

CITY OF KIRKLAND
123 FIFTH AVENUE
KIRKLAND, WA 98033-6189
425.587.3225



Determination Of Nonsignificance

CASE #: SEP13-02177

DATE ISSUED: December 20, 2013

DESCRIPTION OF PROPOSAL: 2013 Miscellaneous Zoning and Municipal Code Amendments pursuant to KZC 135 and 160.

APPLICANT: City of Kirkland

PROJECT LOCATION: City Wide

LEAD AGENCY IS THE CITY OF KIRKLAND

The lead agency for this proposal has determined that it does not have a probable significant adverse impact on the environment. An environmental impact statement (EIS) is not required under RCW 43.21.030 (2) (c). This decision was made after review of a completed environmental checklist and other information on file with the lead agency. This information is available to the public upon request.

This determination is issued under 197-11-340 (2); the lead agency will not act on this proposal for 14 days from the date above. Comments must be submitted by 5:00 p.m. on January 3, 2014

Responsible Official:

Eric Shields, Director
Department of Planning and Community Development
425-587-3225

12/20/2013
Date

Address:

City of Kirkland
123 Fifth Avenue
Kirkland, WA 98033-6189

You may appeal this determination to the Planning Department at Kirkland City Hall, 123 Fifth Avenue, Kirkland, WA 98033 no later than 5:00 p.m., January 3, 2014 by WRITTEN NOTICE OF APPEAL.

You should be prepared to make specific factual objections. Contact the Planning Department at 425-587-3225 to read or ask about the procedures for SEPA appeals.

Please reference case # SEP13-02177

cc: Case # cam13-00669

Distributed By:

12/20/13
Date:



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

MEMORANDUM

To: Eric R. Shields, AICP
Planning Director

From: Joan Lieberman-Brill, AICP, Senior Planner

Date: December 19, 2013

Subject: Environmental Determination of Non Significance
Case No. SEP13-02177

I have had an opportunity to review the environmental checklist for the project referenced above. I have not identified any significant adverse environmental impacts. Therefore, I recommend that a Determination of Non-Significance be issued for this proposed action.

Should you have any questions, please contact me.

Review by Responsible Official:

I concur

I do not concur

Comments: _____

Eric R. Shields, AICP
Planning Director

12/19/2013

Date



CITY OF KIRKLAND
Planning and Community Development Department
 123 Fifth Avenue, Kirkland, WA 98033
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SEPA ENVIRONMENTAL DOCUMENTS

If an application for a land use or building permit is subject to environmental review under Chapter 43.21C RCW, all SEPA environmental documents must be submitted with the filing of a land use permit or building permit application or the City will not accept the application.

The following is a list of the environmental documents that must be submitted with the land use or building permit application:

1. **Environmental Checklist.** The checklist form can be obtained from the Kirkland Planning Department.
2. **Road concurrency test decision memo.** Applicants must pass road concurrency *before* submitting for a land use or building permit and the environmental documents. Concurrency application forms are available from Public Works or the Planning Departments. If the application passes road concurrency, the Public Works Department's Transportation Engineer will provide the applicant or applicant's traffic engineer with a concurrency test decision memo and traffic information that needs to be included in the Traffic Impact Analysis. A copy of this memo must be submitted to show that road concurrency has been passed.
3. **Traffic Impact Analysis.** Traffic Impact Analysis Guidelines can be obtained from the Planning or Public Works Departments. The Traffic Impact Analysis is to be completed after the road concurrency test has been successfully passed. Information from the City's Transportation Engineer is to be included in the Traffic Impact Analysis along with all other information specified in the guidelines.
4. **Other supplemental environmental information.** Ask the assigned planner at the pre-application meeting what other environmental information will be required with the environmental submittal. All studies and reports must be prepared by a licensed and qualified specialist in the field and approved by the City. Supplemental impact assessment reports or studies that may be required include, but not be limited to the following:

- Lighting
- Environmental health hazard
- Historic
- Wetland and/or stream delineation and analysis, prepared or reviewed by the City's consultant
- Hydrology
- Wildlife
- Views
- Noise
- Geotechnical soils analysis

YOU ARE ENCOURAGED TO MEET WITH A PLANNER FROM THE DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT PRIOR TO AND DURING PROJECT DESIGN TO DISCUSS PROJECT DESIGN AND PROJECT COMPLIANCE WITH CITY REGULATIONS AND TO OBTAIN GUIDANCE ON THE ENVIRONMENTAL MATERIALS THAT YOU MUST SUBMIT.



CITY OF KIRKLAND ENVIRONMENTAL CHECKLIST

Purpose of Checklist:

The State Environmental Policy Act (SEPA), Chapter 43.21C RCW, requires all governmental agencies to consider the environmental impacts of a proposal before making decisions. An environmental impact statement (EIS) must be prepared for all proposals with probable significant adverse impacts on the quality of the environment. The purpose of this checklist is to provide information to help you and the City identify impacts from your proposal (and to reduce or avoid impacts from the proposal, if it can be done) and to help the City decide whether an EIS is required.

Instructions for Applicants:

This environmental checklist asks you to describe some basic information about your proposal. Governmental agencies use this checklist to determine whether the environmental impacts of your proposal are significant requiring preparation of an EIS. Answer the questions briefly with the most precise information known, or give the best description you can.

You must answer each question accurately and carefully to the best of your knowledge. In most cases, you should be able to answer the questions from your own observations or project plans without the need to hire experts. If you really do not know the answer, or if a question does not apply to your proposal, write "do not know" or "does not apply." Complete answers to the questions now may avoid unnecessary delays later.

Some questions ask about governmental regulations, such as zoning, shoreline, and landmark designations. Answer these questions if you can. If you have problems, the City staff can assist you.

The checklist questions apply to all parts of your proposal, even if you plan to do them over a period of time or on different parcels of land. Attach any additional information that will help describe your proposal or its environmental effects. The City may ask you to explain your answers or provide additional information reasonably related to determining if there may be significant adverse impacts.

Use of Checklist for Non-project Proposals:

Complete this checklist for non-project proposals, even though questions may be answered "does not apply." IN ADDITION, complete the SUPPLEMENTAL SHEET FOR NON-PROJECT ACTIONS (Part D).

For non-project actions, the references in the checklist to the words "project," "applicant," and "property or site" should be read as "proposal," "proposer," and "affected geographic area," respectively.

A. BACKGROUND

1. Name of proposed project, if applicable: 2013 Miscellaneous Zoning and Municipal Code Amendments
2. Name of applicant: City of Kirkland Department of Planning and Community Development

3. Address and phone number of applicant and contact person: Joan Lieberman-Brill, AICP, Senior Planner, 123 5th Avenue, Kirkland WA 98033
4. Date checklist prepared: December 9, 2013
5. Agency requesting checklist: City of Kirkland Department of Planning and Community Development
6. Proposed timing or schedule (including phasing, if applicable): N.A.
7. Do you have any plans for future additions, expansion, or further activity related to or connected with this proposal? If yes, explain.

N.A. This is a non-project action.
8. List any environmental information you know about that has been prepared, or will be prepared, directly related to this proposal.

City of Kirkland 2004 Draft and Final Comprehensive Plan 10-Year Update EIS applies to pre- Juanita, Finn Hill, Kingsgate Annexation area, only.
9. Do you know whether applications are pending for governmental approvals of other proposals directly affecting the property covered by your proposal? If yes, explain.

No
10. List any government approvals or permits that will be needed for your proposal, if known.

City Council ordinance adoption, Houghton Community Council Final Approval
11. Give brief, complete description of your proposal, including the proposed uses, the size and scope of the project and site including dimensions and use of all proposed improvements. There are several questions later in this checklist that ask you to describe certain aspects of your proposal. You do not need to repeat those answers on this page.

Amendments to the Kirkland Zoning Code and Kirkland Municipal Code are proposed to correct, simplify, clarify or change the way adopted land use and development policies are implemented or administered. These include no, minor, moderate and major policy amendments. There are 26 proposed amendments as described in the attached roster (Attachment 1). See attachment 2, 3, 4 and 5 for the staff memorandums which discuss each amendment in advance of the public hearing on the project to be held in January.
12. Location of the proposal. Give sufficient information for a person to understand the precise location of your proposed project, including a street address, if any, and section, township, and range, if known. If a proposal would occur over a range of area, provide the range or boundaries of the site(s). Provide a legal description, site plan, vicinity map, and topographic map, if reasonably available. While you should submit any plans required by the agency, you are not required to duplicate maps or detailed plans submitted with any permit applications related to this checklist.

2. AIR

a. What types of emissions to the air would result from the proposal (i.e., dust, automobile, odors, industrial wood smoke) during construction and when the project is completed? If any, generally describe and give approximate quantities if known.

N.A.

b. Are there any offsite sources of emissions or odor that may affect your proposal? If so, generally describe.

N.A.

c. Proposed measures to reduce or control emissions or other impacts to air, if any:

N.A.

3. WATER

a. Surface

1) Is there any surface water body on or in the immediate vicinity of the site (including year-round and seasonal streams, saltwater, lakes, ponds, wetlands)? If yes, describe type and provide names. If appropriate, state what stream or river it flows into.

N.A.

2) Will the project require any work over, in, or adjacent to (within 200 feet) the described waters? If yes, please describe and attach available plans.

N.A.

3) Estimate the amount of fill and dredge material that would be placed in or removed from surface water or wetlands and indicate the area of the site that would be affected. Indicate the source of fill material.

N.A.

4) Will the proposal require surface water withdrawals or diversions? Give general description, purpose, and approximate quantities if known.

N.A.

5) Does the proposal lie within a 100-year flood plain? If so, note location on the site plan.

N.A.

- 6) Does the proposal involve any discharges of waste materials to surface waters? If so, describe the type of waste and anticipated volume of discharge.
N.A.

b. Ground

- 1) Will ground water be withdrawn, or will water be discharged to ground water? Give general description, purpose, and approximate quantities if known.
N.A.
- 2) Describe waste material that will be discharged into the ground from septic tanks or other sources, if any (for example: Domestic sewage; industrial, containing the following chemicals...; agricultural; etc.) Describe the general size of the system, the number of such systems, the number of houses to be served (if applicable), or the number of animals or humans the system(s) are expected to serve.
N.A.

c. Water Runoff (including storm water):

- 1) Describe the source of runoff (including storm water) and method of collection and disposal, if any (include quantities, if known). Where will this water flow? Will this water flow into other waters? If so, describe.
N.A.
- 2) Could waste materials enter ground or surface waters? If so, generally describe.
N.A.

- d. Proposed measures to reduce or control surface, ground, and runoff water impacts, if any:
N.A.

4. PLANTS

- a. Place an "X" next to the types of vegetation found on the site:

_____ deciduous tree: alder, maple, aspen, other
_____ evergreen tree: fir, cedar, pine, other
_____ shrubs

- _____ grass
- _____ pasture
- _____ crop or grain
- _____ wet soil plants: cattail, buttercup, bullrush, skunk cabbage, other
- _____ water plants: water lily, eelgrass, milfoil, other
- _____ other types of vegetation
- _____ N.A.

b. What kind and amount of vegetation will be removed or altered?

N.A.

c. List threatened or endangered species known to be on or near the site.

N.A.

d. Proposed landscaping, use of native plants, or other measures to preserve or enhance vegetation on the site, if any:

N.A.

5. ANIMALS

a. What kinds of birds and animals have been observed on or near the site or are known to be on or near the site?

- birds: hawk, heron, eagle, songbirds, other
- mammals: deer, bear, elk, beaver, other
- fish: bass, salmon, trout, herring, shellfish, other
- N.A.

b. List any threatened or endangered species known to be on or near the site.

N.A.

c. Is the site part of a migration route? If so, explain.

N.A.

d. Proposed measures to preserve or enhance wildlife, if any:

N.A.

6. ENERGY AND NATURAL RESOURCES

a. What kinds of energy (electric, natural gas, oil, wood stove, solar) will be used to meet the completed project's energy needs? Describe whether it will be used for heating, manufacturing, etc.

N.A.

b. Would your project affect the potential use of solar energy by adjacent properties? If so, generally describe.

N.A.

c. What kinds of energy conservation features are included in the plans of this proposal? List other proposed measures to reduce or control energy impacts, if any:

N.A.

7. ENVIRONMENTAL HEALTH

a. Are there any environmental health hazards, including exposure to toxic chemicals, risk of fire and explosion, spill, or hazardous waste, that could occur as a result of this proposal? If so, describe.

N.A.

1) Describe special emergency services that might be required.

N.A.

2) Proposed measures to reduce or control environmental health hazards, if any:

N.A.

b. Noise

1) What types of noise exist in the area which may affect your project (for example: traffic, equipment, operation, other)?

N.A.

2) What types and levels of noise would be created by or associated with the project on a short-term or a long-term basis (for example: traffic, construction, operation, other)? Indicate what hours noise would come from the site.

N.A.

3) Proposed measures to reduce or control noise impacts, if any:

N.A.

8. LAND AND SHORELINE USE

a. What is the current use of the site and adjacent properties?

N.A.

b. Has the site been used for agriculture? If so, describe.

N.A.

c. Describe any structures on the site.

N.A.

d. Will any structures be demolished? If so, what?

N.A.

e. What is the current zoning classification of the site?

N.A.

f. What is the current comprehensive plan designation of the site?

N.A.

g. If applicable, what is the current shoreline master program designation of the site?

N.A.

h. Has any part of the site been classified as an "environmentally sensitive" area? If so, specify.

N.A.

i. Approximately how many people would reside or work in the completed project?

N.A.

j. Approximately how many people would the completed project displace?

N.A.

k. Proposed measures to avoid or reduce displacement impacts, if any:

N.A.

l. Proposed measures to ensure the proposal is compatible with existing and projected land uses and plans, if any:

N.A.

9. HOUSING

a. Approximately how many units would be provided, if any? Indicate whether high, middle, or low-income housing.

N.A.

b. Approximately how many units, if any, would be eliminated? Indicate whether high, middle, or low-income housing.

N.A.

c. Proposed measures to reduce or control housing impacts, if any:

N.A.

10. AESTHETICS

a. What is the tallest height of any proposed structure(s), not including antennas; what is the principal exterior building material(s) proposed?

N.A.

b. What views in the immediate vicinity would be altered or obstructed?

N.A.

c. Proposed measures to reduce or control aesthetic impacts, if any:

N.A.

11. LIGHT AND GLARE

a. What type of light or glare will the proposal produce? What time of day would it mainly occur?

N.A.

b. Could light or glare from the finished project be a safety hazard or interfere with views?

N.A.

c. What existing off-site sources of light or glare may affect your proposal?

N.A.

d. Proposed measures to reduce or control light and glare impacts, if any:

N.A.

12. RECREATION

a. What designated and informal recreational opportunities are in the immediate vicinity?

N.A.

b. Would the proposed project displace any existing recreational uses? If so, describe.

N.A.

c. Proposed measures to reduce or control impacts on recreation, including recreation opportunities to be provided by the project or applicant, if any:

N.A.

13. HISTORICAL AND CULTURAL PRESERVATION

a. Are there any places or objects listed on, or proposed for, national, state, or local preservation registers known to be on or next to the site? If so, generally describe.

N.A.

b. Generally describe any landmarks or evidence of historic, archaeological, scientific, or cultural importance known to be on or next to the site.

N.A.

c. Proposed measures to reduce or control impacts, if any:

N.A.

14. TRANSPORTATION

a. Identify public streets and highways serving the site, and describe proposed access to the existing street system. Show onsite plans, if any.

N.A.

b. Is site currently served by public transit? If not, what is the approximate distance to the nearest transit stop?

N.A.

c. How many parking spaces would the completed project have? How many would the project eliminate?

N.A.

d. Will the proposal require any new roads or streets, or improvements to existing roads or streets, not including driveways? If so, generally describe (indicate whether public or private).

N.A.

e. Will the project use (or occur in the immediate vicinity of) water, rail, or air transportation? If so, generally describe.

N.A.

f. How many vehicular trips per day would be generated by the completed project? If known, indicate when peak volumes would occur.

N.A.

g. Proposed measures to reduce or control transportation impacts, if any:

N.A.

15. PUBLIC SERVICES

a. Would the project result in an increased need for public services (for example: fire protection, police protection, health care, schools, other)? If so, generally describe.

N.A.

b. Proposed measures to reduce or control direct impacts on public services, if any.

N.A.

16. UTILITIES

a. What utilities (e.g.: electricity, natural gas, water, refuse service, telephone, sanitary sewer, septic system, other) are currently available at the site?

N.A.

b. Describe the utilities that are proposed for the project, the utility providing the service, and the general construction activities on the site or in the immediate vicinity which might be needed.

N.A.

C. SIGNATURE

The above answers are true and complete to the best of my knowledge. I understand that the lead agency is relying on them to make its decision.

Signature: _____

Date Submitted: _____

D. SUPPLEMENTAL SHEET FOR NONPROJECT ACTIONS

(Do not use this sheet for project actions)

Because these questions are very general, it may be helpful to read them in conjunction with the list of the elements of the environment.

When answering these questions, be aware of the extent the proposal, or the types of activities likely to result from the proposal, would affect the item at a greater intensity or at a faster rate than if the proposal were not implemented. Respond briefly and in general terms.

1. How would the proposal be likely to increase discharge to water; emissions to air; production, storage, or release of toxic or hazardous substances; or production of noise?
NA

Proposed measures to avoid or reduce such increases are:
NA

2. How would the proposal be likely to affect plants, animals, fish, or marine life?
NA

Proposed measures to protect or conserve plants, animals, fish, or marine life are:
NA

3. How would the proposal be likely to deplete energy or natural resources?
NA

Proposed measures to protect or conserve energy and natural resources are:

- 1) New Solar Energy Systems in Residential Zone amendments provide regulations for free standing solar collectors.
- 2) Proposed amendments to existing Holmes Point Overlay Zone regulations codify landscaping, maintenance and restoration standards for an area with increased sensitive area protection. They also establish siting criteria for required Protected Natural Areas within this zone.
- 3) Proposed changes to the Low Impact Development Regulations allow this incentive to be used in a portion of a plat rather than the entire development, which increases the chances these techniques will be applied.

4. How would the proposal be likely to use or affect environmentally sensitive areas or areas designated (or eligible or under study) for governmental protection; such as parks, wilderness, wild and scenic rivers, threatened or endangered species habitat, historic or cultural sites, wetlands, floodplains, or prime farmlands?
N.A.

Proposed measures to protect such resources or to avoid or reduce impacts are:
Proposed changes to the Low Impact Development regulations to allow more flexibility in administering the LID incentive. Amendments encourage using these preferred techniques by allowing it to be used in portions of plats rather than in the entire development. These techniques reduce surface water impacts by mimicking natural watershed hydrology, allowing water to soak into the ground closer to its source.

5. How would the proposal be likely to affect land and shoreline use, including whether it would allow or encourage land or shoreline uses incompatible with existing plans?
N.A.

Proposed measures to avoid or reduce shoreline and land use impacts are:
N.A.

6. How would the proposal be likely to increase demands on transportation or public services and utilities?
N.A.

Proposed measures to reduce or respond to such demand(s) are:
N.A.

7. Identify, if possible, whether the proposal may conflict with local, state, or federal laws or requirements for the protection of the environment.
N.A.

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-960, filed 2/10/84, effective 4/4/84.]

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, September and November study sessions.

Red notes items that will be considered at the December 5 study session

(Nov 25, 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.

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

Purpose: Consider expanding this exemption to apply to property touching any street other than neighborhood access streets, rather than only primary arterials.

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

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

MAJOR POLICY CHANGES

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

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.



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)



USE ZONE CHART

Section 60.87



Section 60.87	USE REGULATIONS	Required Review Process	Lot Size	REQUIRED YARD (See Ch. 115)			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)
				Front	Side	Rear						
				.130	Detached, Attached or Stacked Dwelling Units. See Spec. Reg. 6.	None						

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 (~~56~~) 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.

~~56~~. 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 (56)(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.



CITY OF KIRKLAND
 Planning and Community Development Department
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MEMORANDUM

Date: September 3, 2013

To: Planning Commission and Houghton Community Council

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

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

RECOMMENDATION

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

BACKGROUND DISCUSSION

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

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

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

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

AMENDMENTS GENERAL

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

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

Proposed changes are noted with strikeouts and underlines in red.

NO POLICY CHANGES

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

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

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

Proposed change:

KZC Chapter 5 – DEFINITIONS

5.10.785 Residential Zone

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

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

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

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

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

Proposed change:

KZC Chapter 5 – DEFINITIONS

5.10.215 Development Permit

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

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

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

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

Proposed change:

KZC Chapter 115 – MISCELLANEOUS USE DEVELOPMENT AND PERFORMANCE STANDARDS

115.115 Required Yards

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

Staff Recommendation: Change the term to clarify the regulation.

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

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

Proposed changes:

KZC CHAPTER 60 – PLANNED AREAS (PLA)

Zone PLA 15B

Section 60.175 – GENERAL REGULATIONS

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

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

Zone PLA 16

Section 60.180 – GENERAL REGULATIONS

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

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

Zone PLA 17

Section 60.185 – GENERAL REGULATIONS

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

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

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

MINOR POLICY CHANGES

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

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

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

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

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

Proposed change:

KZC 95.23 Tree Removal – Not Associated with Development Activity

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

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

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

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

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

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

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

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

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

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

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

Proposed changes:

KZC Chapter 5 – DEFINITIONS

.490.5 Low Impact Development (LID)

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

.490.7 Low Impact Development Project Site

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

KZC Chapter 114 – LOW IMPACT DEVELOPMENT

Sections:

[114.05](#) User Guide (No change)

[114.10](#) Voluntary Provisions and Intent (No change)

[114.15](#) Parameters for Low Impact Development

[114.20](#) Design Standards and Guidelines (No change)

[114.25](#) Review Process (No change)

[114.30](#) Additional Standards (No change)

[114.35](#) Required Application Documentation (No change)

114.15 Parameters for Low Impact Development

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

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

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

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

Footnotes:

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

114.20 Design Standards and Guidelines

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

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

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

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

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

Proposed Change:

KMC Title 22
SUBDIVISIONS
Chapter 22.28
DESIGN REQUIREMENTS

22.28.041 Lots—Low impact development.

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

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

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

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

Proposed change:

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

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

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

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

115.95 Noise Regulations

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

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

Staff Recommendation: Adopt proposed changes as indicated.

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

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

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

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

Proposed Change:

Chapter 161-Process IVA

Sections:

[161.05](#) User Guide

[161.10](#) Suitability for Process IVA

[161.15](#) Initiation of Proposals

[161.20](#) Compliance with SEPA

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

[161.35](#) Official File

[161.40](#) Notice

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

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

[161.60](#) Material To Be Considered

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

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

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

[161.80](#) Planning Director Action

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

[161.90](#) Publication and Effect

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

161.05 User Guide

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

161.10 Suitability for Process IVA

1. General – Process IVA is for:

- a. Minor Zoning Code amendments to promote clarity, eliminate redundancy, or to correct inconsistencies; or
- b. Minor Zoning Map amendments to correct grammatical, labeling, scrivener, or similar errors on the official Zoning Map.

161.15 Initiation of Proposals

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

161.20 Compliance with SEPA

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

~~161.25 Suitability for Process IVA~~

~~1. General – Process IVA is for:~~

- ~~a. Minor Zoning Code amendments to promote clarity, eliminate redundancy, or to correct inconsistencies; or~~
- ~~b. Minor Zoning Map amendments to correct grammatical, labeling, scrivener, or similar errors on the official Zoning Map.~~

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

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

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

161.35 Official File

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

161.40 Notice

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

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

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

~~161.45 Staff Report~~

- ~~1. General – the Planning Official shall prepare a staff report containing:

 - ~~a. An analysis of the proposal and a recommendation on the proposal; and~~
 - ~~b. Any other information the Official determines is necessary for consideration of the proposal.~~~~
- ~~2. Distribution – the Planning Official shall distribute the staff report to the following persons:

 - ~~a. The Planning Director, prior to the hearing.~~
 - ~~b. Any person requesting it.~~
 - ~~c. If applicable, to each member of the Houghton Community Council.~~~~

~~161.5545 Community Council Proceeding~~Public Hearing

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

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

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

161.55 Staff Report

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

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

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

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

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

b. Any person requesting it.

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

161.60 Material To Be Considered

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

~~161.65 Electronic Sound Recording~~

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

161.70 Public Comments and Participation at the Hearing

Any interested person may participate ~~in the public hearing in 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 hearingcomment period on the proposal as modified.
3. Recommendation – If the Planning Director determines that the proposal meets the applicable decisional criteria established in KZC 161.60, he/she may recommend that City Council give effect to the proposal by amending the appropriate text.

161.85 Planning Director Recommendation to City Council

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

161.90 Publication and Effect

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

161.95 Jurisdiction of the Houghton Community Council

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

Staff Recommendation: Adopt proposed changes as indicated.

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

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

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

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

Proposed change:

KZC Chapter 115 – MISCELLANEOUS USE DEVELOPMENT AND PERFORMANCE STANDARDS

Sections:

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

[115.138](#) Temporary Storage Containers

[115.140](#) Temporary Trailers for Construction and Real Estate Sales Offices

[115.142](#) Transit Shelters and Centers, Public

[115.150](#) Vehicles, Boats and Trailers – Size in Residential Zones Limited

(New section)

[115.87 Lot Size Flexibility](#)

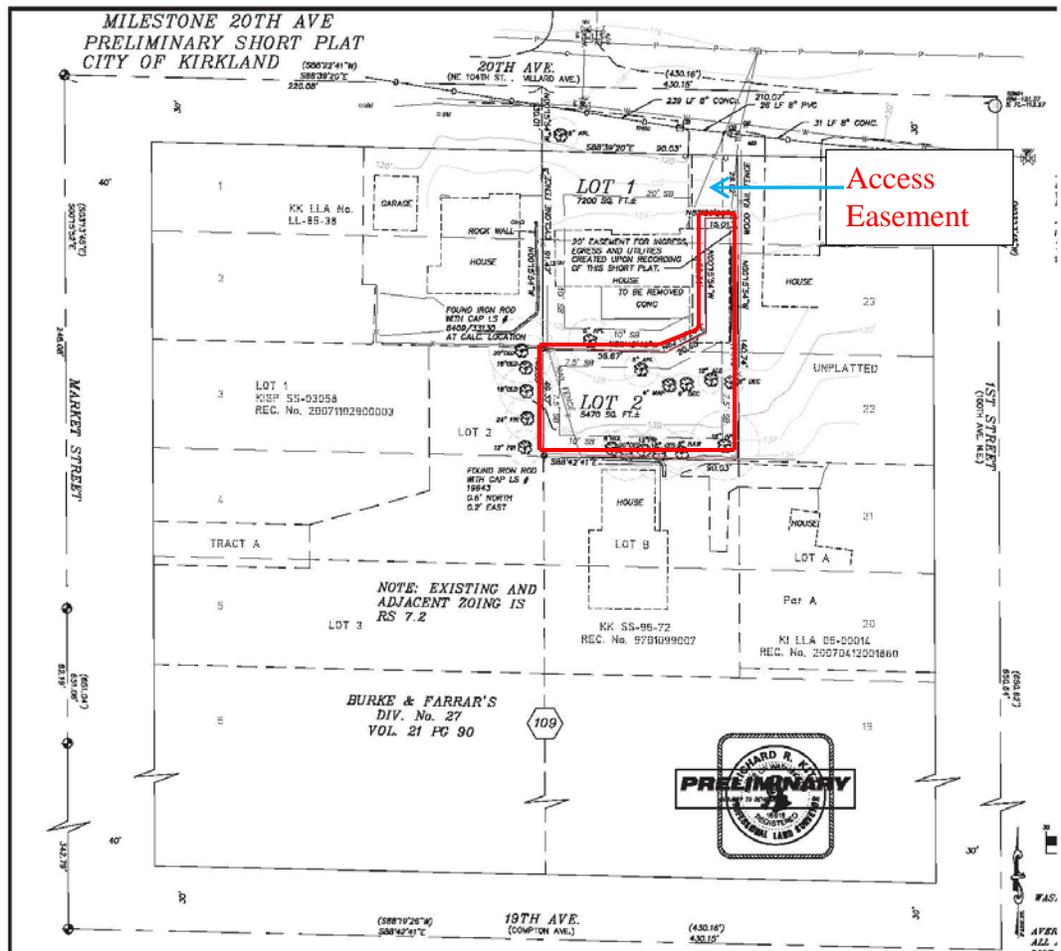
[Within a subdivision or short plat, a reduction in the minimum lot size may be approved pursuant to subdivision design requirements in Chapter 22.28.KMC](#)

Staff Recommendation: Adopt proposed changes as indicated.

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

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

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



<p>RECORDER'S CERTIFICATE</p> <p>FILED FOR RECORD THIS.....DAY OF 201.....AT.....M IN BOOK.....OF.....AT PAGE.....AT THE REQUEST OF.....RICHARD R. KITZ..... Surveyor's Name</p> <p>MCR..... SUPT. OF RECORDS</p>	<p>SURVEYOR'S CERTIFICATE</p> <p>THIS MAP CORRECTLY REPRESENTS A SURVEY MADE BY ME OR UNDER MY DIRECTION IN CONFORMANCE WITH THE REQUIREMENTS OF THE SURVEY RECORDING ACT AT THE REQUEST OF.....GREENBANK DEV. LLC..... IN.....JAN.....2013.</p> <p>RICHARD R. KITZ CERTIFICATE NO.....16215.....</p>	 <p>EASTSIDE CONSULTANTS, INC. ENGINEERS-SURVEYORS</p> <p>1820 N.W. MALL ST., SUITE B ISSAQUAH, WASHINGTON 98027 PHONE: 425792-8381 FAX: 425592-8579</p>
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Proposed changes:

KMC Title 22

SUBDIVISIONS**22.28.042 Lots—Small lot single-family.**

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

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

22.28.048 Lots—Historic preservation.

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

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

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

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

MODERATE POLICY CHANGES

These are considered more substantive changes to existing regulations.

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

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

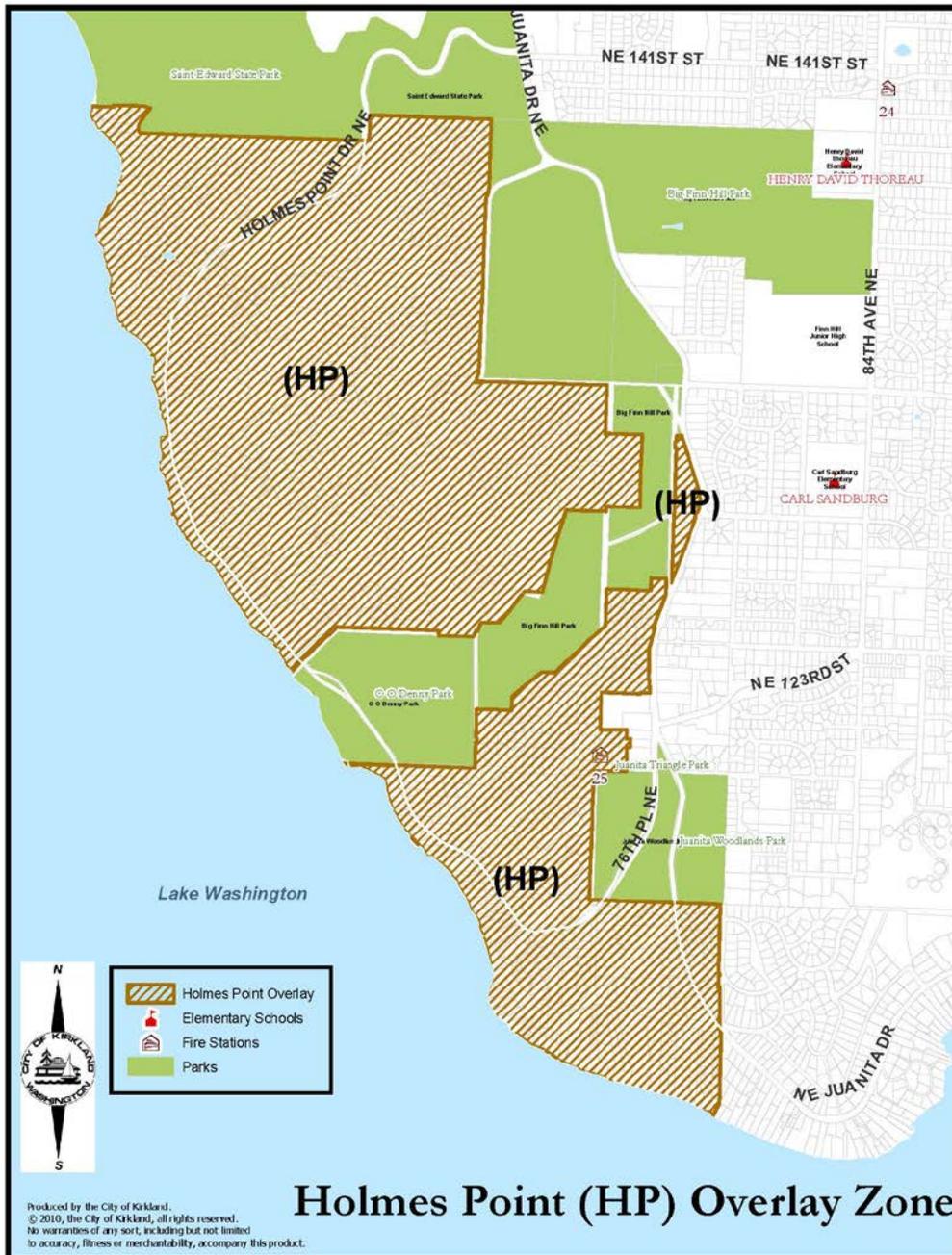
required in the Holmes Point (HP) Overlay Zone. Clarify vegetation and maintenance requirements in this zone.

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

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

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

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



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

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

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

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

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

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

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

Proposed changes:

Chapter 70 – HOLMES POINT OVERLAY ZONE

Sections:

[70.05](#) Purpose

[70.15](#) Standards

[70.25](#) Variations from Standards

70.05 Purpose

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

70.15 Standards

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

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

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

Summary Table:

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

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

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

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

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

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

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

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

c. AGGREGATION OPTION 1 (APPLICANT CHOOSES):

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

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

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

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

c. AGGREGATION OPTION 3 (CITY REQUIRES):

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

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

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

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

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

7. Tree and Landscape Maintenance Requirements

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

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

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

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

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

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

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

70.25 Variations from Standards

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

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

Staff Recommendation: Discuss and provide direction to staff.

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

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

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

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

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

Proposed Change(s):

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

Sections:

[135.05](#) User Guide

[135.~~15~~-10](#) Initiation of Proposals

[135.~~10~~15](#) Applicable Process

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

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

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

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

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

135.05 User Guide

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

135. ~~15~~10 Initiation of Proposals

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

135.~~10~~ 15 Applicable Process

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

135.20 Threshold Determination for Citizen-Initiated Proposals Associated with Amendments to the Comprehensive Plan

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

135.23 Proposals Not Associated with Amendments to the Comprehensive Plan

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

135.25 Criteria for Amending the Text of the Zoning Code

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

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

135.30 Moratoria and Interim Land Use Regulations

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

2. Disapproval Jurisdiction

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

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

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

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

KZC Chapter 160 – PROCESS IV

Sections:

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

[160.80](#) Planning Commission Action

[160.85](#) Planning Commission Report to City Council

[160.90](#) Publication and Effect

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

[160.100](#) Jurisdiction of the Washington State Department of Ecology

160.05 User Guide

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

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

160.15 Initiation of Proposals

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

160.20 Compliance with SEPA

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

[160.25 Amendments to Comprehensive Plan and Related Zoning Map and Code Amendments](#) - Threshold Review

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

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

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

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

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

160.35 – 160.100 (No Change)

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

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

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

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

Proposed Change(s):

KZC Chapter 170 –CODE ADMINISTRATION

170.50 Conflict of Provisions

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

Staff Recommendation: Amend as drafted.

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

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

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

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

Proposed Change(s):

170.40 Interpretations of This Code – General

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

KZC 170.45 Interpretations of This Code – Appeal

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

Staff Recommendation: Approve the proposed changes.

23.Reduce Process for Zoning Decisions

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

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

23.a Review Process for Minimum Lot Size

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

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

Proposed Change(s):

Kirkland Municipal Code
22.28.030 Lots—Size.

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

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

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

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

Staff Recommendation: Adopt changes as proposed.

23.b Variance Process

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

Existing Variance Process – Comparing City and Houghton

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

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

Proposed Variance Process – Comparing City and Houghton

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

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

Proposed Change(s):

Chapter 120 – VARIANCES

Sections:

[120.05](#) User Guide

[120.10](#) Process for Deciding Upon a Proposed Variance

[120.12](#) Expansion or Modification of an Existing Structure

[120.15](#) Application Information

[120.20](#) Criteria for Granting a Variance

[120.25](#) What May Not Be Varied

120.05 User Guide

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

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

120.10 Process for Deciding Upon a Proposed Variance

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

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

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

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

120.12 Expansion or Modification of an Existing Structure

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

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

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

120.15 Application Information

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

120.20 Criteria for Granting a Variance

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

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

120.25 What May Not Be Varied

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

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

Staff Recommendation: Adopt changes as proposed.

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

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

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

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

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

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

Proposed Change(s):

RS Zones 15.10

15.10.020 Church Special Regulation 3 and

15.10.030 School or Day-Care Center Special Regulation 10

The required review process is as follows:

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

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

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

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

Staff Recommendation: Adopt as proposed.

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

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

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

NE 85 TH ST SUB-AREA	OTHERWISE
DR	IIA

Proposed Review Processes for Schools, Daycares and Churches

NE 85 TH ST SUB-AREA	OTHERWISE
DR	I

Proposed Change(s):

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

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

Staff Recommendation: Adopt as proposed.

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

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

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







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

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

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

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

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

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

Attachments:

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

Cc: File CAM13-00669

Roster of Miscellaneous Zoning Code and Municipal Code Amendments

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

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

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

(September 12, 2013)

NO POLICY CHANGES

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

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

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

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

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

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

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

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

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

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

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

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

MINOR POLICY CHANGES

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

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

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

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

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

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

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

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

MODERATE POLICY CHANGES

These are considered more substantive changes to existing regulations.

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

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

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

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

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

Purpose: Delete or simplify garage setback requirements.

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

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

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

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

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

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

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

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

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

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

23. Reduce Process for Zoning Decisions – Multiple Zones

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

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

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

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

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

MAJOR POLICY CHANGES

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

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

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

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

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

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

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

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



September 3, 2013

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

Re: Holmes Point Overlay Zone

Dear Joan:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sincerely,

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

cc: Jeremy Mc Mahan



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

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 Action161.85 Planning Director Recommendation to City Council161.90 Publication and Effect161.95 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 IVA1. 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:

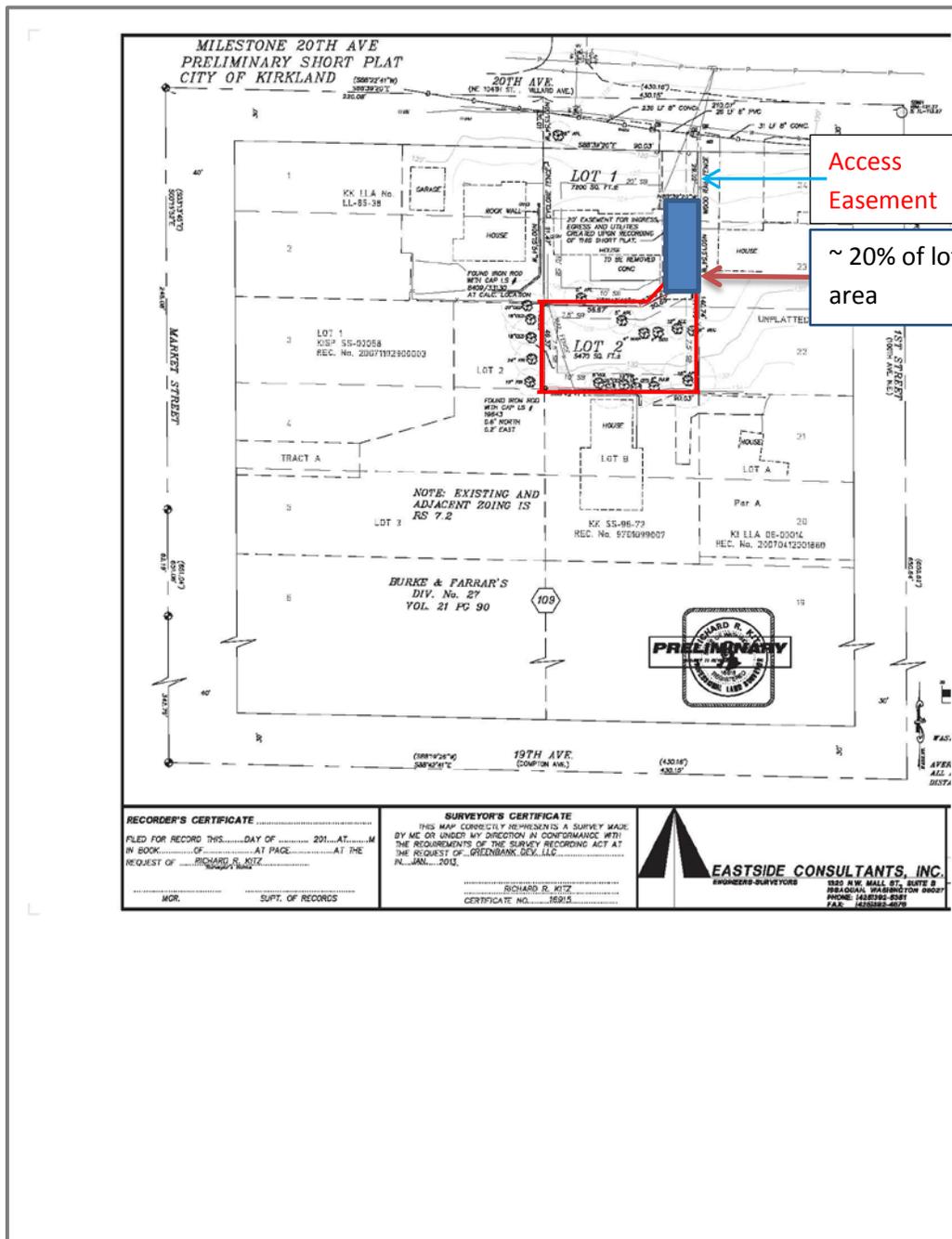
- (g) If a historic residence is destroyed, damaged, relocated, or altered inconsistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties (Rehabilitation) (Code of Federal Regulations, 36 CFR Part 68), the replacement structure shall be reconstructed in accordance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

Monroe County, Pennsylvania

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	landscape buffer Adjoining Multi-family underlying setback with 6' high side and rear yard fence
Woodinville	10/5/5 minimum Conditional use permit required	same	10/5/5 minimum Allowed in all residential zones in church or school buildings only	20' setback with 6' high fence
King County	30/30/30 minimum (Currently 30 foot setbacks for all elementary and middle schools in JFK Increased setbacks for high schools in KC.) Conditional use permit required,	30/30/30 min setback with 6' high fence	30/30/30 minimum 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 Free-standing allowed with conditional use permit	20' setback with 6' high fence

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						
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 shrubby	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 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 an 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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RECEIVED
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:

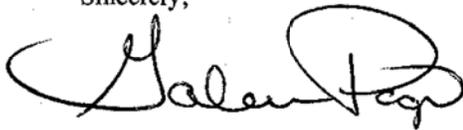
The zoning code defines Community Facility as:

“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		REGULATIONS		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



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)										REGULATIONS CONTINUED FROM PREVIOUS PAGE 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; e. The electronic readerboard displays messages regarding public service announcements or school events only; 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; g. The electronic readerboard is turned off between 10:00 p.m. and 6:00 a.m.; h. The school is located on a collector or arterial street. 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. 9. May include accessory living facilities for staff persons. 10. The required review process is as follows: a. If the subject property, including all contiguous property owned by the applicant and held by others for future use by the applicant, is less than five acres, the required review process is Process 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. REGULATIONS CONTINUED ON NEXT PAGE		

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Section 15.10



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	
.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
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.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;		

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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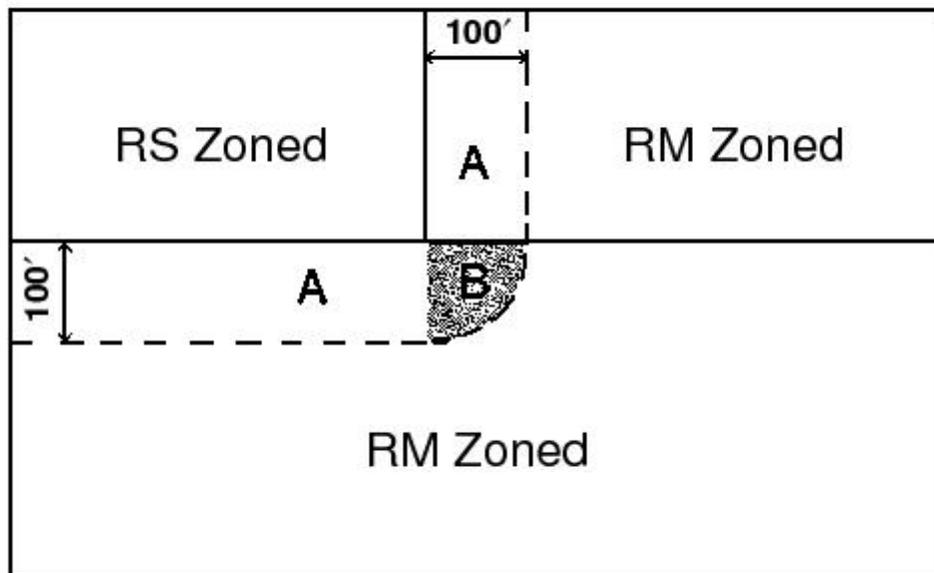
Section 15.10

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		

**Plate 18
ADJOINING PROPERTIES**



- A Area to be considered adjoining property**
- B Area not to be considered adjoining property**



CITY OF KIRKLAND

PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT
 123 FIFTH AVENUE, KIRKLAND, WA 98033
 425.587.3225 - www.kirklandwa.gov

MEMORANDUM

DATE: November 26, 2013

To: Planning Commission

FROM: Joan Lieberman-Brill, AICP, Senior Planner
 Paul Stewart, AICP, Deputy Director
 Eric Shields, AICP, Director

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

RECOMMENDATION

Review the remaining two "Moderate" policy changes to current Zoning Code regulations 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, September and November have a check ✓ by them. Items that staff will introduce for review at the December 5 study session are red. These are the last two changes to be considered on the 2013 roster before the public hearing in January.

- Garage setback amendments
- Expansion of land use buffers exemptions adjoining right of ways

AMENDMENTS GENERAL

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. The number of the amendment matches the number as it appears on the roster.

MODERATE POLICY CHANGES

These are considered more substantive changes to existing regulations

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.

Background:

In 2008 the City adopted O-4121 which provided garage requirements for detached dwelling units in low density zones. These regulations are not in effect in Houghton. A purpose and intent section was added to articulate that the intent of these regulations is to minimize the appearance of the garage when viewing the front facade of the house. The amendment increased the setback for garages in low density zones from five feet to eight feet, although it did not require that the garage setback be greater than the remainder of the front facade (so the whole house could be setback an additional eight feet). It also restricted the garage to no more than 50% of the total width of the front façade (for lots 55 feet wide and greater) and clarified that front entry porches were not included in the garage offset provisions. Scroll down to view the current regulation.

Up until 2008, the garage was to be 5 feet greater than the remainder of the house, when the garage was more than 50 percent of the width of the front facade. Builders were limiting the garage width, resulting in no modulation. Apparently it costs more to provide modulation. (Commonly available architectural plan templates locate the garage and non-garage frontage at the same plane, so to deviate costs the builder more).

The City concluded that since the five foot offset was not working, a larger offset would result in the desired modulation, along with a limit on what percentage of the front façade the garage could be. The thinking was that builders were taking advantage of every square foot on a lot and so to do a whole house setback to 28' would reduce a significant amount of buildable space and therefore it would be unlikely that they would do so. It was also assumed that if builders did have enough room to set the whole house back at 28' the impact of the garage would not be as significant on the streetscape. The concern was that double- or even triple-garage doors at the 20' setback line with no modulation made the garage dominate the street. The larger offset would keep the front door as the most significant feature.

Since 2008 the reality has been that builders have not been sufficiently motivated even with the eight foot setback to comply with the intended modulation. Instead, garages are being located 28 feet from the front property line while the remainder of the front facade is being setback anywhere from 20 to 28 feet from the property line.

Issues:

To the extent that modulation is not occurring at the prescribed increment, planners haven't seen the benefit in an eight foot vs. four or five foot or even less modulation between the garage and the remainder of the house. Although the modulation objective is sound, staff questions whether the eight foot setback is necessary since it is difficult to perceive a difference from the street. But, while an effective offset is subjective, staff does support retaining some garage modulation.

Another problem is that the twenty-eight foot garage setback results in a longer driveway, which increases impervious surface on a lot. A more effective modulation standard may also decrease lot coverage, which is consistent with the City's LID goals. Finally, the 28 foot garage setback reduces the size of the rear yard, especially on small lots with limited yard area to begin with.

Finally, there are situations when providing additional flexibility to the planning official to allow deviations from the garage locations provisions is necessary and appropriate, but currently not allowed. An example is when an applicant seeks to convert an existing carport into a garage, which because of its non-conforming location, cannot strictly meet the deviation criteria of Section 115.43.5 a. which states: "The modification is necessary because of the size, configuration, topography or location of the subject property". Because there is no provision addressing pre-existing conditions, the deviation can currently only be granted through a variance process, which is onerous (see KZC 115.43.5.a below).

Current Zoning Code Requirements:

As indicated below, in Houghton's jurisdiction, unlike the rest of Kirkland, there is no modulation requirement for single family dwelling units. No garage offset is required, there is no limit on the width of the garage on the front façade of the house, and there is no allowance for a front entry porch to encroach seven feet into the required 20 foot front yard setback.

115.43 Garage Requirements for Detached Dwelling Units in Low Density Zones

1. Purpose and Intent – The intent of these regulations is to minimize the appearance of the garage when viewing the front facade of a house. To achieve this result, the following principles apply:
 - a. The garage doors, whenever practicable, should not be placed on the front facade of the house;
 - b. If the garage doors are on the front facade, the garage should be set back from the plane of the front facade closest to the street, access easement or tract;

- c. The width of the garage face generally should be no more than the width of the remainder of the front facade; and
- d. Garages with garage doors perpendicular to the street, access easement or tract (side-entry garages) should not have a blank wall on the front facade.

2. General Requirements

- a. Detached dwelling units served by an open public alley, or an easement or tract serving as an alley, shall enter all garages from that alley;
- b. Side-entry garages shall minimize blank walls by incorporating architectural details or windows on the front facade that complement the features of the remainder of the front facade.

3. Additional Requirements for Garages with Garage Doors on the Front Facade of the Detached Dwelling Unit

- a. *The required front yard for the garage shall be eight (8) feet greater than the required front yard for the remainder of the detached dwelling unit (not including covered entry porches approved under KZC 115.115(3)(n)).*
- b. The garage width shall not exceed 50 percent of the total width of the front facade. (This standard shall not apply if the lot width, as measured at the back of the required yard for the front facade, is less than 55 feet.)
- c. For purposes of this section, the width of the front facade shall not include those items located along the side facades described in [KZC 115.115\(3\)\(d\)](#), even if they are outside of a required yard.

4. Exemptions – The following are exempt from the requirements of subsection (3) of this section:

- a. Houses on flag lots;
- b. Houses with below-grade garages. For purposes of this exemption, a “below-grade garage” is one (1) that has at least 75 percent of the area of the garage doors below the midpoint elevation(s) of the street, access easement or tract as it passes along the front of the garage.

5. Deviation From Requirements – The Planning Official may allow deviations from the requirements of this section if the following criteria are met:

- a. *The modification is necessary because of the size, configuration, topography or location of the subject property; and*

- b. The modification supports the purpose and intent of the garage setback regulations; and
 - c. The modification includes design details that minimize the dominant appearance of the garage when viewed from the street, access easement or tract (for example, casings; columns; trellises; windows; surface treatments or color; single-stall doors; door offsets; narrowed driveway widths; and/or enhanced landscaping); and
 - d. The modification will not have any substantial detrimental effect on nearby properties and the City as a whole.
6. This section is not effective within the disapproval jurisdiction of the Houghton Community Council.

Other Jurisdictions:

A matrix comparing the garage setbacks for neighboring jurisdictions is included as Attachment 1 to this memorandum.

Examples:

The photos below are examples of various modulations. Each has a different garage modulation. From these examples, it appears that besides modulation, critical factors in ensuring that the garage is not the dominant element are to keep the garage from exceeding 50% of the front façade and to keep the garage from being forward of the front entry porch, or if there isn't one, not forward of the ground floor front facade.

Another factor that plays into whether the garage appears dominant from the street is the size of the remainder of the facade. Depending on its length, it further reduces the garage's street presence and is another variable that can minimize the appearance of the garage from the street. When you look at the pictures below some have small covered front entry porches and some have larger ones. When some percentage of the façade is of sufficient width, the garage seems to recede as a dominant element. Therefore it is appropriate to consider providing a minimum length dimension while deciding on the appropriate garage setback.

Example 1



325 6th Avenue South
BLD01-01124
Garage Setback: 25'
Covered Entry Porch Setback: 20'
Garage Percentage of Front Façade: 45%

Example 2



620 7th St S
BLD12-00060
Garage Setback: 28'
Covered Entry porch Setback: 26'
Garage Percentage of Front Façade: 50%

Example 3



10010 112th Ave NE
BSF12-00386
Garage Setback: 29'
Façade Setback: 20'
Garage Percentage of Front Façade: 46%

Example 4



11607 NE 73rd St
BSF12-04086
Garage Setback: 28'
Façade Setback: 25'
Covered Entry Porch Setback 20'
Garage Percentage of Front Façade: 67%

Example 5



12905 NE 105th PI
BSF12-01050
Garage Setback: 28.5'
Covered Entry Porch Setback: 20'
Garage Percentage of Front Façade: 37%

Example 6



12908 NE 105th PI
BSF12-01049
Garage Setback: 32'
Covered Entry Porch Setback: 20'
Garage Percentage of Front Façade: 37%

Example 7



12923 NE 90th St
 BSF12-01127
 Garage Setback: 30'
 Façade Setback: 20'
 Garage Percentage of Front Façade: 50%

Options:

Option 1: Eliminate the garage setback

This option eliminates the garage setback, and results in the garage being as close as 20' to the front property line, and the potential for the garage to be forward of the remainder of the front facade, which would not meet the stated intent of the regulation.

115.43.3. Additional Requirements for Garages with Garage Doors on the Front Façade of the Detached Dwelling Unit:

- ~~a.—The required front yard for the garage shall be set back eight (8) feet greater than the required front yard for the remainder of the detached~~

~~dwelling unit (not including covered entry porches approved under KZC 115.115(3)(n)).~~

Option 2: Reduce the garage setback from the front property line.

This option would continue to require the garage to be setback a specified distance more than the required 20' front yard, (e.g. two, four, or five feet). This option also continues to allow the remainder of the front facade to be at the same plane as the garage.

115.43.3. "Additional Requirements for Garages with Garage Doors on the Front Façade of the Detached Dwelling Unit:

- a. The required front yard for the garage shall be set back ~~eight (8)~~ x-feet (5/ 4/ 2 feet?) greater than the required front yard for the remainder of the ground floor of the detached dwelling unit (not including covered entry porches approved under KZC 115.115(3)(n)).

Option 3: Garage not forward of the house

This option would eliminate the 28 foot garage setback, but still require the garage to be at or behind the remainder of the front facade, which is at a minimum, the required front yard of 20 feet.

115.43.3. Additional Requirements for Garages with Garage Doors on the Front Façade of the Detached Dwelling Unit:

- a. The ~~required front yard for the~~ garage may not extend closer to the abutting right of way than shall be set back eight (8) feet greater than the required front yard for the any other ground floor portion remainder of the front facade of the detached dwelling unit.

Option 4: The garage setback is a specified distance from either the covered entry porch or the remainder of the front facade.

In this option, the garage would be set back x distance (e.g. 2, 4, or 5 feet) more than the remainder of the front façade on the ground floor, which is either a covered entry porch or enclosed portion of the dwelling, but a minimum of 20'.

115.43.3. "Additional Requirements for Garages with Garage Doors on the Front Façade of the Detached Dwelling Unit:

- a. The ~~required front yard for the~~ garage shall be ~~eight (8) feet greater than the required front yard~~ set back from the abutting right of way a minimum of 20 feet and x feet (5/ 4/ 2 feet?) ~~for further than the remainder of the adjacent ground floor portion of the front facade the~~

~~remainder of the detached dwelling unit or (not including covered entry porches approved under KZC 115.115(3)(n))~~.

Option 5: Same as option 4, except the facade from which the garage is set back has a specified length.

115.43.3. "Additional Requirements for Garages with Garage Doors on the Front Facade of the Detached Dwelling Unit:

- a. The ~~required front yard for the~~ garage shall be set back from the abutting right of way a minimum of 20 feet and eight (8) feet greater than the required front yard for the remainder of the detached dwelling unit x feet (5/ 4/ 2 feet?) further than the adjacent ground floor portion of the front facade or covered entry porches approved under KZC 115.115(3)(n), provided that the length of the adjacent portion of the ground floor facade or covered entry porch extends across at least x% (25%?) of the total width of the front facade.

Staff Recommendation:

Setback:

Staff does not recommend eliminating modulation, but instead of the current standard recommends Option 5 above. This option requires an offset to be determined (x feet) from whatever element of the front facade is closest to the street, and only if the adjacent element is of sufficient width to provide a substantial street presence. This option also clarifies that the garage setback is measured from the ground floor of the facade.

Deviation From Requirements:

Staff recommends the following change:

5. Deviation From Requirements – The Planning Official may allow deviations from the requirements of this section if the following criteria are met:
 - a. The modification is necessary because of the size, configuration, topography or location of the subject property, or the location of a preexisting improvement on the subject property that conformed to the Zoning Code in effect when the improvement was constructed; and
 - b. The modification supports the purpose and intent of the garage setback regulations; and
 - c. The modification includes design details that minimize the dominant appearance of the garage when viewed from the street, access easement or tract (for example, casings; columns; trellises; windows; surface treatments

or color; single-stall doors; door offsets; narrowed driveway widths; and/or enhanced landscaping); and

- d. The modification will not have any substantial detrimental effect on nearby properties and the City as a whole.

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

Purpose: Consider expanding this exemption to apply to property touching any street other than neighborhood access streets, rather than only primary arterials.

Background:

KZC 95.42 establishes minimum land use buffers between uses. Land use buffer requirements may apply to the subject property, depending on what permitted use exists on the adjoining property or, if no permitted use exists, depending on the adjoining zone. Basically, the more intensive the land use is on a subject property as compared to the adjoining land use, the more stringent the landscaping buffer requirement is. (Detached dwelling units are not subject to this provision.)

There are two land use buffer standards, each with specific width, fence and planting requirements. The wider buffer standard is 15 feet, typically required when a commercial, industrial, community facility, or similar use adjoins a residential zone or park. The narrower five foot wide buffer is typically required for multifamily properties when they adjoin low density zones. Scroll down to see the current regulations.

An exemption from this requirement is if the subject property adjoins a principal arterial. This is because adjoining is defined as: "Property that touches or is directly across a street, *other than* a principal arterial, from the subject property..." For example, a commercial development must provide a 15 foot wide land use buffer along the entire common border between the subject property and an adjoining residential use, (except if the street is a primary arterial). The arterial functions as the intervening land use buffer in the case of a primary arterial.

A further exception to rules requiring intervening land use buffers is when the adjoining property is zoned Central Business District, Juanita Business District, North Rose Hill Business District, Rose Hill Business District, and Totem Center or is located in TL 5. In these areas, where design review is required pursuant to KZC 92, it is recognized that a more fine-tuned, site appropriate approach to landscape buffers is appropriate. Here, minimum setbacks adjoining sidewalks enhances public interaction, and standard land use buffers adjoining any use within the business district or across the street would be contrary to the intent of creating pedestrian-oriented facades and vibrant streetscapes. The idea is to draw in pedestrians to the businesses within these areas and to enhance the views of similar store fronts across the street. In these individual business districts design review is used to evaluate land use buffers rather than relying on KZC 95.42.

For example, JBD 1 Special Regulation 5 states:

“Chapter 95 KZC applies to the development of the subject property. The City will determine required buffers for the proposed development as part of the approval process based on the following:

- a. The buffering should integrate development of the subject property with compatible development on adjoining property to provide a unified appearance of the business district.
- b. The buffering should provide some separation and visual relief for present or reasonably anticipated residential use on adjoining property.
- c. The buffering should provide a linkage to Juanita Beach Park, rather than a separation from the park.”

Principal vs. Minor Arterials:

Staff is also wondering what unique characteristics sets apart primary arterials from other types of streets which would explain why they are exempt from the land use buffer requirement.

The city has a Rights of Way Designation Map which categorizes the various types of streets. It is based on the following criteria:

Street Designation	General Description	Average Daily Trips*
Alley	Public right-of-way providing service access to adjacent uses.	Less than 200
Neighborhood Access	Streets providing access to adjacent residences and to cul-de-sacs. KZC 110.22 establishes criteria for subcategories of neighborhood access streets.	Less than 1,500
Collector	Streets providing access to adjacent uses, linking neighborhoods and commercial areas together, and linking these areas to the arterial system.	Up to 10,000
Minor Arterial	Intra-community highways connecting community centers. Access to adjacent residences should not be permitted when acceptable alternate access is available.	5,000 – 25,000
Principal Arterial	Intra- and inter-community highways connecting major community centers; access to adjacent residences or single commercial sites should not be permitted when acceptable alternate access is available.	15,000 – 40,000

As noted in the chart above, principal arterials have the highest volume of traffic in the hierarchy of street classifications. The idea is that there is no requirement for a buffer when there is an intervening right of way that has a certain volume of traffic. "Average Daily Trips" is defined as the number of vehicles passing a given point, in either direction, during a 24-hour period, based on an average over seven (7) consecutive days. The arterial functions as the intervening land use buffer in the case of a primary arterial.

The question remains why a primary arterial is exempted from the land use buffer requirement while other streets are not, only because of higher traffic volumes. Minor arterials, the next in the hierarchy of street classifications, also have relatively high traffic volumes. Properties adjoining these streets are required to provide land use buffers for the uses across the street from them. It is curious why minor arterials wouldn't also cancel out any mitigating effect a land use buffer would have on property across the street from it. There seems to be little to distinguish one from the other.

The minimum width of either a primary or minor arterial is determined by the Public Works Director based upon its configuration (e.g. if it has middle turn lane, parking on the side, number of lanes). So there isn't a typical primary or minor arterial width that distinguishes one from another. In fact some are configured exactly the same.

Attachment 3 to this memorandum is a map showing current street classifications and existing land use. The green identifies principle arterials, blue identifies minor arterials, and red identifies collector streets.

Generally speaking, land use classifications adjoining principle and minor arterials are similar. On one end of the spectrum there are locations where a principle arterial adjoins single family development on both sides of the street, and at the other end of the spectrum some adjoin commercial uses on both sides. The same applies to minor arterials.

Issues:

- Should additional design districts and commercial areas other than those already subject to land use buffer standards in KZC 92, continue to be subject to the standard 45.42 requirements, or should land use buffers be tailored individually to these areas as appropriate?
- Although KZC 95.46 (see below) offers some flexibility to allow for unique circumstances and deviate from standards on a case by case basis, it probably is better to evaluate existing commercial areas and other business district comprehensively through the design review process. This would also streamline the review process and provide more certainty to both the developer and the neighborhood in which the commercial area is located.

- Requiring fences on commercial properties along minor arterials should be reviewed. Fences restrict the public's view of the commercial enterprise so unless they are across the street from a residential use, this requirement may not be warranted.
- Finally, because minor and principle arterials have similar characteristics they should arguably be treated the same, and should be considered.

Current Zoning Code Land Use Buffer Requirements:

95.42 Minimum Land Use Buffer Requirements

The applicant shall comply with the provisions specified in the following chart and with all other applicable provisions of this chapter. Land use buffer requirements may apply to the subject property, depending on what permitted use exists on the adjoining property or, if no permitted use exists, depending on the zone that the adjoining property is in.

LANDSCAPING CATEGORY ↓	ADJOINING PROPERTY → *Public park or low density residential use or if no permitted use exists on the adjoining property then a low density zone.	Medium or high density residential use or if no permitted use exists on the adjoining property then a medium density or high density zone.	Institutional or office use or if no permitted use exists on the adjoining property then an institutional or office zone.	A commercial use or an industrial use or if no permitted use exists on the adjoining property then a commercial or industrial zone.
A	Must comply with subsection (1) (Buffering Standard 1)	Must comply with subsection (1) (Buffering Standard 1)	Must comply with subsection (2) (Buffering Standard 2)	
B	Must comply with subsection (1) (Buffering Standard 1)	Must comply with subsection (1) (Buffering Standard 1)		
C	Must comply with subsection (1) (Buffering Standard 1)	Must comply with subsection (2) (Buffering Standard 2)		

	Standard 1)	Standard 2)		
D	Must comply with subsection (2) (Buffering Standard 2)			
E				
Footnotes:	*If the adjoining property is zoned Central Business District, Juanita Business District, North Rose Hill Business District, Rose Hill Business District, Totem Center or is located in TL 5, this section KZC 95.42 does not apply.			

This chart establishes which buffering standard applies in a particular case. The following subsections establish the specific requirement for each standard:

1. For standard 1, the applicant shall provide a 15-foot-wide landscaped strip with a 6-foot-high solid screening fence or wall. Except for public utilities, the fence or wall must be placed on the outside edge of the land use buffer or on the property line when adjacent to private property. For public utilities, the fence or wall may be placed either on the outside or inside edge of the landscaping strip. A fence or wall is not required when the land use buffer is adjacent and parallel to a public right-of-way that is improved for vehicular use. See KZC [115.40](#) for additional fence standards. The land use buffer must be planted as follows:
 - a. Trees planted at the rate of one (1) tree per 20 linear feet of land use buffer, with deciduous trees of two and one-half (2-1/2) inch caliper, minimum, and/or coniferous trees eight (8) feet in height, minimum. At least 70 percent of trees shall be evergreen. The trees shall be distributed evenly throughout the buffer, spaced no more than 20 feet apart on center.
 - b. Large shrubs or a mix of shrubs planted to attain coverage of at least 60 percent of the land use buffer area within two (2) years, planted at the following sizes and spacing, depending on type:
 - 1) Low shrub – (mature size under three (3) feet tall), 1- or 2-gallon pot or balled and burlapped equivalent;
 - 2) Medium shrub – (mature size from three (3) to six (6) feet tall), 2- or 3-gallon pot or balled and burlapped equivalent;
 - 3) Large shrub – (mature size over six (6) feet tall), 5-gallon pot or balled and burlapped equivalent.
 - c. 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 land use buffer not needed for viability of the shrubs or trees.

2. For standard 2, the applicant shall provide a 5-foot-wide landscaped strip with a 6-foot-high solid screening fence or wall. Except for public utilities, the fence or wall must be placed on the outside edge of the land use buffer or on the property line when adjacent to private property. For public utilities, the fence or wall may be placed either on the outside or inside edge of the landscaping strip. A fence or wall is not required when the land use buffer is adjacent and parallel to a public right-of-way that is improved for vehicular use. See KZC [115.40](#) for additional fence standards. The landscaped strip must be planted as follows:
 - a. One (1) row of trees planted no more than 10 feet apart on center along the entire length of the buffer, with deciduous trees of 2-inch caliper, minimum, and/or coniferous trees at least six (6) feet in height, minimum. At least 50 percent of the required trees shall be evergreen.
 - b. 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 land use buffer not needed for viability of the trees.

95.46 Modifications to Landscaping Standards

1. Modification to Land Use Buffer Requirements. The applicant may request a modification of the requirements of the buffering standards in KZC [95.42](#). The Planning Official may approve a modification if:
 - a. The owner of the adjoining property agrees to this in writing; and
 - b. The existing topography or other characteristics of the subject property or the adjoining property, or the distance of development from the neighboring property decreases or eliminates the need for buffering; or
 - c. The modification will be more beneficial to the adjoining property than the required buffer by causing less impairment of view or sunlight; or
 - d. The Planning Official determines that it is reasonable to anticipate that the adjoining property will be redeveloped in the foreseeable future to a use that would require no, or a less intensive, buffer; or
 - e. The location of pre-existing improvements on the adjoining site eliminates the need or benefit of the required landscape buffer.

Proposed Change:

No change is proposed at this time.

Staff Recommendation:

Commercial properties adjoining streets other than principle arterials should be considered for exemption from the typical land use buffer standards and instead follow standards tailored for their unique circumstances, similar to how other design districts are regulated.

Staff recommends that as part of the GMA Comprehensive Plan update, land use buffer standards are developed for commercial areas as part of the planned business district analysis, regardless of the adjoining right of way classification.

Staff also recommends that requirements for both principle and minor arterials are potentially made the same, since there is little evidence that they are designed differently or have significantly different visual impact on adjoining property.

Finally fence requirements for commercial use along minor arterials should be removed.

Attachments:

1. Roster of proposed Zoning Code and Municipal Code amendments.
2. Matrix Neighboring Jurisdictions Garage Setbacks
3. Map of Current Land Use and Street Classifications

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, September and November study sessions.

Red notes that item will be considered at the December 5, 2013 study session

(Nov 26, 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.

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

Purpose: Consider expanding this exemption to apply to property touching any street other than neighborhood access streets, rather than only primary arterials.

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

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

MAJOR POLICY CHANGES

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

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.

<p style="text-align: center;">Low Density Zone Front Façade Garage Setback Jurisdiction Comparison Matrix</p>						
Jurisdiction	Required Front Yard Setback	Required Garage Front Yard Setback	Garage Width	Exceptions	Administrative Modification Criteria	Unintended Consequences
Kirkland KZC 115.43 (not effective in Houghton)	20'	28'	Max 50% of total front façade on lots that are at least 55' wide at the back of required yard for front façade.	<p>Houses on flag lots</p> <p>Houses with below grade garage (at least 75% of the area of the garage doors are below the midpoint elevation of street, easement or tract in front of garage)</p>	<p>Necessary because of the size, configuration, topography or location of property; and</p> <p>Support the purpose and intent; and</p> <p>Includes design details that minimize dominance of garage (i.e. casings, columns, trellises, windows, surface treatments or color, ingle stall doors and or enhanced landscaping); and</p> <p>Won't have substantial detrimental effect on nearby property or City.</p>	<p>Instead of setting garage back an additional 8 feet from the front façade, the entire front facade is setback either to the same plane as the garage or at various distances from the remainder of the front facade.</p> <p>This results in smaller rear yards, greater impervious surface.</p>
King Co Development Code 21A.12.030 ⁵	10	20	No mention found	None found	When a lot is located between lots having nonconforming street setbacks, the required street setback for such lot may be the average of the 2 nonconforming	

Low Density Zone Front Façade Garage Setback Jurisdiction Comparison Matrix						
					setbacks or 60% of the required setback, whichever is greater.	
Redmond RZC 21.08 SF Zones R4, RIN, R6, R8 only	15'	18'	No mention found	None found		Same as Kirkland's. Also, no apparent limit on how much of façade could be taken up with garage.
Seattle SMC 23.44.016 Parking & Garages ^{1,2,3} 23.44.014 Yards	20' (15' if extension of existing house wall)	No closer than 80% of remaining non-garage street level façade, OR 80% of façade above garage if garage is only façade at street level ¹	14' max width allowed for single car, 24' maximum for two parking spaces. ² Width up to 50% of total façade, or 10', whichever is greater. ³	Irregular lots, topography, or structural shape.	Modification must achieve minimum visual impact.	
Bellevue BLUC 20.20.010. BLUC 20.20.025 ⁴	20'	No specific mention.	None found.	Lots with steep slopes may allow 5' setback to maintain <15% slope from street to garage; Lots with primary structure over 8'	Necessary to maintain reasonable grade	Apparently could have garage make up entire front façade of house.

Low Density Zone Front Façade Garage Setback Jurisdiction Comparison Matrix						
				above street grade may allow 5' setback for garage (with less than 15' peak height or 9' flat roof) built into slope. ⁴		

¹ Seattle – SMC 23.44.016.F. Appearance of Garage Entrances.

² Seattle – SMC 23.44.016.E.1.c. In front yards, the area of garages is limited to 300 square feet with 14 foot maximum width if one space is provided, and 600 square feet with 24 foot maximum width if two spaces are provided.

³ Seattle – SMC 23.44.016.F.2. Garage Entrance Width. The total combined horizontal width of all garage entrances located on the front facade may be up to 50 percent of the horizontal width of the front facade or 10 feet, whichever is greater. On corner lots, a garage entrance shall be allowed on only one street-facing facade.

⁴ Bellevue – BLUC 20.20.025. Intrusions into Setbacks – Garages/Carports on Slopes.

⁵ King County – KCC 21A.12.030 B.8. Densities and Dimensions At least twenty linear feet of driveway shall be provided between any garage, carport or other fenced parking area and the street property line. The linear distance shall be measured along the center line of the driveway from the access point to such garage, carport or fenced area to the street property line

EXISTING LAND USE - BASED ON 2013 ASSESSOR'S DATA
AND ROAD CLASSIFICATION



LAKE WASHINGTON

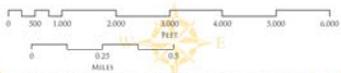
CITY OF KIRKLAND, WASHINGTON

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MAP LEGEND

- | | | | |
|----------------------------------------------------------------|------------------------------------------------------|-------------------------------------------------------------------|---------------------------------------------------------|
| ■ Commercial | ■ Single Family | — STREETS | — Principal Arterial |
| ■ Office | ■ Open Space | — HIGHWAYS / FREEWAYS | — Minor Arterial |
| ■ Industrial | ■ Park | — CROSS KIRKLAND CORRIDOR | — Collector |
| ■ Public Institutions | ■ Parking Lot | — REGIONAL RAIL CORRIDOR | |
| ■ Private Institutions | ■ Utility | — KIRKLAND CITY LIMITS | |
| ■ Multi-Family | ■ Vacant | — LAKE / POND | |
| ■ Mobile Home Park | ■ Tract ROW | — State Routes and Interstate | |



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