proposed change:

KZC Chapter 5 – DEFINITIONS

5.10.785 Residential Zone

– The following zones: RS 35; RSX 35; RS 12.5; RSX 12.5; RS 8.5; RSX 8.5; RSA 8; RS 7.2; RSX 7.2; RS 6.3; RSA 6; RS 5.0; RSX 5.0; RSA 4; RSA 1; RM 5.0; RMA 5.0; RM 3.6; RMA 3.6; RM 2.4; RMA 2.4; RM 1.8; RMA 1.8; WD I; WD II; WD III; TL 9B; PLA 2; PLA 3B; PLA 3C; PLA 5A, D, E; PLA 6A, C, D, E, F, H, I, J, K; PLA 7A, B, C; PLA 9; PLA 15B; PLA 16; PLA 17; TL 11, TL 1B.

Staff Recommendation: Amend the regulation to add this zone to the definition.

6. Revise Definition of Development Permit – KZC Chapter 5 Section 5.10.215

Purpose: Replace out of date reference to "Uniform Building Code" with "KMC Title 21, Buildings and Construction". This was missed with the last round of

Fast Track Zoning and Municipal Code Amendments (O-4408) adopted on May 21, 2013.

Proposed change:

KZC Chapter 5 – DEFINITIONS

5.10.215 Development Permit

– Any permit or approval under this code or ~~the Uniform Building Code~~ KMC Title 21, Buildings and Construction that must be issued before initiating a use or development activity.⁴

Staff Recommendation: Codify the definition by ordinance, which was updated on an interim basis in order to reflect the intent of O-4408.

7. Correct the Terminology for Flag Lots – KZC Chapter 115 Section 115.115.5.a (1) (b).

Purpose: Replace the term “panhandle lot” with “flag lot” to clarify the intent of this section, which addresses required yards for driveways within flag lots. Flag lot is a defined term describing certain types of lots, whereas access to a flag lot is through a panhandle. Panhandle is not a defined term.

Proposed change:

KZC Chapter 115 – MISCELLANEOUS USE DEVELOPMENT AND PERFORMANCE STANDARDS

115.115 Required Yards

5. Driveways and Parking Areas – Driveways and parking areas are not allowed in required yards except as follows:
 - a. Detached Dwelling Units, Duplexes, and Two-Unit Homes and Three-Unit Homes Approved Under Chapter 113 KZC
 - 1) General – (no change)
 - a) (No change)
 - b) That for ~~panhandle~~ flag lots; a 5-foot setback is not required from any side property line that abuts a neighboring lot that was part of the same plat.
 - c) (No change)

Staff Recommendation: Change the term to clarify the regulation.

8. Delete Reference to Day Care Home Uses and Family Day-Care Home Uses in PLA 15B, PLA 16 and PLA 17. – KZC Chapter 60 Sections 60.174.3.b, 60.180.2.b, and 60.185.3.c.

Purpose: This amendment removes references to family day care uses in in these three zones. These are essentially detached dwelling unit uses that also have an assessor child-care operation for up to 12 children. They are regulated as an assessor use to a residential use and require licensing from the state. Except for these three zones which were inadvertently missed, regulations for this use moved into Chapter 115 Miscellaneous Development and Performance Standards and out of the use zone charts in 2002.

Proposed changes:

KZC CHAPTER 60 – PLANNED AREAS (PLA)

Zone PLA 15B

Section 60.175 – GENERAL REGULATIONS

The following regulations apply to all uses in this zone unless otherwise noted:

- 1.-2. (No change)
3. If any portion of a structure is adjoining a low density zone, then either:
 - a. The height of that portion of the structure shall not exceed 15 feet above average building elevation, or
 - b. The maximum horizontal facade shall not exceed 50 feet in width.See KZC 115.30, Distance Between Structures/Adjacency to Institutional Use, for further details.
(Does not apply to Detached Dwelling Unit, Attached or Stacked Dwelling Units and Mini-School or Mini-Day-Care Center ~~/Day-Care Home~~-uses).

Zone PLA 16

Section 60.180 – GENERAL REGULATIONS

The following regulations apply to all uses in this zone unless otherwise noted:

1. (No change)
2. If any portion of a structure is adjoining a detached dwelling unit in a low density zone, then either:
 - a. The height of that portion of the structure shall not exceed 15 feet above average building elevation, or
 - b. The maximum horizontal facade shall not exceed 50 feet.See KZC 115.30, Distance Between Structures/Adjacency to Institutional Use, for further details.
(Does not apply to Detached Dwelling Unit, Commercial Equestrian Facility, Commercial Recreation Area and Use and Mini-Day-Care Center ~~or Day-Care Home~~-uses).

Zone PLA 17

Section 60.185 – GENERAL REGULATIONS

The following regulations apply to all uses in this zone unless otherwise noted:

- 1.-2. (No change)
3. If any portion of a structure is adjoining a low density zone or low density use in PLA 17, then:
 - a. A building bulk maximum will apply as follows – either:
 - (1) The height of that portion of the structure shall not exceed 15 feet above average building elevation, or
 - (2) The maximum horizontal facade shall not exceed 50 feet in width.See KZC 115.30, Distance Between Structures/Adjacency to Institutional Use, for further details.
 - b. A significant buffer shall be required around all proposed structures and parking areas. This buffer should take the form of up to a 25-foot wide landscaped area OR a lesser dimensioned area furnished with screening walls, fences, berms, or dense stands of trees, but in no case be less than 10 feet.
 - c. A solid screening wall or fence shall be required between any portion of a parking area which is closer than 40 feet to a low density use, low density zone, or the right-of-way of NE 97th Street. Such wall or fence shall be in addition to the landscape materials required by Chapter 95 KZC.
(Does not apply to Detached Dwelling Unit, Mini-School or Mini-Day-Care ~~and Family Day-Care-Home~~ uses).
4. – 5. (No change)

Staff Recommendation: Delete the use from remaining charts as was meant to occur in 2002.

MINOR POLICY CHANGES

The proposed amendments do not clarify existing regulations, but instead change them. However, they are generally not considered significant policy issues. Amendments have been drafted for all of these and are attached to the memorandum.

9. Provide Time Limits for Tree Removal Permits and Notifications Not Associated with Development Activity - KZC Chapter 95 Section 95.23.new subsection.

Purpose: This amendment would add a one year time limit for tree removal to address the expectation that removal will be completed within a reasonable and predictable time frame.

Background: This item was carried over from June study sessions. Both advisory bodies requested that time limits for tree removal requests not associated with development activity be limited to removal permits, but not

required for notifications. Chapter 95 provides that Tree Removal Notifications are for removal of up to 2 trees that do not have conditions triggering a permit requirement. Since tree removal notifications are not enforceable because they do not require a permit, the HCC and PC concurred that a better way than codifying a time limit, is to educate the public about timeframes by adding the information to the "tree removal information guide". The revised draft amendment reflects this direction. It requires tree removal only associated with a permit to be completed within a year of issuance.

Proposed change:

KZC 95.23 Tree Removal – Not Associated with Development Activity

1. – 3. (No change)
4. Tree Removal Permit Application Procedure and Appeals.
 - a. Applicants requesting to remove trees must submit a completed permit application on a form provided by the City. The City shall review the application within 21 calendar days and either approve, approve with conditions or modifications, deny the application or request additional information. Any decision to deny the application shall be in writing along with the reasons for the denial and the appeal process.
 - b. The decision of the Planning Official is appealable using the applicable appeal provisions of Chapter 145 KZC.
 - c. Time Limit: The removal shall be completed within one year of the approved permit.
5. Tree Removal Allowances.
 - a. Any private property owner of developed property may remove up to two (2) significant trees from their property within a 12-month period without having to apply for a tree removal permit; provided, that:
 - 1) There is no active application for development activity for the site;
 - 2) The trees were not required to be retained or planted as a condition of previous development activity; and
 - 3) All of the additional standards for tree removal and Tree Removal Permits as described in subsections (5)(b) through (e) of this section are met.

The Department of Planning and Community Development shall establish and maintain a tree removal request form. The form may be used by property owners to request Department review of tree removal for compliance with applicable City regulations.

Staff Recommendation: When a tree removal requiring a permit is issued, complete the removal within a year as reflected in the amendment.

10. Allow Lots with Low Impact Development Standards as Part of a Conventional Subdivision – KZC Chapter 114 and KMC Title 22 Chapter 22.28.041

Purpose: Chapter 114 of the Zoning Code provides standards for an alternative type of development utilizing low impact development strategies. This is an optional approach that allows smaller lots and clustering provided additional low impact development techniques are utilized. The proposed amendment would change the provisions of KZC 114 to allow a portion of lots within a subdivision to utilize the LID techniques, rather than requiring all lots to use them. Currently KZC 114 requires all lots in a plat to utilize LID stormwater management standards to receive the benefits provided by this incentive. A more flexible approach may encourage increased utilization of preferred LID techniques.

Background: Kirkland's stormwater drainage system is regulated under the Western Washington Phase II Municipal Stormwater Permit, issued by the Washington State Department of Ecology, through the National Pollutant Discharge Elimination System (NPDES). Kirkland's current 5-year NPDES permit became effective August, 2013. The permit includes additional LID stormwater requirements that must be implemented by December, 2016. The permit is currently under appeal by a coalition of cities and counties in Western Washington. Depending on the outcome of the appeal (possibly in late 2014), the requirements may change. These requirements are administered by the Kirkland Public Works Department.

In the interim, the City proposes amendments to encourage LID in more plats, while waiting for the State's regulations to take effect. Several changes to the KZC and to the KMC are required to implement this change:

- A new definition "Low Impact Development Project Site" is required to make the distinction between portions of a site which do and do not utilize the LID incentive to avoid confusion when applying the standards of Chapter 114.
- Revisions to the Parameters for Low Impact Development section are necessary to clarify that the increased LID storm water techniques and facility requirements would only apply to the Low Impact Development Project Site, which may be the entire site or a portion thereof. So for example, Required Common Open Space is calculated as 40% of the portion of the site developed to meet Chapter 114 standards, while the rest of the site would be exempt from this requirement. Another difference would be LID

storm water requirements – within the Low Impact Development Project Site portion of the plat the applicant is required to control stormwater runoff from 50% of all hard surfaces created within the LID portion of the project site, whereas in the remainder of the plat a lesser amount of the runoff generated from hard surfaces is required to be controlled if feasible using LID techniques (runoff from an area equivalent to around 10% -20% the non-LID portion of the project site).

- Revisions to the Design Standards and Guidelines section clarify that wetlands and streams are excluded from the 40% Required Common Open Space area calculation, while Sensitive Area buffers are included.
- Finally, Kirkland Municipal Code Title 22.28.041, the LID subdivision provision, utilizes KZC 114 to implement the incentive. So for consistency it is revised to clarify that certain zones are excluded from application of the LID incentive. This change will bring the KMC in line with Chapter 114 KZC, which already states which zones are excluded. Specific zones are excluded because their unique constraints preclude the zone from meeting LID design standards and guidelines as noted below:
 - PLA 16 - requires horse paddock area with development, which was determined to interfere with open space guidelines in the LID incentive.
 - PLA 3C - requires clustering to achieve critical area protection and already prohibits lots smaller than 5,000 square feet, which would interfere with LID provision which allows lot area to be reduced by half.
 - RSA 1 – this zone has predominantly steep slopes which are not conducive to Low Impact Development techniques because the surface water would not have a chance to infiltrate the site and may cause unnecessary erosion and instability.
 - RSA 8 – establishes a minimum lot size of 3,800 square feet. When reduced by half, as allowed under the LID incentive, the resulting 1,900 sq. ft. lot size was determined to be out of character with surrounding low density residential development.
 - RS 35 and RSX 35 within the Bridle Trails Neighborhood north and northeast of the Bridle Trails State Park - requires horse paddock area with development, which would interfere with the open space requirements in the LID incentive.
 - Holmes Point Overlay – requires greater protection of soils and vegetation in specific set asides for undisturbed area, impervious and

altered areas, and lawn and garden area, which was determined to increase the complexity of administering the LID parameters.

Proposed changes:

KZC Chapter 5 – DEFINITIONS

.490.5 Low Impact Development (LID)

– A stormwater management and land development strategy applied at the parcel and the subdivision scale that emphasizes conservation and the use of on-site natural features integrated with engineered, small-scale hydrologic controls to more closely mimic predevelopment hydrologic functions.

.490.7 Low Impact Development Project Site

– The site or portion of a site that utilizes Low Impact Development storm water techniques and facilities pursuant to KZC Chapter 114.

KZC Chapter 114 – LOW IMPACT DEVELOPMENT

Sections:

- 114.05 User Guide (No change)
- 114.10 Voluntary Provisions and Intent (No change)
- 114.15 Parameters for Low Impact Development
- 114.20 Design Standards and Guidelines (No change)
- 114.25 Review Process (No change)
- 114.30 Additional Standards (No change)
- 114.35 Required Application Documentation (No change)

114.15 Parameters for Low Impact Development

These standards and incentives address the portion of the project site utilizing the LID stormwater techniques and facilities to meet applicable stormwater requirements. The remainder of the project site must comply with underlying zoning and conventional stormwater requirements. Please refer to KZC 114.30 and 114.35 for additional requirements related to these standards.

Permitted Housing Types	<ul style="list-style-type: none"> • Detached dwelling units. • Accessory dwelling units. • 2/3 unit homes.
Minimum Lot Size	<ul style="list-style-type: none"> • Individual lot sizes must be at least 50% of the minimum lot size for the underlying zone.
Minimum Number of Lots	<ul style="list-style-type: none"> • 4 lots.

Maximum Density	<ul style="list-style-type: none"> As defined in underlying zone's Use Zone Chart. Bonus density is calculated by multiplying number of lots or units by 0.10. If a fraction of 0.5 or higher is obtained then round to the next whole number.
Low Impact Development	<ul style="list-style-type: none"> LID techniques must be employed to control stormwater runoff generated from 50% of all hard surfaces. This includes all vehicular and pedestrian access. LID facilities must be designed according to Public Works stormwater development regulations as stated in Chapter 15.52 KMC.
Locations	<ul style="list-style-type: none"> Allowed in low density residential zones with the exception of the following: PLA 16, PLA 3C, RSA 1, RSA 8, <u>or the</u> RS 35 and RSX 35 zones in the Bridle Trails neighborhood <u>north and northeast of the Bridle Trails State Park</u>, and the Holmes Point Overlay zone. Any property or portion of a property with shoreline jurisdiction must meet the regulations found in Chapter 83 KZC, including minimum lot size or units per acre and lot coverage.
Review Process	<ul style="list-style-type: none"> Short plats shall be reviewed under KMC 22.20.015 and subdivisions shall be reviewed under KMC 22.12.015. Condominium projects shall be reviewed under KZC 145, Process I.
Parking Requirements	<ul style="list-style-type: none"> 2 stalls per detached dwelling unit. 1 stall per accessory dwelling unit. 1.5 stalls per unit in multi-unit home, rounded to next whole number. See KZC 105.20 for guest parking requirements. Parking pad width required in KZC 105.47 may be reduced to 10 feet. Parking pad may be counted in required parking. Tandem parking is allowed where stalls are share by the same dwelling unit. Shared garages in separate tract are allowed. All required parking must be provided on the LID project site.
Ownership Structure	<ul style="list-style-type: none"> Subdivision. Condominium.
Minimum Required Yards (from exterior property lines of the LID project)	<ul style="list-style-type: none"> 20 feet for all front yards. 10 feet for all other required yards.
Minimum Required	<ul style="list-style-type: none"> Front: 10 feet.

Yards (from internal property lines)	<ul style="list-style-type: none"> • Option: Required front yard can be reduced to 5 feet, if required rear yard is increased by same amount of front yard reduction. • Side and rear: 5 feet. • Zero lot line for 2/3 unit homes between internal units.
Front Porches	<ul style="list-style-type: none"> • Must comply with KZC 115.115.3(n), except that front entry porches may extend to within 5 feet of the interior required front yard.
Garage Setbacks	<ul style="list-style-type: none"> • Must comply with KZC 115.43, except that attached garages on front facade of dwelling unit facing internal front property line must be set back 18 feet from internal front property line.
Lot Coverage (all impervious surfaces)	<ul style="list-style-type: none"> • Maximum lot coverage for entire site is based on the maximum lot coverage percentage of the underlying zone and may be aggregated.
Required Common Open Space (RCOS)	<ul style="list-style-type: none"> • Minimum of 40% of entire development. • Native and undisturbed vegetation is preferred. • Allowance of 1% of required common open space for shelters or other recreational structures. • Paths connecting and within required common open space to development must be pervious. • Landscape Greenbelt Easement is required to protect and keep required common open space undeveloped in perpetuity.
Maximum Floor Area 1. <u>2</u>	<ul style="list-style-type: none"> • Maximum floor area is 50% of the minimum lot size of the underlying zone.

Footnotes:

1. The maximum floor area for LID projects does not apply within the disapproval jurisdiction of Houghton.
2. The Maximum floor area for LID projects in RS 35 and RSX 35 zones is 20% of the minimum lot size of the underlying zone.

114.20 Design Standards and Guidelines

1. Required Low Impact Development Stormwater Facilities – Low impact development (LID) stormwater facilities shall be designed to control stormwater runoff from 50 percent of all hard surfaces created within ~~entire-the LID portion of the project site development~~. This includes all vehicular and pedestrian access. LID facilities shall be designed according to Public Works stormwater development regulations, as stated in KMC 15.52.060. The maintenance of LID facilities shall be maintained in accordance with requirements in KMC 15.52.120. The proposed site design shall incorporate the use of LID strategies to meet stormwater management standards. LID is a set of techniques that mimic natural watershed hydrology by slowing, evaporating/transpiring, and filtering water, which allows water to

soak into the ground closer to its source. The design should seek to meet the following objectives:

- a. Preservation of natural hydrology.
 - b. Reduced impervious surfaces.
 - c. Treatment of stormwater in numerous small, decentralized structures.
 - d. Use of natural topography for drainage ways and storage areas.
 - e. Preservation of portions of the site in undisturbed, natural conditions.
 - f. Restoration of disturbed sites.
 - g. Reduction of the use of piped systems. Whenever possible, site design shall use multifunctional open drainage systems such as rain gardens, vegetated swales or filter strips that also help to fulfill landscaping and open space requirements.
2. Required Common Open Space – Required common open space shall support and enhance the project’s LID stormwater facilities; secondarily to provide a sense of openness, visual relief, and community for low impact development projects.
- a. The minimum percentage for required common open space is 40 percent and is calculated using the size of the LID portion of the project site. ~~whole development~~ Wetland and streams shall not be included in the calculation. The required common open space must be located outside of wetlands; and streams, and may be developed and maintained to provide for passive recreational activities for the residents of the development as allowed in Chapter 90 KZC.
 - a**b.** Conventional surface water management facilities such as vaults and tanks shall be limited within required common open space areas and shall be placed underground at a depth to sufficiently allow landscaping to be planted on top of them. Low impact development (LID) features are permitted, provided they do not adversely impact access to or use of the required common open space for passive recreation. Neither conventional or LID stormwater facilities can result in the removal of healthy native trees, unless a positive net benefit can be shown and there is no other

alternative for the placement of stormwater facilities. The Public Works Director must approve locating conventional stormwater facilities within the required common open space.

- bc.** Existing native vegetation, forest litter and understory shall be preserved to the extent possible in order to reduce flow velocities and encourage sheet flow on the site. Invasive species, such as Himalayan blackberry, must be removed and replaced with native plants (see Kirkland Native Plant List). Undisturbed native vegetation and soil shall be protected from compaction during construction.
- ed.** If no existing native vegetation, then applicant may propose a restoration plan that shall include all native species. No new lawn is permitted and all improvements installed must be of pervious materials.
- ee.** Vegetation installed in required common open space areas shall be designed to allow for access and use of the space by all residents, and to facilitate maintenance needs. However, existing mature trees should be retained.

Proposed Change:

KMC Title 22
SUBDIVISIONS
Chapter 22.28
DESIGN REQUIREMENTS

22.28.041 Lots—Low impact development.

- (a) In multiple lot low impact development subdivisions (four lots or more) not located in ~~an~~ the PLA 16, PLA 3C, RSA 1, RSA 8 zones, or in the RS 35, and RSX 35 zones in the Bridle Trails neighborhood north and northeast of the Bridle Trails State Park, or in the Holmes Point Overlay and not subject to Sections 22.28.030 and 22.28.040, the minimum lot area shall be deemed to have been met if the minimum lot area is not less than fifty percent of the lot area required of the zoning district in which the property is located as identified on the zoning map; provided, that all lots meet the following standards:
 - (1) Within the RSA 6 zone, the lots shall be at least two thousand five hundred fifty square feet.
 - (2) Within the RSA 4 zone, the lots shall be at least three thousand eight hundred square feet.
- (b) The lots within the low impact development meet the design standards and guidelines and approval criteria as defined in Chapter 114 of the Kirkland Zoning Code.

Staff Recommendation: Adopt proposed changes to this KZC Chapter 70 and KMC Title 22.28 to allow greater flexibility for development using the LID incentive.

11. Clarify that KZC 115.25 Addresses Development Activity to Avoid Confusion With KZC 115.95 Noise Regulations – KZC Chapter 115 Sections 115.95.2 and 115.25.

Purpose: Currently there is some confusion whether to apply KZC 115.25 or KZC 115.95 for certain potential noise violations. The prohibited noise hours in 115.25 and 115.95 are different and some complainants have argued that 115.95 applies to construction and think no work should start before 8 AM. Development Activity is defined in KZC 5.10.210, "Any work, condition or activity which requires a permit or approval under this code or KMC Title 21, Buildings and Construction." With this proposed amendment, all development activity would be regulated through 115.25 and all other noise issues would be regulated through 115.95.

Proposed change:

115.25 Development Activity ~~ies and Heavy Equipment Operation~~ – Limitations On

1. General – It is a violation of this code to engage in any development activity ~~or to operate any heavy equipment~~ before 7:00 a.m. or after 8:00 p.m., Monday through Friday, or before 9:00 a.m. or after 6:00 p.m. Saturday. No development activity ~~or use of heavy equipment~~ may occur on Sundays or on the following holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day.
2. a. Exception – The Planning Official may grant written permission to engage in a development activity ~~or to operate heavy equipment~~ outside of the hours established by subsection (1) of this section if either:
 - 1) The activity or operation will not impact any residential use; or
 - 2) The permission will facilitate the construction of publicly funded improvements that will serve the general population of the City of Kirkland and such permission is necessary to avoid undue delay of project completion and/or long-term inconvenience or disruption to the general public.
- b. The Planning Official may limit the hours of operation permitted under subsection (1) of this section, if:
 - 1) The reduced hours will best serve the public's health, safety and welfare; or

- 2) There have been substantial verifiable complaints received by the Planning Department that the ~~operation of heavy equipment or~~ development activity is interfering with the health and repose of residents of a residential use which is permitted in the zone in which the ~~operation of heavy equipment or~~ development activity is located.

If the Planning Official determines that the hours of operation on a site should be limited pursuant to subsections (2)(b)(1) or (2) of this section, he/she shall provide written notice to the owner of the property affected by this decision one (1) week prior to the imposition of the restriction. The Planning Official shall have the right to repeal this restriction at any time it can be shown that the ~~use of heavy equipment or~~ development activity can and will be conducted so as not to be contrary to subsections (2)(b)(1) and (2) of this section.

115.95 Noise Regulations

1. Maximum Environmental Noise Levels
 - a. State Standard Adopted – The City of Kirkland adopts by reference the maximum environmental noise levels established pursuant to the Noise Control Act of 1974, Chapter 70.107 RCW. See Chapter 173-60 WAC.
2. Noise – Public Nuisance – Any noise which injures; endangers the comfort, repose, health or safety of persons; or in any way renders persons insecure in life, or in the use of property, is a violation of this code. The operation of power equipment, including but not limited to leaf blowers, shall be deemed a public nuisance if such operation occurs during the following hours: before 8:00 a.m. or after 8:00 p.m. Monday through Friday, or before 9:00 a.m. or after 6:00 p.m. Saturday, Sunday, or the following holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day.
3. See KZC 115.25 for requirements related to development activity.
- ~~34.~~ Exceptions – Sounds created by emergency generators are exempt from the provisions of this section when:
 - a. Operating as necessary for their intended purpose during periods when there is no electrical service available from the primary supplier due to natural disaster or power outage;
 - b. Conducting periodic testing, as required by the manufacturer. Testing shall be limited to the hours after 8:00 a.m. and before 8:00 p.m.

45. Bonds – The City may require a bond under Chapter [175](#) KZC to insure compliance with the provisions of this section.

Staff Recommendation: Adopt proposed changes as indicated.

12.Reorganize and Simplify Process IVA; “Fast Track” Zoning Code Amendments – KZC Chapter 161.

Purpose: In addition to reorganization of a few sections, this amendment provides for two primary changes to the existing fast track code amendment process:

- 1) The 30 comment day period is moved after the City Council review of the roster instead of before, and
- 2) The Planning Director process is changed from a public hearing to a decision based on written testimony.

Background: The Development Services Organizational Review (Zucker recommendation no. 183) recommended broadening the suitability criteria so that more types of amendments are eligible for Process IVA review. After completing and evaluating several Process IVA amendment projects, staff took a different approach and is proposing reorganization and procedural changes to Process IVA to streamline the process. If the Planning Commission or Houghton Community Council would prefer more types of amendments for consideration in Process IVA, that can be added.

Proposed Change:

Chapter 161-Process IVA

Sections:

[161.05](#) User Guide

[161.10](#) Suitability for Process IVA

[161.15](#) Initiation of Proposals

[161.20](#) Compliance with SEPA

~~[161.25](#) Suitability for Process IVA~~

[161.35](#) Official File

[161.40](#) Notice

~~[161.45](#) Staff Report~~ [Community Council Proceedings](#)

~~[161.55](#) Public Hearing~~ [Staff Report](#)

[161.60](#) Material To Be Considered

~~[161.65](#) Electronic sound Recording~~

~~[161.70](#) Public Comments~~ ~~and Participation at the Hearing~~

~~[161.75](#) Continuation of the Hearing~~

[161.80](#) Planning Director Action

[161.85](#) Planning Director Recommendation to City Council

[161.90](#) Publication and Effect

[161.95](#) Jurisdiction of the Houghton Community Council

161.05 User Guide

Certain proposals to amend this code will be reviewed and decided upon using Process IVA. This is an abbreviated process which will only be used if the proposal is suitable for Process IVA as specified in this chapter. If you wish to participate in a decision that will be made using this process, you should read this chapter.

161.10 Suitability for Process IVA

1. General – Process IVA is for:

a. Minor Zoning Code amendments to promote clarity, eliminate redundancy, or to correct inconsistencies; or

b. Minor Zoning Map amendments to correct grammatical, labeling, scrivener, or similar errors on the official Zoning Map.

161.15 Initiation of Proposals

Process IVA is used to review and decide upon proposed minor Zoning Code amendments. It is an abbreviated process used for proposals which are not controversial and do not need extensive policy study. The Planning Director periodically prepares a roster of amendments proposed for review under Process IVA and presents the roster to the City Council. The City Council, by motion, may approve the entire proposed Process IVA roster. Otherwise the City Council may ask for more discussion about the suitability of a subject for Process IVA or could remove a subject from the Process IVA roster.

161.20 Compliance with SEPA

The State Environmental Policies Act (Chapter 43.21C RCW) applies to some of the decisions that will be made using this chapter. The Planning Director shall evaluate each proposal and, where applicable, comply with SEPA and with state regulations and City ordinances issued under authority of SEPA.

~~161.25 Suitability for Process IVA~~

~~1. General – Process IVA is for:~~

~~a. Minor Zoning Code amendments to promote clarity, eliminate redundancy, or to correct inconsistencies; or~~

~~b. Minor Zoning Map amendments to correct grammatical, labeling, scrivener, or similar errors on the official Zoning Map.~~

~~The Planning Director may propose amendments for review under Process IVA. To do so, the Planning Director shall periodically~~

~~present to the City Council a roster of proposed amendments for review and decision under Process IVA. The City Council, by motion, may approve the entire proposed Process IVA roster. Otherwise, the City Council may ask for more discussion about the suitability of a subject for Process IVA or could remove a subject from the Process IVA roster.~~

~~2. Distribution — Thirty days prior to City Council consideration of the roster of proposed amendments, the Planning Director shall distribute a copy of it to the City Council, the Planning Commission, the Houghton Community Council, neighborhood associations and the Chamber of Commerce.~~

161.35 Official File

1. Contents – The Planning Official shall compile an official file containing all information and materials relevant to the proposal and to the City's consideration of the proposal.
2. Availability – The official file is a public record. It is available for inspection and copying in the Planning Department during regular business hours.

161.40 Notice

1. Contents – The Planning Official shall prepare a notice of hearingApplication for proposed amendments. This notice shall contain the following information:
 - a. The citation of the provision that would be changed by the proposal along with a brief description of that provision.
 - b. A statement of how the proposal would change the affected provision.
 - c. A statement of what areas, zones, or locations will be directly affected or changed by the proposal.
 - d. The ~~time and place of the public hearing~~comment deadline.
 - e. A statement of the availability of the official file.
 - f. A statement of the right of any person to submit written comments to the Planning Director ~~and to appear at the public hearing before the Planning Director to give comments orally.~~
2. Distribution — ~~The Planning Official shall have this notice, or a summary thereof, published once in the official newspaper of the City at least 14 days before the public hearing. Continued hearings may~~

~~be held at the discretion of the Planning Director, but no additional notice need be published. The Planning Official shall distribute this notice, or a summary thereof, at least 30 days before the Planning Director's consideration of the proposed amendments as follows:~~

- ~~a. The notice will be published in the official newspaper of the City.~~
- ~~b. The notice will be posted on each of the official notification boards of the City.~~
- ~~c. The notice will be distributed to the Planning Commission and Houghton Community Council.~~
- ~~d. The notice will be distributed to the neighborhood associations and Chamber of Commerce.~~
- ~~e. The notice will be posted on the City's website.~~

~~161.45 Staff Report~~

- ~~1. General – the Planning Official shall prepare a staff report containing:
 - ~~a. An analysis of the proposal and a recommendation on the proposal; and~~
 - ~~b. Any other information the Official determines is necessary for consideration of the proposal.~~~~
- ~~2. Distribution – the Planning Official shall distribute the staff report to the following persons:
 - ~~a. The Planning Director, prior to the hearing.~~
 - ~~b. Any person requesting it.~~
 - ~~c. If applicable, to each member of the Houghton Community Council.~~~~

~~161.5545 Community Council Proceeding~~Public Hearing

- ~~1. General – If the proposal is within the disapproval jurisdiction of the Houghton Community Council, the Community Council may consider the proposal at a meeting or hold a public hearing. The Planning Director shall hold one or more public hearings on a proposal.~~
- ~~2. Notice – If the Community Council holds a hearing, the Planning Official shall give public notice of that hearing as set forth in KZC 160.40. Effect – The hearing of the Planning Director is the hearing for~~

~~City Council. City Council need not hold another hearing on the proposal.~~

3. Recommendation – The Houghton Community Council may make a recommendation on the proposal. The Planning Official shall include the recommendation of the Houghton Council to the Planning Director before the Planning Director makes a final recommendation to the City Council on the proposal.

161.55 Staff Report

1. General – The Planning Official shall prepare a staff report containing:

a. An analysis of the proposal and a recommendation on the proposal; and

b. Any other information the Official determines is necessary for consideration of the proposal.

2. Distribution – The Planning Official shall distribute the staff report to the following persons:

a. The Planning Director, prior to his/her consideration.

b. Any person requesting it.

c. If applicable, to each member of the Houghton Community Council

161.60 Material To Be Considered

Review under Process IVA shall use the decisional criteria established in applicable provisions of this code. The City may not consider a specific proposed site plan or project in deciding whether or not an amendment should be approved through this process.

~~161.65 Electronic Sound Recording~~

~~The Planning Director shall make a complete electronic sound recording of each public hearing.~~

161.70 Public Comments and Participation at the Hearing

Any interested person may participate ~~in the public hearing ie either or both of the following ways:~~

~~1. By~~ submitting written comments to the Planning Director ~~either by delivering these comments to the Planning Department prior to the~~

~~hearing or by giving them directly to the Planning Director at the hearing.~~

~~2. By appearing in person or through a representative, at the hearing and making oral comments. The Planning Director may reasonably limit the extent of the oral comments to facilitate the orderly and timely conduct of the hearing.~~

161.75 Continuation of the Hearing

~~The Planning Director may for any reason continue the hearing on the proposal.~~

161.80 Planning Director Action

1. General ~~—Following the public hearing,~~ The Planning Director shall consider the proposal in light of all of the information submitted to him/her. The Planning Director may modify the proposal in any way.
2. Modifications Requiring a Rehearingnew comment period – ~~If, following the public hearing,~~ the Planning Director materially modifies the proposal, the Planning Director shall give notice of a new public hearingcomment period on the proposal as modified.
3. Recommendation – If the Planning Director determines that the proposal meets the applicable decisional criteria established in KZC 161.60, he/she may recommend that City Council give effect to the proposal by amending the appropriate text.

161.85 Planning Director Recommendation to City Council

1. General – The Planning Director may forward a proposed ordinance to Council which, if passed, would make the recommended amendment to this code. The proposed ordinance may be placed on the City Council consent calendar. The Planning Official shall prepare a Planning Director report on the proposal, containing a copy of the proposal, along with any explanatory information, and the Planning Director recommendation on the proposal.
2. City Council Action – The City Council may pass the proposed ordinance and amend the Zoning Code by passage of the consent calendar. Alternatively, the City Council could carry the topic over as unfinished business or may instead decide to hold a public hearing on the proposed Zoning Code amendment. The City Council may adopt the proposed ordinance at any time subsequent to its receipt of the Planning Director report on the proposed amendment. If the City Council wants to consider adoption of a materially modified ordinance, then the City Council shall first hold a public hearing on the proposal as modified, after notice as provided in this chapter.

161.90 Publication and Effect

1. Publication – If the City Council adopts an ordinance, the City Clerk shall post or publish the ordinance as required by law.
2. Effect – Except as stated in KZC [161.95](#), the ordinance will be in effect on the date specified in the ordinance.

161.95 Jurisdiction of the Houghton Community Council

- ~~1. If applicable, all staff reports or Planning Director reports about the proposed amendments will also be distributed to the Houghton Community Council. The Houghton Community Council may decide to take these reports for their information or for their review.~~
- ~~2. Process IVA includes only minor Zoning Code amendments which are not quasijudicial. In turn, the Houghton Community Council may limit its review of the proposals. Alternatively, a majority of the members of the Houghton Community Council may choose to hold a public hearing at any time on one or more of the Process IVA subjects. Such a public hearing would use the procedures set forth in this chapter.~~
3. General – If the City Council approves an ordinance within the disapproval jurisdiction of the Houghton Community Council, that ordinance shall become effective within the Houghton Community only upon:
 - a. Approval by a majority of the entire membership of the Houghton Community Council. Such approval shall be by resolution; or
 - b. Failure of the Houghton Community Council to disapprove the ordinance within 60 days after City Council approval. The vote to disapprove the ordinance must be approved by resolution by a majority of the entire membership of the Community Council.

Staff Recommendation: Adopt proposed changes as indicated.

13. Clarify that Subdivision Provisions May Allow Lot Size Reduction Beyond Minimum Lot Size in Zoning Code or Map – KZC Chapter 115 New Section 115.87

Purpose: Clarify the relationship between the Subdivision regulations and Zoning regulations, to explicitly state that if approved under the current provisions of some Subdivision review processes, lots size can be reduced, depending on criteria. Currently the Zoning Code is silent on this, which may lead to confusion.

Background: Various subdivision designs in KMC Title 22 Chapter 22.28 allow lot size to be reduced below the minimum set forth in the KZC for each zone classification. Lot size flexibility is allowed to incentivize creation of plats that result

in better utilization and protection of the land and preferred outcomes. The innovative plat techniques that utilize lot size flexibility in exchange for some preferred outcome are: lot size, Lot averaging, low impact development, small lot single family and historic preservation subdivisions.

Proposed change:

KZC Chapter 115 – MISCELLANEOUS USE DEVELOPMENT AND PERFORMANCE STANDARDS

Sections:

- [115.05](#) User Guide
- [115.07](#) Accessory Dwelling Units
- [115.08](#) Accessory Structure (Detached Dwelling Unit Uses Only)
- [115.10](#) Accessory Uses, Facilities and Activities
- [115.15](#) Air Quality Regulations
- [115.20](#) Animals in Residential Zones
- [115.23](#) Common Recreational Space Requirements for Certain Residential Uses
- [115.25](#) Development Activities and Heavy Equipment Operation – Limitations On
- [115.30](#) Distance Between Structures/Adjacency to Institutional Use
- [115.33](#) Electric Vehicle Infrastructure
- [115.35](#) Erosion and Sedimentation Regulation
- [115.40](#) Fences
- [115.42](#) Floor Area Ratio (F.A.R.) Calculation for Detached Dwelling Units in Low Density Residential Zones and Attached Dwelling Units in PLA 3C
- [115.43](#) Garage Requirements for Detached Dwelling Units in Low Density Zones
- [115.45](#) Garbage and Recycling Receptacles and Enclosures – Storage Space, Placement and Screening
- [115.47](#) Loading and Service Areas Placement and Screening
- [115.50](#) Glare Regulation
- [115.55](#) Heat Regulation
- [115.59](#) Height Regulations – Calculating Average Building Elevation (ABE)
- [115.60](#) Height Regulations – Exceptions
- [115.65](#) Home Occupations
- [115.80](#) Legal Building Site
- [115.85](#) Lighting Regulations
- [115.87](#) **Lot Size Flexibility**
- [115.90](#) Calculating Lot Coverage
- [115.95](#) Noise Regulations
- [115.100](#) Odor
- [115.105](#) Outdoor Use, Activity and Storage
- [115.110](#) Radiation
- [115.115](#) Required Yards
- [115.120](#) Rooftop Appurtenances
- [115.125](#) Rounding of Fractions of Dwelling Units
- [115.135](#) Sight Distance at Intersections

- [115.138](#) Temporary Storage Containers
- [115.140](#) Temporary Trailers for Construction and Real Estate Sales Offices
- [115.142](#) Transit Shelters and Centers, Public
- [115.150](#) Vehicles, Boats and Trailers – Size in Residential Zones Limited

(New section)

[115.87 Lot Size Flexibility](#)

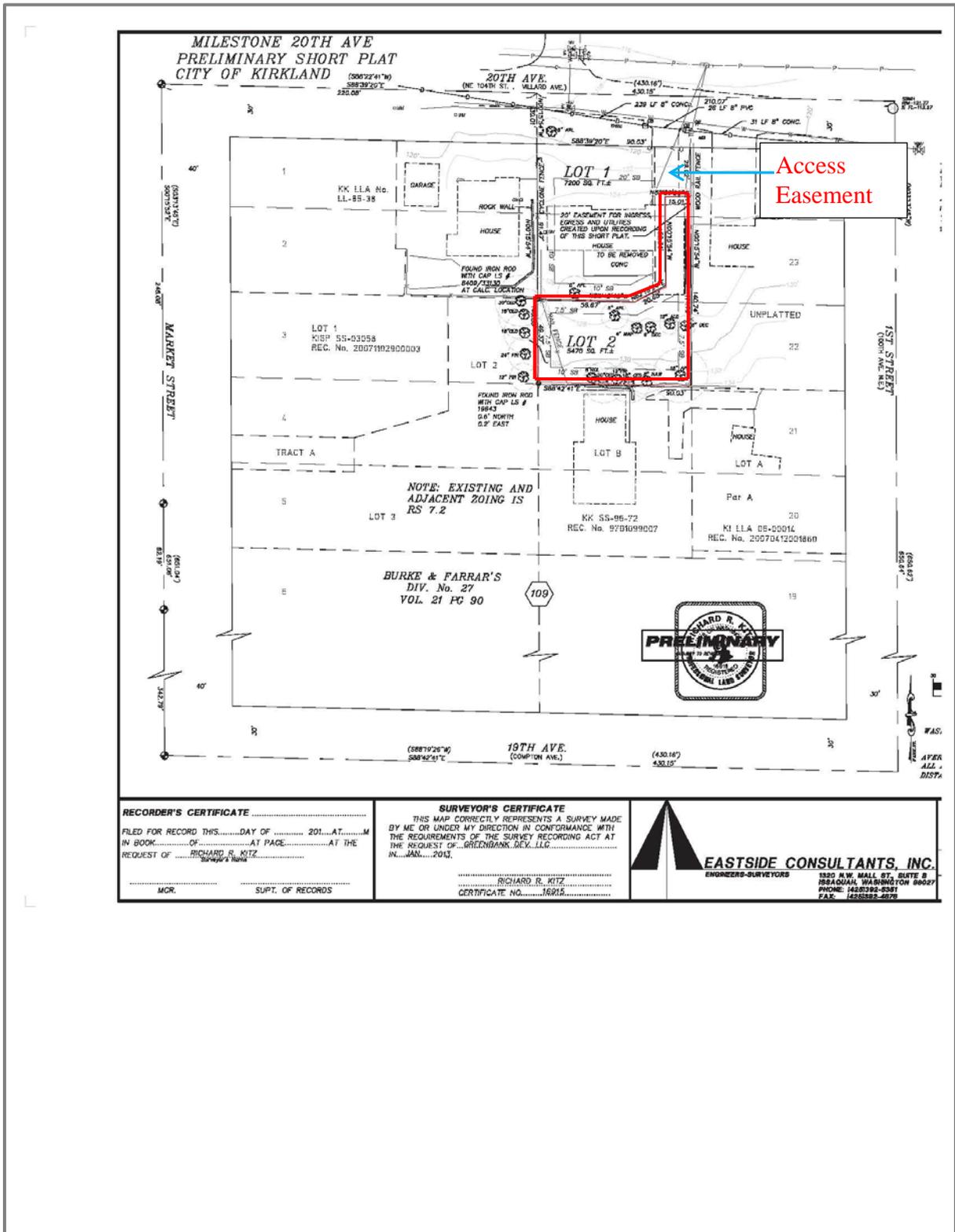
[Within a subdivision or short plat, a reduction in the minimum lot size may be approved pursuant to subdivision design requirements in Chapter 22.28.KMC](#)

Staff Recommendation: Adopt proposed changes as indicated.

14. Clarify what is Included in Lot Size Calculations for Small Lot and Historic Preservation Subdivisions –KMC Title 22 Chapters 22.28.042(c) and 22.28.048(c).

Purpose: Small lot single family and historic preservation subdivisions regulations provide incentives to encourage smaller homes and retain historic homes. Current KMC standards regulate what is included in the lot size calculation of the smaller lot to ensure that it is compatible with neighborhood character. To ensure that unbuildable portions of a lot are not included in this calculation, the proposed change would require all areas of a lot that are less than 30 feet wide and used for vehicular access to be excluded from the lot size calculation. This change would close a loophole that currently exists that allows access panhandles that do not connect to the right-of-way to be included in the lot area for the small lots.

Background: An example of the unintended consequence of the current wording in the regulation is a recently approved small lot short plat shown below. The narrow unbuildable access panhandle was included in the lot area. It was able to include a 15 foot wide access panhandle in the lot size calculation of the small lot by designing it with an intervening access easement connecting the right-of-way with the panhandle portion of the flag lot. Because flag lot is a defined term, requiring the access panhandle to connect directly to the right-of-way, the applicant designed the plat in such a way that he was allowed to include the narrow unbuildable access panhandle in his lot size calculation. By eliminating the term “flag” the proposed amendment is intended to fix the problem.



Proposed changes:

KMC Title 22

SUBDIVISIONS

22.28.042 Lots—Small lot single-family.

Within the RS and RSX 6.3, 7.2 and 8.5 zones, for those subdivisions not subject to the lot size flexibility provisions of Sections [22.28.030](#) and [22.28.040](#), low impact development provisions of Section [22.28.041](#), and historic preservation provisions of Section [22.28.048](#), the minimum lot area shall be deemed to be met if at least one-half of the lots created contain no less than the minimum lot size required in the zoning district in which the property is located. The remaining lots may contain less than the minimum required lot size; provided, that such lots meet the following standards:

- (a) Within the RS 6.3, RSX and RS 7.2 zones, the lots shall be at least five thousand square feet.
- (b) Within the RSX and RS 8.5 zones, the lots shall be at least six thousand square feet.
- (c) The portion of any ~~flag~~-lot that is less than thirty feet wide and used for driveway access to the buildable portion of the lot may not be counted in the lot area.
- (d) The floor area ratio (FAR) shall not exceed thirty percent of lot size; provided, that FAR may be increased up to thirty-five percent of the lot size if the following criteria are met:
 - (1) The primary roof form of all structures on the site is peaked, with a minimum pitch of four feet vertical to twelve feet horizontal; and
 - (2) All structures are set back from side property lines by at least seven and one-half feet.
- (e) The FAR restriction shall be recorded on the face of the plat.
- (f) Accessory dwelling units are prohibited. This restriction shall be recorded on the face of the plat. (Ord. 4372 § 2 (Att. B) (part), 2012; Ord. 4332 § 1(C) (Exh. C), 2011; Ord. 4330 § 1 (Exh. A), 2011; Ord. 4102 § 1(A), 2007)

22.28.048 Lots—Historic preservation.

Within the low density zones listed below in subsections (a) through (d) of this section, for those subdivisions not subject to the lot size flexibility provisions of Sections [22.28.030](#), [22.28.040](#), low impact development provisions of Section [22.28.041](#), and the small lot single-family provisions of Section [22.28.042](#), the minimum lot area shall be deemed to be met if no more than two lots are created that contain less lot area than the minimum size required in the zoning district in which the property is located, and if an "historic residence" is preserved on one of the lots, pursuant to the process described in Chapter 75 of the Kirkland Zoning Code. The lots containing less than the minimum required lot area shall meet the following standards:

- (a) Within the RSA 6, RS 6.3 and RS and RSX 7.2 zones, the lots shall be at least five thousand square feet.

- (b) Within the RSA 4, RS 8.5 and RSX 8.5 zones, the lots shall be at least six thousand square feet.
 - (c) Within the RS 12.5, RSX 12.5 and WDII zones, the lots shall be at least seven thousand two hundred square feet.
 - (d) Within the RS and RSX 35 zones not located north or northeast of the Bridle Trails State Park, the lots shall be at least fifteen thousand and fifty square feet.
 - (e) The portion of any ~~flag~~-lot that is less than thirty feet wide, and used for driveway access to the buildable portion of the lot, may not be counted in the lot area.
 - (f) Accessory dwelling units are prohibited. The restriction shall be recorded on the face of the plat.
- Lots containing historic residences shall also meet the following standards:
- (g) If a historic residence is destroyed, damaged, relocated, or altered inconsistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties (Rehabilitation) (Code of Federal Regulations, 36 CFR Part 68), the replacement structure shall be reconstructed in accordance with the criteria established in Section 75.105 of the Kirkland Zoning Code. The replacement restriction shall be recorded on the face of the plat.
 - (h) As part of subdivision approval, the city may allow the following modifications to regulations in the Kirkland Zoning Code regarding minimum required yards, maximum lot coverage, and floor area ratio on the lot containing the historic residence if the modifications are necessary to accommodate the historic residence.
 - (1) Required yards may be two feet less than required by the zoning district as shown on the Kirkland zoning map.
 - (2) Floor area ratio may be five percentage points more than allowed by the zoning district as shown on the Kirkland zoning map.
 - (3) Lot coverage may be five percentage points more than allowed by the zoning district as shown on the Kirkland zoning map.
 - (i) At the time of recording the plat, a notice of applicable restrictions for the lot containing the designated historic residence shall be recorded. (Ord. 4372 § 2 (Att. B) (part), 2012; Ord. 4102 § 1(B), 2007)

Staff Recommendation: Adopt proposed changes to fix the loophole in the regulations.

MODERATE POLICY CHANGES

These are considered more substantive changes to existing regulations.

16. *Clustering and Aggregation of Undisturbed Area in Short Plats and Subdivisions in Holmes Point Overlay Zone – KZC Chapter 70 Section 70.15.4

Purpose: Consider the requirement to preserve vegetation, soils, tree cover and wildlife habitat in aggregate rather than by individual lots in new plats as now

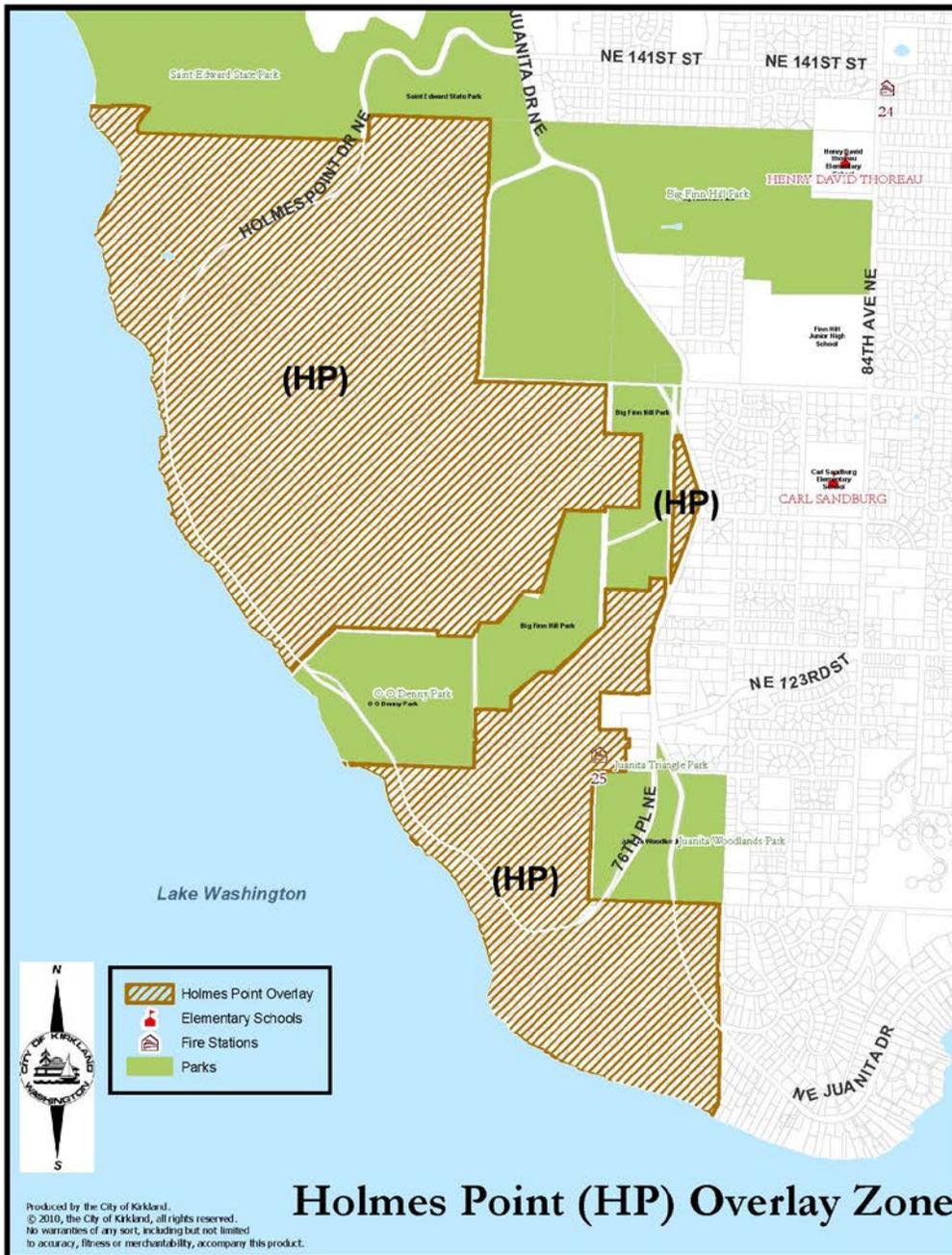
required in the Holmes Point (HP) Overlay Zone. Clarify vegetation and maintenance requirements in this zone.

Background: This zone (see map below) was created in 1999 while in King County's jurisdiction. With the purpose of protecting the natural assets of the Homes Point area while allowing infill development, the HP Overlay Zone establishes requirements to:

- Retain significant trees and native vegetation (often beyond the requirements of KZC Chapter 95)
- Restrict lot coverage (beyond the requirements of the underlying zone)
- Limit the amount of garden, lawn, and landscaped area
- Set aside an undisturbed area of native vegetation on each lot in perpetuity unless a modification is approved by the City of Kirkland under a valid permit.

Comparable regulations to King County's were codified upon annexation to Kirkland in June 2011 in KZC Chapter 70. The intent was to bring them more closely in-line with natural environment preservation provisions Kirkland, without affecting their purpose. At that time of annexation the County regulations did not address planting, revegetation and maintenance of the natural assets that were to be protected within the overlay zone. Instead the County relied upon administrative policies for landscaping and maintenance provisions. The policies are silent on various aspects regarding implementation of the regulations including planting, revegetation, and maintenance. The proposed amendments intend to codify provisions to address these important issues within the HP Overlay Zone.

Additionally, while the County had discussed an amendment allowing required undisturbed areas to be combined within new plats rather than provided on a lot by lot basis, regulations were never adopted to implement that flexibility. Instead KC acknowledged and Finn Hill constituents apparently preferred that Kirkland should consider this post annexation. The current regulation requires that 25% of the area on each lot in a plat is retained in perpetuity as undisturbed area where native vegetation, trees and soils are preserved and protected.



There may be some situations where the preferred location for undisturbed areas coincides with where the most viable trees and vegetation and/or critical areas (i.e. sensitive areas and their buffers and geologic hazard areas) are located. These areas may be clustered in one or more areas within a plat. Currently there is no provision in the Code to allow or require combining the required undisturbed areas. Too, the City may not choose where this area is located on individual lots. Staff has drafted several options to address aggregation of undisturbed areas within a

subdivision or short subdivision as noted in the Proposed Change(s) section of this memorandum.

The Finn Hill Neighborhood Alliance (FHNA) has reviewed the working draft of the proposed regulations and is concerned with moving too fast on adopting changes to allow aggregation of undisturbed areas without enough buy-in from affected stakeholders. FHNA President Scott Morris has submitted a letter outlining their concerns. It is included as Attachment 3 to this memorandum. They do believe that the City ought to move forward with consideration of landscaping and maintenance provisions, but they request that the City wait until the neighborhood plan update to provide them more time to review and consider the options for aggregation of the required undisturbed area within plats.

The PC should consider the following questions when considering how to revise this chapter.

1. Should the review of this Chapter be limited to one or more of the following topics, keeping in mind the FHNA position on allowing them more time to consider clustering options?
 - Combining undisturbed areas within plats
 - Vegetation standards
 - Landscape maintenance provisions

2. What is the public interest in requiring the undisturbed area to be aggregated? Typically there is the expectation that if the purpose of a regulation is to protect natural assets and the regulation specifies the amount of area to be protected, the location of the protected areas would be where the most viable specimens or assets are. Environmental stewardship principles support preservation of groves of trees, viable trees, wildlife habitat, and vegetation corridors. However, the existing regulation does not require that the 25% undisturbed area be located in these areas. Instead, through the subdivision process there is negotiation between the applicant and the Planner who is reviewing the permit application. Pursuant to KZC 95.32, the Planner is authorized to require site plan alterations to retain trees with a high retention value. Such alterations include minor adjustments to the location of building footprints, adjustments to the location of driveways and access ways, or adjustment to the location of walkways, easements or utilities. The Planning Official and the applicant shall work in good faith to find reasonable solutions.

3. What is the PC's initial preference to the three options proposed for aggregating the undisturbed area? The options provide a range of regulatory discretion. Does the PC support voluntary aggregation of undisturbed areas within a plat or at the other end of the spectrum, should it be mandatory when combining these areas would result in greater protection of environmental assets?

Proposed changes:

Chapter 70 – HOLMES POINT OVERLAY ZONE

Sections:

[70.05](#) Purpose

[70.15](#) Standards

[70.25](#) Variations from Standards

70.05 Purpose

The purpose of the Holmes Point minimum site disturbance development standards is to allow infill at urban densities while providing an increased level of protection for the Holmes Point area, an urban residential area characterized by a predominance of sensitive environmental features including but not limited to steep slopes, landslide hazard areas and erosion hazard areas, and further characterized by a low level of roads and other impervious surfaces relative to undisturbed soils and vegetation, tree cover and wildlife habitat. These standards limit the allowable amount of site disturbance on lots in Holmes Point to reduce visual impacts of development, maintain community character and protect a high proportion of the undisturbed soils and vegetation, tree cover and wildlife, and require an inspection of each site and the area proposed to be cleared, graded and built on prior to issuance of a building permit.

70.15 Standards

Within the parcels shown on the Kirkland Zoning Map with an (HP) suffix, the maximum impervious surface standards set forth in Chapter [18](#) KZC are superseded by this (HP) suffix, and the following development standards shall be applied to all residential development:

1. When review under Chapters [85](#) or [90](#) KZC (Environmentally Sensitive Areas) or the City of Kirkland's Surface Water Design Manual is required, the review shall assume the maximum development permitted by this (HP) suffix condition will occur on the subject property, and the threshold of approval shall require a demonstration of no significant adverse impact on properties located downhill or downstream from the proposed development.
2. Total lot coverage shall be limited within every building lot as follows:
 - a. On lots up to 6,500 square feet in size, 2,600 square feet;
 - b. On lots 6,501 to 9,000 square feet in size, 2,600 square feet plus 28 percent of the lot area over 6,500 square feet;

- c. On lots over 9,000 square feet in size, 3,300 square feet plus 10 percent of the lot area over 9,000 square feet;
- c. On a lot already developed, cleared or otherwise altered up to or in excess of the limits set forth above prior to July 6, 1999, new impervious surfaces shall be limited to five percent of the area of the lot, not to exceed 750 square feet;
- e. For purposes of computing the allowable lot coverage within each lot, private streets, joint-use driveways or other impervious-surfaced access facilities required for vehicular access to a lot in easements or ~~access~~ panhandles shall be excluded from calculations.

Summary Table:

Lot Size	Maximum Lot Coverage
Less than 6,500 sq. ft.	2,600 sq. ft.
6,501 sq. ft. to 9,000 sq. ft.	2,600 sq. ft. plus 28% of the lot area over 6,500 sq. ft.
9,001 sq. ft. or greater	3,300 sq. ft. plus 10% of the lot area over 9,000 sq. ft.
Developed, cleared or altered lots	New impervious limited to 5% of the total lot area, but not to exceed 750 sq. ft.

- 3. In addition to the maximum area allowed for buildings and other impervious surfaces under subsection (2) of this section, up to 50 percent of the total lot area may be used for garden, lawn or landscaping, provided:
 - a. All significant trees, as defined in Chapter 95 KZC, must be retained. The limits set forth in this subsection are to be measured at grade level; the area of allowable garden, lawn or landscaping may intrude into the drip line of a significant tree required to be retained under this subsection if it is demonstrated not to cause root damage or otherwise imperil the tree's health;
 - b. Total site alteration, including impervious surfaces and other alterations, shall not exceed 75 percent of the total lot area. The remaining 25 percent of the total lot area shall remain or be established as an undisturbed soil and vegetation area (Undisturbed Area); and
 - c. If development on the lot is to be served by an on-site sewage disposal system, any areas required by the department of

public health to be set aside for on-site sewage disposal systems shall be contained as much as possible within the portion of the lot altered for garden, lawn or landscaping as provided by this subsection. If elements of the on-site sewage disposal system must be installed outside the landscaped area, the elements must be installed so as not to damage any significant trees required to be retained under subsection (3)(a) of this section, and any plants that are damaged must be replaced with similar native plants.

4. The Undisturbed Area shall be maintained and/or established to meet the following vegetation standards:

- a. All trees, shrubs and groundcovers must be selected from the Kirkland Native plant List, or other native species approved by the Planning Official or Urban Forester.
- b. Trees - A minimum tree density approach is used to retain trees in the Undisturbed Area. If the Undisturbed Area does not meet the minimum tree density of 30 tree credits per acre per lot as described in KZC 95, new trees are required to meet the minimum density within the Undisturbed Area. Conifer trees shall be at least four (4) feet in height, and deciduous trees at least two (2) inches in caliper DBH, measured from existing grade.
- c. Shrubs - planted to attain coverage of at least 60 percent of the area within two (2) years, and at the time of planting be between two and six gallon pots or balled and burlapped equivalents.
- d. Living ground covers- planted from either 4-inch pot with 12-inch spacing or 1-gallon pot with 18-inch spacing to cover within two (2) years 60 percent of the Undisturbed Area.

4.5 Subdivisions and short subdivisions shall be subject to the following requirements:

- a. New public or private road improvements shall be the minimum necessary to serve the development on the site in accordance with Chapter 110 KZC. The City shall consider granting modifications to the road standards to further minimize site disturbance, consistent with pedestrian and traffic safety, and the other purposes of the road standards; and

- b. Impervious surfaces and other alterations within each lot shall be limited as provided in subsections (2) ~~(3)~~ and ~~(34)~~ of this section. In townhouse or multifamily developments, total impervious surfaces and other alterations shall be limited to 2,600 square feet per lot or dwelling unit in the R-6 and R-8 zones, and 3,300 square feet per lot or dwelling unit in the R-4 zone.

c. AGGREGATION OPTION 1 (APPLICANT CHOOSES):

The applicant may combine the 25 percent Undisturbed Area(s) within the subdivision or short subdivision rather than provide 25 percent Undisturbed Area on each individual lot in the short plat or subdivision.

c. AGGREGATION OPTION 2 (APPLICANT PROPOSES, CITY MAY APPROVE):

The applicant may combine the 25 percent Undisturbed Area(s) within the subdivision or short subdivision rather than provide 25 percent Undisturbed Area on each individual lot in the short plat or subdivision if the aggregation results in one or more of the following:

1. Optimum retention of viable trees and native vegetation identified in subsection 6 of this section.
2. Retention of contiguous areas of viable trees and/or native vegetation on the subject property and adjoining properties
3. Retention and protection of sensitive areas and their buffers.

c. AGGREGATION OPTION 3 (CITY REQUIRES):

As part of subdivision or short subdivision review, the city shall determine where the 25 percent Undisturbed Area(s) shall be located on the subject property in a manner that attains the following results:

1. Optimum retention of viable trees and native vegetation identified in subsection 6 of this section.
2. Retention of contiguous areas of viable trees and/or native vegetation on the subject property and adjoining properties
3. Retention and protection of sensitive areas and their buffers.

In order to achieve these results, the applicant may propose or the city may require the Undisturbed Area to be combined within the subdivision or short subdivision rather than providing 25 percent Undisturbed Area on each individual lot in the short plat or subdivision.

6. The applicant shall submit an arborist report required pursuant to Chapter 95 KZC. In addition, the report shall include the existing conditions and general locations of all shrubs and groundcover. The Department of Planning and Community Development shall conduct site inspections prior to approving any site alteration or development on parcels subject to this (HP) suffix condition as follows:

- a. Prior to issuing a permit for alteration or building on any individual lot subject to this (HP) suffix condition, the Planning Official shall inspect the site to verify the existing ~~amount of undisturbed area, conditions,~~ tree and other plant cover, and any previous site alteration or building on the site. Prior to this inspection and prior to altering the site, the applicant shall clearly delineate the area of the lot proposed to be altered and built on with environmental fencing, high-visibility tape or other conspicuous and durable means, and shall depict this area on a site plan included in the application.
- b. Prior to approving any subdivision or building permit for more than one dwelling unit on any parcel subject to this (HP) suffix condition, the Planning Official shall inspect the site to verify the ~~conditions, amount of undisturbed area,~~ tree and other plant cover, and any previous site alteration or building on the site. Prior to this inspection and prior to altering the site, the applicant shall clearly delineate the area of the proposed grading for streets, flow control and other common improvements, with environmental fencing, high-visibility tape or other conspicuous and durable means, and shall depict this area on a plot plan included in the application. Development of individual lots within any approved subdivision or short subdivision shall be subject to an individual inspection in accordance with subsection (5)(a) of this section.

7. Tree and Landscape Maintenance Requirements

- a. At a minimum, the maintenance provisions of Chapter 95 KMC shall be followed.
- b. To ensure preservation in perpetuity of the 25 percent undisturbed area(s):
 - 1) Prior to issuance of a certificate of occupancy or final inspection, the applicant shall provide a final as-built landscape plan and a recorded agreement, in a form approved by the City Attorney, to maintain and replace all vegetation that is required by the City. The

agreement shall be recorded with the King County Bureau of Elections and Records.

2) The applicant, landowner, or successors in interest shall be responsible for the regular maintenance of vegetation required under Section 70.15.3.b on this Chapter. Plants that die must be replaced in kind or with similar plants contained on the Native Plant List, or other native species approved by the Planning Official or Urban Forester.

c. All significant trees in the remaining 75% of the lot area shall be retained in perpetuity.

68. Except in the Undisturbed Area, Areas—areas not covered by impervious surfaces or altered as provided in subsection (2), (3), ~~or~~ (4) or (5) of this section, which are not environmentally sensitive areas governed by Chapter 85 or 90 KZC, shall be maintained in an undisturbed state, except for the following activities:

- a. Incidental trimming or removal of vegetation necessary for protection of property or public health and safety, or the incidental removal of vegetation to be used in the celebration of recognized holidays. Replacement of removed hazardous trees may be required;
- b. Areas infested by noxious weeds may be replanted with appropriate native species or other appropriate vegetation;
- d. Construction of primitive pedestrian-only trails in accordance with the construction and maintenance standards in the U.S. Forest Service "Trails Management Handbook" (FSH 2309.18, June 1987, as amended) and "Standard Specifications for Construction of Trails" (EM-7720-102, June 1996, as amended); but in no case shall trails be constructed of concrete, asphalt or other impervious surface;
- e. Limited trimming and pruning of vegetation for the creation and maintenance of views, and the penetration of direct sunlight, provided the trimming or pruning does not cause root damage or otherwise imperil the tree's health as allowed for in Chapter 95 KZC; and
- f. Individual trees or plants may be replaced with appropriate species on a limited basis. Forested hydrological conditions, soil stability and the duff layer shall be maintained.

79. Conformance with this (HP) suffix condition shall not relieve an applicant from conforming to any other applicable provisions of the Zoning Code, Subdivision Ordinance, or Shoreline Master Program.

70.25 Variations from Standards

For development activity occurring after July 6, 1999, upon written request from the applicant, the Planning Director may allow up to a 10 percent increase in impervious surface on individual lots over the limits set forth above, provided such increase is the minimum necessary to allow reasonable use of the property and meets all other applicable decision criteria for a variance as provided in Chapter 120 KZC, and one or more of the following circumstances applies:

1. Development of a lot will require a driveway 60 feet or longer from the lot boundary to the proposed dwelling unit;
2. On-site flow control facilities are required by the Public Works Department;
3. The requested increase will allow placement of new development on the site in such a way as to allow preservation of one or more additional significant trees, as defined in Chapter 95 KZC, that would otherwise be cleared; or
4. The requested increase is necessary to provide additional parking, access ramp or other facilities needed to make a dwelling accessible for a mobility-impaired resident.

Staff Recommendation: Discuss and provide direction to staff.

20. Clarify Process to Amend the Text of the Zoning Code – KZC Chapter 135 and KZC Chapter 160

Purpose: Codify procedure for choosing potential zoning text amendment proposals to study that are not associated with a proposal to amend the Comprehensive Plan.

Background: There are two types of zoning text amendments; those that are associated with Comprehensive Plan amendments and those that are not. The Code currently is silent on the process to follow for those amendments to the text of the Zoning Code that do not change the Comprehensive Plan text or land use map. It instead only sets forth a procedure for those text amendments associated with a proposal to amend the Comprehensive Plan. The proposed changes to both the "Process IV" and "Amendments to the text of the Zoning Code" Chapters are intended to codify the criteria and process for this type of amendment.

Like Kirkland, jurisdictions compile an ongoing list of potential zoning amendments. These can either be requested by the public or placed on the docket/roster by the City – either by staff, PC, HCC or the City Council. The common criterion for approving the amendment is that it conforms to their Comprehensive Plan. Kirkland does the same. In some jurisdictions the City Council or Planning Commission decide which of the docketed amendments will proceed for consideration.

Past practice in Kirkland has been for planning staff to initiate the process by introducing some of the items on the docket to the Planning Commission and Houghton Community Council, based on direction from the City Council and advisory boards and predicated upon the work program and available City resources. The Planning Commission and Houghton Community Council confirm the roster and items may be added along the way. After study session(s) and a public hearing is held by the Planning Commission and HCC, a recommendation is made to the City Council. The Council makes the decision to approve, deny or conditionally approve an amendment. The HCC gives final approval to those within their jurisdiction.

Proposed Change(s):

KZC Chapter 135 – AMENDMENTS TO THE TEXT OF THE ZONING CODE

Sections:

[135.05](#) User Guide

[135.15-10](#) Initiation of Proposals

[135.1015](#) Applicable Process

[135.20](#) Threshold Determination for Citizen-Initiated Proposals [Associated with Amendments to the Comprehensive Plan](#)

[135.23](#) [Proposals Not Associated with Amendments to the Comprehensive Plan](#)

[135.25](#) Criteria for Amending the Text of the Zoning Code

[135.30](#) Moratoria and Interim Land Use Regulations

[135.35](#) Response to a Court or Growth Management Hearings Board Appeal or Decision

135.05 User Guide

This chapter establishes a mechanism for the City to amend the text of this code, the Zoning Code [to bring the development regulations into conformity with the Comprehensive Plan or respond to changing conditions or needs of the City](#). If you are interested in proposing an amendment to this code, or if you want to participate in the decision on a proposed amendment, you should read this chapter.

135. ~~15~~10 Initiation of Proposals

An amendment to the Zoning Code may be initiated by the City or requested by the public. ~~through the comprehensive planning process.~~

135. ~~10~~ 15 Applicable Process

The City generally will use Process IV described in Chapter [160](#) KZC to review and decide upon a proposal to amend the text of this code. However, some minor Zoning Code amendments will be reviewed under an abbreviated process. The abbreviated Process IVA is described in Chapter [161](#) KZC. Process IVA is used for proposals which are not controversial and do not need extensive policy study. A proposal to amend Chapters [83](#) and [141](#) KZC requires formal review and approval by the Washington State Department of Ecology as described in Chapter [160](#) KZC.

135.20 Threshold Determination for Citizen-Initiated Proposals [Associated with Amendments to the Comprehensive Plan](#)

Citizen-initiated proposals to amend the Zoning Code associated with a proposal to amend the Comprehensive Plan must follow the [two-step review](#) process described in KZC [140.20](#)(1) and (2), and meet KZC [140.20](#)(3)(a) concerning City resources.

[135.23 Proposals Not Associated with Amendments to the Comprehensive Plan](#)

[City or Citizen-initiated proposals to amend the Zoning Code not associated with a proposal to amend the Comprehensive Plan shall be docketed by the Planning Official for possible future development regulation amendment. The Planning Official shall introduce all or a portion of docketed proposals to the Planning Commission on an annual basis.](#)

135.25 Criteria for Amending the Text of the Zoning Code

The City may amend the text of this code only if it finds that:

1. The proposed amendment is consistent with the applicable provisions of the Comprehensive Plan; and
2. The proposed amendment bears a substantial relation to public health, safety, or welfare; and
3. The proposed amendment is in the best interest of the residents of Kirkland; and
4. When applicable, the proposed amendment is consistent with the Shoreline Management Act and the City's adopted shoreline master program.

135.30 Moratoria and Interim Land Use Regulations

1. General – Nothing shall prevent the City Council from establishing or extending development moratoria or interim land use regulations in accordance with the procedures set forth in RCW 35A.63.220 and 36.70A.390, as those sections exist or may be hereafter amended or superseded.

2. Disapproval Jurisdiction

If the City Council establishes or extends a moratorium or interim land use regulations within the disapproval jurisdiction of the Houghton Community Council, that City Council action shall become effective only upon:

- a. Approval by a majority of the entire membership of the Houghton Community Council. Such approval shall be by resolution; or
- b. Failure of the Houghton Community Council to disapprove it within 60 calendar days after City Council approves the resolution or ordinance establishing or extending the moratorium or interim land use regulations. The vote to disapprove the action must be approved by resolution by a majority of the entire membership of the Community Council.

135.35 Response to a Court or Growth Management Hearings Board Appeal or Decision

The City may use the process described in KZC [135.30](#) to make an amendment to the Zoning Code in response to a court or Growth Management Hearings Board appeal or decision.

KZC Chapter 160 – PROCESS IV

Sections:

- [160.05](#) User Guide
- [160.15](#) Initiation of Proposals
- [160.20](#) Compliance with SEPA
- [160.25](#) [Amendments to Comprehensive Plan and Related Zoning Map and Code Amendments - Threshold Review](#)
- 160.30 Amendments to the Zoning Code Not Related to [Comprehensive Plan Amendments](#)
- [160.35](#) Official File
- [160.40](#) Notice
- [160.45](#) Staff Report
- [160.50](#) Community Council Proceeding
- [160.55](#) Public Hearing
- [160.60](#) Material To Be Considered
- [160.65](#) Electronic Sound Recordings
- [160.70](#) Public Comments and Participation at the Hearing
- [160.75](#) Continuation of the Hearing

- [160.80](#) Planning Commission Action
- [160.85](#) Planning Commission Report to City Council
- [160.90](#) Publication and Effect
- [160.95](#) Jurisdiction of the Houghton Community Council
- [160.100](#) Jurisdiction of the Washington State Department of Ecology

160.05 User Guide

Various places in this code indicate that certain proposals to amend the Zoning Map, this code, and the Comprehensive Plan must be reviewed and decided upon using Process IV. This chapter describes how Process IV works.

If you wish to participate in a decision that will be made using this process, you should read this chapter. However, this chapter applies only if another provision of this code specifically states that a decision on a proposed amendment will be made using Process IV.

160.15 Initiation of Proposals

A proposal that will be reviewed using this chapter may be initiated by the City Council or Planning Commission. In addition, the public may submit proposals to the City as part of the City's process to amend the Comprehensive Plan or this code.

160.20 Compliance with SEPA

The State Environmental Policies Act (Chapter 43.21C RCW) applies to some of the decisions that will be made using this chapter. The Planning Director shall evaluate each proposal and, where applicable, comply with SEPA and with state regulations and City ordinances issued under authority of SEPA.

160.25 Amendments to Comprehensive Plan and Related Zoning Map and Code Amendments - Threshold Review

1. General – The City Council shall make a threshold review of each citizen-initiated proposal to amend the Comprehensive Plan pursuant to KZC [140.20](#) and to amend the Zoning Code and/or Zoning Map done in conjunction with the process to amend the Comprehensive Plan.
2. Threshold Review
 - a. The Planning Commission shall review each proposal and make a threshold recommendation to the City Council to determine those proposals eligible for further consideration.

The recommendation shall be consistent with KZC [160.60](#) and based on the criteria described in Chapter [135](#) KZC for Zoning Code amendments and in Chapter [140](#) KZC for Comprehensive Plan amendments.

- b. The Houghton Community Council may review any proposal within its jurisdiction and also make a recommendation to the Planning Commission and City Council.
 - c. The Planning Department shall provide the Planning Commission and Houghton Community Council with a staff report for the threshold review consistent with KZC [160.45](#) and include an analysis of the threshold criteria.
3. Threshold Decision – After consideration of the Planning Commission and Houghton Community Council recommendations, the City Council shall decide one (1) of the following:
- a. The proposal has merit and shall be considered by the Planning Commission and City Council during the current year; or
 - b. The proposal has merit, but should be considered at a subsequent amendment phase; or
 - c. The proposal does not have merit and shall not be given further consideration.

160.30 Amendments to the Zoning Code Not Related to Amendments to the Comprehensive Plan.

Review – the Planning Commission shall review each proposal and make a recommendation to the City Council. The recommendation shall be based on the criteria described in Chapter 135 KZC for Zoning Code amendments.

160.35 – 160.100 (No Change)

Staff Recommendation: Adopt proposed changes to clarify the process for amending the Zoning and Municipal Code, when the amendment is not related to a change in the Comprehensive Plan or Land Use Map.

21. Clarify Zoning Code Administration – KZC Chapter 170 Section 170.50

Purpose: Clarify the relationship between the Comprehensive Plan goals and policies and development regulations, consistent with the Growth Management Act (GMA).

Background: The GMA and case law provide guidance to all jurisdictions in Washington regarding the relationship between development regulations and the comprehensive plan. Based on Washington case law, a specific zoning ordinance will usually prevail over an inconsistent provision in a comprehensive plan. Because a comprehensive plan is a guide, conflicts concerning a proposed use are typically resolved in favor of the more specific regulations. To the extent a comprehensive plan prohibits a use that the zoning code permits, the use is permitted. The proposed amendments seek to clarify this relationship.

Proposed Change(s):

KZC Chapter 170 –CODE ADMINISTRATION

170.50 Conflict of Provisions

- ~~1. The standards, procedures, and requirements of the code are the minimum necessary to promote the health, safety, and welfare of the residents of Kirkland. The City is free to adopt more rigorous or different standards, procedures, and requirements whenever this becomes necessary. Except as provided in subsection (4) of this section, if the provisions of this code conflict one (1) with another, or if a provision of this code conflicts with the provision of another ordinance of the City, the most restrictive provision or the provision imposing the highest standard prevails.~~
- ~~2. The Comprehensive Plan is the generalized coordinated land use policy statement of the City and serves as the guide for the adoption of specific zoning regulations.~~
- ~~3. The Zoning Code provides for the implementation of the goals and policies of the Comprehensive Plan through adoption, administration and enforcement of zoning maps, land use regulations, programs, and procedures.~~
- ~~4. In the event of any conflict or inconsistency between the regulations of the Zoning Code and the provisions of the Comprehensive Plan, the regulations of the Zoning Code shall prevail. The Planning Director shall use the criteria in section 170.40 of this Chapter to determine if there is a conflict or inconsistency and may issue an interpretation.~~

Staff Recommendation: Amend as drafted.

22. Consider Time Limit For Appeal of Interpretations of The Zoning Code – Chapter 170 Sections 170.40 and 170.45

Purpose: Codify a time limit for an appeal of a formal Planning Director Zoning Code Interpretation, consistent with Process I, establishing a 14 day appeal period from date of notice.

Background: While this section provides that the appeal of a Zoning Code Interpretation will be reviewed and decided using Process I (Planning Director decision with appeal heard by the Hearing Examiner), this section allows an aggrieved person to appeal an interpretation at any time. Process I requires that an appeal be delivered to the Planning Department with 14 days of the distribution of the Planning Director's decision.

Consistent with Chapter 145 Process I, the proposed changes establish a 14-day appeal period commencing from the date that the interpretation is posted on the City of Kirkland Planning Webpage and in the on-line Zoning Code. The City currently provides a link to [all Zoning Code Interpretations](#) in the online City of Kirkland Zoning Code.

Proposed Change(s):

170.40 Interpretations of This Code – General

1. Criteria – The Planning Director may, acting on his/her own initiative or in response to an inquiry, issue interpretations of any of the provisions of this code. The Director shall base his/her interpretations on:
 - a. The defined or common meaning of the words of the provision; and
 - b. The general purpose of the provision as expressed in the provision; and
 - c. The logical or likely meaning of the provision viewed in relation to the Comprehensive Plan.
2. Effect – An interpretation of this code will be enforced as if it is part of this code.
3. Availability – All interpretations of this code, filed sequentially, are available for public inspection and copying in the Planning Department during regular business hours. The Planning Official shall also make appropriate references in this code to these interpretations. The interpretation shall be posted on the City's website.

KZC 170.45 Interpretations of This Code – Appeal

1. Who Can Appeal – Any person who is aggrieved by an interpretation issued by the Planning Director may appeal that interpretation ~~at any time~~.
2. Time To Appeal - within 14 days following the date the interpretation is posted to the City website.
3. How To Appeal – The applicant must file a letter of appeal indicating how the interpretation affects his/her property and presenting any relevant arguments or information on the correctness of the interpretation. The applicant shall include the appeals fee as established by ordinance.
4. Applicable Procedures – All appeals of interpretations of this code will be reviewed and decided upon using the appeal provisions of Process I, described in Chapter 145 KZC. Notice of the interpretation shall be posted on the City's website.
5. Effect – If the interpretation of the Planning Director is modified, the Planning Official shall:
 - a. Place the modifying decision in the Interpretation File; and
 - b. Change or remove, as appropriate, the interpretation that was modified; and
 - c. Change the reference in this code to reflect the modification.

Staff Recommendation: Approve the proposed changes.

23.Reduce Process for Zoning Decisions

Purpose: Review instances where there are opportunities to streamline Process I, IIA and IIB permits and consider reducing the required process, where appropriate.

Background: The Development Services Organizational Review (Zucker recommendations nos. 147 and 148) states the City should explore further opportunities streamline and condense land use permitting processes.

23.a Review Process for Minimum Lot Size

Purpose: The proposed amendment deletes the review process of subdivision applications that are requesting reduction of minimum lot size to streamline administration. Currently KMC 22.28.030(d) states if a property is smaller than required for subdivision by an amount greater than 10% and less than 15% of the minimum lot size for the zoning district and an applicant requests lot flexibility including a lot size smaller than the minimum for the zoning district by an amount greater than 5%, the subdivision is reviewed through Process IIB. The amendment does away with the review process completely and in so doing makes the code more

consistent with a similar and more recently adopted code, KMC 22.28.042 – Small lot single-family, which has been adopted citywide.

Proposed Change(s):

Kirkland Municipal Code
22.28.030 Lots—Size.

All lots within a subdivision must meet the minimum size requirements established for the property in the Kirkland Zoning Code or other land use regulatory document. If a property is smaller than that required for subdivision by an amount less than or equal to ten percent of the minimum lot size for the zoning district as shown on the Kirkland zoning map or as indicated in the Kirkland Zoning Code, subdivision may still proceed as long as the shortage of area is spread evenly over all of the lots in the subdivision. In cases where an existing structure or other physical feature (sensitive area, easement, etc.) makes even distribution of the size shortage difficult, an exception to the even distribution may be made.

If a property is smaller than that required for subdivision by an amount greater than ten percent and less than or equal to fifteen percent of the minimum lot size for the zoning district as shown on the Kirkland zoning map or as indicated in the Kirkland Zoning Code, subdivision may also proceed, as long as:

- (a) The shortage of area is spread evenly over all of the lots in the subdivision (unless an existing structure or other physical feature such as a sensitive area or easement makes even distribution of the size shortage difficult); and
- (b) All lots have a minimum lot width at the back of the required front yard of no less than fifty feet (unless the garage is located at the rear of the lot or the lot is a flag lot); and
- (c) In zoning districts for which the Zoning Code establishes a floor area ratio (FAR) limitation, a covenant is signed prior to recording of the plat ensuring that building on the new lots will comply with an FAR restriction at least ten percentage points less than that required by the zoning district as shown on the Kirkland zoning map; and
- (d) If any lot is smaller than the minimum lot size for the zoning district by an amount greater than five percent of the minimum lot size, the subdivision ~~may be approved shall be reviewed and decided using process HB described in Chapter 152 of Title 23 of this code. In addition to meeting the decisional criteria found in Chapter 152 of Title 23 of this code, approval of the application may only be recommended~~ if the new lots are compatible, with regard to size, with other lots in the immediate vicinity of the subdivision.

A covenant must also be signed prior to recording of the plat to ensure that the garage will be located at the rear of the lot in cases where this option is chosen under subsection (b) of this section. (Ord. 4196 § 2 (Exh. B) (part), 2010; Ord. 3705 § 2 (part), 1999)

Staff Recommendation: Adopt changes as proposed.

23.b Variance Process

Purpose: The proposed amendment is to reduce the review process for certain variances to simplify the code and streamline zoning administration. The only difference between the variance process in the City and in the jurisdiction of Houghton is the requirement for a Process IIA permit (hearing examiner hearing and decision, with an appeal to City Council) for variances for detached dwelling units (DDU) in any zone. Changes are noted in yellow highlight.

Existing Variance Process – Comparing City and Houghton

	City	Houghton
RS, RSA, RSX	I*	I*
DDU in any zone	I*	IIA
Other uses	IIA	IIA

The proposed amendment changes the process in Houghton for DDU in any zone to Process I (Planning Director decision, appeal to Hearing Examiner) like in the rest of the City. The * means that the distribution of the notice is like the distribution for Process IIA permits.

Proposed Variance Process – Comparing City and Houghton

	City	Houghton
RS, RSA, RSX	I*	I*
DDU in any zone	I*	I*
Other uses	IIA	IIA

The Houghton Community Council does not have disapproval jurisdiction with either Process I or IIA.

Proposed Change(s):

Chapter 120 – VARIANCES

Sections:

- [120.05](#) User Guide
- [120.10](#) Process for Deciding Upon a Proposed Variance
- [120.12](#) Expansion or Modification of an Existing Structure
- [120.15](#) Application Information
- [120.20](#) Criteria for Granting a Variance
- [120.25](#) What May Not Be Varied

120.05 User Guide

This chapter establishes a mechanism whereby the provisions of this code can be varied on a case-by-case basis if the application of these provisions would result in an unreasonable and unusual hardship. While almost any provision may be varied, there are some limitations.

If you are interested in applying to see if a provision of this code can be varied in a particular case, or if you wish to participate in the City's decision on a proposed variance, you should read this chapter.

120.10 Process for Deciding Upon a Proposed Variance

~~The following subsection is not effective within the disapproval jurisdiction of the Houghton Community Council:~~

1. The City will use Process IIA, described in Chapter [150](#) KZC, to review and decide upon an application for a variance except as to property located within an RS, RSA or RSX Zone or for a detached dwelling unit in any zone. For variance applications as to property located within an RS, RSA or RSX Zone or for a detached dwelling unit in any zone, the City will use Process I described in Chapter [145](#) KZC; provided, however, that while the content of the notice shall be per KZC [145.22\(1\)](#), the distribution of the notice shall be per KZC [150.22\(2\)](#).

~~The following subsection is effective only within the disapproval jurisdiction of the Houghton Community Council:~~

- ~~2. The City will use Process IIA, described in Chapter [150](#) KZC, to review and decide upon an application for a variance except as to property located within an RS, RSA or RSX Zone. For variance applications as to property located within an RS, RSA or RSX Zone, the City will use Process I described in Chapter [145](#) KZC; provided, however, that while the content of the notice shall be per KZC [145.22\(1\)](#), the distribution of the notice shall be per KZC [150.22\(2\)](#).~~

120.12 Expansion or Modification of an Existing Structure

If the expansion or modification of an existing structure requires a variance under this chapter, the Planning Director may approve such expansion or modification without requiring the variance process if all of the following criteria are met:

1. The request complies with the criteria in KZC [120.20](#); and
2. The gross floor area of the structure is expanded by less than five (5) percent; and
3. The Planning Director determines that the change or alteration will not have significantly more or different impact on the surrounding area than does the present development.

An approval granted pursuant to this subsection shall be valid for a period of four (4) years following the date of approval, during which time a complete building permit application for the expansion or modification shall be submitted to the City. Within six years following the date of approval granted pursuant to this subsection, the applicant shall substantially complete construction of the expansion or modification and any permit conditions applicable thereto, or the approval becomes null and void.

120.15 Application Information

~~In addition to the application materials required in Chapter 150 KZC,~~
The applicant shall submit a completed application on the form provided by the Planning Department, along with all the information listed on that form.

120.20 Criteria for Granting a Variance

The City may grant a variance only if it finds that:

1. The variance will not be materially detrimental to the property or improvements in the area of the subject property or to the City in part or as a whole; and
2. The variance is necessary because of special circumstances regarding the size, shape, topography, or location of the subject property, or the location of a preexisting improvement on the subject property that conformed to the Zoning Code in effect when the improvement was constructed; and
3. The variance will not constitute a grant of special privilege to the subject property which is inconsistent with the general rights that this code allows to other property in the same area and zone as the subject property.

120.25 What May Not Be Varied

The City may grant a variance to any of the provisions of this code except:

1. The City may not grant a variance to any provision establishing the uses that are permitted to locate or that may continue to operate in any zone; and
2. The City may not grant a variance to any of the procedural provisions of this code; and
3. The City may not grant a variance to any provision that specifically states that its requirements are not subject to variance.

Staff Recommendation: Adopt changes as proposed.

23.c Review Process for Schools, Daycares and Churches in Single Family Zones

Purpose: The proposed amendment is to reduce the review process to streamline zoning administration for review of schools, daycares and churches in single family zones depending on property size and location in the City. The first chart shows the existing review processes and the second shows the proposed reduced review processes. A Process I permit is a Planning Director decision with appeal to the Hearing Examiner. A Process IIA permit is a Hearing Examiner Decision with appeal to the City Council. A Process IIB permit is a Hearing Examiner recommendation to the City Council (and Houghton disapproval jurisdiction for property in Houghton) with appeal to Superior Court. The notice requirement is the same for Process I, IIA and IIB (newspaper, official notification boards, residents adjacent or across the street, agencies, website, public notice sign) except owners of property within 300 feet of the proposal are also notified for Process IIA and IIB permits.

Existing Review Processes for Schools, Daycares and Churches
 In RS, RSA and RSX Zones
 Comparing City and Houghton

Property Size	City	Houghton
Less than 5 acres	IIA	IIB
Greater than 5 acres	IIB	IIB

Proposed Review Processes for Schools, Daycares and Churches
 Comparing City and Houghton

	City	Houghton
Less than 5 acres	I	IIA
Greater than 5 acres	IIA	IIB

Proposed Change(s):

RS Zones 15.10
 15.10.020 Church Special Regulation 3 and
 15.10.030 School or Day-Care Center Special Regulation 10

The required review process is as follows:

- a. If the subject property, including all contiguous property owned by the applicant and held by others for future use by the applicant, is less than five acres, the required review process is Process ~~HA~~I, Chapter ~~150145~~ KZC; provided, however, that within the jurisdiction of the Houghton Municipal Corporation, the required review process is Process ~~HBIIA~~I, Chapter ~~152150~~ KZC.
- b. If the subject property, including all contiguous property owned by the applicant and held by others for future use by the applicant, is five or more acres, a Master Plan, approved through Process ~~HBIIA~~I, Chapter ~~152150~~ KZC, is required; provided, however, that within

the jurisdiction of the Houghton Municipal Corporation, the required review process is Process IIB, Chapter 152 KZC. The Master Plan must show building placement, building dimensions, roadways, utility locations, land uses within the Master Plan area, parking location, buffering, and landscaping.

Same for RSX zone 17.10.020 Church Special Regulation 1 and 17.10.030 Special Regulation 1, School or Day-Care Center (although no Houghton requirements)

Same for RSA zone 18.10.020 Church Special Regulation 2 and 18.10.030 Special Regulation 3, School or Day-Care Center (although no Houghton requirements)

Staff Recommendation: Adopt as proposed.

23.d Review Process for Schools, Daycares and Churches in Multi-family Zones

Purpose: The proposed amendment is to reduce the review process to streamline zoning administration for review of schools, daycares and churches in multi-family zones depending on location in the City. The first chart shows the existing review processes and the second shows the proposed reduced review processes. A Process I permit is a Planning Director decision with appeal to the Hearing Examiner. A Process IIA permit is a Hearing Examiner Decision with appeal to the City Council. The notice requirement is the same for Process I and IIA (newspaper, official notification boards, residents adjacent or across the street, agencies, website, public notice sign) except owners of property within 300 feet of the proposal are also notified for Process IIA and IIB permits. Schools and churches in PR and PRA zones are reviewed through Process I currently. "DR" stands for Design Review.

Existing Review Processes for Schools, Daycares and Churches
 In RM and RMA Zones

NE 85 TH ST SUB-AREA	OTHERWISE
DR	IIA

Proposed Review Processes for Schools, Daycares and Churches

NE 85 TH ST SUB-AREA	OTHERWISE
DR	I

Proposed Change(s):

RM, RMA Zones 20.10
 20.10.030 Church Use Zone Chart "Required Review Process" column, and
 20.10.050 School or Day-Care Center Use Zone Chart "Required Review Process"
 column:

“Within the NE 85th Street Sub-area, D.R., Chapter 142 KZC.
Otherwise, Process ~~HAI~~, Chapter ~~150145~~ KZC.”

Staff Recommendation: Adopt as proposed.

25. Consider Screening Standards for Stand Alone Solar Arrays Accessory to Single Family Uses– KZC Chapter 115 Section 115.10. and 115.115

Purpose: A recent installation of a stand-alone solar panel array has prompted concern about compatibility and visual impact. Consider whether screening is feasible and appropriate in residential settings.

Background: Staff has no proposed amendments to introduce at this time. The aerial and pictures below are of the solar array in question, located in Finn Hill at 11300 83rd PL NE. The base and support pole of the array were installed more than 5 feet from the side property line, adjoining NE 110th PL. However, the solar panel array rotates to track the sun and it appears to encroach not only into the five foot side yard setback but also crosses the side property line into the adjoining property. The solar panel array has been installed closer than is allowed or was represented on the approved permit.







Neighbors are concerned about its visual compatibility with surrounding residential neighborhood. The City and the applicant are working to resolve the situation through the active building permit and code enforcement processes, including issues of glare.

The Zoning Code regulates a free standing solar panel both as a mechanical equipment structure, in terms of noise impacts, and in this case also as an accessory use to a detached dwelling unit. KZC 115.115.3.p permits placement of mechanical equipment no closer than five (5) feet to a side or rear property line, and they are not permitted in front yards. The underlying RSA 4 zone (KZC 18.10.010) requires a 5 foot side yard and 10 foot rear yard setback. The most restrictive setback provision applies. This is also the same standard for any accessory structure (e.g. sheds, etc.) The Code is silent on screening for stand-alone solar arrays. The Code does regulate glare in KZC 115.50.

It is in the public interest to encourage and promote alternative energy. However it is also in the public interest to mitigate impacts. Glazing on the solar panels is designed to absorb light and convert it into energy. So while an array does not emit light (glare) it can be very bright to look at. Staff is researching other jurisdictions regulations to determine how the compatibility issue is handled elsewhere. Staff will bring back options to address this situation.

Proposed Change(s): None are proposed at this time.

Staff Recommendation: Provide direction to staff on how to proceed with this amendment. Depending on the approach, this could require extensive research, discussion and code drafting. Issues such as size, solar orientation and efficiency, placement, and screening would need to be addressed. Options for consideration include:

- No action.
- Move forward with a comprehensive consideration of this issue.
- Move forward with a limited approach (e.g. some screening such as landscaping)
- Include in either a future bundle of code amendments or as part of a future phase of Green Code amendments.

Attachments:

1. Roster of proposed Zoning Code and Municipal Code amendments.
2. Work Program
3. Correspondence from Finn Hill Neighborhood Alliance

Cc: File CAM13-00669

Roster of Miscellaneous Zoning Code and Municipal Code Amendments

*Asterisk notes that amendment is not in the Houghton jurisdiction.

✓ Check notes that amendment was reviewed during June study sessions.

Red notes that item will be considered at the September 12 and 23 study sessions.

(September 12, 2013)

NO POLICY CHANGES

These proposed amendments result in no changes to current policy but intend to clarify and fix inconsistencies within the code.

1. ✓ Clarify Height of 2nd Story above Garage - KZC Chapter 115 Section 115.115.3.o

Purpose: After approval of the 2012 Zoning Code amendments (O-4372) on August 7, 2012, a clarification was requested by staff to eliminate duplicative text addressing the height of the garage. The proposed change would eliminate subsections 115.3.o.1).c) and 2).e). These sections are unnecessary, because the maximum allowed height is already provided in the use zone chart for each zone.

2. Delete reference to State Statutes for Schools and Daycares - Various use zone charts already being amended

Purpose: Delete special regulations for schools, mini-schools, daycares and mini-daycares that reference out of date statutes. The State removed the referenced Washington Administrative Code (WAC) Title 388, a number of years ago, so the current KZC reference is incorrect. The special regulation is being deleted because the reference is wrong and because there is no need to have a local regulation requiring compliance with a State regulation.

3. ✓ Correct References to State Statute for Timeframe and for Exclusions from Timeframe for Approval of Development Permits – KMC Title 20 Section 20.12.010 (2) and

Purpose: Correct the State statute referencing the timeframe for approval of a development permit and exclusions thereof, and delete RCW 36.70B.090 which expired in 2000. The correct State statute is RCW 36.70B.080 (1). The timeline for processing project permit applications is addressed in this RCW.

4. ✓ *Delete Repeated Reference to Horizontal Facade Regulation in PLA 6G – KMC Chapter 60 Section 60.87.130

Purpose: Delete Section 60.87.130 Special Regulation 3, to eliminate redundancy. When the ZC was re-organized to list horizontal facade regulations within the General Regulations, rather than repeating it for each applicable use within the corresponding zoning charts, it was inadvertently missed. Planned Area 6G already requires this in General Regulation # 3.

5. Add TL 1B Zone to Definition of Residential Zones – KZC Chapter 5 Section 5.10.785

Purpose: The TL 1B zone in Totem Lake was inadvertently left off the list of defined Residential Zones. It already is included in the definition of High Density Residential Zones. This amendment would correct this omission.

- 6. Revise Definition of Development Permit – KZC Chapter 5 Section 5.10.215**
Purpose: Replace out of date reference to “Uniform Building Code” with “KMC Title 21, Buildings and Construction”. This was missed when the last round of Fast Track Zoning and Municipal Code Amendments (O-4408) was adopted on May 21, 2013.
- 7. Correct the Terminology for Flag Lots – KZC Chapter 115 Section 115.115.5.a (1) (b).**
Purpose: Replace the term “panhandle lot” with “flag lot” to clarify the intent of this section, which addresses required yards for driveway and parking areas when abutting a flag lot in the same plat. Flag lot is a defined term describing certain types of lots, whereas access to a flag lot is through a panhandle. Panhandle is not a defined term.
- 8. Delete Reference to Day Care Home Uses and Family Day-Care Home Uses in PLA 15B, PLA 16 and PLA 17. – KZC Chapter 60 Sections 60.174.3.b, 60.180.2.b, and 60.185.3.c.**
Purpose: This amendment removes references to family day care uses in in these three zones. These are essentially detached dwelling unit uses that also have an assessorly child-care operation for up to 12 children. They are regulated as an assessorly use to a residential use. Except for these three zones which were inadvertently missed, regulations for this use moved into Chapter 115 and out of the use zone charts in 2002.

MINOR POLICY CHANGES

The proposed amendments do not clarify existing regulations, but instead change them. However, they are generally not considered significant policy issues.

- 9. ✓ Provide Time Limits for Tree Removal Permits and Notifications Not Associated with Development Activity - KZC Chapter 95 Section 95.23.new subsection.**
Purpose: This amendment would add a one year time limit for tree removal to address the expectation that removal will be completed within a reasonable and predictable time frame.
- 10. Allow Lots with Low Impact Development Standards as Part of a Conventional Subdivision – KZC Chapter 114 and KMC Title 22 Chapter 22.28.041**
Purpose: Chapter 114 of the Zoning Code provides standards for an alternative type of development utilizing low impact development strategies. This is an optional approach that allows smaller lots and clustering provided additional low impact development techniques are utilized. The proposed amendment would change the provisions of KZC 114 to allow a portion of lots within a subdivision to utilize the LID techniques, rather than requiring all lots to use them. Currently KZC 114 requires all lots in a plat to utilize LID stormwater management standards to receive the benefits provided by this incentive. A more flexible approach may encourage increased utilization of preferred LID techniques.
- 11. Clarify that KZC 115.25 Addresses Development Activity to Avoid Confusion With KZC 115.95 Noise Regulations – KZC Chapter 115 Sections 115.95.2 and 115.25.**
Purpose: Currently there is some confusion whether to apply KZC 115.25 or KZC 115.95 for certain potential noise violations. This amendment seeks to clarify the regulations.

12.Reorganize and Simplify Process IVA; “Fast Track” Zoning Code Amendments – KZC Chapter 161.

Purpose: Based on experience gained from several Process IVA amendment projects, this amendment proposes some changes to reorganize and simplify the process.

13.Clarify that Subdivision Provisions May Allow Lot Size Reduction Beyond Minimum Lot Size in Zoning Code or Map – KZC Chapter 115 New Section 115.87

Purpose: Clarify the relationship between the Subdivision regulations and zoning regulations, to explicitly state that if approved under the current provisions of the Subdivision review process, lots size can be reduced. Currently the Zoning Code is silent on this. This is applicable in all residential zones in Kirkland.

14.Clarify what is Included in Lot Size Calculations for Small Lot and Historic Preservation Subdivisions –KMC Title 22 Chapters 22.28.042(c) and 22.28.048(c).

Purpose: Small lot single family and historic preservation subdivisions regulations provide incentives to encourage smaller homes and retain historic homes. Current KMC standards regulate what is included in the lot size calculation of the smaller lot to insure that it is compatible with neighborhood character. For that reason, portions of flag lots that are less than 30 feet wide and provide access to the wider buildable portion cannot be included in the calculation of lot area for the smaller lot. But because flag lots are defined to have frontage along the right of way, developers are designing plats which have an intervening access easement between the panhandle portion of the flag lot and the right-of-way. In doing so, that portion of a flag lot that is narrower than 30 feet not connected to the r-o-w can be included in the lot area calculation, even though it is unbuildable area. The proposed amendment would eliminate “flag” from the small lot and historic preservation subdivision sections of the KMC to avoid the unintended consequence of including the unbuildable portion in the lot size calculation.

MODERATE POLICY CHANGES

These are considered more substantive changes to existing regulations.

15.Setback Requirements for Schools/Day Cares in Residential Zones – Multiple Zones.

Purpose: Consider reducing building setbacks for schools and day cares in residential zones in Kirkland to match those for other community facilities, taking into account compatibility impacts to the neighborhood.

16.*Clustering and Aggregation of Undisturbed Area in Short Plats and Subdivisions in Holmes Point Overlay Zone – KZC Chapter 70 Section 70.15.4

Purpose: Consider the requirement to preserve vegetation, soils, tree cover and wildlife habitat in aggregate rather than by individual lots in new plats as now required in the Holmes Point Overlay Zone. Clarify vegetation replacement and maintenance requirements in this zone.

17.*Garage Setback Requirements for Detached Dwelling Units in Low Density Zones – KZC Chapter 115 Section 115.43

Purpose: Delete or simplify garage setback requirements.

18. Lot Size, Lot Coverage and Shared Common Recreation Open Space Requirements in Zero Lot Line Multifamily Projects – KZC Chapters 115 Section 115.90 and Section 115.23

Purpose: Consider allowing the requirements for lot coverage and common recreational open space to be provided in aggregate rather than on individual lots, while retaining allowed density within zero lot line multi-family projects in medium density zones.

19. Rounding of Fractions of Dwelling Units– KZC Chapter 115 Section 115.125 and KMC Title 28 Section 22.28.030

Purpose: Restore King Co. rules which allow rounding of units in RSA zones when calculating for density. Consider allowing in other Single Family zones.

20. Clarify Process to Amend the Text of the Zoning Code – KZC Chapter 135 Section 135.15

Purpose: Codify procedure for choosing potential zoning amendment proposals to study that are not associated with a proposal to amend the Comprehensive Plan.

21. Clarify Zoning Code Administration – KZC Chapter 170 Section 170.50

Purpose: Clarify the relationship between the Comprehensive Plan goals and policies and development regulations, consistent with the Growth Management Act.

22. Consider Time Limit For Appeal of Interpretations of The Zoning Code – Chapter 170 Sections 170.40 and 170.45

Purpose: Codify a time limit for an appeal of a formal Planning Director Zoning Code Interpretation, consistent with Process I, establishing a 14 day appeal period from date of notice.

23. Reduce Process for Zoning Decisions – Multiple Zones

Purpose: Review instances where there are opportunities to streamline Process I, IIA and IIB permits and consider reducing the required process, where appropriate.

24. Exemption from Landscape Buffer Requirements – KZC Chapter 5 Section 5.10.020 and KZC Chapter 95 Section 95.42.

Purpose: Consider expanding this exemption to apply to property touching any street rather than only primary arterials.

25. Consider Screening Standards for Stand Alone Solar Arrays Accessory to Single Family Uses– KZC Chapter 115 Section 115.10. and 115.115

Purpose: A recent installation of a stand-alone solar panel array has prompted concern about compatibility and visual impact. Consider whether screening is feasible and appropriate in residential settings.

MAJOR POLICY CHANGES

These are considered substantive changes to existing regulations, and would either have significant policy implications or be a departure from how regulations are currently processed.

26. Eliminate or Revise Multifamily Common Recreation Open Space Requirements – KZC Chapter 115 Section 115. 23

Purpose: Consider new approaches for calculating common recreation open space.

27. Eliminate or Revise Horizontal Facade Regulations – KZC Chapter 5 Section 5.10.020 and 5.10.507 and Chapter 115 Section 115.30, and Multiple Zones

Purpose: Consider modifications to this regulation, which limits the height and width of non-residential uses within 100 feet of a low density zone. Modifications include possible elimination, change of dimensions, exempting application of the requirement on sites adjoining ROW's and adding administrative discretion. In addition, if the regulation is maintained, it would move to Chapter 115, Miscellaneous Zoning Regulations and cross reference it in multiple use zone charts or in the general regulations.

**Work Program Miscellaneous Zoning Code/KMC Amendments
(CAM13-00669)
September, 2013**

June 24	HCC study review roster & schedule, start review of draft amendments, & provide direction
June 27	PC study review roster & schedule, start review of draft amendments, & provide direction
Sept 12	PC study review draft amendments
Sept 23	HCC study review draft amendments
Nov	PC study review draft amendments
Nov	HCC study review draft amendments
Jan	PC/HCC joint public hearing & start PC deliberation
Jan	HCC deliberation on public hearing & make recommendation to PC.
Jan	PC continued deliberation on public hearing & make recommendation to CC.
March	CC adoption of ordinance
March	HCC final action on ordinance

CC- City Council
PC- Planning Commission
HCC- Houghton Community Council



September 3, 2013

Joan Lieberman-Brill
Senior Planner
Planning & Community Development
City of Kirkland
123 Fifth Avenue
Kirkland, Washington 98033

Re: Holmes Point Overlay Zone

Dear Joan:

We are writing with respect to amendments that the City of Kirkland may make to Kirkland Zoning Code Chapter 70 (the Holmes Point Overlay Zone or "HPO"). Our ad hoc committee was formed at the direction of the Finn Hill Neighborhood Alliance ("FHNA") board of directors after you advised FHNA that the City would be considering HPO amendments. Our group consists of current and former FHNA board members and volunteers; several of us were intimately involved in writing the original HPO with King County.

We have reviewed the draft recommendations that you sent to us on August 28 and we appreciate this opportunity to provide our initial responses. While there are several areas in which we would suggest technical modifications, our remarks below are limited to comments that address the most important proposals in general terms.

Clause 4 – Standards for Undisturbed Areas: We support your recommendation for a new clause 4 of Section 70.15, which specifies the types of plantings that should be present in or should be installed in any "Undisturbed Area" on a lot within the perimeters of the HPO. Because a principal objective of the HPO is to protect the slopes of Holmes Point from erosion, it is important not only that Undisturbed Areas be retained on Holmes Point parcels but also that they contain the types and extent of native trees, shrubs, and ground covers that best provide soil retention and mitigate stormwater runoff. Clause 4 will help to ensure that Undisturbed Areas perform these functions.

One significant concern that was raised by members of our group is that the language of clause 4 might be read to permit a property owner to remove mature native vegetation in an Undisturbed Area provided that new native plantings are installed in accordance with the specifications of clause 4. While

we do not think this is the intent of clause 4, it would be an unfortunate loophole that would jeopardize the benefits that established vegetation provide over newly bedded plants and seedlings. The City should revise the draft language to remove any ambiguity in this regard.

Clause 7 – Maintenance of Plantings: We are pleased to see that the City recommends the addition of a new clause 7 to Section 70.15, which requires property owners to maintain the foliage and trees in Undisturbed Areas and clarifies the requirement that significant trees be preserved in perpetuity on the remainder of the parcel.

Clause 5.c – Aggregation Options: Our ad hoc group has serious concerns, however, about the native vegetation aggregation options that are proposed for clause 5.c of Section 70.15. We understand that these options are being considered in order to permit the developer or owner of a lot that is being subdivided to cluster natural vegetation in one of the subdivided parcels, as opposed to being required to set aside at least 25% of each sub-parcel as an Undisturbed Area.

We recognize that, in some subdivisions, such clustering – if properly executed – might provide greater environmental benefits than would result from the distribution of Undisturbed Areas evenly over all of the subdivided parcels. (This benefit would seem to be most likely in the case where subdivided lots are small and the Undisturbed Area covering 25% of each lot would be insignificant.) On the other hand, an urban forester who is a member of our ad hoc group has advised us that, all other things being equal, canopy preservation and soil retention are better served by creating multiple areas of natural vegetation and significant trees rather than aggregating such foliage in one large area. A hydrologist whom we have consulted has also stated that clustering, even if appropriate in a given location, is probably less important to managing surface water (one of the purposes of the Undisturbed Areas) than ensuring that surface water runoff from impervious areas is directed to areas on each lot where water can be absorbed into the soil.

Finally, members of our ad hoc group who worked on the original HPO note that the concept of aggregating natural areas on subdivided lots was discussed extensively with King County planners at the time the HPO was adopted by the King County Council. Ultimately, King County recognized that developers have a strong economic incentive to concentrate Undisturbed Areas on subdivided parcels that are not commercially suitable for construction in order to provide greater flexibility for the removal of vegetation on the remaining parcels in a subdivision. The County rejected the notion of allowing property owners to aggregate Undisturbed Areas because the potential for abuse was too great.

Based on the foregoing observations, we suspect that concentrating natural vegetation areas on a subdivided parcel will produce environmental benefits only in exceptional cases, rather than as the norm. At the very least, assessing the benefits of clustering appears to be a complex calculation, which will depend on the physical characteristics of the lot to be subdivided and the details of the proposed location of Undisturbed Areas.

Our ad hoc committee feels strongly that the first aggregation option presented in the City's draft is not acceptable because it allows a property owner to aggregate at the owner's discretion, without reference to any environmental consequences whatsoever. In our view, the second option, which would require the owner to demonstrate environmental benefits to the City, is also deficient because we believe that

the property owner will be in a strong position to present arguments for the benefits of the owner's proposed aggregation plan while the City will be at a disadvantage in critically evaluating the plan.

The third option – in which aggregation would occur only if mandated by the City based on demonstrable environmental benefits – seems to be the safest alternative. However, we are not ready to support it because we remain concerned that, with the passage of time and the limits on planning personnel resources, the evaluation process will devolve into one in which property owners initiate aggregation proposals and the City will merely react to them. In other words, the third option would resemble the second one, with the property owner or developer initiating recommendations and controlling collection of data in support of a clustering proposal.

Despite these concerns, our group believes that FHNA should work with the City in an effort to develop precise criteria that can be used to identify when aggregation provides tangible benefits. We believe that the inclusion of surface water runoff metrics is important in this regard. If such criteria can be articulated, and some measure of public accountability on clustering proposals is added to the City's evaluation process, it may be appropriate to incorporate some version of third aggregation proposal in the HPO. Candidly, we do not know whether a trustworthy and practicable mechanism can be developed. We do feel that the matter should be addressed carefully and that it should not be rushed. In that regard, consideration of an aggregation proposal should be deferred to the process of developing Finn Hill's Neighborhood Plan, when the HPO can be addressed in the context of a comprehensive review of Finn Hill's community objectives.

The foregoing comments reflect the initial views of FHNA's ad hoc committee to consider the HPO amendments that you have proposed. They do not necessarily represent the opinion of FHNA's board of directors, which has not had an opportunity to consider the amendments. We will advise the FHNA board of our committee's views and distribute them to Finn Hill residents via email and a posting on the FHNA website. The board will, we presume, adopt a formal position in the near future.

Thank you again for giving us the opportunity to comment on the draft amendments. We look forward to working with the City on strengthening the Holmes Point Overlay Zone.

Sincerely,

Lou Berner	Scott Morris
Ellen Haas	Matt Pruitt
Jeff Hoerth	Frank Radford
Francesca Lyman	Kurt Seiffert
Scott Maco	

cc: Jeremy Mc Mahan