



CITY OF KIRKLAND
Planning and Community Development Department
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MEMORANDUM

Date: November 12, 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 revisions and provide further direction on those issues carried over from September, for which continued discussion is needed.
 - Simplifying the process for Fast Track Zoning Code amendments
 - Holmes Point Overlay Amendments
 - Lot Size Calculations for Small Lot Single Family and Historic Preservation Subdivisions
 - Stand Alone Solar Array Amendments
- Review remaining “Moderate” and “Major” policy changes and provide direction to determine if additional information and staff response is needed at the joint public hearing in January.

BACKGROUND DISCUSSION

The roster of proposed 2013 Zoning Code and Municipal Code Amendments is Attachment 1 to this memorandum. Amendments that you reviewed at the previous meetings in June and September have a check ✓ by them. Items that staff will either continue discussion about or introduce for review at this study session are red. Staff will introduce the potential garage setback amendment at a subsequent meeting.

AMENDMENTS GENERAL

The first section (Section I) below addresses the changes that were requested to several amendments at the Planning Commission (PC) and Houghton Community Council (HCC) September 12 and 23 study sessions, respectively. Any requested changes to these drafts will be incorporated into revised drafts prepared for the public hearing in November. For background information, follow this link to the

joint [memorandum](#) prepared for those meetings. Draft amendments that the advisory bodies did not request to be changed will be brought forward to the joint public hearing for public comment and deliberation as presented at that meeting.

The second section (Section II) below introduces the remaining “Moderate” and “Major” Policy amendments (except for a potential garage setback amendment, which will be introduced at a subsequent meeting). Background information, proposed changes, and the staff recommendations are provided for each. Any requested changes to these drafts will be incorporated into revised drafts prepared for the public hearing in January.

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. Yellow highlighted text indicates changes since the September study sessions. The number of the amendment matches the number as it appears on the roster.

I. CONTINUED FROM SEPTEMBER STUDY SESSIONS

A. MINOR POLICY CHANGES

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

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.

Planning Commission: On Sept. 12, the PC concurred with staff proposed amendment.

Houghton Community Council: On Sept. 23, a recommendation was made to add “and construction” to 115.95.3 as follows:

[See KZC 115.25 for requirements related to development and construction activity.](#)

Staff Recommendation: Staff does not recommend the above change to add “and construction” to 115.95.3. The reason is that “development activity” is a

defined term. The proposed clarification for 115.25 is to address only development activity which requires a permit. In the next few months, the on-line Zoning Code will include mouse-over definitions. The reader will be able to see the definition of development activity pop-up on the screen.

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.

Planning Commission: The Planning Commission had no particular comments about this amendment on Sept. 12.

Houghton Community Council: At their September 23 meeting, the Houghton Community Council wanted to continue discussion of this topic at the November joint study session. In particular, some reservations were expressed about the loss of a public hearing opportunity. In addition, a recommendation was made to include the additional phrase in 161.55 1.b. highlighted in yellow below.

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's, 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 hearingcomment 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. Published in the official newspaper of the City.
 - b. Posted on each of the official notification boards of the City.
 - c. Distributed to the Planning Commission and Houghton Community Council.
 - d. Distributed to the neighborhood associations and Chamber of Commerce.
 - e. 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 including all public comments.~~~~
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 or 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, t~~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 Rehearing new comment period – ~~If, following the public hearing,~~ the Planning Director materially modifies the proposal, the Planning Director shall give notice of a new public hearing comment 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.

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:

Planning Commission: The Planning Commission did not discuss this proposed amendment at the previous study session in September.

Houghton Community Council: The Houghton Community Council discussed the intent of excluding the unbuildable access panhandle from the small lot size calculation at their September 23, 2013 meeting. They concluded that the purpose is to ensure that the mass of the small home on the small lot is not out of scale with the surrounding neighborhood. Therefore limiting the FAR of the small home to ensure that it is compatible with surrounding residential character is fundamental to this incentive and should not be compromised. To ensure that the mass of the home is proportionate to the buildable portion of the lot, they agree that the FAR calculation should continue to exclude unbuildable area less than 30 feet in width that are used for vehicular access.

However, several HCC members advocated for including this area in the lot size calculation. In their view including this narrow unbuildable portion in lot size increases the number of lots that would be eligible to use this incentive. They requested staff to pursue this option.

Changes highlighted in yellow, added to the original amendment, would be necessary to implement this change (see the "Proposed Changes" section below).

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 size for the purpose of calculating the allowed floor area ratio (FAR)**.
- (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 size for the purpose of calculating the allowed floor area ratio (FAR)**.
- (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:

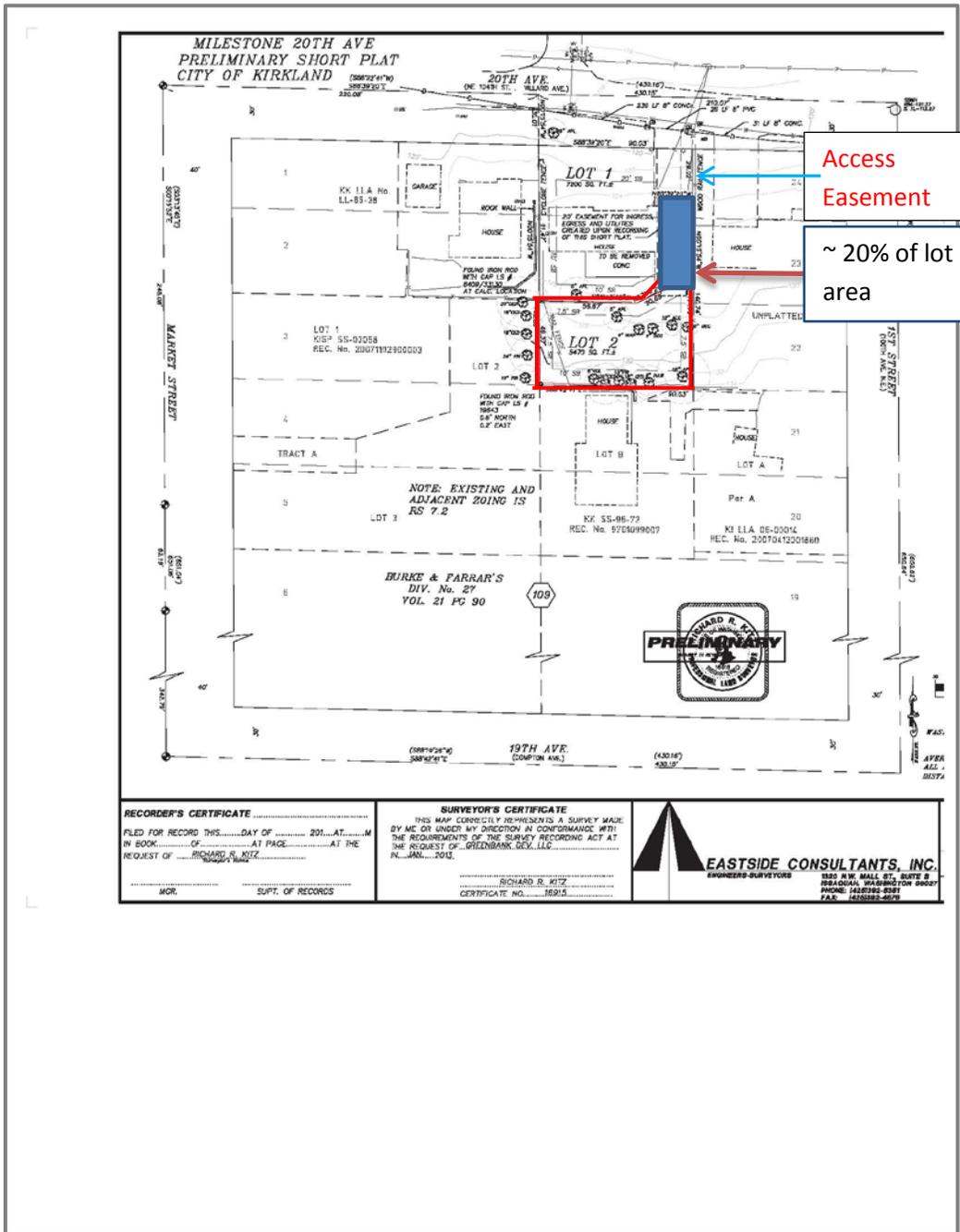
- (g) If a historic residence is destroyed, damaged, relocated, or altered inconsistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties (Rehabilitation) (Code of Federal Regulations, 36 CFR Part 68), the replacement structure shall be reconstructed in accordance 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:

Since only one plat has been reviewed that utilizes this loophole (shown below) staff believes a cautious approach is warranted. Until such time that the plat is built out, it will be difficult to determine what effect if any, using this area in the lot calculation (and/or FAR) will be on neighborhood character. In the example below, the unusable panhandle area would represent about 20 percent of the lot size. If the flag portion of the lot connected to the right-of-way, it would account for an even greater percentage of the lot size, and therefore further impact the perception of building mass on the remaining buildable area of the lot.

Another reason for not changing the current method of calculating the small lot size is to ensure equivalent buildable lot size regardless of whether it is accessed by an easement or a panhandle. Access easements are not included in the lot size calculation of the small lot. Utilizing a panhandle to connect the small lot to the right-of-way arguably should not be treated differently.

If the intent to exclude unbuildable areas in lot size calculation is to ensure the acceptable proportion between FAR and lot size; the inclusion of this area would result in proportionately more mass in the buildable portion of the lot. As a result of the reasons above, staff recommends to continue to exclude areas less than 30 feet used for driveway access in the calculation of small lot size and to close this loophole.



B. 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: Since the study session on September 12, staff has met and been in dialogue with an ad hoc group of the Finn Hill Neighborhood Alliance (FHNA) that has been focused on refining the proposed changes to the HPO regulations. They continue to support postponing any further study of combining the required naturalized areas in short plats and subdivisions until it is clear there are storm water management and slope stability advantages to allowing aggregation, and there is community support. Generally they support the current iteration of amendments. Attachment 2 is a letter from the FHNA ad hoc group addressing this iteration of the HPO amendments.

Planning Commission: At their September 12 study session the Planning Commission gave the following direction:

- In order to better understand the HP regulations, they requested a comparison between Kirkland regulations, current Holmes Point Overlay zoning requirements, and proposed HPO zoning changes, addressing lot coverage, storm water management, tree and vegetation protection; wetland and stream protection, and landslide and erosion hazards standards and requirements.

To summarize; the HP zone requires a downstream analysis when a permit is reviewed on a lot that has geotechnical hazard or sensitive areas on it, or is subject to surface water regulations. Existing regulations in the KZC already require this level of analysis, as explained below:

- Storm Water Management:
Existing Surface Water Design Manual rules require the storm water downstream analysis called for in the HP zone for almost all development that would occur in the HP overlay zone. Whether it is a new single family permit or plat, the analysis to determine downstream impacts already occurs for the addition of 2,000 sq. ft. of new impervious surface. We time review to coincide with the plat review in the HP zone because theoretically, the results of the downstream analysis might affect the plat layout. No changes are proposed.
- Slope Protection:
Existing KZC Chapter 85 standards allow the City to require preparation of a professionally prepared Geotechnical Engineering report for High and Moderate Hazard areas, as determined on a case by case basis, consistent with the nature and extent of the proposed development activity. It would include a description of how the proposed development will or will not affect slope stability, surface

and subsurface drainage, erosion, and seismic hazards on the subject and adjacent properties. No changes are proposed.

- Wetland and Stream Protection:
Existing Kirkland wetland and stream regulations require a professionally prepared Sensitive Area study and report for any modification of a stream, wetland or its buffer. This would include an assessment to determine if development would impact drainage and /or stormwater detention capabilities. No changes are proposed.
 - Tree and Vegetation Protection:
The HP overlay zone requires a naturalized area on each single family lot, which is not required elsewhere in the City. In an effort to provide clarity and predictability to applicants and the City, the proposed amendments add location standards for this area, as well as minimum planting and soil standards and maintenance requirements. Also, to make Holmes Point Overlay Zone Chapter 70 KZC and the Trees and Landscaping Maintenance Requirements 95.51 KZC consistent, text is added excepting for the 25% Naturalized Area HP from typical maintenance requirements.
 - Lot Coverage:
Allowed maximum lot coverage in HP zone is less than or equal to single family development in the rest of Kirkland. No change is proposed.
- The PC supported going forward with proposed vegetation and maintenance standards. They requested revised terminology to describe the 25 percent undisturbed area that is required to be preserved or established, to more accurately reflect the purpose and characteristics of the protected area(s). The revised term "Naturalized Area" replaces "Undisturbed Area" as suggested by the FHNA ad hoc group.
 - They requested that vegetation standards within this area(s) include removal of invasive species, as included in the revised amendment.
 - They requested analysis of the advantages of aggregating Natural Area(s) with plat development, with emphasis on storm water and slope impacts.
 - In the meantime, the PC concurred with staff's recommendation (also supported by the Holmes Point Neighborhood Alliance), to provide criteria for siting the "Naturalized Area" on an individual lot basis to best protect natural assets when a new single family building permit is processed.

These criteria prioritize where the Naturalized Area is located on each lot based upon where contiguous viable trees, groves of trees, or sensitive areas exist on or adjoining the subject property as determined in the Tree

Management Plan prepared by the applicant when a new single family home building permit is proposed. The first priority is to locate it where existing viable vegetation on-site connects to an area with same characteristics on adjoining property. The second priority is to locate it where existing viable vegetation is on the property without being contiguous to areas on adjoining property. Lastly, when the lot does not contain an existing area that meets the Naturalized Area standards, it would be established or restored in a location connected to like area on the adjoining property if there is one, and if not, in isolation on the subject property.

This would be a departure from the current approach which limits staff discretion. Currently there is no explicit location requirement on an individual lot. Instead, through the building permit process there is limited negotiation between the applicant and the Planner who is reviewing the permit application. Pursuant to KZC 95.32, the Planner is authorized to require minor 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.

With this recommended change, the City would have more ability at the front end to require the applicant to locate infrastructure and other improvements so that the most viable specimens or sensitive area assets are protected on a site specific basis. The proposed criteria do not address storm water impacts, and could be revised based on the outcome of further study. Changes to Section 70.15.3.c highlighted in yellow, added since September, would be necessary to implement this change (see the Proposed Changes section below).

Public Comment: FHNA member Lou Berner requested that when aggregation of protected areas is considered in plats, Low Impact Development techniques are included in the proposal.

All modifications to the original September iteration are highlighted in yellow in the Proposed Changes section below.

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](#) [KZC \(Geologically Hazardous Areas\)](#) or [90](#) [KZC \(Environmentally Sensitive Areas Drainage Basins\)](#) 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;

- d. 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.

25 percent of the total lot area shall be designated as a Naturalized Area, which is defined as an area that complies with the minimum vegetation standards of Subsection 4 of this section. Any Naturalized Area shall be located in a manner where the following is achieved in order of priority:

- 1) Existing contiguous Naturalized Area; where existing on-site viable trees, native vegetation and sensitive areas and their buffers connect to an area of the same on adjoining properties, or

2) Existing non-contiguous Naturalized Area; an existing on-site area of viable trees, native vegetation, sensitive areas and their buffers isolated from any areas of the same on adjoining properties, or:

3) A restored Naturalized Area. If the lot does not contain undisturbed areas already meeting the vegetation requirements of subsection (4) of this Section, a Naturalized Area shall be established or restored to the vegetation and soils standards under subsections (4) and (5) of this Section. The location priority for the Naturalized Area is contiguous to viable trees, native vegetation and sensitive areas and their buffers on adjoining properties along common property lines.

- 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 Naturalized Area shall meet the following vegetation standards:

a. All supplemental 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 of a 30 tree credits per acre is the standard applicable for retention or establishment of trees in the Naturalized Area as described in KZC 95.33.1.

If the Naturalized Area does not meet the minimum tree density of 30 tree credits per acre, supplemental trees are required to be planted to meet the tree density value for minimum tree density as described in KZC 95.33.4. The minimum size of conifer trees shall be at least four (4) feet in height, and deciduous or broad-leaf evergreen trees shall be at least two (2) inches in caliper DBH, measured from existing grade.

Example: On a 10,000 square foot lot a minimum of (7) tree credits are required ($10,000/43560 = 0.22 \times 30 = (6.9)$ or (7)). Of that, 25% of the trees (a minimum of (2) tree credits) must be located within the Naturalized Area ($(10,000 \times 25\% = 2,500 /43,560 = .057 \times 30 = (1.7)$ or (2)). The minimum tree density for the Naturalized Area could be met with one (1) 2-inch caliper deciduous and (2) 4-foot tall conifer tree in this location.

- 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 Naturalized Area.

5. Standards for Required Supplemental Plantings in Naturalized Area(s)

- a. Soil Specifications - Soils in planting areas shall have adequate porosity to allow root growth. Soils which have been compacted to a density greater than one and three-tenths (1.3) grams per cubic centimeters shall be loosened to increase aeration to a minimum depth of 24 inches or to the depth of the largest plant root ball, whichever is greater. Imported topsoils shall be tilled into existing soils to prevent a distinct soil interface from forming. After soil preparation is completed, motorized vehicles shall be kept off to prevent excessive compaction and underground pipe damage. The soil quality in any landscape area shall comply with the soil quality requirements of the Public Works Pre-Approved Plans BMP T5.13.

b. Mulch -

1) Required plantings, except areas of established ground cover, shall be covered with two (2) inches or more of organic mulch to minimize evaporation and runoff. Mulch shall consist of materials such as yard waste, sawdust, and/or manure that are fully composted.

2) b. All mulches used in planter beds shall be kept at least six (6) inches away from the trunks of shrubs and trees.

- c. Prohibited Plants – Invasive weeds and noxious plants listed on the Kirkland Plant List in the vicinity of supplemental

plantings, shall be removed in a manner that will not harm trees and vegetation that are to be retained.

4.6 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) and (3) 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.

57. The applicant shall submit a Tree Retention Plan required under Chapter 95 KZC, which includes the approximate trunk location and critical root zone of significant trees that are on adjoining properties with driplines extending over the subject property line. In addition, it shall include the existing conditions and general locations of all shrubs and groundcover on the subject property. 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 (57)(a) of this section.

8. Tree and Landscape Maintenance Requirements

a) Naturalized Area(s):

The 25 percent Naturalized Area(s) shall be retained in perpetuity. Prior to final inspection, the applicant shall provide:

1) a final as-built landscape plan showing all vegetation required to be planted or preserved and

2) a recorded greenbelt protection easement, 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.

3) 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.

b. All significant trees in the remaining 75% of the lot shall be maintained pursuant to 95.51. KZC.

69. Pervious areas not covered by impervious surfaces or altered as provided in (2), (3), or (4) of this section, which are not geologically hazardous or 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 cleared as long as they are replanted with appropriate native species or other appropriate vegetation;
 - c. 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;
 - d. 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
 - e. 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.
710. 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:

- a. Development of a lot will require a driveway 60 feet or longer from the lot boundary to the proposed dwelling unit;
- b. On-site flow control facilities are required by the Public Works Department;
- c. 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

- d. 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.

95.51 Tree and Landscape Maintenance Requirements

The following maintenance requirements apply to all trees, including street trees, and other vegetation required to be planted or preserved by the City:

1. Responsibility for Regular Maintenance. Required trees and vegetation, fences, walls, and other landscape elements shall be considered as elements of the project in the same manner as parking, building materials, and other site details. The applicant, landowner, or successors in interest shall be responsible for the regular maintenance of required landscaping elements. Plants that die must be replaced in kind. It is also the responsibility of the property owner to maintain street trees abutting their property pursuant to KZC [95.21](#).
2. Maintenance Duration. Maintenance shall be ensured in the following manner except as set forth in subsections (3) and (4) of this section:
 - a. All required landscaping shall be maintained throughout the life of the development. Prior to issuance of a certificate of occupancy, the proponent shall provide a final as-built landscape plan and an agreement to maintain and replace all landscaping that is required by the City.
 - b. Any existing tree or other existing vegetation designated for preservation in a Tree Retention Plan shall be maintained for a period of five (5) years following issuance of the certificate of occupancy for the individual lot or development. After five (5) years, all trees on the property are subject to KZC [95.23](#) unless:
 - 1) The tree and associated vegetation are in a grove that is protected pursuant to subsection (3) of this section; or
 - 2) The tree or vegetation is considered to be a public benefit related to approval of a planned unit development; or
 - 3) The tree or vegetation was retained to partially or fully meet requirements of KZC [95.40](#) through [95.45](#), Required Landscaping.
3. Maintenance of Preserved Grove. Any applicant who has a grove of trees identified for preservation on an approved Tree Retention Plan pursuant to KZC 95.30(2) shall provide prior to occupancy the legal instrument acceptable to the City to ensure preservation of the grove and

associated vegetation in perpetuity, except that the agreement may be extinguished if the Planning Official determines that preservation is no longer appropriate.

4. Maintenance of Holmes Point Overlay Zone Naturalized Area. Vegetation in designated Naturalized Areas in the Holmes Point Overlay Zone is to be protected in perpetuity pursuant to KZC 70.15.8.a.

54. Maintenance of Critical Area and Critical Area Buffers. In critical areas and their buffers, native vegetation is not to be removed without City approval pursuant to KZC 95.23(5)(d). However, it is the responsibility of the property owner to maintain critical areas and their buffers by removing non-native, invasive, and noxious plants in a manner that will not harm critical areas or their buffers. See also subsection (6) of this section and Chapters 85 and 90 KZC for additional requirements for trees and other vegetation within critical areas and critical area buffers.
65. Non-Native Invasive and Noxious Plants. It is the responsibility of the property owner to remove non-native invasive plants and noxious plants from the vicinity of any tree or other vegetation that the City has required to be planted or protected. Removal must be performed in a manner that will not harm the tree or other vegetation that the City has required to be planted or protected.
76. Pesticides, Herbicides, and Fertilizer. The use of plant material requiring excessive pesticide or herbicide applications to be kept healthy and attractive is discouraged. Pesticide, herbicide, and fertilizer applications shall be made in a manner that will prevent their unintended entry into waterways, wetlands, and storm drains. No application shall be made within 50 feet of a waterway or wetland or a required buffer as established by City codes, whichever is greater, unless done so by a state certified applicator with approval of the Planning Official, and is specifically authorized in an approved mitigation plan or otherwise authorized in writing by the Planning Official.
87. Landscape Plans and Utility Plans. Landscape plans and utility plans shall be coordinated. In general, the placement of trees and large shrubs should adjust to the location of required utility routes both above and below ground. Location of plants shall be based on the plant's mature size both above and below ground. See the Kirkland Plant List for additional standards.

Staff Recommendation: Adopt proposed changes as indicated.

Staff recommends that aggregation options for the 25 percent undisturbed native soil and vegetation area in plat developments be put on hold until the Sensitive Areas study is done following the GMA Comprehensive Plan Update. The necessary public participation component would be built into the project to provide residents an

opportunity to have a conversation about the purpose of the overlay which will inform what approach to take with aggregation.

During that study, Public Works and Planning staff would analyze how combining the required Naturalized Areas in plats would impact storm water management and slopes. This is essential information to understand the possible advantages of aggregation. If analysis were to proceed now, it would add several months to the Miscellaneous Zoning and Municipal Code Amendment project, which would impact the Planning and Public Works work program.

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. Staff reviewed the following at previous meetings:

- 23.a Reduce the review process for Minimum Lot Size in KMC 22.28.030(d) from Process IIB to the underlying plat process;
- 23.b Reduce the review process in Houghton for variances in KZC 120.10 related to detached dwelling units in any zone from Process IIA to Process I;
- 23.c Reduce the review Process for Schools, Daycares and Churches in Single Family Zones in KZC 15.10, 17.10 and 18.10 both for properties less than and greater than 5 acres; and
- 23.d Reduce the review process for Schools, Daycares and Churches in Multi-family zones in KZC 20.10 from Process IIA to Process I outside the NE 85th St. sub-area.

Planning Commission: The PC concurred with the staff recommendation on 23 a. and b. The Planning Commission recommended a change to 23.c and was ok with 23.d.

Houghton Community Council: The HCC concurred with the staff recommendation on 23 a. and b. Houghton was not comfortable with 23.c or 23.d.

Staff Recommendation: Staff recommends retaining 23.a and b - the amendments reducing the review process for Minimum Lot Size in KMC 22.28.030 and Variance Process in KZC 120.10; and deleting from the code amendment project 23.c and 23.d – reducing the review process for Schools, Daycares and Churches in Single Family and Multi-family zones.

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

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

Background:

Update:

Since the September 12 study session, the owner of the stand-alone solar panel array that prompted this amendment has agreed to re-locate the panel to meet setback requirements by the end of November. A second free-standing solar array of the same dimensions received permit approval on October 15 and the installation date is targeted at the same time as the existing panel is moved. Both solar arrays are vested under the current ZC provisions. Neighbors are requesting that the City provide standards for siting stand-alone solar arrays in residential neighborhoods to mitigate impacts.

In this unique case, the glare impact was a result of the solar panel array being stuck for two weeks in a position where during mid-morning, the sun was directed into the panels at an angle that it reflected into the neighbors windows. During that limited time, there was a malfunction of a circuit board that prevented it from operating correctly to track the sun. Normal operation results in the position of the array at a perpendicular angle to the sun, which directs glare and reflection back to the sun and not to an intervening object.

Planning Commission: At the September meeting, the Planning Commission asked for a project scope and schedule for a comprehensive study of all stand-alone and roof-top alternative energy applications in residential settings.

Staff estimates that it would add several months to the project minimum, based on the technical issues involved and how comprehensive the project is. Resources would have to be diverted from other code amendments or work program priorities to accomplish the scope of work the PC is interested in. A comprehensive study of alternative energy could be in either a future bundle of code amendments or as part of a future phase of Green Code amendments.

Houghton Community Council: At their September meeting, the Houghton Community Council recommended moving forward with more focused amendments addressing only free-standing solar panel arrays; either a limited study of screening or comprehensive consideration, dependent upon staff resources. Issues such as size, solar orientation and efficiency, placement, and screening in residential neighborhoods are among those that they would like addressed with a comprehensive stand-alone solar study.

Public Comment: At the PC study session on September 12, four people spoke in favor of drafting compatibility standards. One presented staff with literature on the topic. Speakers reside in the vicinity of the stand-alone solar array. Concerns over

size, height, screening from the right-of-way and adjoining properties, and property values were expressed.

At the HCC study session on September 23, two people spoke in favor of establishing zoning requirements. One speaker had also spoken at the previous PC study session.

A total of 4 emails were presented to both advisory boards on this topic. One was from the owner of the stand-alone solar array expressing caution on proceeding with regulating aesthetics; since this would or could be precedent setting for other accessory uses on residential properties. The other three were from nearby residents requesting compatibility standards.

Staff Research:

The following photos show examples of residential applications of solar panel arrays that generate electricity; roof mounted or free-standing (ground mounted). At our latitude solar panels are at their optimal efficiency when installed facing south at a 30-35 degree angle to the sun as measured when the angle of the sun is at its lowest (winter solstice -Dec. 21).

ROOF MOUNTED SOLAR ENERGY SYSTEM (ATTACHMENT #1)



GROUND MOUNTED SOLAR ENERGY SYSTEM (ATTACHMENT #2)



After speaking to several solar professionals, the consensus is that there are not many residential stand-alone arrays going in in Western WA because from an economic perspective they cost more than a roof mounted array. The complexity and cost to install is greater since there is no existing structure to attach to, thereby requiring a concrete foundation and/or pipe and piles underground. At this time, the return on investment on roof mounted solar systems is three to five years sooner than a ground mounted system.

Instead, they are more common in commercial and institutional applications or as demonstration projects where installation is for educational purposes.

A tracking system like the one installed in Finn Hill, results in an even longer pay back period, due to the additional technology involved. In addition to the expense, the electrical circuitry involved may be a safety concern (live wires) and be taken into account when designing or locating the system.

Photovoltaic solar with good ventilation and lower ambient temperatures operate at higher efficiency. Roof mounted systems can trap air between the panel and a roof, increasing the temperature on the back side of the array resulting in reduced chemical reaction in the panel, which is required for electricity production. Comparative efficiency can be achieved for roof mounted by spacing the panels to achieve good air flow.

NW SEED, a non-profit community energy developer, leading the Pacific Northwest Solar Partnership in an effort to drive down solar costs and increase solar deployment through looking at permitting, financing and codes, noted that there are very few WA jurisdictions with ordinances strictly addressing ground mounted and free-standing residential solar panels and noted Kirkland is blazing new ground in looking for free standing solar specific design guidelines in WA state.

The American Planning Association affirmed the assessment that few communities in the Northwest have adopted standards for freestanding solar energy systems. Among those that have, there is little consistency from place to place regarding specific development standards. This is true nationally as well.

Speaking very broadly, it is common to limit freestanding solar energy systems to the side or rear of the house and to require compliance either with general district setback requirements for accessory structures or with use-specific setbacks. Screening requirements are relatively uncommon. Lot coverage limits are relatively common, as are height limits. Other means of limiting system size, such as limits on rated system capacity, are rare.

Below, the American Planning Association supplemented the few examples they had documented from the Northwest with examples from other Northern communities across the U.S.

Examples of Communities with Standards for Freestanding Accessory Solar Energy Systems:

Jurisdiction	State	Free-standing solar energy systems permitted in residential districts	Permitted only on side or rear of house	Subject to setbacks	Screening required	Lot coverage limit	Height limit	Capacity limit
Scarborough	ME	x		x		NS	20'	NS
Bay City	MI	x	x	x		DL	DL	NS
Duluth	MN	x	x	x		600 ft2	20'	NS
Faribault	MN	x	x	x		NS	10'	NS
Woodbury	MN	x	x	x	x	200 ft2	15'	NS
Hampton	NH	x	x	x	x	NS	8'	NS
Gresham	OR	x	x	x		25 ft2	6'	10 kW
Lincoln City	OR	x		x		NS	NS	NS
Milwaukie	OR	x		x		DL	DL	NS
Northampton Twp.	PA	x	x	x		NS	15'	NS
Providence	RI	x	x			NS	8'	NS
Mitchell	SD	x	x		x	15%	10'	NS
Colechester	VT	x	x	x	x	NS	8'	NS
Douglas County	WA	NA	x	x		DL	DL	NS
Marysville	WA	x	x	x	x	NS	NS	NS
Mill Creek	WA	x	x			NS	DL	NS
Green Bay	WI	x	x	x		DL	16'	NS

NA=not applicable
 NS=not specified
 DL=district limits apply

More local examples are noted in the attached matrix that includes the municipalities of Lynnwood, Marysville, and Clark County (Attachment 3).

Examples of Regulations Addressing Glare:

The following are examples of development standards from across the U.S. that address glare emanating from solar applications: Information from Municipal Research Service Center confirmed that there are only a few jurisdictions in WA that address glare impacts from solar arrays specifically.

A Massachusetts publication with Q&A on ground mounted solar systems note that these should only reflect about 2% of incoming light and many projects have been installed near airports with no impact on flight operations. There have been no cases of accidents in which glare caused by a solar energy site was cited as a factor.

- Kirkland (WA) City of, [Zoning Code](#) 115.50, Glare Regulation (not written for solar)

"Any artificial surface which produces glare which annoys; 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.

- Albany (New York), City of. 2011. [City Code](#). Chapter 375. Zoning. Article XIV. Specific Use Regulations. Section 375-93. Solar energy equipment.

(5) "Ground-mounted solar collectors are permitted as accessory structures in all zoning districts, subject to the following requirements: (4) The solar collectors do not emit unreasonable glare and negatively impact adjacent properties."
- Calabasas (California), City of. 2011. [Municipal Code](#). Title 17. Land Use and Development. Chapter 17.20. General Property Development and Use Standards. Section 17.20.190. Solar Energy Development Standards.

"Exterior surfaces of the collectors and related equipment shall have a non-reflective finish and shall be color-coordinated to harmonize with roof materials and other dominate colors of the structure." (Section 17.20.190.D)
- Dundee (Michigan), Township of. 2010. Ordinance No. 09-10-01: [Solar Panel Zoning Ordinance Amendment](#).

"Glare. Solar panels shall be placed and arranged such that reflected solar radiation or glare shall not be directed onto adjacent buildings, properties or roadways." (Section 5.22.3)
- Lincolnshire (Illinois), Village of. 2011. [Municipal Code](#). Title 6. Zoning. Chapter 17. Alternative Energy Collection Systems. Section 6-17-6. Solar Energy Systems (SES).

"Shall be designed and installed to prohibit Sun Reflection towards vehicular traffic and any habitable portion of an adjacent structure. Sun Reflection onto an adjacent roof shall be acceptable." (Section 6-17-6.C.1.c)
- Shoreham (Vermont), Town of. 2004. [Zoning Bylaws](#). Section 341. Conditional Use Review. Subsection G. Performance Standards. Section 527. Solar and Wind Energy Systems.

"No glare, lights, or reflection shall be permitted which are a nuisance to other property owners or tenants or which could impair the vision of a driver or any motor vehicle or which are detrimental to public health, safety, and welfare. However, reflections from solar energy collectors which are part of an operating solar energy system shall not be considered a nuisance to other property owners and tenants." (Section 341.G.2)
- Issaquah (WA) City of, [Municipal Code](#) 18.07.060 Building Height B.4.i.

"Solar panels or arrays, provided all the following criteria are met: (3) The solar panel or array shall not cause excessive glare or reflections so as to constitute a hazard to pedestrians and/or vehicular traffic;"
- Lynnwood (WA) City of, [Municipal Code](#) 21.42.400 Assessorly Structures and uses

"...If it is found that a solar energy system would have a positive impact on energy production and conservation while not having an adverse environmental impact on the community, but the placement of such system requires violation of city setback or maximum height limitations, allowance of such systems may be permitted through the variance process and shall be encouraged. In viewing such variance request, the following shall be considered in making a determination: "2. That the solar energy system is designed to minimize glare towards vehicular traffic and adjacent properties;"

- Redmond (WA) City of, [Development Guide](#) 20D.95.30-020, Glare and Heat (the same language also appears in the Bainbridge Island Code and is general – not written for solar)

"Any operation producing intense glare or heat shall be conducted within an enclosed building or with other effective screening in such a manner as to make such glare or heat completely imperceptible from any point along the property line. (Ord. 2006)"

Aesthetics:

Regulating the size, height, location and screening of a free standing system brings up the issue of how other assessorly uses that are allowed in residential zones are or are not regulated. As noted by several solar professionals, with time, technology changes and people's perceptions change as well. Just as satellite dishes used to be large and challenging aesthetically, they have evolved to the point where they are small and unobtrusive.

For comparison purposes, satellite dishes which are greater than 3 feet in diameter in residential zones are regulated as Personal Wireless Service Facilities under [KZC 117](#). Those of a smaller diameter are regulated as assessorly uses pursuant to KZC 115.10. There are no screening requirements for those that are treated as assessorly structures.

If a 3 ft. or greater in diameter stand-alone satellite dish is proposed in a residential zone, it is processed as a Process IIB permit (Hearing Examiner recommendation – CC decision), unless it attaches to a multifamily residential building in a MF zone, in which case it is processed as a IIA permit (Hearing Examiner decision – appeal to CC). They are not allowed in the Shorelines Jurisdictions.

Height limits, screening techniques, and landscape buffering to make the satellite architecturally compatible with the surrounding buildings and land uses or otherwise integrated, through location, design, and/or concealment technology, to blend in with the existing characteristics of the site and streetscape to the maximum extent practical and in general soften the appearance of the site are required. Many of the specific requirements would not be appropriate for stand-alone solar arrays since they would limit the ability of the solar panels to absorb sunlight.

Home Occupations

KZC 5.10.370 defines Home Occupations as follows:

"An occupation, enterprise, activity, or profession which is incidental to a residential use, which is carried on for profit or customarily carried on for profit, and which is not an otherwise permitted use in the zone in which it is pursued."

The Planning Department conducted an investigation and concluded that due to the nature of the power generation and operation of the PSE green power program, the use of the panels does not constitute a home occupation.

The State of Washington recognizes the public benefits of alternative methods of power generation, such as solar panels, and has adopted financial incentives for homeowners to be partially reimbursed for the cost of system installation. In addition, other incentives, administered through the local electric utilities, provide owners of on-site energy generation systems with credits for energy generated in excess of the amount actually used on site. This is accomplished by "net metering."

According to discussions with a PSE representative, a special bi-directional meter is installed at properties with solar panels. The meter tracks energy flowing both into and away from the residence. The customer is billed only for the net energy used that is not generated in real time by the solar panel, and is not compensated for any excess energy generated. In other words, the best customers are able to do is eliminate their PSE energy bills. They cannot make a profit. Furthermore, the power credits are reset each year. To protect utility workers, the special meter also allows the flow of energy from the property to be cut off when the network is under repair.

Staff also learned that the State Department of Revenue does not consider the power credits to be taxable income.

Based on the above, the Planning Department concluded that the generation of solar power at a residence does not constitute a home occupation. It also seems that focusing on the business aspect obscures the real concerns, which have to do with the aesthetic impacts of the free-standing panels. Further, if the City were to treat free-standing solar panels as a business, we'd have to do the same for rooftop panels.

Options:

Staff requests direction on how to go forward with the following performance standard options. (An asterisk * indicates how the existing Finn Hill free-standing solar panel array is currently regulated)

Location

- Not allowed between house and right-of-way
- Not visible from public streets
- *No limit
- Prohibit free-standing solar in Residential Zones

Height

- *Based on underlying zoning district -RS 25'; RSX 30'; RSA 30'; RM 30, RMA 35'
- 15 feet above ABE at maximum tilt (as a comparison, Finn Hill example 17 feet)

Setback

- *Based on underlying zoning district (RS 20/5-15/10; RSX 20/5/10; RSA 20/5/10; RM 20/5-15/10; RMA 20/5/10)
- No limit

Screening

- Vegetation to buffer the pole
- Landscape or fence along perimeter property lines
- Standards for all panel array supporting structures to blend in (e.g. color, finish)
- *None

Size

- Square foot limit (as a comparison, Finn Hill example 215 sq. ft. on a 15,800 sq. ft. lot)
- *No limit

Number

- Limit number of arrays
- *No limit

Staff Recommendation:

Staff is not proposing to prohibit stand alone solar panel arrays. We think the most relevant factors that will minimize visual impacts are height, setbacks, screening, and number of arrays allowed. Staff recommends listening to the presentation by Jeremy Smithson, owner of Puget Sound Solar, a professional solar installer. After the question and answer session, please provide direction on how to proceed on drafting amendments for the public hearing in January.

II. REMAINING AMENDMENTS

A. MODERATE POLICY CHANGES

These are considered more substantive changes to existing regulations.

15. Setback Requirements for Schools/Day Cares in Residential 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; TL 9B; PLA 2; 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

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

Background

The commercial codes project (O-4413) adopted by CC on July 2, 2013, included changes to the setbacks for schools and daycare centers and structured play areas, to match the setbacks for other uses in underlying office and commercial zones. Previously setbacks had been the same as those required in residential zones. The change allows schools or daycares to move into existing retail or office space which was formerly precluded because of narrow setbacks. Similarly, existing setback and land use buffer rules now govern the location of structured play areas.

Now the issue is to review school or daycare center and structured play area setbacks in residential zones. In some cases reducing the setbacks would allow these uses to locate into existing buildings with narrower setbacks, or on lots with dimensions that would otherwise not accommodate this land use.

1. Building setbacks

If we want to encourage schools or daycare centers to locate in residential neighborhoods, reducing building setbacks standards would create more location opportunities for them. Matching setbacks and land use buffer standards with other uses in the underlying zone rather than requiring the larger setbacks now in place, could spur reuse of existing structures or redevelopment.

Last year Planning received a request to review setback standards for day care centers. The applicant was exploring the feasibility of locating in a single family zone, but among other constraints the fifty foot setback requirement for more than 49 children precluded this option. Single family residential lots are often no wider than 50 feet, limiting where day care centers serving more than 49 children can locate.

Galen Page, on behalf of the day care operator advocates treating medium size daycare centers (50-125 students) the same as those serving 13-49 students. That is, requiring 20 foot setbacks rather than 50 foot setbacks on all sides of the daycare center. The operator’s position is that because daycares are operated during normal weekday business hours when many homes are not occupied, the impacts to the surrounding neighborhood are minimized. To ensure compatibility, the operator supports increased land use buffers for daycares serving 50 – 125 students (Attachment 4). The operator is currently exploring the feasibility of locating in various non-residential zones in Kirkland.

Current Kirkland setback requirements for both schools and daycares (and their structured play areas discussed in the next section) are based on student population as indicated below:

Kirkland Residential Zones												
School/Daycare Building and Structure Play Area (SPA) Setbacks												
Type	Mini School/ Mini-day care (up to 12 students)			SPA	School/ Day Care Center (13-49 students)			SPA	School/ Day Care Center (50+ students)			SPA
Setbacks by # of students	front	Side	Rear	All sides	front	Side	Rear	All sides	front	Side	Rear	All Sides
	20	5/15	10	0	20	20	20	10	50	50	50	20

Kirkland requires all school or day care center proposals to be processed as conditional use permits. If the subject property is less than five acres it goes through a Process IIA, (except Process IIB in Houghton’s jurisdiction). If the subject property is five acres or greater it goes through a Master Plan Process IIB.

Staff has reviewed regulations in neighboring jurisdictions (Bothell, Redmond, Bellevue, Woodinville and King County). Kirkland is unique in that we regulate schools (K-12) and daycare center uses the same, while in those other jurisdictions they are treated as a distinct land uses. Another difference is that Kirkland bases setbacks on how many students or children can be accommodated, while the other municipalities base their standards on which residential zone the facility is located in.

Schools (K-12, and in the case of Bothell preschools) are allowed in all residential zones in all jurisdictions including Kirkland, through a conditional use permit (discretionary land use permit).

Daycare centers in Redmond and Bellevue are restricted to multifamily residential zones, unless they are housed in schools or churches or community facilities. Bothell restricts them to multifamily zones only. In King County daycare centers are allowed outright in any residential zone, as a reuse of a public school facility or as an assessor use to a school, church, park, sport club or public housing administered by a public agency and as a free standing use with a conditional use permit. In Woodinville daycare centers are permitted in any residential zone only if they are in a church or school building. Kirkland, allows free standing day care centers in all residential zones.

Bellevue is unique in that it requires greater setbacks along the side and rear property lines, rather than the front for both schools and daycare centers. Except Bellevue, it appears that the minimum setbacks for schools are narrower than Kirkland's. Bellevue does have a process to reduce the rear and side yard setbacks from 50 to 30 feet. It appears that all jurisdictions allow narrower minimum setbacks than Kirkland for daycares regardless of the number of students.

Minimum setback requirements for neighboring jurisdictions are shown in the following table:

Neighboring Cities' School/ Daycare Building and Structured Play Area (SPA) Setbacks				
Type	School Setbacks Front/side/rear (Allowed in all residential zones)	SPA or outdoor recreation area Setback	Daycare Setbacks Front/side/rear	SPA Setback
Bothell	20/5-15/15 minimum except 30/5/35 in R 40,000 Conditional use permit required	Same	20/5-15/15 minimum If housed in existing school buildings allowed in all residential zones If housed in new school buildings or existing or new churches allowed in all residential zones with conditional use permit Free Standing allowed in multifamily residential zones only with conditional use permit	same
Redmond	30/20/30 R1 30/5/10 R2 20/5/10 R3 15/5/10 R4, R5, R6 10/5/10 R8, R12, R18 20/15/10 R20, R30 Minimum Conditional use permit required	10'	Same as schools If housed in church or school buildings allowed in all residential zones Free standing allowed in multi-family zones with conditional use permit	10"
Bellevue	20/50/50 minimum except side and rear yard setback reduction to no less than 30' if: <ul style="list-style-type: none"> minimum 20'wide interior property line landscaping 	10', perimeter landscape buffer On-site playfields	Underlying zone setback minimum If housed in community facility allowed in all residential zones.	Adjoining Single Family 0' if 8' high fence, otherwise 10'

	<ul style="list-style-type: none"> No deviations to underlying height limit Building entrances not w/in 50' of side or rear property line <p>Conditional use permit required</p>	extending to property lines 10' setback with 8' high fence	Free-standing allowed in multifamily zones only; conditional use permit in R-10 and R-20	<p>landscape buffer</p> <p>Adjoining Multi-family underlying setback with 6' high side and rear yard fence</p>
Woodinville	<p>10/5/5 minimum</p> <p>Conditional use permit required</p>	same	<p>10/5/5 minimum</p> <p>Allowed in all residential zones in church or school buildings only</p>	<p>20' setback with 6' high fence</p>
King County	<p>30/30/30 minimum (Currently 30 foot setbacks for all elementary and middle schools in JFK Increased setbacks for high schools in KC.)</p> <p>Conditional use permit required,</p>	30/30/30 min setback with 6' high fence	<p>30/30/30 minimum</p> <p>If housed in public school facility or as an assessor use to a school, church, park, sport club or public housing administered by a public agency allowed in all residential zones</p> <p>Free-standing allowed with conditional use permit</p>	<p>20' setback with 6' high fence</p>

Staff also researched whether these jurisdictions have received complaints regarding noise or other problems that could be attributed to setbacks. None have had significant complaints. None have been received in Kirkland.

Redmond officers have had maybe one or two calls per year at most, over the last 20 years. The calls have been from people bothered about noisy kids playing. They consider it a non-issue.

Bothell has not had complaints. Bothell has no special setbacks for schools or daycares and addresses any issues (such as the Jr. High athletic field late-night lights & noise) through the Conditional Use Permit. (They handled the light/game noise issue by limiting events to 10 pm at latest). Non-home daycare centers like KinderCare are located in commercial zones so are not an issue. A Montessori school in a residential zone was given the same setbacks as residential uses. During the planning process neighbors had communicated some concerns about traffic and noise, which will be addressed as needed through the Conditional Use Permit.

The Bellevue code enforcement officer had received maybe 2 complaints in 13 years and did not believe the other officers had received much in the way of complaints

either. The school complaint she recalled was from a woman living adjacent to a school, who did not like the noise of children playing. They have received noise calls about kids playing in backyards of home daycare centers but that is a state mandated allowed use so there is no recourse anyway.

King Co – The officer had not had any complaints regarding public schools regarding setbacks. They have had a few cases on private schools, but not related to setback regulations.

Building Setback Options:

The following options are contemplated:

1. No change (13 - 49 students/children 20 foot setbacks; 50 or more students/children 50 foot setbacks)
2. Reduce the setbacks for schools/ daycare centers with over 49 children (e.g. 20 foot setbacks regardless of # of students)
3. Base the setback on type of school (e.g. high school - 50 feet setback; middle, elementary or preschools/ day care center - 20 foot setback)
4. Base the setback on a the number of students or children the facility accommodates (e.g. threshold increased from 50 to 200 students for 50 foot setback)
5. Base the setback on the building height (e.g. 20 foot setback for buildings up to minimum height limit by zone. 50 foot setback for buildings up to 35 feet in height)

Staff has drafted two options that might be considered for the public hearing in January.

- Setbacks based on Type of School
This option would reduce all setbacks to 20 feet minimum, except high schools, which retain the 50 foot minimum setback requirement. See Example 1 Attachment 5 for an example of how this might work.
- Setbacks based on Number of Students/Children.
This option would keep the deferential side and rear setbacks now in effect (20'and 50') but sets the cutoff at a more reasonable number of students or children. Staff proposes 200 as the cutoff rather than 49, based on that number being the threshold for Special Regulation 12, addressing increased height exceptions.

It also reduces the front yard setback to 20 feet minimum, regardless of how many children or students are accommodated, resulting in the parking being

located in the rear or side of the building rather than primarily in the front.
See Example 2 Attachment 5 for an example of how this might work.

2. Structured Play Areas

In researching regulations in neighboring jurisdictions staff has confirmed that Kirkland is not unique in requiring setbacks for structured play areas. Many require similar setbacks for structured play areas as our underlying zoning setbacks would require, but do go through conditional use permit review where those setbacks may be increased.

Structured Play Area Setback Options:

The following options are available:

1. No change (13 - 49 students/children 10 foot wide setbacks; 20 or more children 50 foot wide setbacks)
2. Reduce the setbacks for schools and day care centers exceeding 49 students/children (e.g. 10 foot wide setbacks regardless of # of students)
3. Base the setback on type of school (i.e. high school vs. middle, elementary and small schools/day care centers)
4. Base the setback on a revised number of students or children the facility accommodates (i.e. change the threshold to 200 students rather than 50, for a 20 foot wide setback).

Staff has drafted two options that might be considered for the public hearing in January.

- **Setbacks based on Type of School**
Keep the setbacks for structured play areas, but change the cutoff to 20 feet wide for high school structured play areas (a.k.a. outdoor sports areas), and 10 feet for other schools and day care centers. See Example 1, (Attachment 5) for an example of how this would work.
- **Setbacks based on Number of Students/Children**
Keep the setbacks but change the cutoff to 20 feet wide if the structured play area accommodates 200 or more students or children, and 10 feet for schools and day care centers accommodating from 13 to 199. See Example 2, (Attachment 5) for an example of how this would work.

For all options eliminate Special Regulation 3, which requires fences around structured play areas, since Landscape Category 1 and 2 already require a six foot high solid screening fence along all property lines (except adjoining streets).

Staff Recommendation:

Staff recommends that setbacks for school and daycare centers and their structured play areas be based on the number of students or children it can accommodate. Please consider Example 2 shown in Attachments 5 to implement this recommendation and provide staff direction for the upcoming hearing.

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.

Background:

In 2012 and early 2013, two different property owners approached the City Council asking for reinstatement of a King County regulation that applied to their properties prior to the annexation of Finn Hill, North Juanita and Kingsgate. The regulation allows the number of units in a subdivision to be rounded up when the calculation of potential units results in a fraction of .5 or greater. That regulation was not carried over into the Kirkland zoning after annexation. Both owners have small pieces of property and had counted on the County rounding regulations to be able to subdivide their properties for an additional lot. The City Council directed that reinstatement of the regulation be considered as part of the next (this) package of code amendments.

In pre-annexation Kirkland, the number of units is determined solely by minimum lot size. However, when Finn Hill, North Juanita and Kingsgate were annexed, the City adopted new and different "RSA" zoning that was generally based on the previous County zoning. In the RSA zones, the allowable number of lots is determined by the maximum units per acre. There is also a minimum lot size specified, but it is well below the average lot size resulting from the density limit and essentially creates a lower size limit when lot sizes are averaged. For example, the RSA 6 zone has a maximum density of 6 units per acre, which results in an average lot size of 7260 square feet. But the minimum lot size is only 5,100. Unfortunately, the City did not adopt the provision in the County code that addresses what happens when the calculation of number of permitted lots results in a fraction.

Proposed Change:

1. Zoning Code Amendment:

Zone RSA USE ZONE CHART

DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS

Zoning	Required Review Process	MINIMUMS				MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
		Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage	Height of Structure				
			Front	Side	Rear						
iling	None	As established on the Zoning Map. See Spec. Regs. 1, 2 and 3.	20'	5' each side.	10'	50% except 30% for the RSA 1 zone. See Gen. Reg. 3. See Gen. Reg. 4 for Holmes Point overlay zone.	30' above average building elevation. See Spec. Reg. 9.	E	A	2.0 per dwelling unit.	1. Maximum units per acre is as follows: a. In RSA 1 zone, the maximum units per acre is one dwelling unit. b. In RSA 4 zones, the maximum units per acre is four dwelling units. c. In RSA 6 zones, the maximum units per acre is six dwelling units. d. In RSA 8 zones, the maximum units per acre is eight dwelling units. In RSA 1, 4, 6 and 8 zones, not more than one dwelling unit may be on each lot, regardless of the size of the lot. 2. Minimum lot size per dwelling unit is as follows: a. In RSA 1 zone, newly platted lots shall be clustered and configured in a manner to provide generally equal sized lots outside of the required open space area. b. In RSA 4 zones, the minimum lot size is 7,600 square feet. c. In RSA 6 zones, the minimum lot size is 5,100 square feet. d. In RSA 8 zones, the minimum lot size is 3,800 square feet. 3. Road dedication and vehicular access easements or tracts may be included in the density calculation, but not in the minimum lot size per dwelling unit. 4. Floor Area Ratio (F.A.R.) allowed for the subject property is as follows: a. In RSA 1 zone, F.A.R. is 20 percent of lot size. b. In RSA 4 zones, F.A.R. is 50 percent of lot size. c. In RSA 6 zones, F.A.R. is 50 percent of lot size. d. In RSA 8 zones, F.A.R. is 50 percent of lot size, provided, that F.A.R. may be increased up to 60 percent of lot size for the first 5,000 square feet of lot area if the primary roof form of all structures on the site is peaked, with a minimum pitch of four feet vertical to 12 feet horizontal. F.A.R. is not applicable for properties located within the jurisdiction of the Shoreline Management Act regulated under Chapter 83 KZC. See KZC 115.42, Floor Area Ratio (F.A.R.) Calculation for Detached Dwelling Units in Low Density Residential Zones, for additional information.

Where the maximum number of units results in a fraction, the number shall be rounded up if the fraction is .50 or greater.

2. Municipal Code Amendment:

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. The following provisions shall not apply to properties located in an RSA zone.

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 shall be reviewed and decided using process IIB 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:

Staff recommends that we address the above discussed oversight by making the Zoning Code amendment shown above. In addition, it is recommended that the amendment to the section of the Municipal Code amendment shown above also be enacted. That section was adopted to allow flexibility in the lot sizes for subdivisions in the pre-annexation portion of Kirkland. With the amendment to allow rounding up of units in the RSA zone, the provision below for reduced lot size is not appropriate.

B. 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.

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.

Background:

Throughout the Kirkland Zoning Code, “horizontal façade” regulations limit the size of commercial and multi-family buildings next to low density (i.e. single family) zones. These regulations are in addition to regulations that restrict the building height (to the same as the adjoining low density zone) and require landscape buffers. Although the regulations effectively limit the size of commercial and multi-family structures, it has been the experience of PCD staff that the regulations are overly restrictive and unnecessarily rigid. Consequently, we are proposing revisions

Regulations in Question

Following is the basic regulation that applies to most non-low density residential zones of the City:

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 façade 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, and Mini-School or Mini-Day Care Center uses.)

KZC 115.30.b states:

...For purposes of the regulation in this code regarding maximum horizontal façade for any use in any zone to which the maximum horizontal façade limitations apply,...two (2) structures will be treated as one (1) structure if any elements of the structures, other than as specified in subsection (1)(c) of this section, are closer than 20 feet to each other.

The term “adjoining” is defined in in KZC 5.020 as follows:

Property that touches or is directly across a street, other than a principal arterial, from the subject property. For purposes of applying the regulations that limit the height and horizontal length of façade adjoining a low density zone, the regulations shall only apply within 100 feet of and parallel to the boundary of a low density zone (as shown on Plate 18).

Plate 18 is attachment 6 of this memorandum.

The purpose of the “horizontal façade” regulations is to moderate the scale of commercial and multi-family structures directly next to low density zones so that their scale is comparable to the scale of typical detached dwellings. The regulations

strictly limit the size of adjoining commercial and multi-family structures that are taller than one story to segments that are no more than 50 feet wide and are separated from each other by 20 feet. The limitation applies within an area extending 100' from the low density zone. There is no provision for modification.

Staff Recommendation:

Staff is proposing to update the regulations by potentially changing the dimensional standards that apply and including a process for modification. Below are thoughts about the components of the regulations. Staff would appreciate Planning Commission comments about these components so that staff may draft final regulations for consideration.

Dimensional Standards:

- Is 50 feet the proper maximum length of façade next to a low density zone? The dimension was intended to restrict the size of commercial or multi-family structures to be similar to normal detached dwelling units. Is that an appropriate point of reference? Should the dimension be based on the average length of new detached units, the upper X percentile of units, or perhaps a dimension somewhat larger than most detached units? By comparison, design regulations for many business districts (KZC Chapter 92) establish a maximum length for facades facing public streets of 70 feet without vertical definition. Vertical definition may be provided by modulations of unspecified depth or even changes in color and materials.
- Is 20 feet the proper minimum distance between structures? Detached dwellings have a minimum side yard of 5 feet and thus may be within 10 feet of each other. If the requirement is intended to mimic detached dwellings, then a separation of only 10 feet would be required. On the other hand, multi-family and commercial uses typically have side yards of 10 feet, so are 20 feet apart.
- The horizontal façade regulation applies within a distance of 100 feet adjoining a low density zone, which is a very large area. By comparison, Chapter 92 design regulations which seek to break up the mass of buildings (not necessarily adjoining detached dwellings), require that buildings elements have separations with depths of only 20 or 30 feet.

The above three variables make this issue very complex. Staff is thinking that rather than change the façade length and separation dimensions, it would be better to focus on the distance from a low density zone in which the regulations apply. Using the modulation standards of Chapter 92 as a guide, the regulations could be adjusted to apply only within 30 or 40 feet of a low density. Thus a building set back from a common property line with a low density zone would be required to have a recess of 20 or thirty feet deep, which is twenty feet wide, if the building exceeds a length of 50 feet.

Modification Procedure:

Currently the only opportunity for a modification is through a variance, which requires demonstration of a unique property condition and involves a public hearing and decision by the Hearing Examiner. Regardless of whether the required dimensions of the building separation required are changed, staff recommends that the code be revised to allow flexibility in meeting the basic requirement, without having to go through a variance. For example the code could allow the Planning Official to approve an alternative that provides equal or superior moderation of building bulk and mass facing the low density zone.

Attachments:

1. Roster of proposed Zoning Code and Municipal Code amendments.
2. Correspondence from Finn Hill Neighborhood Alliance addressing HP Overlay
3. Matrix Neighboring Jurisdictions Stand Alone Solar Regulations
4. Correspondence from Galen Page addressing day care center setbacks
5. Options for School and Day Care Center setbacks
6. KZC Plate 18 - Adjoining Properties

Cc: File CAM13-00669
List serve groups

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 and September study sessions.

Red notes that item will be considered at the November 21 study session

(Nov 13, 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 assessor child-care operation for up to 12 children. They are regulated as an assessor 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, 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.

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.

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.

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.

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.



November 13, 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 the Holmes Point Overlay (“HPO”) ordinance amendments that the Planning Commission will consider at its November 21 study session. As you know, we are an ad hoc committee of Finn Hill residents that was formed in August at the direction Finn Hill Neighborhood Alliance (“FHNA”) board of directors to work with the City on proposed revisions to the HPO ordinance. 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 greatly appreciate the opportunities that you have given us to review the draft ordinance and to submit comments. While we haven’t studied the draft that you are submitting today to the Planning Commission, we generally support the language that we have seen. We believe that the proposed revisions clarify the ordinance in several important respects, which should enhance compliance and enable better enforcement. At the same time, the revisions are not so ambitious that they introduce new concepts that cannot be adequately assessed in the short time frame that City has for consideration of this sets of zoning amendments.

In particular, we are pleased that the draft does not include earlier recommendations to encourage the concentration of natural vegetation areas (“Undisturbed Areas” in the parlance of the original HPO) in one of the parcels that results from the subdivision of an existing lot. As we stated in our September 3 letter to you, proposals to aggregate natural vegetation in one portion of a subdivision, as opposed to designating a smaller protected natural area in each of the newly subdivided lots, may have merit; however, we do not have the data to demonstrate that the outcomes would have positive environmental and aesthetic effects in our neighborhood, and it is quite possible that the impact of such a zoning change would be detrimental to the neighborhood overall. Consequently, we have concluded that no such revision to the HPO ordinance should be made until we have had a chance to gather information with the City on how an “aggregation” policy would affect the Finn Hill properties that may

be subdivided in the future. We are, of course, very willing to work with City staff on collecting and assessing data should the City wish to do so.

The draft you are forwarding to the Planning Commission contains an extensive revision of Section 3.c, which defines how a Natural Area should be designated. We are very pleased that it gives priority to protecting existing native vegetation and eliminates any suggestion that mature native trees and shrubs could be removed so long as plantings are installed in a new Natural Area.

We note that the proposed revision of Section 3.c promotes the location of Natural Areas adjacent to similar areas on adjacent lots. We have not reached a conclusion as a committee about the merits of such a requirement. Individual members of the committee may submit comments on this issue to the Planning Commission in the next week.

We generally support the provisions in the HPO ordinance that clarify which types of vegetation may be planted in a Natural Area and how such an area must be maintained. Some of our committee's members have suggested that certain proposals (e.g., those specifying the pot size or tree diameter size of new plantings) may be unnecessarily prescriptive, but we also recognize that the City has an interest in providing clear planting standards to encourage compliance and facilitate enforcement. Individual committee members may submit comments to the Planning Commission on these and other technical issues after we read the draft that you are submitting to the commission.

The foregoing comments reflect the 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.

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

Comparisons by Jurisdiction of Solar Panel Stand Alone (Ground Mounted) Arrays in Residential Settings									
Jurisdiction (citation & website)	Allowed in Residential Zones	Min Setback	Max Height	Max Size	Screening	Glare Regulation	Placement		
Kirkland <i>KZC 15.10, 17.10, and 18.10</i>	Yes, as an accessory residential use	Underlying zone RS 20-5/15-10 RSX 20-5-10 RSA 20-5-10	Height allowed by the underlying zone or 15 feet above the existing height (roof peak elevation) of the primary residence, whichever is less.	Underlying zone lot coverage (50% of lot area, except 30% in RSA 1)	Non Specified	KZC 115.50 Any artificial surface which produces glare which annoys; 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.	Non Specified		

Comparisons by Jurisdiction of Solar Panel Stand Alone (Ground Mounted) Arrays in Residential Settings									
Jurisdiction (citation & website)	Allowed in Residential Zones	Min Setback	Max Height	Max Size	Screening	Glare Regulation	Placement		
North Little Rock, Arkansas <i>Zoning Ordinance No.7697 Sec. 12.27</i>	Yes	5 feet from property line & 10 feet from primary structure	8 feet	Shall not exceed 50% of lot coverage including primary structure and solar panel	Must be screened from public view by a wood privacy fence of sufficient height to screen panels	Glare shall not be directed onto nearby properties or roadways. When perceived as a nuisance secondary impact it shall be the responsibility of the owner to remediate the nuisance.	Rear yard of Residential setting		
Mesa, Arizona <i>Chapter 5 Sec. 11</i>	Allows detached accessories, but no electrical fixtures	Non Specified	Rear one quarter no more than 10 feet Rear yard no more than 12 feet, Side yard no more than 8 feet	Non Specified	Non Specified	Non Specified	Non Specified		

Comparisons by Jurisdiction of Solar Panel Stand Alone (Ground Mounted) Arrays in Residential Settings									
Jurisdiction (citation & website)	Allowed in Residential Zones	Min Setback	Max Height	Max Size	Screening	Glare Regulation	Placement		
Warwick County, Pennsylvania <i>Ordinance No. 2</i>	Yes	No less than 15 feet of property lines	Max height 15 feet	1% of lot area not exceeding 360 square feet	Must be screened from any adjacent property. Fencing, plantings, or a combination must effectively mitigate off-site visual impacts and glare	← See Screening regulations	Rear yard		
Monroe County, Pennsylvania <i>Ordinance No. ____ Sec. 3</i>	Yes	Non Specified	Non Specified	Non Specified	Must be screened from adjacent property with fencing or shrubbery	Be placed so that concentrated solar radiation or glare shall not be directed onto nearby properties or roadways	Not located in front yard		

Comparisons by Jurisdiction of Solar Panel Stand Alone (Ground Mounted) Arrays in Residential Settings									
Jurisdiction (citation & website)	Allowed in Residential Zones	Min Setback	Max Height	Max Size	Screening	Glare Regulation	Placement		
Pemberton, New Jersey <i>Ordinance No. -2011 Article X</i>	Yes	Front Yard from state road: 500' Front yard from county or municipal road: 400' Rear and side yard from non-residential use or zone: 50' Rear and side yard from residential use or zone: 300'	Max height 12 feet	Non Specified	Enclosed by 8 foot fence with locking gate	Non Specified	Rear or side yard		

Comparisons by Jurisdiction of Solar Panel Stand Alone (Ground Mounted) Arrays in Residential Settings									
Jurisdiction (citation & website)	Allowed in Residential Zones	Min Setback	Max Height	Max Size	Screening	Glare Regulation	Placement		
Harrison Township, New Jersey <i>Ordinance No. 44-2011</i> <i>Chapter 223-132</i>	Yes (On lots 1 Acre of greater)	Min setback of 50 feet from all property lines.	Max height 10 feet	Cannot exceed 800 square feet	Must be screened with fencing, building or vegetation	Non Specified	Non Specified		
Dundee, Michigan <i>Ordinance No. 9-10-1</i> <i>Sec. 5.44</i>	Yes	Min setback of 6 feet from lot line	Max height 4 feet	Cannot exceed 2% of lot space or 360 square feet	Must not be visible from adjacent properties and must be screened by landscaping	Panels shall be placed and arranged such that reflected solar radiation or glare shall not be directed onto adjacent buildings, properties or roadways	Rear yard		

Comparisons by Jurisdiction of Solar Panel Stand Alone (Ground Mounted) Arrays in Residential Settings									
Jurisdiction (citation & website)	Allowed in Residential Zones	Min Setback	Max Height	Max Size	Screening	Glare Regulation	Placement		
Delaware, New Jersey <i>Ordinance No. 2011-06LU</i>	Yes	No distance listed Shall not exceed 40dBA at the property line	Max height 12 feet	Shall not exceed 20% of lot size	Non Specified	Non Specified	Non Specified		
Lynnwood, Washington <i>Chapter 21.42</i>	Yes	Non Specified	Non Specified	Non Specified	Non Specified	Must minimize glare towards vehicular traffic and adjacent properties	Non Specified		

Comparisons by Jurisdiction of Solar Panel Stand Alone (Ground Mounted) Arrays in Residential Settings									
Jurisdiction (citation & website)	Allowed in Residential Zones	Min Setback	Max Height	Max Size	Screening	Glare Regulation	Placement		
Marysville, Washington <i>Chapter 22C.270</i>	Yes	Yes, but no distance mentioned	Yes, but no height mentioned	Non Specified	Screening with six foot fencing	Shall not cause excessive glare to pedestrians and vehicular traffic.	Side or rear yards		
Issaquah, Washington <i>Ordinance No. 2558</i>	Yes	Non Specified	Must be consistent with surrounding area and natural skyline of Issaquah	Non Specified	Must be screened	Shall not cause excessive glare	Non Specified		

From the Massachusetts Q&A on Ground Mounted Solar Systems

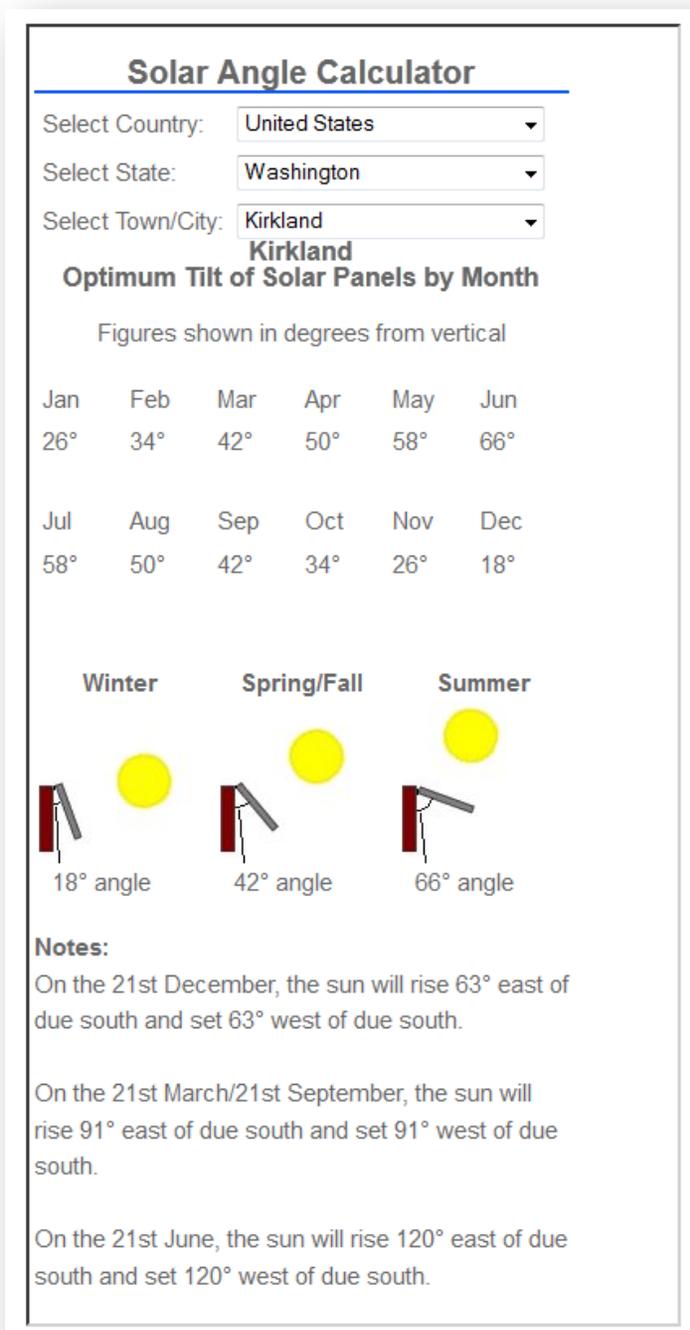
Glare: Should only reflect about 2% of incoming light and many projects have been installed near airports with no impact on flight operations. There have been no cases of accidents in which glare caused by a solar energy site was cited as a factor.

Research Findings

After reviewing 11 different cities literature on Stand-Alone (Ground Mounted) Solar Panels, we can conclude a few commonalities between them. Almost every city or township requires some sort of screening to be installed or planted around the solar panel whether it is vegetation or fencing that meets standard code already in place by that city. Also no solar panel shall be installed in a location where it will induce glare onto another property or roadway. Finally, that all solar panels must be installed in the rear or back yard of the home.

One attribute that varied from city to city was the maximum height of the solar panel (from the base to the highest point at its steepest angle). [Dundee](#), Michigan had the lowest maximum height of 4 feet, while [Warwick County](#) had the highest maximum height of 15 feet. Another attribute that differed was the minimum setback of the structure. [Harrison Township](#) and the [City of Pemberton](#) (both New Jersey) had skewed requirements from what the City of Kirkland would be interested in. Dundee, Warwick, and North Little Rock all had similar setback standards being 6' ([Dundee](#)), 15' ([Warwick](#)), and 5' from the property line and 10' from the primary structure ([North Little Rock](#)).

An article from the New York Times ([A Push to Hide Solar Panels in Santa Monica](#)) reports how Santa Monica, CA is moving towards hiding all solar panels from street view. The article is not about stand-alone panels or residential, but it is safe to say that there is a push to keep the solar panels out of site because they do not aesthetically appeal to some people.



Columbia University Law Schools' Center for Climate Change Law has prepared a framework draft model for small scale solar panels. The ordinance can be used a starting point for both roof mounted and ground built solar structures. There are many common themes between this [Model Ordinance](#) and the 7 Ordinances reviewed above.

The figure to the left is a solar energy calculator which depicts the optimal angle a standing solar panel should be set at specifically for Kirkland. This is not 100% accurate as the sun does move throughout the day, but is a good general view of what is best to pull in and retain the most solar energy. The calculator can be found [here](#).

References

1. **North Little Rock:** <http://nlr.ar.gov/government/council%20agenda/Ordinance/O-11-51.pdf>
2. **Mesa:** <http://www.mesaaz.gov/planning/pdf/zoningord/chapter05.pdf#page=29>
3. **Warwick County:** <http://www.warwick-chester.org/Docs/SolarEnergySystemsOrdinance2-2012.pdf>
4. **Monroe County:** http://www.co.monroe.pa.us/planning_records/lib/planning_records/planning/model_monroe_county_on-site_usage_of_solar_energy_systems.pdf
5. **Pemberton:** http://m.b5z.net/i/u/6106776/f/Establishing_solar_energy_systems.pdf
6. **Harrison Township:** <http://www.harrisontwp.us/Township-Committee/Ordinances/44-2011.pdf>
7. **Dundee:** http://www.dundeetownship.info/zoning_ordinance.asp
8. **Delaware:** <http://www.delawaretwpnj.org/ordinances/2011-06LU-Solar-Energy-Facilities.pdf>
9. **Lynnwood:** <http://www.codepublishing.com/wa/lynnwood/html/Lynnwood21/Lynnwood2142.html>
10. **Marysville:** <http://codepublishing.com/WA/Marysville/html/Marysville22C/Marysville22C270.html>
11. **Issaquah:** <http://www.mrsc.org/ords/i75o2558.pdf>
12. **Massachusetts Q&A on Ground Mounted Solar Systems:** <http://www.mass.gov/eea/docs/doer/renewables/solar/solar-pv-guide.pdf>
13. **Hiding Solar Panels in Santa Monica:** http://green.blogs.nytimes.com/2009/07/09/a-push-to-hide-solar-panels-in-santa-monica/?_r=0
14. **U of Columbia Model Ordinance:** <http://web.law.columbia.edu/climate-change/resources/model-ordinances/model-small-scale-solar-siting-ordinance>
15. **A&R Solar:** <http://www.a-rsolar.com/aboutus>
16. **Solar Energy Calculator:** <http://solarelectricityhandbook.com/solar-angle-calculator.html>



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DEC 20 2012

AM _____ PM
PLANNING DEPARTMENT

December 20, 2012

Eric Shields, Planning Director
City of Kirkland, Planning and Community Development
123 Fifth Avenue
Kirkland, WA. 98033

Re: Request for Zoning Code Modification or Interpretation

ISSUE:

The current City of Kirkland Zoning Code should be modified to reduce the required side and rear yard setbacks for Schools and Day Care Centers that accommodate 50 to 125 students. Schools and Daycare Centers have been defined as "Community Facilities" and are a compatible and allowable use within a single family residential zone.

CURRENT CODE REQUIREMENT:

In the current Residential Single Family Zones (RS, RSA and RSX) a school or daycare center with 13 to 49 students or children is required to have a 20 foot building setback from all property lines (Front, Side and Rear).

In the current Residential Single Family Zones (RS, RSA and RSX) a school or daycare center with 50 or more students or children is required to have a 50 foot building setback from all property lines (Front, Side and Rear).

This interpretation should be modified to allow a medium size School and Daycare Center with 50 to 125 students or children to have the same 20 foot building setback as the 13 to 49 students facility provided that a more restrictive landscape buffer or screening requirement be implemented.

A 50 foot building setback, on all sides, should only apply to large Schools and Daycare Centers with over 125 students or children and those that do not provide increased landscape buffers and sufficient screening.

The 50' setback, on all sides, should only apply to Schools and Daycare Centers with more than 125 students or children.

Other allowed uses in the RSX zone, such as Churches, are only required a 20' building setback. These structures generally have a much larger scale and footprint than a small to medium size School or Daycare Center.

INTERPRETATION:

In other zoning classifications a School or Daycare Center is classified as a "Community Facility" See Zoning Code Interpretation No. 09-2

A 50 foot building setback requirement for a local, nonprofit, daycare center serving the residence of the surrounding residential community should not be subject to such excessive building setback requirements. A small to medium size (50 to 125 student), School or Daycare Center is a compatible use to its residential neighbors. A School or Daycare use is occupied during normal business hours 5 days per week when most, single family, residential homes are not occupied. The impact of a small to medium size School or Daycare use is negligible and is also considered a "Community Facility" as defined within the City of Kirkland zoning code

The Department of Early learning (DEL) licensing restricts group size for licensed childcares to 20 children, maximum, in any given area at one time, indoors or outdoors. This, group size, restriction makes the impact of small and medium sized daycare center virtually the same. The maximum number of children in the outdoor or indoor play area at one time can not exceed 20 kids.

The City of Kirkland Planning Department and the City Council should consider a minor modification to Section 17.10 USE ZONE CHART to reflect the reduced building setbacks for small to medium sized Schools and Daycare Centers in Single Family Residential Zones to 20 foot on all sides with more restrictive landscape buffers and screening.

APPLICABLE CODE SECTION:

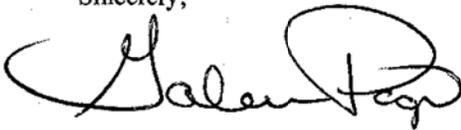
The zoning code defines Community Facility as:

“A use which serves the public and is generally of a noncommercial nature. Such use shall include food banks, clothing banks and other nonprofit social service organizations; nonprofit recreational facilities; and nonprofit performance arts centers”

ANALYSIS:

In May, 2009 the City Council determined that a School meets the definition of a “Community Facility Use and directed that this interpretation be drafted.

Sincerely,

A handwritten signature in black ink, appearing to read "Galen Page". The signature is fluid and cursive, with a large loop at the end.

Galen Page, Principal Architect
Page & Beard Architects, PS



is a high school

Section 15.10		DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS									
		Required Review Process	MINIMUMS			MAXIMUMS		Landscape Category (See Ch. 96)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
			Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage				
USE ↓	REGULATIONS →		Front	Side	Rear						
.030	School or Day-Care Center	See Spec. Reg. 10.	As established on the Zoning Map. See Spec. Reg. 1.	If this use can accommodate 50 or more students or children, then: 50' 50' on each side If this use can accommodate 13 to 49 students or children, then: 20' 20' on each side Otherwise:	70%	25' above average building elevation. See Spec. Reg. 12.	D	B See Spec. Reg. 8.	See KZC 105.25.	1. Minimum lot size is as follows: a. In RS 35 zones, the minimum lot size is 35,000 square feet. b. In RS 12.5 zones, the minimum lot size is 12,500 square feet. c. In RS 8.5 zones, the minimum lot size is 8,500 square feet. d. In RS 7.2 zones, the minimum lot size is 7,200 square feet. e. In RS 6.3 zones, the minimum lot size is 6,300 square feet. f. In RS 5.0 zones, the minimum lot size is 5,000 square feet. 2. May locate on the subject property only if: a. It will not be materially detrimental to the character of the neighborhood in which it is located. b. Site and building design minimizes adverse impacts on surrounding residential neighborhoods. c. The property is served by a collector or arterial street (does not apply to existing school sites). 3. A six foot high fence along the side and rear property lines is required only along the property lines adjacent to the outside play areas. 4. Hours of operation and maximum number of attendees at one time may be limited to reduce impacts on nearby residential uses. 5. Structured play areas must be setback from all property lines as follows: a. 20 feet if this use can accommodate 50 or more students or children. b. 10 feet if this use can accommodate 13 to 49 students or children. 6. An on-site passenger loading area must be provided. The City shall determine the appropriate size of the loading area on a case-by-case basis, depending on the number of attendees and the extent of the abutting right-of-way improvements. Car-pooling, staggered loading/unloading time, right-of-way improvements or other means may be required to reduce traffic impacts on nearby residential uses. 7. The location of parking and passenger loading areas shall be designed to reduce impacts on nearby residential uses. 8. Electrical signs shall be permitted at junior high/middle schools and high schools. One pedestal sign with a readerboard having electronic programming is allowed per site only if: a. It is a pedestal sign (see Plate 12) having a maximum 40 square feet of sign area per sign face; b. The electronic readerboard is no more than 50 percent of the sign area; c. Moving graphics and text or video are not part of the sign;	

Otherwise:

for high schools,

otherwise

REGULATIONS CONTINUED ON NEXT PAGE

Section 15.10

Zone
RS

USE ZONE CHART

DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS												
Section 15.10	USE ↓ REGULATIONS →	Required Review Process	MINIMUMS			MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)	
			Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage					Height of Structure
				Front	Side	Rear						
.030	School or Day-Care Center (continued)									<p style="text-align: center;">REGULATIONS CONTINUED FROM PREVIOUS PAGE</p> <p>d. The electronic readerboard does not change text and/or images at a rate less than one every seven seconds and shall be readily legible given the text size and the speed limit of the adjacent right-of-way;</p> <p>e. The electronic readerboard displays messages regarding public service announcements or school events only;</p> <p>f. The intensity of the display shall not produce glare that extends to adjacent properties and the signs shall be equipped with a device which automatically dims the intensity of the lights during hours of darkness;</p> <p>g. The electronic readerboard is turned off between 10:00 p.m. and 6:00 a.m.;</p> <p>h. The school is located on a collector or arterial street.</p> <p>The City shall review and approve the location of the sign on the site. The sign shall be located to have the least impact on surrounding residential properties. If it is determined that a proposed electronic readerboard would constitute a traffic hazard the Planning Director may impose restrictions or deny the readerboard.</p> <p>9. May include accessory living facilities for staff persons.</p> <p>10. The required review process is as follows:</p> <p>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 IIA, Chapter 150 KZC; provided, however, that within the jurisdiction of the Houghton Municipal Corporation, the required review process is Process IIB, Chapter 152 KZC.</p> <p style="text-align: center;">REGULATIONS CONTINUED ON NEXT PAGE</p>		

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Section 15.10

Zone
RS

USE ZONE CHART

DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS												
USE ↓ REGULATIONS →	Required Review Process	MINIMUMS			MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)		
		Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage						Height of Structure
			Front	Side	Rear							
.030	School or Day-Care Center (continued)									REGULATIONS CONTINUED FROM PREVIOUS PAGE		
										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 IIB, Chapter 152 KZC, is required. The Master Plan must show building placement, building dimensions, roadways, utility locations, land uses within the Master Plan area, parking location, buffering, and landscaping. 11. These uses are subject to the requirements established by the Department of Social and Health Services (WAC Title 388). 12. For school use, structure height may be increased, up to 35 feet, if: a. The school can accommodate 200 or more students; and b. The required side and rear yards for the portions of the structure exceeding the basic maximum structure height are increased by one foot for each additional one foot of structure height; and c. The increased height is not specifically inconsistent with the applicable neighborhood plan provisions of the Comprehensive Plan. d. The increased height will not result in a structure that is incompatible with surrounding uses or improvements. <i>This special regulation is not effective within the disapproval jurisdiction of the Houghton Community Council.</i>		
.040	Mini-School or Mini-Day-Care Center	Process I, Chapter 145 KZC.	As established on the Zoning Map. See Special Regulation 1.	20'	5' but 2 side yards must equal at least 15'.	10'	50%	25' above average building elevation.	E	B See Spec. Reg. 8.	See KZC 105.25.	
										1. Minimum lot size is as follows: a. In RS 35 zones, the minimum lot size is 35,000 square feet. b. In RS 12.5 zones, the minimum lot size is 12,500 square feet. c. In RS 8.5 zones, the minimum lot size is 8,500 square feet. d. In RS 7.2 zones, the minimum lot size is 7,200 square feet. e. In RS 6.3 zones, the minimum lot size is 6,300 square feet. f. In RS 5.0 zones, the minimum lot size is 5,000 square feet. 2. May locate on the subject property if: a. It will not be materially detrimental to the character of the neighborhood in which it is located. b. Site design must minimize adverse impacts on surrounding residential neighborhoods. 3. A six-foot-high fence is required along the property lines adjacent to the outside play areas. REGULATIONS CONTINUED ON NEXT PAGE		



DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS												
Section 15.10	USE ↓ REGULATIONS →	Required Review Process	MINIMUMS			MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)	
			Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage					Height of Structure
				Front	Side	Rear						
.030	School or Day-Care Center	See Spec. Reg. 10.	As established on the Zoning Map See Spec. Reg. 1.	If this use can accommodate 50 or more students or children, then: 20' 50' 50' on each side	70%	25' above average building elevation. See Spec. Reg. 12.	D	B See Spec. Reg. 8.	See KZC 105.25.	1. Minimum lot size is as follows: a. In RS 35 zones, the minimum lot size is 35,000 square feet. b. In RS 12.5 zones, the minimum lot size is 12,500 square feet. c. In RS 8.5 zones, the minimum lot size is 8,500 square feet. d. In RS 7.2 zones, the minimum lot size is 7,200 square feet. e. In RS 6.3 zones, the minimum lot size is 6,300 square feet. f. In RS 5.0 zones, the minimum lot size is 5,000 square feet. 2. May locate on the subject property only if: a. It will not be materially detrimental to the character of the neighborhood in which it is located. b. Site and building design minimizes adverse impacts on surrounding residential neighborhoods. c. The property is served by a collector or arterial street (does not apply to existing school sites). 3. A six-foot high fence along the side and rear property lines is required only along the property lines adjacent to the outside play areas. 4. Hours of operation and maximum number of attendees at one time may be limited to reduce impacts on nearby residential uses. 5. Structured play areas must be setback from all property lines as follows: a. 20 feet if this use can accommodate 50 or more students or children. b. 10 feet if this use can accommodate 13 to 49 students or children. 6. An on-site passenger loading area must be provided. The City shall determine the appropriate size of the loading area on a case-by-case basis, depending on the number of attendees and the extent of the abutting right-of-way improvements. Car-pooling, staggered loading/unloading time, right-of-way improvements or other means may be required to reduce traffic impacts on nearby residential uses. 7. The location of parking and passenger loading areas shall be designed to reduce impacts on nearby residential uses. 8. Electrical signs shall be permitted at junior high/middle schools and high schools. One pedestal sign with a readerboard having electronic programming is allowed per site only if: a. It is a pedestal sign (see Plate 12) having a maximum 40 square feet of sign area per sign face; b. The electronic readerboard is no more than 50 percent of the sign area; c. Moving graphics and text or video are not part of the sign;		

(Revised 2/13)

Section 15.10



USE ZONE CHART

DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS												
Section 15.10	USE ↓ REGULATIONS →	Required Review Process	MINIMUMS			MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)	
			Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage					Height of Structure
				Front	Side	Rear						
.030	School or Day-Care Center (continued)									<p style="text-align: center;">REGULATIONS CONTINUED FROM PREVIOUS PAGE</p> <p>d. The electronic readerboard does not change text and/or images at a rate less than one every seven seconds and shall be readily legible given the text size and the speed limit of the adjacent right-of-way;</p> <p>e. The electronic readerboard displays messages regarding public service announcements or school events only;</p> <p>f. The intensity of the display shall not produce glare that extends to adjacent properties and the signs shall be equipped with a device which automatically dims the intensity of the lights during hours of darkness;</p> <p>g. The electronic readerboard is turned off between 10:00 p.m. and 6:00 a.m.;</p> <p>h. The school is located on a collector or arterial street.</p> <p>The City shall review and approve the location of the sign on the site. The sign shall be located to have the least impact on surrounding residential properties. If it is determined that a proposed electronic readerboard would constitute a traffic hazard the Planning Director may impose restrictions or deny the readerboard.</p> <p>9. May include accessory living facilities for staff persons.</p> <p>10. The required review process is as follows:</p> <p>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 IIA, Chapter 150 KZC; provided, however, that within the jurisdiction of the Houghton Municipal Corporation, the required review process is Process IIB, Chapter 152 KZC.</p> <p style="text-align: center;">REGULATIONS CONTINUED ON NEXT PAGE</p>		

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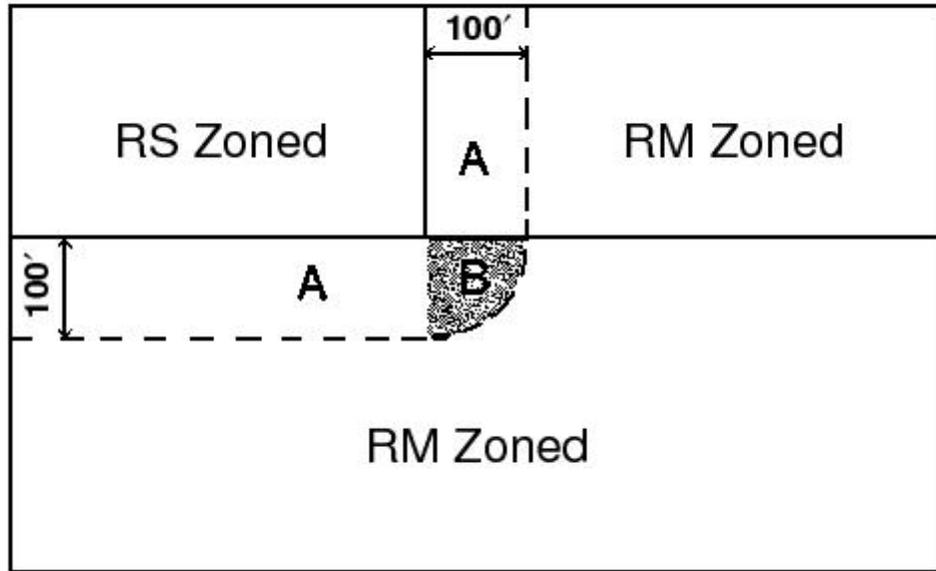
Section 15.10

Zone
RS

USE ZONE CHART

DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS												
USE ↓ REGULATIONS →	Required Review Process	MINIMUMS			MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)		
		Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage						Height of Structure
			Front	Side	Rear							
.030	School or Day-Care Center (continued)									REGULATIONS CONTINUED FROM PREVIOUS PAGE		
										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 IIB, Chapter 152 KZC, is required. The Master Plan must show building placement, building dimensions, roadways, utility locations, land uses within the Master Plan area, parking location, buffering, and landscaping. 11. These uses are subject to the requirements established by the Department of Social and Health Services (WAC Title 388). 12. For school use, structure height may be increased, up to 35 feet, if: a. The school can accommodate 200 or more students; and b. The required side and rear yards for the portions of the structure exceeding the basic maximum structure height are increased by one foot for each additional one foot of structure height; and c. The increased height is not specifically inconsistent with the applicable neighborhood plan provisions of the Comprehensive Plan. d. The increased height will not result in a structure that is incompatible with surrounding uses or improvements. <i>This special regulation is not effective within the disapproval jurisdiction of the Houghton Community Council.</i>		
.040	Mini-School or Mini-Day-Care Center	Process I, Chapter 145 KZC.	As established on the Zoning Map. See Special Regulation 1.	20'	5' but 2 side yards must equal at least 15'.	10'	50%	25' above average building elevation.	E	B See Spec. Reg. 8.	See KZC 105.25.	
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**Plate 18
ADJOINING PROPERTIES**



A Area to be considered adjoining property

B Area not to be considered adjoining property

