



CITY OF KIRKLAND

PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT
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MEMORANDUM

DATE: July 3, 2012

To: Planning Commission

FROM: Joan Lieberman-Brill, Senior Planner
Nancy Cox, AICP, Development Review Manager
Eric Shields, AICP, Director

SUBJECT: 2012 MISCELLANEOUS ZONING/MUNICIPAL CODE AMENDMENTS,
(ZON12-00002)

Planning Commission Deliberation Following Public Hearing

At the June 14 joint Planning Commission/Houghton Community Council public hearing testimony was received on several major code amendments; Personal Wireless Service Facilities (PWSF), Chickens, Hazardous Liquid Pipelines, Second Story Garages and Floor Area Ratio (FAR) and Single Residence Occupancy (SRO). Staff also presented information regarding Permit Time Extensions. The Planning Commission began deliberations immediately after the hearing while the Houghton Community Council continued their deliberation to June 25 in order to prepare a recommendation to present to the Planning Commission on July 12, 2012. The public comment period was extended to July 5.

The PC directed staff to revise several of the proposed amendments and present them at the July 12 meeting. These included the proposed chicken amendments. The revised version was our understanding of the direction the PC gave to staff, which was to make them consistent city wide and not penalize the JFK area where more lenient regulations currently apply. A rewrite of the Small Domestic Animal regulations is Attachment 4 to this memo. Also see the discussion on page 2 of this memorandum for more information on the rewrite.

The PC also requested that a revised definition for High Consequence Land Use related to the proposed Hazardous Liquid Pipeline regulations be written to clarify that single family residential dwelling units are not included. This is reflected in revised language in Attachment 1.

Another PC request was related to the PWSF amendments. The PC asked to clarify that antennas can be added to existing arms and platforms on an approved tower

as a minor modification, but adding a new platform or arm to an approved tower requires compliance with the code and is not a minor modification.

Finally, the PC agreed that the SRO concept was promising, but indicated that the proposed amendments should have additional public process (beyond what is currently occurring with the current minor and moderate amendments) prior to a PC recommendation to adopt. The PC also discussed the possibility of allowing a demonstration project to move ahead before adopting permanent Zoning Code amendments.

The PC will continue its deliberation on all Zoning and Municipal Code amendments at the July 12 meeting.

Recommendation of the Houghton Community Council

The Houghton Community Council (HCC) discussed the miscellaneous code amendments within its jurisdiction on June 25, 2012. Following is a summary of the discussion and recommendations on several of the amendments. All other amendments were acceptable as presented in the June 5, 2012 public hearing packet.

2nd Story above Garage Rear Yard Encroachment – KZC 115.115.3.o

The HCC recommended that a second story above a garage be allowed to have the same setback from an alley as the garage, rather than requiring a 5 ft. setback. While acknowledging there are few alleys in Houghton where this would be applied, the HCC noted that aligning the stories considerably reduces construction cost. Because the spaces above garages are often used for accessory dwelling units, requiring an upper story setback makes developing affordable ADUs more difficult and expensive. In addition, the HCC noted that the width of an alley provides adequate separation between the lots on either side. Also mentioned was that because the regulation applies to a second story rather than the area above a specified height, the mass of the building along the alley could vary from one site to another, since a single story garage with high vaulted ceilings would have a smaller setback than a garage with a second story. Attachment 2 shows the code revision language reflecting the HCC recommendation.

Floor Area Ratio (FAR) Exemptions - KZC 115.42

Prior to the HCC meeting, staff prepared revisions to the wording of Section 115.42 to clarify the proposed simplified method of calculating FAR. The HCC agreed with the intent of simplification but indicated a preference to maintain the existing regulation that allows the first 100 square feet of floor area with a ceiling height greater than 16 feet to be calculated only once – essentially exempting 100 sq. ft. of vaulted space from being double counted. By removing the exemption, the maximum house size would be reduced by 100 sq. ft. This is a concern to the HCC

because of its financial impact. John Kappler noted that with an average construction cost of \$200/square foot, losing 100 square feet would reduce house value by \$20,000, making it more difficult to get home loans and/or forcing a reduction in highly desirable vaulted spaces. Staff is similarly concerned that an amendment which was primarily intended to clarify and simplify the existing regulations would be perceived as having a negative effect. In response, alternative language has been drafted, as shown in attachment 3, which achieves the simplification without the 100 sq. ft. floor area reduction.

Small Domestic Animals including chickens - KZC 115.20.4

At the HCC meeting, staff presented a rewrite of the Small Domestic Animal regulations (attachment 4) reflecting our understanding of the general direction provided by the Planning Commission following the June 14 hearing. The rewrite also reintegrates chickens into the Small Domestic Animals regulations. Margin notes indicate those elements which are the same as or different than current regulations. The HCC preliminarily concurred with the proposed revisions, but asked staff to contact other cities about their history of complaints about chickens. The HCC reserved the right to not accept the regulations if the experience of other cities shows that keeping chickens would likely result in unacceptable impacts to neighbors. The HCC also questioned whether there should be restrictions on the size of chicken tractors in the code. Staff recommends that the Planning Commission use attachment 4 to discuss its recommendation.

Nonconforming Density - KZC 162.60

After some discussion, the HCC concurred with the proposed amendments in Attachment 35 of the June 5 meeting packet. The discussion focused on whether the limitation on changing the exterior configuration of structures should be removed. The HCC concluded, however, that such a change warrants more review and public process than is possible at this stage of this project.

Nonconforming PWSF – KZC 117

The HCC concurred with the revised language presented by staff (attachment 6) that reflects the Planning Commission's direction after the public hearing. The new language clarifies that to add a new platform or arm to an approved tower requires compliance with the code and is not a minor modification.

Criteria For Amending Zoning Text

KZC 135.25 establishes the criteria by which changes to the Zoning Code text must be evaluated. These criteria and the relationship of the proposal to them are as follows:

- 1. The proposed amendment is consistent with the applicable provisions of the Comprehensive Plan*

The proposed amendments are consistent with the Comprehensive Plan. The proposed amendments are needed to clarify, simplify, and/or improve upon existing regulations and to fix unintended changes that were made with previous amendments to the KZC. Each proposed amendment has been reviewed to ensure consistency with the Comprehensive Plan.

2. The proposed amendment bears a substantial relation to public health, safety, or welfare

The proposed amendments bear a substantial relation to public health, safety, and welfare. The amendments intend to minimize risk from hazardous liquid pipelines as an example of meeting this criterion. The amendments further clarify existing regulations which are based on the goals and policies of the Comprehensive Plan.

3. The proposed amendment is in the best interest of the residents of Kirkland

The proposed amendments are in the best interest to the residents of Kirkland. The amendments seek to clarify and/or improve upon the existing regulations and review processes which were originally created based on balancing the needs of various stakeholder groups and the policies of the Comprehensive Plan. The result of the changes should be to create more certainty and predictability in terms of regulations and process for both the City residents and the development community.

Attachments

1. Revised hazardous liquid pipeline amendment
2. Garage alley setback amendment reflecting HCC recommendation
3. Revised FAR amendment reflecting HCC recommendation
4. Revised small domestic animal amendments
5. Email from Kathy Weber dated June 25
6. Revised wireless facilities amendment

Cc: HCC

Parties of Record

Definitions Yellow highlighted language is changed since public hearing

5.10. ~~350-346~~ Ground-Mounted Sign

– All of the following: pole signs, pedestal signs and monument signs.

5.10. 347 Hazardous Liquid Pipeline:

- As defined by RCW 81.88.040, Hazardous liquid means: (a) Petroleum, petroleum products, or anhydrous ammonia as those terms are defined in 49 C.F.R. Part 195 in effect March 1, 1998; and (b) carbon dioxide. Pipeline, pipeline system, or hazardous liquid pipeline mean all parts of a pipeline facility through which a hazardous liquid moves in transportation, including, but not limited to, line pipe, valves, and other appurtenances connected to line pipe, pumping units, fabricated assemblies associated with pumping units, metering and delivery stations and fabricated assemblies therein, and breakout tanks. Pipeline or pipeline system does not include process or transfer pipelines.

5.10. 348 Hazardous Liquid Pipeline Corridor

- The pipeline corridor in which the pipelines and facilities of a hazardous liquid pipeline operator are located, including public rights-of-way and easements over and through public or private property

5.10. 358 High Consequence Land Use

- A land use that if located in the vicinity of a hazardous liquid pipeline represents an unusually high risk in the event of a pipeline failure due to characteristics of the inhabitants or functions of the use. High consequence land uses include:

(1) Land uses that involve a high-density on-site population that are more difficult to evacuate. These uses include:

- a. schools (through grade 12),
- b. hospitals, clinics, multifamily housing or other facilities exclusively for the elderly or handicapped, excluding facilities within detached dwelling units.
- c. stadiums or arenas,
- d. day care centers, excluding those within detached dwelling units and does not extend to family day care or adult family homes.

(2) Land uses that serve critical "lifeline" or emergency functions, such as fire and police facilities, utilities providing regional service, or water supplies if exposed to a significant risk that will curtail its lifeline function for a critical period of time.

(3) Uses with similar characteristics as determined by the Planning Official.

115.115 Required Yards original staff recommendation preferred by HCC

1. General – (No Change)
2. Exceptions and Limitations in Some Zones – (No Change)
3. Structures and Improvements – No improvement or structure may be in a required yard except as follows:
 - a. - n. (No Change).
 - o. In low density residential zones:
 - 1) Detached garages, including second story uses, utilizing an alley for their primary vehicular access may be located within five (5) feet of the rear property line, if:
 - a) Garage doors will not extend over the property line when open; and
 - b) The garage complies with KZC [115.135](#), which regulates sight distance at intersections, ~~and-~~
 - c) The portion of the structure that is located within the required rear yard is no taller than the maximum height allowed in the underlying zone.
 - 2) Detached garages, including second story uses, utilizing an alley for their primary vehicular access may extend to the rear property line, if:
 - a) The lot is 50 feet wide at the rear property line on the alley;
 - b) The garage has side access with garage doors that are perpendicular to the alley;
 - c) The garage eaves do not extend over the property line; and
 - d) The garage complies with KZC [115.135](#), which regulates sight distance at intersections.
 - e) The portion of the structure that is located within the required rear yard is no taller than the maximum height allowed in the underlying zone.
 - 3) Garages without alley access may be located within five (5) feet of the rear property line; provided, that:
 - a) The portion of the structure that is located within the required rear yard is no taller than 15 feet above average building elevation; and
 - b) The rear yard does not abut an access easement that is regulated as a rear property line.
 - p. HVAC and similar types of mechanical equipment may be placed no closer than five (5) feet to a side or rear property line, and shall not be located within a required front yard; provided, that such equipment may be located in a storage shed approved pursuant to subsection (3)(m) of this section or a garage approved pursuant to subsection (3)(o)(2) of this section. All HVAC and similar types of mechanical equipment shall be baffled, shielded, enclosed, or placed on the property in a manner that will ensure compliance with the noise provisions of KZC [115.95](#).

Yellow highlighted language is changed since public hearing

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

1. Gross floor area for purposes of calculating F.A.R. and maximum floor area for detached dwelling units in low density residential zones and attached dwelling units in PLA 3C; shall include the entire area within the exterior walls for each level of the structure. It shall also include the area of the all carports, measured as the area of the carport roof. It does- shall not include the following:
 - a. Attic area with less than five (5) feet of ceiling height, as measured between the finished floor and the supporting members for the roof.
 - b. Floor area with a ceiling height less than six (6) feet above finished grade. The ceiling height will be measured to the top of the structural members for the floor above. The finished grade will be measured along the outside perimeter of the building (see Plate 23).
 - c. On lots less than 8,500 square feet, the first 500 square feet of an accessory dwelling unit or garage contained in an accessory structure, when such accessory structure is located more than 20 feet from and behind the main structure (see KZC [115.30](#) for additional information on the required distance between structures); provided, that the entire area of an accessory structure, for which a building permit was issued prior to March 6, 2007, shall not be included in the gross floor area used to calculate F.A.R. For purposes of this section, "behind" means located behind an imaginary plane drawn at the back of the main structure at the farthest point from, and parallel to, the street or access easement serving the residence.
 - d. On lots greater than or equal to 8,500 square feet, the first 800 square feet of an accessory dwelling unit or garage contained in an accessory structure, when such accessory structure is located more than 20 feet from and behind the main structure (see KZC [115.30](#) for additional information on the required distance between structures); provided, that the entire area of an accessory structure, for which a building permit was issued prior to March 6, 2007, shall not be included in the gross floor area used to calculate F.A.R.
 - e. Uncovered and covered decks, porches, and walkways.
 - f. A one hundred square foot exemption if the dwelling unit has an internal stair case between two stories and/or an area with a ceiling height greater than 16 feet.
2. Floor area with a ceiling height greater than 16 feet shall be calculated at twice the actual floor area toward allowable F.A.R. The ceiling height for these areas will be measured to the top of the structural members for the floor above or, if there is no floor above, to the bottom of the structural members for the roof.
- ~~2. Floor area with a ceiling height greater than 16 feet shall be calculated as follows:

 - a. ~~The first 100 square feet of such floor area, in aggregate, shall be calculated only once toward allowable F.A.R.;~~
 - b. ~~Floor area in excess of the first 100 square feet shall be calculated at twice the actual floor area toward allowable F.A.R.~~~~
- ~~3-3.2. This section is not effective within the disapproval jurisdiction of the Houghton Community Council, except for those lots in PLA 3C that are less than 7,200 square feet or lots that have less than the minimum lot size created through the small lot provisions of KMC 22.28.042, subdivisions.~~

6/25/2012

TEXT REWRITE

a. Small Domestic Animals-

- Existing* | 1. The following animals will be regulated as small domestic animals:
- More than three (3) dogs per dwelling unit.
 - More than three (3) cats per dwelling unit.
 - More than a total of four (4) dogs and cats per dwelling unit.
 - More than four (4) rabbits per dwelling unit.
 - Fowl
- Currently any zone where dwelling unit allowed* → 2. Permitted locations: Low density zones
3. Required Review Process: None
4. Maximum Number of Adult Animals Per Lot:
- On lots with an area of less than 35,000 sq. ft.:
 - Currently RSA only* → (a) Three (3) fowl, regardless of lot size;
 - New* → (b) One (1) additional chicken for each 1000 sq. ft. of lot area above 5000 sq. ft., up to a maximum of 20 chickens;
 - Current* → (c) Roosters are prohibited;
 - On lots with an area of 35,000 sq. ft. or more: 20, plus one additional for each 500 sq. ft. of lot area above 35,000 sq. ft. ← *Clarify roosters ok.*
5. Structures:
- Must provide a suitable structure or pen to house the animals;
 - Structures housing chickens shall not be located in required yards, except as allowed by KZC 115.115 and except for the following:
 - Mobile structures (chicken tractors) may be anywhere within a fenced yard;
 - Structures may be located within five feet of any property line provided that the property adjacent to the proposed location of the structure is either:
 - Occupied primarily by a non-residential use such as a church, school or park; or
 - A permanently dedicated easement or tract such as a native growth protection easement or open space tract that is at least 10 feet in width.
- New* |
- Current* → c. Structures housing 3 or fewer fowl, other than chickens, must be at least 10' from each property line
- Current* → d. Structures housing other small domestic animals must be at least 40' from each property line
6. Special regulations:
- Current* → a. Must maintain structures and pens in a clean condition;
 - New* → b. Chickens may forage or roam freely anywhere within a fenced yard, but adequate measures must be taken to provide safety for the chickens and prevent them from straying onto adjacent property
- |

From: Kathy Weber [<mailto:kirklandweber@me.com>]
Sent: Monday, June 25, 2012 1:28 PM
To: Houghton Council
Subject: Post public hearing chicken comments

To the members of the Houghton Community Council:

We listened with interest to the entire public hearing and deliberations of the Planning Commission. We are pleased with what they have decided to recommend re backyard chickens. We hope the the members of HCC see benefit in keeping the policy consistent across Kirkland. This is beneficial to residents who can find one set of policies without numerous exceptions. It makes it easier for people to "follow the rules". As I recall the large map showing lots over 35,000 sq ft had very few parcels in Houghton.

As I heard it, The others have agreed to the following and hope you will too:

Anyone can have 3 chickens.

Anyone with lot over 5000 sq ft may have additional 1 per 1000 sq ft, up to 20.

Anyone with lot over 35,000 sq ft may have additional 1 per 500 sq ft.

Roosters are only permitted on existing lots exceeding 35,000 sq ft.

(not sure if they will allow existing legal roosters on smaller lots in JFK to live out their lives legally) Coop requirements are to be substantially simplified to say that they will be suitable and kept in a cleanly manner.

Setback requirements will be similar to any garden shed.

These can be consistent across town and are simple to understand!

I realize that some HCC members seemed to be concerned about coops being too near a neighbor's house. I believe that those motivated to keep chickens are generally courteous, and will make thoughtful decisions about coop placement.

Looking forward to legal backyard chickens in Kirkland and fresh eggs!

Kathy Weber
Email: kirklandweber@me.com
Cell: (425) 984-4499

CHAPTER 117 AMENDMENT LANGUAGE

Yellow highlighted language is changed since public hearing

117.15 Definitions

3. ~~“Approved PWSF antenna or tower” shall mean any personal wireless service facility (PWSF) that has received all required permits for the installation, maintenance, and reconfiguration of the facility.~~
8. ~~“Existing structure” shall mean, but is not limited to, any existing building, utility pole, water reservoir, other support structure, and structures accessory thereto.~~
13. ~~“Replacement structure shall mean a structure that replaces or is intended to replace an existing structure of a similar design and similar primary purpose, to enable the installation of or additional PWSF on that structure. If a “replacement structure” meets the definition of “tower,” it shall be regulated as a new tower.~~

(Definitions to be renumbered accordingly.)

117.20 Applicability

1. ~~New Antennas and Towers PWSF – All new antennas and towers PWSF shall comply with this chapter unless the applicant had a vested application to site said PWSF under a prior version of this chapter, or unless specifically exempted by KZC 117.25. See also 2.c. of this section.~~
2. ~~Approved Antennas and Towers PWSF – Reconfiguration of or additions to an approved antenna or tower is permitted as noted in this chapter.~~
3. ~~Existing Antennas and Towers~~
 - a. ~~The usage of existing antennas and towers approved PWSF shall be allowed to continue as they exist as of the effective date of this chapter. Routine maintenance and repair and reconfiguration of PWSF shall be permitted on such existing antennas and towers, subject to the limitations below. Activity not included in routine maintenance and repair requires compliance with this chapter except as stated in 2.b and 2.c of this section.~~
 - b. ~~Any reconfiguration pursuant to subsection (3)(a) of this section that increases the height or number of antennas shall be treated and processed as a new facility. PWSF Existing antennas that conform to the provisions of this chapter may be replaced by new PWSF antennas, if such new PWSF antennas are approved as a minor modification pursuant to KZC 117.105. However, the replacement of an existing tower, whether that tower conforms or does not conform to the provisions of this chapter, shall be treated and processed as a new facility.~~
 - c. ~~New antenna may be added to existing platforms or arms that are appended to approved towers if such new antenna are approved as a minor modification pursuant to KZC 117.105. However, new platforms or arms on approved towers will require compliance with this chapter.~~
 - d. ~~The replacement of existing antennas that do not conform to the provisions of this chapter shall be treated and processed as a new facility.~~
 - e. ~~The replacement of an existing tower, whether that tower conforms or does not conform to the provisions of this chapter, shall be treated and processed as a new facility.~~
4. ~~Equipment Structures~~