



CITY OF KIRKLAND

Planning and Community Development Department

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MEMORANDUM

Date: April 18, 2007

To: Planning Commission

From: Joan Lieberman-Brill, AICP, Senior Planner *JLB*

Subject: Public Hearing on the Market and Norkirk Neighborhoods' Small Lot Single-Family and Historic Preservation Regulations (MIS06-00053)

RECOMMENDATION

Hold a public hearing and solicit comments on draft subdivision and zoning regulations implementing the Small Lot Single-family and Historic Residence Preservation policies in the Market and Norkirk Neighborhood Plans. After considering the proposed amendments and public comment make a recommendation to the City Council for their consideration.

INTRODUCTION

The purpose of this meeting is to take public comment on the draft Small Lot Single-family regulations and (**Attachments 1, 2 and 3**) and Historic Residence Preservation regulations (**Attachment 3, 4 and 5**). Once the Planning Commission has received public comment, the Commission can either provide staff with direction on any revisions to the subdivision and zoning drafts to be considered at the May 24th meeting or make a recommendation to the City Council at the April 26th meeting.

BACKGROUND

The Market and Norkirk Neighborhood Plans were adopted on December 12, 2006 (O-4077, O-4078, and O-4081). The small lot single-family and historic preservation development regulations that are the subject of this public hearing are based upon the adopted Neighborhood Plan policies.

The Planning Commission held three study sessions (1-11-07, 2-8-07, and 3-8-07) on the proposed regulations leading up to the public hearing. Housing consultant Mike Luis provided background information on the economic feasibility of the small lot single-family incentive while Julie Koler with the King County Historic Preservation Program, with which the City has an interlocal agreement, provided expertise regarding administration, designation and implementation of the draft historic residence preservation regulations. All previous staff memorandums prepared

for those meetings are available for viewing on line at:

http://www.ci.kirkland.wa.us/depart/Planning/Code_Updates/mnh/MN_Workprogram.htm

The audio of each meeting is available for listening to at this link:

http://www.ci.kirkland.wa.us/depart/Planning/Planning_Commission/Planning_Commission_Meetings_Online.htm.

Public Notice for the 9/21/06 Public Hearing

In preparation for this public hearing, notice was sent to all property owners and residents within the neighborhood and posted on 8 project public notice signboards located in the Market and Norkirk Neighborhoods. In addition, the notice of hearing was advertised in the Seattle Times, posted on the project website, and emailed to subscribers of the project list serve.

Environmental Review

A Draft and Final Environmental Impact Statement (EIS) on the City's Comprehensive Plan was published in 2004. The EIS addressed the 2004 Comprehensive Plan, Zoning Code and Zoning Map updates required by the Washington State Growth Management Act (GMA). EIS Addenda were issued on September 6 and 7, 2006 respectively, for the updated Market Neighborhood Plan and the updated Norkirk Neighborhood Plan contained in the Kirkland Comprehensive Plan. An EIS Addendum was issued on April 12, 2007 for the Small Lot Single-family and Historic Residence Preservation regulations (**Attachment 6**). According to SEPA rules, an EIS addendum provides additional analysis and/or information about a proposal or alternatives where their significant environmental impacts have been disclosed and identified in a previous environmental document. An addendum is appropriate when the impacts of the new proposal are the same general types as those identified in the prior document, and when the new analysis does not substantially change the analysis of significant impacts and alternatives in the prior environmental document. The EIS Addendum fulfills the environmental requirements for the proposed zoning and subdivision changes.

Draft Plans and Amendments to Zoning Regulations and Rezones

The memorandum is divided into two sections. The first addresses small lot single-family regulations. The second section addresses historic residence preservation regulations.

Small Lot Single-Family Regulations

Small lot single-family incentives are addressed in Policy M 4.2 in the Market Neighborhood Plan and Policy N 4.2 in the Norkirk Neighborhood Plan. The Policy and narrative states:

"Encourage diversity in size of dwelling units by preserving and/or promoting smaller homes on smaller lots.

Diversity can be achieved by allowing properties to subdivide into lots that are smaller than the minimum lot size allowed in the zone if at least one of the lots contains a small home. This incentive encourages diversity, maintains neighborhood character, and provides more housing choice.

Up to 50% of the lots to be subdivided should be allowed to be smaller than the zoning designation allows if a small home is retained or built on the small lots. The lots containing the small homes should be no less than 5,000 square feet in the RS 7.2 and RS 6.3 zones and no less than 6,000 square feet in the RS 8.5 zone. The size of the homes on one or both lots would be strictly limited by a reduced floor area ratio and all other zoning regulations would apply. "

Since the March study session, the draft subdivision amendments proposed to implement this small lot single-family policy have been revised based upon Commission direction and further planning staff review (**Attachment 1**). The subdivision text now prohibits accessory dwelling units on small lots and requires this restriction to be recorded on the face of the plat. The reason for this is to limit crowding on small lots.

Zoning Code Section 115.07.9 Accessory Dwelling Units, has also been revised to include the ADU prohibition on the small lots in order to reinforce this restriction (**Attachment 3**).

Additionally, the subdivision text (**Attachment 1**) has been revised to limit to 30 feet the maximum width of the narrow portion of a flag lot that can't be counted in the calculation of lot area of the small lot. The purpose of this is to ensure that the house is in scale with the lot configuration. Generally, a dimension of 30 feet is the upper end of width used for access.

Zoning Code Special Regulation 15.10.010.2 for Detached Dwelling Unit has not been revised (**Attachment 2**). As drafted, it indicates a reduced floor area ratio (F.A.R.) range required for small lots. The Commission will need to choose a FAR to recommend to the City Council.

Key Issues

1. Floor Area Ratio (F.A.R.)

- .3, .35, or .4 F.A.R.

The policy contemplates smaller homes. Reduced F.A.R. is proposed as a way to control house size. A range between .3 or .4 F.A.R. is being explored.

At your March study session, the Commission indicated their preference for the small home to be a minimum size of about 1,500 square feet not including a garage. This preference is consistent with Housing Consultant Mike Luis' findings in his interviews with builders and architects regarding the outcomes of the two innovative housing demonstration projects in North Rose Hill. The Innovative Housing Builder/Architect Task Force memorandum

containing this information (dated 3-16-07) was provided to you at your April 10th study session on Innovative Housing. Builders commented that a one car garage within the 1,500 square feet compact single family homes at the Cam West Kirkland Bungalows project doesn't provide enough living space for the occupants. Those homes are similar to the type that is anticipated utilizing the small lot single-family incentive in the Market and Norkirk Neighborhoods.

The table below shows the corresponding FAR and square footage in each zone where this small lot single-family incentive is allowed. Based on the Commission preference for a minimum 1,500 square foot home and because the industry standard for a parking stall is a minimum of 200 square feet, a total square footage of 1,750 square feet is reasonable for both the home and an attached 1 car garage. A .35 FAR on a 5,000 square foot lot is equivalent to a home of 1,750 square feet. This would allow 1,550 square feet of living space, which is the threshold the Commission was comfortable with. Extrapolating this for each zone, the following table compares the various FAR's. A garage could be located within the detached dwelling unit in all FAR examples

FLOOR AREA RATIO (SQURE FEET) BY ZONING CLASSIFICATION					
Zone	Small Lot Size minimum	.3 F.A.R.	.35 F.A.R.	.4 F.A.R..	.5 F.A.R.
RS 8.5	6,000 sq ft.	1,800 sq. ft.	2,100 sq. ft.	2,400 sq. ft.	3,000 sq. ft.
RS 7.2	5,000 sq ft.	1,500 sq. ft.	1,750 sq. ft.	2,000 sq. ft.	2,500 sq. ft.
RS 6.3	5,000 sq ft.	1,500 sq. ft.	1,750 sq. ft.	2,000 sq. ft.	2,500 sq. ft.

A .35 FAR could result in a variety of house configurations, depending upon the site constraints and the demands of the owner. The table below provides examples of the various iterations utilizing a .35 FAR in the RS 7.2 zone.

Zone	Small lot size Minimum	.35 FAR	Possible Configurations
RS 7.2	5,000	1,750 sq. ft house.	1) 1,750 sq. ft. house and 400 sq. ft. detached garage, located more than 20 feet from and behind the home. 2) 1, 750 sq. ft. home including an attached 400 sq. ft. garage = 1,350 living area 3) 1,750 sq. ft. home including an attached 200 sq. ft. garage = 1,550 living area Note: FAR rules exempt floor area less than 6 feet

			above finished grade, attic space with less than 5 feet of headroom, the first 100 sq. ft of floor area in foyers more than 16 feet high, and uncovered and covered decks, porches and walkways. Also exempt on lots less than 8,500 sq. ft. is the first 500 sq. ft of an ADU or garage located more than 20 ft. from and behind the house.
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Staff Recommendation: Staff recommends .35 as a reasonable FAR for the small lots created through this incentive.

- Reduced F.A.R. on all lots vs. Reduced F.A.R. on small lots

It is clear that the small house is to be required on the small lot. The question is whether a smaller house should also be on the regular sized lot. The City Council asked us to look at the option of reducing the F.A.R. on one or both lots. If this incentive is going to work, it will be helpful to determine if a reduced F.A.R. on both or one lot will be economically feasible.

Housing Consultant Michael Luis concluded that:

- A reduced F.A.R. on both lots is not economically feasible.
- If the reduced FAR is not attractive, the small lot single family incentive won't be used, and a larger home on larger lot will be built instead.
- The cost of subdividing reduces profit margin.

Staff research concluded that fees associated with subdividing make the two-lot option marginal, even with a .4 FAR on only the smaller lot. This is especially the case if the subdivision is being carried out by a developer who carries interest fees on a loan for the purchase of the property.

Staff Recommendation: Only apply the reduced FAR to the small lots.

2. Transportation Impact Fees

At the March meeting, the Commission requested that staff investigate the feasibility of reducing transportation impact fees as a way to ease the cost of subdividing and provide a greater incentive for the utilization of this small lot single-family option. The Commission also wondered if the size limited home on the small lot would result in fewer vehicle trips, more similar to a multi-family unit than a single family unit, and therefore be eligible for the lower multi-family transportation impact fee.

The Growth Management Act allows cities and counties to assess fees to development to pay for impacts created by the development and specify those classes of development that local governments may exempt from impact fees. Low-income housing (housing affordable to

households with incomes less than 50% of the King County median income) and other development activities with broad public purposes are exempt if the local government chooses to subsidize the impact from public funds other than impact fee accounts because of their public benefit. Kirkland has chosen to exempt only low income housing. Innovative housing would not qualify for an exemption.

Transportation impact fees have to be based on accurate trip generation information. Right now there is no data to support differentiating small houses from the larger ones that would justify reduction of transportation fees.

Historic Preservation Regulations

Historic preservation incentives are addressed in Policy M 1.2 in the Market Neighborhood Plan and Policy N 1.2 in the Norkirk Neighborhood Plan. The Policy and narrative states:

“Provide incentives to encourage retention of identified buildings of historic significance

Allow flexibility in lot size requirements for lots that contain historic buildings. This incentive will allow lots containing historic buildings to be subdivided into smaller lots than would otherwise be permitted if the historic buildings meet designated criteria and are preserved on site.

Minimum lot size in this situation would be 5,000 square feet in an RS 6.3 or 7.2 zones, 6,000 square feet in a RS 8.5 zone and 7,200 square feet in a Waterfront District II (WD II) zone. This incentive would allow up to two smaller lots, including the one containing the historic building, if the recognized integrity of the historic building were preserved. If additional lots were created by the subdivision, they would have to meet the lot size requirements for the zone.”

Attachment 4 is the draft subdivision section proposed to implement these historic preservation policies. It's been revised since the last study session to: 1) prohibit ADU's on both lots that are created utilizing this incentive. The reason for this is to limit crowding on small lots, 2) clarify that the access portion of a flag lot not allowed to be used in the calculation of lot area for either lot is 30 feet in width and; 3) require that a notice be recorded that ensures an owner of the designated historic residence must abide by the Chapter 75 Zoning requirements.

Attachment 5 is amended Zoning Code Chapter 75, Historic Landmark Overlay Zone. The title has been changed, and new sections are added to address Historic Residence Designation. Revised since the last study session, the amended Chapter 75 now includes an intent section (Section 75.55) to explain that the designation and alteration criteria will be interpreted liberally for homes nominated for historic residence designation or requesting alteration, in order to save what little inventory still exists. Additionally, it now includes a prohibition on ADU's for those subdivisions utilizing this incentive. Finally, Historic Landmark Overlay Zone Designation - Criteria

Section 75.25.1.b. 3) is deleted as a housekeeping measure since its application ended in 1989 for land annexed to the City of Kirkland in 1988, making it irrelevant.

Attachment 3 is amended KZC Section 115.07.9, Accessory Dwelling Units. In addition to prohibiting accessory dwelling units on small lots created utilizing the small lot single family incentive, this new section prohibits ADU's on both undersized lots created utilizing the historic preservation subdivision regulations. The reason for this is to limit crowding on small lots.

Key Issues

1. Nonconformance's

Planning staff review of the draft regulations led to the question of allowing a subdivision that results in nonconformance to certain zoning requirements. Specifically, nonconforming setbacks, lot coverage, and floor area ratio on the lot that contains the historic residence may be necessary to accommodate the existing historic residence.

The thinking is that in the case of setbacks, as a last resort, after considering some creative lot configurations, a nonconformance might be justified in order to allow this incentive to work. For example, if the location of the existing historic residence would otherwise prevent the subdivision, because a required 5 foot side setback dimension cannot be met, and the lot line could not be jogged to facilitate the necessary setback between the newly created lot line and the existing historic home, a nonconformance could be justified. Because the Building Code currently requires a minimum separation of 3 feet between a property line and a residence to avoid having to alter the residence with 1-hour rated wall assembly (entailing adding fire resistant sheathing to that wall) a variance of up to 2 feet from the 5 foot side-yard setback would probably be the most common modification requested. The intent is to allow a nonconforming setback between the historic home and the newly created lot as a last resort.

If the nonconformance were to be allowed outright subject to specified limits, the historic home might be preserved. Otherwise, the historic home would have to either be relocated on the subject property in order to facilitate the correct setback (not likely due to the cost) or a variance would have to be granted. The additional variance fee is a disincentive to an applicant considering historic residence preservation (variance fee is \$3,000). But more importantly, the decisional criteria for a variance are ill-suited to address situations where the applicant is creating the hardship. A required setback would not create an unusual hardship except that the proposed action (subdivision) couldn't be approved without it. But it isn't unreasonable or unusual to require the minimum lot setback when subdivisions are created, so granting the variance might be regarded as granting a special privilege to the applicant inconsistent to the rights allowed to other property in the same zone, that are required to abide by the setback when creating subdivisions that meet lot size requirements for that zone.

In the case of lot coverage or FAR, there may be the situation where the existing historic residence would exceed the .5 FAR and/or 50% lot coverage thresholds on the newly created

small lot which would create a non-conformance. Allowance of the nonconformance may be necessary to make the subdivision feasible.

Therefore, staff recommends that the following proposed standard (below) be added to the subdivision regulations for historic preservation. Nonconformance's would be limited to those necessary for setbacks, FAR and lot coverage on the lot that contains the historic residence only.

"As part of subdivision approval, the City may allow the following modifications to provisions described in Title 23 of this code regarding minimum required yards, maximum lot coverage, and floor area ratio of the lot that contains the historic residence if the modifications are necessary to accommodate the historic residence.

1. Required yards may be 2 feet less than required by the zoning district as shown on the Kirkland zoning map.
2. Floor area ratio may be 5 percentage points more than allowed by the zoning district as shown on the Kirkland zoning map.
3. Lot coverage may be 5 percentage points more than allowed by the zoning district as shown on the Kirkland zoning map."

2. Criteria to be used to authenticate that the home is eligible for this incentive

The draft criteria are the same as used in Zoning Code Section 75.20 for Historic Landmark Overlay Zone Designation (same as Federal and County Historic Landmarks criteria). These criteria are recognized by the County, State and nationally. The King County Historic Preservation Program is familiar with these criteria and the City of Kirkland has an interlocal agreement with King County to help us administer the Landmarking of historic properties in Kirkland based on these criteria. Using the same criteria to designate historic residences makes sense because it can be evaluated by not only King County but by other professionals in the field of historic preservation.

The intent is for the designation criteria to be applied liberally by the professional in the field of historic preservation, when reviewing a historic residence nominated for designation, in order to preserve what remaining structures we have in the Market and Norkirk Neighborhoods, which also meet the minimum lot size criteria. Since the March study session, an intent section to Chapter 75 has been drafted to guide the administration of these designation criteria into the future.

Julie Koler, King County Preservationist, prepared 3 case-studies to provide the Commission with examples on how the designation criteria would be administered. Two of the three residences are listed as Category D sites, in Mimi Sheridan's 1999 Historic Resources Survey and Inventory Report prepared for the Kirkland Heritage Society. That survey was cited as one

indication of possible historic resources in the Market and Norkirk Neighborhoods. Category D is defined in this survey as "*Altered*": "These buildings have been altered so significantly that the original character has been lost. Typical alterations are extensive replacement of original wood-frame windows with aluminum sash, replacement of wood siding with vinyl or asphalt siding, noticeable porch alterations, or incompatible major additions." Category D buildings were not shown on the Historic Preservation Option maps during the Market and Norkirk Neighborhood Plans update, since those maps only indicated those homes in categories A, B, and C, which were thought to represent those homes with the most historic integrity. D category homes were chosen for this case study, to show how the criteria might be applied to a home that's been altered. The third home being reviewed for potential designation as a historic residence using the draft criteria, is one that is not on any list but has been the subject of a counter inquiry. The nomination work sheets and the photos prepared for each home are attached (**Attachment 7, 8, and 9**). All information in the first section of each nomination application (except for the date built and the address) has been changed to protect the innocent.

The findings suggest that one out of the three nominations is eligible under our proposed designation criteria:

- 1602 1st Street - The counter inquiry nomination (Sutherland House) does not meet the proposed criteria. Based on the photographic evidence that was submitted as part of nomination application, it is evident that the building has been irreparably altered and is therefore ineligible (**Attachment 7**).
- 642 12th Avenue - The Larson House does meet the proposed designation criteria. Based on the photographic evidence and oral interviews that were submitted as part of nomination application, it is evident that the building has retained sufficient historic character to be eligible for the program (**Attachment 8**).
- 1610 2nd Street - The Eddy house does not meet the proposed designation criteria. Based on the photographic evidence that was submitted as part of the nomination process, it is evident that the original home has been completely subsumed by the new construction (**Attachment 9**).

3. Process to be used to designate a home that is eligible for this incentive.

Historic residence designation would need to be approved by Planning Director Decision. Approval could be obtained concurrently as part of a subdivision application. The processing time is about 4 months. King County historic preservation staff would make a recommendation to the Planning Director on this decision. This decision could be appealed to the Kirkland Hearing Examiner. The Commission has requested that noticing requirements include posting of a public notice sign on the subject property and mailing of notice to property owners within 300 feet of the subject property and to residents of property adjacent to or directly across the street. Generally only exterior features of the residence would be

designated. However, during this process the applicant could nominate interior features to be preserved. An example of an interior feature would be a Craftsman living room with a rock fireplace, built in cabinets and boxed beam ceiling.

4. Mechanism to ensure compliance.

Restrictions recorded on the face of the Plat would also be tracked through the City's permit tracking program, and flagged in our parcel data files. The Commission directed that one of the restrictions provide that in the event the historic residence is altered without City approval, it would be a violation and enforcement would ensue. If the residence is demolished, re-located or destroyed, any subsequent redevelopment must comply with a reduced F.A.R. (to be decided). The idea is that once designated, the historic residence would be preserved and that the penalty be severe enough to discourage demolition and relocation of the historic residence as well as changes to the residence that are inconsistent with alteration criteria for alteration. A hierarchy of alteration criteria noted below is intended to ensure that the historic character-defining features of the residence are retained, and to discourage demolitions and relocations.

Since the March study session another restriction has been added that would be tracked through the City's permit tracking program. It prohibits ADU's on small lots created through the historic preservation subdivision rules. The idea is that the small lots would be too crowded if these units were allowed.

Additionally, since the March study session, staff is recommending that a notice be recorded that puts the property owner on notice that the home is a designated historic residence and that it must comply with the zoning restrictions in Chapter 75. This notice would be on the deed, and hopefully alert a future potential purchaser of the restrictions associated with the historic residence designation.

5. Allowances for ordinary repair and maintenance of the historic residence.

The Planning Official would review requests and confer with staff in the King County Historic Preservation Program to determine if they would be exempt from further review. Examples of ordinary repair and maintenance include painting, reglazing, replacing rotten siding with new material of the same dimensions and type. Records on file as a result of the designation process and supplemented with pre and post repair photos would be used to verify existing conditions and confirm compliance.

6. Restorations and major repairs that utilize in-kind materials.

For this level of repair, The Planning Official would review requests and confer with staff in the King County Historic Preservation Program before making a decision. The process used would be a less strict process than used with the Historic Landmark Overlay Zone Designation and would be appealable to the Hearing Examiner. The intent of this type of repair or restoration is to ensure that the historic character-defining features of the residence are retained. Examples of major repairs are rebuilding a demolished porch in its documented historic configuration or

re-siding a wall or replacing damaged windows using the same materials in the same dimensions. Criteria would be those used for alterations to the Historic Landmark Overlay Zone designation and the Secretary of the Interior's Standards for Rehabilitation.

7. Alterations in appearance, replacement of historic materials, or new construction that does not damage the historic character-defining features.

For these types of requests, The Planning Official would review requests and confer with the King County Historic Preservation Program before making a decision, and the decision would be appealable to the City's Hearing Examiner. These changes allow for normal evolution of use and functionality. The intent is to ensure that any new construction is compatible with the historic character but is not misunderstood as original historic construction. Examples would be the addition of a dormer on the back side of the home to make attic space usable or the addition of a room on the rear of the building that while not visible from the street, allows for expansion to meet the needs of the owners. Criteria are those used for alterations to the Historic Landmark Overlay Zone designation and the Secretary of the Interior's Standards for Rehabilitation.

8. Demolition and relocation.

Once an historic designation is made and the applicant receives approval of a subdivision to create two lots as small as 5,000 square feet, it is in the best interest of the City that the historic home is preserved in perpetuity. Therefore demolition or relocation will be allowed but will result in the removal of the historic residence designation and reduction of the F.A.R on the subject property. A reduced F.A.R. for the replacement home serves as an economic disincentive to not demolish or relocate the designated historic residence.

At the March study session the Commission requested that staff research the existing size of historic homes to determine an equitable replacement FAR, if the historic residence were demolished, or relocated. The Commission's idea was that if an average size could be established for existing historic homes, it might be the size specified for a replacement home.

Attachment 10 shows a range of home size based on King County Assessors' data. It indicates the square footage by neighborhood and zone, of those historic residences mapped during the Market and Norkirk Neighborhood Plans update process based upon the 1999 Historic Resources Survey and Inventory Report prepared for the Kirkland Heritage Society by Mimi Sheridan. Since the inventory is 8 years old, at least 3 of those homes identified by the survey have been demolished and new homes built in their place. Others may have been altered to an extent that would render them ineligible for designation.

Additionally, the methodology King County uses to measure house size is different from Kirkland's. Therefore caution must be used when analyzing this data to judge home size. At best it is just one measure since it does not include a category for detached garages, which are included in Kirkland's FAR calculations, and it includes finished basements but not unfinished basements, which is a different method than Kirkland uses in calculating FAR. Staff

recommends that this data not be the basis for establishing the replacement FAR due to the lack of conclusive data.

Instead, a reasonable starting point for discussing a reduced FAR is the FAR that is being considered by the Commission for the small lot single family home incentive (.3 - .4). Rewarding demolition with a replacement FAR that is larger is not appropriate. Because staff recommends a .35 FAR for the small lot single-family option, it is appropriate to require a lower FAR for historic replacement. A FAR of 30 percent of a 5,000 square foot lot results in a 1,500 square foot home. A FAR of 25 percent of a 5,000 square foot lot results in a 1,250 square foot home.

Staff Recommendation: A FAR of 25 percent of the lot area is recommended as the replacement FAR as an economic disincentive to demolition or relocation of a designated historic residence.

Another disincentive to reduce the likelihood of demolition or relocation was discussed during the February study session. Some Commissioners discussed the idea of requiring a replacement home to not only be size limited, but also be rebuilt in the same architectural style as the designated historic residence in order to retain the character giving elements. This would set the new home apart from those small homes that utilize the small lot single-family incentive, because a specific architectural style would be required. In the Market and Norkirk Neighborhoods, historic Vernacular, Bungalow, Craftsman, Tudor, Queen Anne and Colonial Revival styles are the most common. The nomination and designation materials would contain documentation about the architectural style of the original historic residence and would be the basis for the architectural style of the replacement home. This requirement would serve as a further penalty for demolition or relocation of a designated historic residence.

However, the City Attorney notes that there are pitfalls to adding an architectural style requirement to the replacement home—it injects an element of subjectivity that isn't present with FAR limitations, and assessing architectural compliance through the building permit process is problematic. Design review would be a better review process.

If the Commission decides to go forward with this idea, King County Preservation Program staff would be asked to assist in the review of a building permit for the new home or a design review process would be necessary, to determine compliance. In the opinion of Julie Koler with King County, if this requirement is implemented, the replacement home should replicate the original in form and massing but not in details or historic features, so it is not misunderstood as original historic construction.

The following draft language could be substituted for the draft 75.105 regulations in **Attachment 5** to implement architectural compliance:

75.105 Historic Residence Effect – Demolition, alteration or damage

If an historic residence is demolished, relocated, destroyed or altered inconsistent with the Secretary of the Interior's Standards for Rehabilitation:

1. the historic residence designation shall be removed;
2. the maximum Floor Area Ratio (FAR) of the resulting structure shall not exceed 25 percent of the lot size; (to be decided),
3. the resulting structure shall be consistent with the architectural style of the historic residence and
4. Accessory dwelling units shall be prohibited on the lot containing the affected residence.

Additionally the following draft language could be substituted for the draft Subdivision regulations in **Attachment 4**:

Lots – Historic Preservation

Lots containing historic residences shall also meet the following standards:

- (f) If the historic residence is demolished, destroyed or the historic features are altered without required City approval,
 - 1) Floor area ratio (FAR) on that lot thereafter shall be 25 percent of lot size. The FAR restriction shall be recorded on the face of the Plat.
 - 2) The architectural style of the resulting structure shall be consistent with the original historic residence. The architectural restriction shall be recorded on the face of the Plat.

Staff Recommendation – Staff recommends that if a replacement home is to be built in the same architectural style as the original that the general elements of form and massing are replicated but not details or materials, and that an administrative design review process is created to assess compliance. However, the question remains, does the effort outweigh the benefit.

9. Violations

The question remains what to do if the owner alters the historic residence inconsistent with the criteria for alteration, either without permit or beyond what was approved. Not only would the alteration need to be brought into compliance (as determined with the help of King County Historic Preservation staff), but Staff recommends that if it cannot be brought into compliance

consistent with the Secretary of the Interior's Standards for Rehabilitation the historic residence status would be eliminated and it should be required to have a reduced F.A.R. It will be very important that those entering into the historic residence nomination process understand the consequences for altering a historic residence. Then there is some real consequence associated with alteration that may defer a person from taking that action.

Staff Recommendation: Staff recommends a .25 FAR as a strict penalty. On a 5,000 square foot lot a .25 FAR is equivalent to a 1,250 square foot home, which might accommodate a 200 square foot one car garage, leaving 1,050 square feet of living area.

10. Destruction of the historic residence beyond the control of the property owner

The Commission may decide that if the historic residence is destroyed for any reason outside the control of the property owner (e.g. fire, earthquake, flood, landslide, etc.) a different F.A.R. should be required than if owner negligence were involved.

If that is the Commission's recommendation, the following alternative text could substitute for proposed KZC Section 75.105 in **Attachment 5**. It would set up two classes of replacement FAR; one for those that are the result of the owners' own actions, and the other as a result of any reason outside of the control of the property owner. If the reason for the destroyed historic residence were outside the control of the property owner the replacement FAR chosen for the small lot single-family incentive may be appropriate, since the lot is smaller than what is normally allowed in the zone.

75.105 Historic Residence Effect – Demolition, alteration or damage

1. If an historic residence is destroyed, damaged, relocated, or altered as a result of the action of the property owner, and such action is inconsistent with the Secretary of the Interior's Standards for Rehabilitation, the maximum Floor Area Ratio (FAR) of the resulting structure shall not exceed 25 percent of the lot size (to be decided),
2. If an historic residence is destroyed for any reason outside the control of the property owner, the maximum FAR of the resulting structure shall not exceed 35 percent of the lot size (to be decided)
3. ((The resulting structure shall be consistent with the architectural style of the historic residence)).
4. Accessory dwelling units shall be prohibited in connection with the resulting structure.
5. The historic residence designation shall be removed from the resulting structure.

Attachments:

1. Draft Small Lot Single-Family Subdivision Regulation
2. Draft Small Lot Single-Family Zoning Special Regulation Amendment for Single Family Residential (RS) Zones Section 15.10.010.
3. Draft Small Lot Single Family and Historic Preservation Amendment to Zoning Code Section 115.07.9 Accessory Dwelling Units
4. Draft Historic Preservation Subdivision Regulation

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5. Draft Historic Preservation Amendment to Zoning Code Chapter 75 Regulations – Historic Landmark Overlay Zone
6. SEPA Addendum
7. Case Study for Historic Residence Designation 1602 1st Street
8. Case Study for Historic Residence Designation 642 12th Avenue
9. Case Study for Historic Residence Designation 1610 2nd Street
10. Table Indicating Square Footage of Potential Historic Residences
11. Correspondence Received Since Last Planning Commission Meeting

Cc:

Norkirk Neighborhood Association

Market Neighborhood Association

Kirkland Chamber of Commerce

Thelma Shanks, 815 18th Avenue West

The Kirkland Heritage Society, Heritage Hall, 203 Market Street, Kirkland, WA 98033

Marguerite B. Oprea 1250 6th Street West, Kirkland, WA 89033

File MIS06-00053