



MEMORANDUM

To: Planning Commission

From: Teresa Swan, Senior Planner
Paul Stewart, Deputy Director of Planning

Date: June 15, 2010

Subject: *Public Hearing on Follow-Up Housekeeping Amendments to the Zoning Code and Subdivision Ordinance for the Kirkland's Shoreline Master Program Update (SMP), File No. ZON06-00017*

I. RECOMMENDATION

Hold public hearing and make a recommendation to the City Council.

II. INTRODUCTION

The City has approved the Shoreline Master Program (SMP) update and now is in the final stage of the Department of Ecology's approval process. The City anticipates a decision from Ecology by the end of June. Once Ecology approves the SMP update, the regulations are effect.

The SMP update consists of a new Chapter 83 (shoreline regulations) and Chapter 141 (shoreline administration) that will be placed in the Zoning Code.

There are several follow-up minor amendments to the existing Zoning Code and Subdivision Ordinance that need to be prepared and incorporated into the final adopting ordinance that the City Council will pass following Department of Ecology approval.

The amendments are housekeeping in nature and involve *no policy decisions or issues*. The scope of the amendments include revisions or deletions of definitions, references made to general topics covered in Chapter 83 that are also in other chapters of the Zoning Code, such as parking, lighting, signage, tree retention, critical areas and land division, and other minor changes to integrate the new Chapter 83 into the Zoning Code.

III. STUDY SESSION

On May 27, 2010, the Planning Commission held a study session on the amendments. No one from the public spoke on the amendments.

The Planning Commission raised a question as to why the 0.66 rounding up fraction in Chapter 112 for affordable housing would not be changed to be consistent with the 0.50 rounding up fraction as adopted in the new Section 83.190.c (the shoreline management chapter that applies to the Lake Washington shoreline area) and as proposed to be changed in Section 115.125 (that applies to the remainder of the city).

As it applies to Chapter 83 and Chapter 115, the threshold for rounding up of the fraction to the next whole number determines at what point one more unit can be built for a multifamily development. For example, if a property is 12, 500 square feet and the zoning for the property is zoned RM 5,000 (minimum lot size per unit), the maximum allowable units is determined by dividing the property size by the minimum density. At a rounding up fraction of 0.50, the resulting 2.5 unit count can be rounded up to allow 3 units. At a rounding up fraction of 0.66, the resulting 2.5 unit count cannot be rounded up to allow 3 units.

The current standard of 0.66 in Chapter 115 of the Zoning Code was established in 1983 when the present code was originally adopted. At that time, there was no particular reason for setting the rounding up threshold at 0.66 other than a fraction greater than 0.50. During the SMP update, the Planning Commission, Houghton Community Council and City Council each discussed and agreed to use a rounding up fraction of 0.50 in the shoreline area to provide for slighter higher density in some situations and since there was no specification reason for staying with the 0.66 threshold. One more reason to change the rounding up fraction is that King County uses the 0.50 fraction in the City's future annexation area which would provide annexation property owners with the same maximum density that they can achieve now.

The Planning Commission, Houghton Community Council and City Council each agreed to come back after the SMP update was completed to amend the existing Zoning Code to have the same 0.50 threshold apply city wide so that density is administered consistently throughout the city.

As it applies to Chapter 112, the rounding up fraction is used for a different purpose. It is used to determine how many affordable housing units are required and when affordable housing units must actually be built (versus using the payment in lieu of construction option). The code text reads as follows:

112.15 Affordable Housing Requirement

1. Minimum Requirement – All developments creating four or more new detached, attached or stacked dwelling units in commercial, high density residential, medium density and office zones shall provide at least 10 percent of the units as affordable housing units and comply with the provisions of this chapter as established in the General Regulations for the Use Zone or the Special Regulations in the Use Zone Chart for the specific use. This subsection is not effective within the disapproval jurisdiction of the Houghton Community Council. All other provisions of this chapter are applicable within the disapproval jurisdiction of the Houghton Community Council.
2. Calculation in Density-Limited Zones – For developments in density-limited zones, the required amount of affordable housing shall be calculated based on the number of dwelling units proposed prior to the addition of any bonus units allowed pursuant to KZC [112.20](#).

3. Calculation in RH and TL Zones – For developments in the RH and TL Zones, the required amount of affordable housing shall be calculated based on the total number of dwelling units proposed.
4. Rounding – In all zones, the number of affordable housing units required is determined by rounding up to the next whole number of units if the fraction of the whole number is at least 0.66.
5. Alternative Compliance – KZC [112.30](#) establishes methods for alternative compliance, including payment in lieu of construction for portions of required affordable housing units that are less than 0.66 units.

For example, using the current 0.66 threshold, a 7 unit multifamily development must include 1 affordable unit (10% of 7 units=0.70) on site, but a 5 or 6 unit multifamily development does not have to provide an on-site affordable unit (10% of 5 units= 0.50 and 10% of 6 units=0.60).

They would instead use the payment in lieu option allowed in KZC 112.30.4. If the threshold were changed to 0.50, both a 5 and 6 unit development would be required to provide an affordable housing unit on site and not pay into the in lieu option since the resulting fraction would round up to a whole unit number.

Thus, the purpose of the rounding up of a fraction to determine maximum density in Section 83.190.c (shoreline area) and in Section 115.125 (rest of city) is different than the purpose in Section 112.15 for determining the affordable housing requirement. There was a policy decision to set the threshold for requiring a whole affordable unit at 0.66.

Staff does not recommend changing the fraction threshold in Chapter 112 until the affordable housing requirement has been in use for a few years and the City can determine if it would be more appropriate to raise, lower or maintain the 0.66 fraction threshold.

Staff recommends that the rounding up 0.66 fraction in Section 115.25 (remainder of the city) be changed to 0.50 to be consistent with Section 83.190.c (shoreline area) so that maximum density is administered the same throughout the city. Section 83.190.c cannot be changed to use the 0.66 rounding up fraction since it has already been adopted by the City and is now being reviewed by Department of Ecology as part of their approval of the City's SMP update. Any subsequent change to the 0.50 fraction in the shoreline regulations must be approved by the Department of Ecology. Also, having one additional multifamily unit on a few properties (the difference between 0.50 and 0.66 founding up fraction is only 0.16 so the change in fraction will only affect a few properties) in the Residential-Medium/High shoreline environment will not impact shoreline setbacks, bulkheads, native landscaping or exterior lighting. The only minor impact to the shoreline would potentially be one additional moorage slip for a few multifamily piers which has been accounted for in meeting the No Net Loss standard analyzed in the Cumulative Impact Analysis. The change in fraction does not affect the other shoreline environments (Residential-Low, Urban Mixed, Urban Conservancy or Natural shoreline environments).

IV. LIST OF THE AMENDMENTS

A description of the amendments is as follows:

Zoning Code

- Chapter 1 - User Guide: add a reference to the new shoreline chapters.
- Chapter 5 – Definitions: delete definitions that have been revised and moved to the new shoreline chapter of Chapter 83, make references in several definitions to Chapter 83 and revise a few definitions to be consistent with Chapter 83 and use in other chapters of the Zoning Code.
- Chapter 20.05 – Multi-family and Chapter 30.20 - WDII: add a new General Regulation to allow a private shoreline park (beach) associated with residential developments in the Residential Multi-family (RM) zone and in the Waterfront District II (single family shoreline) zone. There is one private beach west of Juanita Beach Park in a RM 1.8 zone and one private beach in the north portion WDII. The beaches are owned by adjacent residential properties.

A private park is not an allowed use under the current WDII and multi-family use zone charts. However, as a water dependant use the use is appropriate for the shoreline and should be allowed.

- Chapters 75 (Historic), 85 (Geologic Hazardous), 90 (Drainage Basins), 95 (Tree Management and Landscaping), 100 (Signs), and 105 (Parking): make references to the applicable sections in Chapter 83 and change the rounding up of fractions for multifamily units in Chapter 90 from 0.66 to 0.50 (see discussion above and below on this topic).
- Chapter 112 – Affordable Housing Incentives: clarify that some of the permitted modifications to dimensional standards would require a shoreline variance for properties along the shoreline. The Department of Ecology would need to approve the modifications to the shoreline setback, lot coverage and possibly height. In some cases, the height allowance under the Shoreline Management Act is greater than under the Kirkland Zoning Code in which case the height modification could be approved without shoreline variance.
- Chapter 115 – Miscellaneous:
 - 115.40- revise regulation on fences to be consistent with Chapter 83
 - 115.45- reference Chapter 83 for screening of garbage and receptacles regulations
 - 115.47- reference Chapter 83 for loading and service areas regulations
 - 115.60- reference Chapter 83 for height exceptions regulations
 - 115.85- reference Chapter 83 for lighting regulations
 - 115.90- reference Chapter 83 for lot coverage regulations
 - 115.105- reference Chapter 83 for outdoor storage regulations
 - 115.115- reference Chapter 83 for required yards regulations
 - 115.120- reference Chapter 83 for rooftop appurtenances regulations

