



## MEMORANDUM

**Date:** January 31, 2007

**To:** Planning Commission

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

**Subject:** Market and Norkirk Neighborhoods' Small Lot Single-Family and Historic Preservation Regulations (MIS06-00053)

## RECOMMENDATION

Review the issues discussed in this memo, and then provide direction on the draft Subdivision and Zoning regulations to implement the small lot single-family and historic preservation policies.

## INTRODUCTION

The memorandum is divided into two sections. The first addresses small lot single-family regulations. The second section addresses historic preservation regulations. The attached draft regulations are provided to serve as a basis for discussion.

## BACKGROUND

### **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. "*

**Attachment 1 and 2** are the draft subdivision and Zoning Code amendments proposed to implement these small lot single-family policies. The new subdivision section is a format similar to the existing Subdivision section 22.28.030 and 22.28.040 lot size flexibility standards. It states that the small lot single-family incentive may not be used in conjunction with the lot flexibility standards because that would be viewed as double dipping. Minimum lot size, eligibility and Floor Area Ratio (F.A.R.) are addressed in the new subdivision section. Finally, F.A.R. compliance is enforced with a restriction on the face of the Plat, unless rescinded through a plat alteration process. The F.A.R. limitations (to be decided) are reinforced with a proposed Zoning Code special regulation.

**Issues Discussion**

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

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

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

The table below indicates the square footage equivalent to a .3 and .4 F.A.R. in the three zones where the small lot single family incentive may be used (RS 8.5, RS 7.2 and RS 6.3 zones):

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

The difference between a .3 and .4 F.A.R. is 600 square feet in the RS 8.5 zone and 500 square feet in the RS 7.2 zone. The difference between a .4 and .5 F.A.R. is 600 sq. ft in the RS 8.5 zone and 500 sq. ft. in the RS 7.2 zone. The difference between a .3 and .5 F.A.R. in the RS 8.5 zone is 1,200 square feet, while the difference between a .3 and .5 F.A.R. in the RS 7.2 zone is 1,000 square feet.

Graphics to be provided at the study session will compare a .3 and .4 F.A.R. in RS 8.5 and 7.2 zones. These graphics incorporate the new F.A.R. rules concerning garages and Accessory Dwelling Units (ADU's), which went into effect in January 2007. On lots containing less than 8,500 square feet, the first 500 square feet of a detached garage or ADU that is located more than 20 feet from and behind the house, is not counted in the F.A.R. On lots of 8,500 square feet or more, the first 800 square feet of a detached garage or ADU that is located more than 20 feet from and behind the house is not counted in the F.A.R.

Several pictures of compact single family homes at the Kirkland Bungalows innovative housing development in North Rose Hill are provided in **Attachment 3** to show what .3 F.A.R. looks like. These small homes are approximately 1,500 square feet in size and each includes an attached garage in their square footage. The Kirkland Bungalows differ from the homes created or preserved by the small lot single family incentive because they have reduced side, front and rear yard setbacks. The small lot single family homes contemplated with this incentive must meet all code requirements for setbacks.

- 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 feasibility of reducing the F.A.R. on one or both lots.

**Attachment 4** is an analysis by housing consultant Michael Luis of Michael Luis & Associates. He looked at the impact that reduced F.A.R.'s have on the feasibility of this incentive. It indicates several things.

- The cost per square foot of a home levels off at a certain point while the cost of a small home is more per square foot since expensive utilities, appliances and accoutrements associated with kitchen and bathrooms account for a bigger percentage of the total square footage of a small home.
- By comparing the total price of one 4,100 square foot home on a 12,200 square foot lot with the cost of two homes, one 3,600 sq. ft. (.5 F.A.R.) and the other 2,000 square feet (.4 F.A.R.) it appears that the two would provide enough profit to be attractive to a developer. However it begins being less attractive if a reduced F.A.R. on the bigger lot is required, which reduces the chance that the provision will be used.
- Lot size will not have a major impact on the sales value of homes.
- Adding to the disincentive are the fees to process a subdivision application and associated time it takes.

Too, in situations where you have an existing house on a 12,200 sq. ft. lot, the F.A.R. requirement may make the property ineligible, if the existing house exceeds the required reduced F.A.R.

## **2. Mechanism to ensure compliance.**

Restriction recorded on the face of the Plat – this is the recommended technique to ensure perpetual compliance. The courts have held that a covenant or agreement can't be enforced indefinitely while a restriction recorded on the plat may only be rescinded through a plat alteration process.

### **3. Lots ineligible for the small lot single-family incentive.**

A flag lot configuration can reduce the usable lot area available for siting the house. The question is whether this situation should render the lot ineligible for this incentive.

**Attachment 5** shows the flag portion of a lot included in the lot area of the small 5,000 square foot lot. The portion of the lot not including the driveway is just 3,555 square feet, leaving little room for a home to fit within the remaining building envelope. Staff recommends that this type of lot configuration on the small lot make it ineligible for this incentive. It could result in impacts on adjoining homes. However, continuing to allow the flag lot configuration for the larger lot is recommended, since it is allowed outright for lots meeting the lot size requirement of the zone, and it would increase the potential number of lots that could utilize this incentive.

## **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 6** is the draft subdivision amendment proposed to implement these historic preservation policies. The new subdivision section is formatted similarly to the existing Subdivision Sections 22.28.030 and 22.28.030 lot size flexibility standards. The proposed section states that the historic preservation incentive may not be used in conjunction with the lot flexibility standards because that would be viewed as double dipping. Minimum lot size and eligibility is addressed in the draft subdivision section. Finally, a restriction on the face of the plat limits the F.A.R. of a replacement home on the small lot if the historic residence is demolished or destroyed.

**Attachment 7** is a proposed new section to Zoning Code Chapter 75, Historic Landmark Overlay Zone. It addresses the process and criteria to designate a historic residence, as well as the process and criteria for alterations that change the appearance or materials of the historic residence.

Staff recommends using Process I to designate an historic residence, using the same criteria as used for the Historic Landmark Overlay Zone designation. Process I Planning Director decisions can be appealed to the hearing examiner. The City will use the expertise of the King County Office of Historic Preservation to review and make a recommendation to us on designating a home as a "historic residence" – (based on a field visit and review of an application form submitted by an applicant (the application form to be drafted). This "historic residence" designation decision could occur concurrently with the Subdivision permit approval. Upon recording, the affected lot would be flagged in our permit tracking database.

Designation would limit alterations to those that are determined to be consistent with historic character based on the designation. Alterations would be required to be reviewed by the Planning Official. For alterations that change appearance or materials, we'll use similar standards as are currently used in the Historic Landmark Overlay Zone and those in the Secretary of the Interiors Standards for Rehabilitation of Historic Landmarks. If the historic residence is demolished or destroyed, a reduced F.A.R. is required on the lot where the historic residence was located. Again, we will use the expertise of the County's Historic Preservation staff to assist us in the alteration decision.

### **Issues Discussion**

#### **1. Criteria to be used to authenticate that the home is eligible for this incentive,**

- Heritage Society 1999 Inventory –Although we used this inventory to identify homes that might have the potential to take advantage of the historic preservation incentive, it is too subjective, not able to be duplicated by others, and was never intended to be used for implementation of policies or regulations.
- City of Kirkland Historic Landmark Overlay Zone Designation Criteria in Zoning Code Chapter 75 (same as Federal and County Historic Landmarks criteria) – Section 75.20 of **Attachment 7** is the existing criteria, which is recognized both by the County, State and nationally. King County Office of Historic Preservation is familiar with this 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 this 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. This option is recommended by staff.

## **2. Process to be used to designate a home that is eligible for this incentive**

- Planning Director Decision – this could be administered concurrently with a subdivision within the same time line of about 4 months. This decision could be appealed to the Kirkland Hearing Examiner. Noticing requirements include posting of public notice sign on the subject property and mailing of notice to adjoining residences.
- City Council Decision – this would take more time, (about 6 months) and would therefore result in decreased utilization of this incentive to preserve historic homes in Kirkland. Noticing requirements include mailing notice to owners of all property within 300 feet and posting of public notice sign on the subject property. Appeal is to King County Superior Court.
- Planning Official Decision – doesn't include the noticing requirements and appeal procedures that are required in the Planning Director's decision.

## **3. Mechanism to ensure compliance.**

- Recorded covenant - this technique can not be enforced over an extended period of time according to our City Attorney.
- Restriction recorded on face of Plat – this is what staff recommends. It would also be tracked through Advantage; our City's permit tracking program, and flagged in our parcel data files. The restriction would provide that in the event the historic residence is damaged or destroyed, any subsequent redevelopment must comply with the City's small lot single family provisions for F.A.R.
- Designation on Zoning Map – too cumbersome; any change to the Zoning Map requires approval by Kirkland City Council. This would be a disincentive to an applicant because it would add additional time and uncertainty to the "historic residence" designation and subdivision processes.

## **4. Allowances for repair and maintenance of the historic structure.**

- Same criteria and process as currently used with the Historic Landmark Overlay Zone Designation – Process IIB, City Council Decision.
- Same criteria but less strict process as used with the Historic Landmark Overlay Zone Designation – Planning Official Review and Decision, utilizing the expertise of King County Office of Historic Preservation, and appealable to the Hearing Examiner. Criteria need to be established to evaluate requests for alterations to the historic residence. The Historic Landmark Overlay Zone designation uses three criteria which could be used (see section 75.40 in Attachment 7). The County has proposed others and staff is exploring how to integrate the two (see sections 75.85 and 75.90 in Attachment 7).

**Attachments:**

1. Draft Small Lot Single-Family Subdivision Regulation
2. Draft Small Lot Single-Family Zoning Special Regulation for Single Family Residential (RS) Zones
3. Photos of compact single family homes at Kirkland Bungalows in North Rose Hill
4. Feasibility study by Michael Luis Associates, dated February 31, 2007
5. Graphic "Flag Lot Utilizing Small Lot Single Family Incentives"
6. Draft Historic Preservation Subdivision Regulation
7. Draft Historic Preservation Amendment to Zoning Code Chapter 75 Regulations – Historic Landmark Overlay Zone
8. letter dated January 27, 2007 from Robert Stonefelt
9. letter dated January 29, 2007 from Thelma Shanks

Cc:

Norkirk Neighborhood Association  
Market Neighborhood Association  
Kirkland Chamber of Commerce  
Thelma Shanks, 815 18<sup>th</sup> Avenue West  
File MIS06-00053