CITY OF KIRKLAND
Planning and Community Development Department
123 Fifth Avenue, Kirkland, WA 98033
425.587.3225 - www.kirklandwa.gov

MEMORANDUM

Date: June 13, 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
Eric Shields, AICP, Director

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

RECOMMENDATION

Conduct a study session to:

- Provide staff direction on the proposed roster and work program schedule for the Kirkland Zoning Code (KZC) and Municipal Code (KMC) amendments, including consideration of holding a joint public hearing between the Houghton Community Council and the Planning Commission in the fall.
- Direct further changes if any, on four draft amendments.

BACKGROUND DISCUSSION

Planning staff periodically forwards miscellaneous KZC/KMC amendments to the Planning Commission (PC) and Houghton Community Council (HCC) for consideration. The proposed amendments are selected from an on-going list of issues, code interpretations, requests from the public, requests from City Council, and needs identified by staff.

These amendments will be reviewed through Process IV (KZC Chapter 160). Staff recommends a series of study sessions to discuss options and give direction preceding a joint PC and HCC public hearing to solicit comments from the public. After the hearing is over, the PC and HCC would deliberate separately. The PC would then consider the HCC recommendation at a subsequent meeting and prepare a recommendation to the City Council. The City Council will ultimately adopt an ordinance, after considering the PC and HCC recommendation. The Houghton Community Council will take final action for the amendments to be effective within their jurisdiction.

The proposed work program is Attachment 1 to this memorandum. Study sessions are scheduled for August and September. A joint PC and HCC public hearing is tentatively set for October 24.

AMENDMENTS GENERAL

Decisional Criteria:

KZC 135.25 provides the decisional criteria for amending the text of the Zoning Code. The City may amend the text of this code only if it finds that:

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

2013 Roster:

The roster below provides a breakdown of the proposed KZC/KMC amendments, by policy level implication in four categories:

- No policy changes,
- Minor policy changes,
- Moderated policy changes, and
- Major policy changes.

All of the proposed amendments are within the jurisdiction of the HCC with the exception of #12 and #13, which are noted with an asterisk (*). The PC will review the roster and work program on June 27.

Drafts for proposed amendments #1, #3, #4, #5 and #6 are introduced as Attachments 2, 3, 4 and 5 to this memorandum. Please provide direction if further changes are requested for these drafts.

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. (Attachment 2)

2. **Delete reference to State Statutes for Schools and Daycares- Various use zone charts already being amended (Chapters _)**
   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 Reference to State Statute for Exclusions from Timeframe for Approval of Development Permits – KMC Title 20 Section 20.12.010 (2)**
   Purpose: Correct the State statute referencing exclusions from the timeline for approval of a development permit and delete RCW 36.70B.090 which expired in 2000. The correct State statute is RCW 36.70B.080 (1). (Attachment 3)

4. **Correct Reference to State Statute for Timeframe for Approval of Development Permits – KMC Title 20 Section 20.12.300**
   Purpose: Correct the reference to the State statute addressing the timeframe for approval of a development permit and delete reference to RCW 36.70B.090 which expired in 2000. The timeline for processing project permit applications is addressed in RCW 36.70B.080 (1). (Attachment 3)

5. **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 in the PLA 6G zone. Planned Area 6G already requires this in General Regulation # 3. (Attachment 4)

MINOR POLICY CHANGES

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

6. **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. (Attachment 5)

7. **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.

8. **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.

9. **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.

10. **Clarify that Subdivision provisions may allow lot size reduction beyond minimum lot size in Zoning Code or Map – KZC Chapter 170 Section 170.50 and KMC Title 22.28**
    Purpose: Add text clarifying 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.

MODERATE POLICY CHANGES

These are considered more substantive changes to existing regulations.

11. **Setback Requirements for Schools/Day Cares in RS, RSX and RSA Zones – KZC Chapter 15, Section 15.10.030; Chapter 17, Section 17.10.030 and Chapter 18, Section 18.10.030**
    Purpose: Consider reducing building setbacks for schools and day cares in low density single family zones in Kirkland to match those for other community facilities, taking into account compatibility impacts to the neighborhood.

12. *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.

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

Purpose: Delete or simplify garage setback requirements.

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

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

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

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

16. 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.

17. 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.

18. 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.

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.

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

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

20. Eliminate or Revise Horizontal Facade Regulations – KZC Chapter 5 Section 5.020 and 5.507 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.

Attachments

1. Work Program
2. Eliminate Redundant Garage Height Regulation KZC Section 115.115.3.o
3. Correct Reference to State Statute for Permit Timelines KMC Title 20
4. Eliminate Redundant Horizontal Façade Regulation KZC Section 60.87.130
5. Tree Removal Time Limit KZC Section 95.23

Cc: File CAM13-00669

Work Program Miscellaneous Zoning Code/KMC Amendments (CAM13-00669)

June, 2013

June 24	**HCC study** review roster & schedule, start review of draft amendments, & provide direction
June 27	**PC study** review roster & schedule, start review of draft amendments, & provide direction
Aug 22	**PC study** continue to review drafts & options & provide direction.
Aug 26	**HCC study** continue to review drafts & options & provide direction.
Sept 23	**HCC study** review draft amendments
Sept 26	**PC study** review draft amendments
Oct 24	**PC/HCC joint public hearing** & start PC deliberation
Oct 28	**HCC deliberation on public hearing** & make recommendation to PC.
Nov 14	**PC continued deliberation on public hearing** & make recommendation to CC.
Jan 7	**CC adoption** of ordinance
Jan 27	**HCC final action** on ordinance

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

KZC 115.115 Required Yards

3. Structures and Improvements – No improvement or structure may be in a required yard except as follows:

o. In low density residential zones:

1) Detached garages, including second story uses, utilizing an alley for their primary vehicular access may be located within five (5) feet of the rear property line, if:

a) Garage doors will not extend over the property line when open; and

b) The garage complies with KZC 115.135, which regulates sight distance at intersections; and

c) ~~The portion of the structure that is located within the required rear yard is no higher than the maximum height allowed in the underlying zone.~~

2) Detached garages, including second story uses, utilizing an alley for their primary vehicular access may extend to the rear property line, if:

a) The lot is 50 feet wide at the rear property line on the alley;

b) The garage has side access with garage doors that are perpendicular to the alley;

c) The garage eaves do not extend over the property line;

d) The garage complies with KZC 115.135, which regulates sight distance at intersections; and

e) ~~The portion of the structure that is located within the required rear yard is no higher than the maximum height allowed in the underlying zone.~~

Title 20
DEVELOPMENT PROJECTS

Chapters:

20.04 General Provisions

20.08 Definitions

20.12 Development Review

20.12.010 Exclusions.
20.12.100 Notices.
20.12.200 Complete application.
20.12.210 Complete application for subdivision.
20.12.220 Substantial revision.
20.12.300 Time frame for approval.
20.12.310 Time frame for subdivisions.

20.12.010 Exclusions.

(1) By adopting this section, the city is making the following exclusions as provided in RCW 36.70B.140.

(2) The following project permits are excluded from the provisions of RCW 36.70B.060 through 36.70B.~~090~~ 080 and RCW 36.70B.110 through 36.70B.130, and from the provisions of Sections 20.04.100, 20.04.110, 20.04.120, and 20.12.300: street vacations or other approvals relating to the use of public areas or facilities; designation as historic overlay zone; or master plans.

(3) The following project permits are excluded from the provisions of RCW 36.70B.060 and RCW 36.70B.110 through 36.70B.130, and from Sections 20.04.100, 20.04.110, and 20.04.120: lot line adjustments; building and other construction permits; or similar administrative approvals which are categorically exempt from environmental review under Chapter 43.21C RCW, or for which environmental review has been completed in connection with other project permits. (Ord. 3529 § 1 (part), 1996)

20.12.100 Notices.

The applicant for a project permit shall designate a single person or entity to receive determinations and notices provided under this title. (Ord. 3529 § 1 (part), 1996)

20.12.200 Complete application.

A project permit application is complete for purposes of this title when it meets the submission requirements contained in this section. Applications for project permits shall be submitted upon forms provided by the city. A complete application shall include the following:

(1) A completed project permit application form;

(2) A verified statement by the applicant that the property affected by the application is in the exclusive ownership of the applicant, or that the applicant has submitted the application with the consent of all owners of the affected property;

(3) A property and/or legal description of the site, as required by the applicable development regulations;
(4) The applicable fee;
(5) Submission of items required by applicable development regulations and of all required supplemental materials;
(6) Evidence of adequate water supply as required by RCW 19.27.097;
(7) Evidence of sewer availability;
(8) Applications under Title 22, Subdivisions, shall also meet the requirements of Section 20.12.210. (Ord. 3529 § 1 (part), 1996)

20.12.210 Complete application for subdivision.
In addition to the requirements for a complete application set forth in Section 20.12.200, an application under Title 22, Subdivisions, shall include the following:
(1) Pertinent survey data compiled as a result of a survey made by or under the supervision of a land surveyor registered in the state and engaged in land surveying.
(2) A sketch or map meeting the requirements of the applicable subdivision regulations.
(3) Certificate giving full and complete description of the lands which are the subject of the application, including a statement that the application has been made with free consent in accordance with the desires of the owners. The certificate shall be signed and acknowledged before a notary public by all parties having any interest in the lands which are the subject of the application.
(4) A title report confirming that the title of the lands as described on the application is in the name of the persons signing the certificate.
(5) Roads not dedicated to the public must be clearly marked as such on the map; otherwise, roads within the boundaries of the subject property shall be considered to have been dedicated to the public. Any dedication, donation, or grant as shown on the maps, sketches, or face of plat shall be considered for all intents and purposes as a quit claim deed to the donee(s) and grantee(s) for his, her or their use for the intended purpose. (Ord. 3529 § 1 (part), 1996)

20.12.220 Substantial revision.
This section applies in the event that an applicant submits a substantially revised project permit application. As of the date of submittal of such revised application, the applicant will be considered to have both withdrawn the original project permit application (whether it was a complete application or not) and to have submitted a new application for review pursuant to this title. The applicability of this section is not affected by whether or not an additional application fee is required due to the substantial revision. (Ord. 3529 § 1 (part), 1996)

20.12.300 Time frame for approval.
The city ~~shall~~ should issue its notice of final decision on a project permit application within one hundred twenty days after the city notifies the applicant that the application is complete.~~; provided, that the city shall instead issue its notice of final decision in a time frame similar to that achieved by the city between 1993 and 1995 if, as of the date the application is filed, state law does not require a shorter time limit. In addition, the one-hundred-twenty-day time limit is subject to exclusions or extensions provided in this title~~

~~or by state law, especially by RCW 36.70B.090.080~~ This time may be extended if additional materials are required during the review of the permit, if the project is appealed, or if other conditions arise as provided in this title or by state law, including but not limited to RCW 36.70B.080. In the event of an extension, the City shall make written findings as to why additional time is needed. (Ord. 3529 § 1 (part), 1996)

20.12.310 Time frame for subdivisions.

(1) This section is to provide for compliance with state law regarding city processing of subdivision applications. Due to multiple amendments of state law during 1995, state law may contain conflicting requirements. Therefore, when this section conflicts with Section 20.12.300, the provisions of this section shall prevail, but only to the extent necessary to bring city of Kirkland procedures into compliance with state law.

(2) The city shall determine the date from which to measure time lines for approval of subdivisions, to be known as the "CAD". The CAD shall be the date upon which the application was complete, adjusted for any time which is tolled or not counted due to state law, especially RCW 58.17.140. The city shall notify the applicant of the CAD, and may send notice of a revised CAD if the date is caused to be adjusted.

(a) If the application is for a preliminary plat, the notification shall include the following statement:

> Processing of your preliminary plat application began as of _____. This date will be called your "CAD". Your application will be processed as quickly as possible. For the first ninety days after your CAD, your application will be called a new application. After ninety days, the time frame for approval will be subject to extensions in twenty-one day increments. You may notify the City that you do not agree to an extension of time for the processing of this application. If the City receives such a notice from you during the first seventy days after your CAD, then your preliminary plat application will be approved, disapproved or returned to you within ninety days after your CAD. Thereafter, if the City receives notice that you do not agree to an extension, your preliminary plat application will be approved, disapproved or returned to you at the end of the current twenty-one day extension period. If the City receives no notice from you concerning time extensions, processing of your application will continue until finished.

(b) If the application is for a short plat or final plat, the notification shall include the following statement:

> Processing of your short plat or final plat application began as of _____. This date will be called your "CAD". Your application will be processed as quickly as possible. For the first thirty days after your CAD, your application will be called a new application. After thirty days, the time frame for approval will be subject to extensions in twenty-one day increments. You may notify the City that you do not agree to an extension of time for the processing of this short plat or final plat application. If the City receives such a notice from you during the first twenty days after your CAD, then your application will be approved, disapproved or returned to you within thirty days after your CAD. Thereafter, if the City receives notice that you do not agree to an extension, your short plat or final plat application will be approved, disapproved or returned to you at the end of the current twenty-one day

extension period. If the City receives no notice from you concerning time extensions, processing of your application will continue until finished.

(Ord. 3529 § 1 (part), 1996)

Section 60.87 Zone PLA6G **U S E Z O N E C H A R T**

Section 60.87	USE REGULATIONS	Required Review Process	Lot Size	REQUIRED YARD (See Ch. 115) Front	Side	Rear	Lot Coverage	Height of Structure	Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
.130	Detached, Attached or Stacked Dwelling Units. See Spec. Reg. 6.	None	3,600 sq. ft. per dwelling unit	20'	5' for detached units. For attached or stacked units, 5', but 2 side yards must equal at least 15'. See Spec. Reg. 7.	10' See Spec. Reg. 8.	60%	If adjoining a low density zone other than RSX, then 25' above average building elevation (does not apply to institutional uses in low density zones). Otherwise, 30' above average building elevation.	D	A	1.7 per unit.	1. Chapter 115 KZC contains regulations regarding home occupations and other accessory uses, facilities, and activities associated with this use. 2. Chapter 115 KZC contains regulations regarding common recreational space requirements for this use. 3. If any portion of a structure is adjoining a low density zone, then either: a. The height of that portion of the structure shall not exceed 15 feet above average building elevation, or b. The maximum horizontal facade shall not exceed 50 feet in width. See KZC 115.30, Distance Between Structures/Adjacency to Institutional Use, for further details. 4. Site design must provide for a bicycle and pedestrian path connection to Lakeview Elementary School and be available for public use. 5. All vehicular access shall be from 7th Avenue South. Access from 5th Place South is prohibited. 6. This use is only permitted south of 7th Avenue South and only if the entire PLA6G zone south of 7th Avenue South is included. 7. The side yard may be reduced to zero feet if the side of the dwelling unit is attached to a dwelling unit on an adjoining lot. If one side of a dwelling unit is so attached and the opposite side is not, the side that is not attached must provide a minimum side yard of five feet. 8. The rear yard may be reduced to zero feet if the rear of the dwelling unit is attached to a dwelling unit on an adjoining lot.

95.23 Tree Removal – Not Associated with Development Activity

1. Introduction. Tree and vegetation removal in urban areas has resulted in the loss of beneficial functions provided by trees to the public. The majority of tree canopy within the City of Kirkland is on private property. The purpose of this section is to establish a process and standards to slow the loss of tree canopy on private property, contributing towards the City's canopy goals and a more sustainable urban forest.

2. Permit Required for Removal of Trees on Private Property or City Right-of-Way. It is unlawful for any person (other than City crews) to remove, prune, trim, modify, alter or damage a tree in a public park or on any other City property.

   No person, directly or indirectly, shall remove any significant tree on any property within the City, or any tree in the public right-of-way, without first obtaining a tree removal permit as provided in this chapter, unless the activity is exempted in KZC 95.20 and subsection (~~5~~6) of this section.

3. Tree Removal Permit Application Form. The Department of Planning and Community Development and Public Works Department shall establish and maintain a tree removal permit application form to allow property owners to request City review of tree removal for compliance with applicable City regulations. The tree removal application form shall include at a minimum the following:

   a. A site plan showing the approximate location of significant trees, their size (DBH) and their species, along with the location of structures, driveways, access ways and easements.

   b. For required replacement trees, a planting plan showing location, size and species of the new trees in accordance to standards set forth in KZC 95.33(3).

4. Tree Removal Permit Application Procedure and Appeals.

   a. Applicants requesting to remove trees must submit a completed permit application on a form provided by the City. The City shall review the application within 21 calendar days and either approve, approve with conditions or modifications, deny the application or request additional information. Any decision to deny the application shall be in writing along with the reasons for the denial and the appeal process.

   b. An applicant may appeal an adverse determination to the Hearing Examiner. A written notice of appeal shall be filed with the City within 14 calendar days following the date of distribution of a City's decision. The office of the Hearing Examiner shall give notice of the hearing to the applicant at least 17 calendar days prior to the hearing. The applicant shall have the burden of proving that the City made an incorrect decision. Based on the Hearing Examiner's findings and conclusions, the Hearing Examiner may affirm, reverse or modify the decision being appealed.

5. Time Limit: The removal shall be completed within one year of the approved request.

~~5~~6. Tree Removal Allowances.

   a. Any private property owner of developed property may remove up to two (2) significant trees from their property within a 12-month period without having to apply for a tree removal permit; provided, that:

      1) There is no active application for development activity for the site;

      2) The trees were not required to be retained or planted as a condition of previous development activity; and

3) All of the additional standards for tree removal and Tree Removal Permits as described in subsections (~~5~~6)(b) through (e) of this section are met.

4) The tree removal allowance is completed within one year of the request.

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