



CITY OF KIRKLAND

Department of Planning and Community Development

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MEMORANDUM

To: David Ramsay, City Manager

**From: Dawn Nelson, Planning Supervisor
Arthur Sullivan, ARCH Program Manager
Eric Shields, Planning Director**

Date: January 7, 2008

Subject: Affordable Housing Update, File ZON07-00037

RECOMMENDATION

Staff recommends that the City Council hear a presentation and give staff direction on the questions identified in sections 1.F. and 2.C., below.

BACKGROUND DISCUSSION

The purpose of this memo is to provide a status report to the City Council on staff work and get input on next steps for several of the housing issues that were identified as high priorities by the Council at your retreat in 2007.

1. Affordable Housing Regulations

1.A. Current Affordable Housing Incentives

The City of Kirkland adopted a package of incentives, including generous density bonuses, site development flexibility, tax exemptions, and fee waivers in May 2004 to encourage development of affordable housing as part of market rate housing developments in multifamily zones. (See [Zoning Code Chapter 112](#)) The program is entirely voluntary and was set up so that the value of the available incentives would exceed the cost to the developer of providing the affordable housing units. The affordability requirements are stringent, with rental units required to be affordable to households earning no more than 50% of King County median income and for sale units required to be affordable to households earning no more than 70% of King County median income. The density bonus and development flexibility incentives apply only in zones that have an established maximum density, such as the RM and PR zones. For example, in the RM 3.6 zone, 3,600 square

feet of land area is required for every residential unit and a property that is 36,000 square feet in size could be developed with 10 units. If one affordable housing unit is provided in the 10 units, then two additional market rate units could be built for a total of 12 units (one affordable and 11 market rate). These incentives have not yet been utilized.

As major rezoning has occurred in the Totem Lake and Rose Hill business districts, the City has offered the option of significant height increases in some areas in exchange for 10% of residential units being affordable. Attachment 1 is a chart showing the incentives available in the TL and RH zones. For example, in the TL6A zone, the basic height limit is 35 feet but residential development is allowed to build to 65 feet if at least 10% of the units are affordable housing units. An Administrative Design Review application is currently being reviewed for a 170 unit apartment development that would take advantage of the height increase. They are also relying on a potential tax exemption to make the project economically viable.

Why haven't the incentives been used? The majority of residential development since mid-2004 has been in the Central (CBD) and North Rose Hill business districts where land use incentives have not been developed. Permits for a total of 574 multifamily residential units have been issued by the City since the affordable housing incentives were adopted three and a half years ago. Of those, only seven projects and a total of 45 units (8% of the total number of permitted multifamily units) are in zones where the land use incentives are available. In addition, only one of those projects was larger than eight units. This is significant because the density bonus is two additional market rate units for every affordable unit, but the maximum increase in density allowed without going through a zoning permit process is 25%. A minimum project size of eight units is needed in order to effectively use the bonus.

1.B. Affordable Housing Incentives in Mixed Use Zones

Preliminary discussions were begun in late 2004 with the Planning Commission about a second phase of the program to apply in zones that do not have established density limits expressed in units per acre, such as the CBD. During that process, staff analyzed the possibility of developing maximum Floor Area Ratios (FARs) in order to have a base to which a bonus could be added. However, a review of a variety of projects in different mixed use zones showed that there are too many variables, such as property size, shape and location and land values to develop FAR limitations that would be straight forward and easy to administer.

The difficulty with developing a program in these zones is determining meaningful incentives to offer in exchange for affordable housing. Development in these zones is limited by height, setbacks, impervious coverage and design standards and fairly intense development is already allowed by these regulations. This is significant because legislation adopted by the state in 2006 requires that affordable housing incentive programs provide an increase in residential capacity, as is discussed in the next section.

1.C. New State Legislation for Affordable Housing

The State Legislature adopted Engrossed Substitute House Bill 2984 in 2006, creating [RCW 36.70A.540](#) which specifically allows cities planning under the Growth Management Act to enact or expand affordable housing incentive programs. Incentive programs must provide an increase in residential capacity and the legislation identifies the following elements that may, but are not required to, be included.

- Density bonuses
- Height and bulk bonuses
- Fee waivers or exemptions
- Parking reductions
- Expedited permitting
- Mixed use projects

This statute removes much of the legal uncertainty that previously surrounded mandatory affordable housing regulations. Subsection 3 of the statute authorizes cities to adopt mandatory affordable housing requirements to address the need for increased residential development when certain requirements have been met. It reads as follows:

- (3) Affordable housing incentive programs enacted or expanded under this section may be applied within the jurisdiction to address the need for increased residential development, consistent with local growth management and housing policies, as follows:
 - (a) The jurisdiction shall identify certain land use designations within a geographic area where increased residential development will assist in achieving local growth management and housing policies;
 - (b) The jurisdiction shall provide increased residential development capacity through zoning changes, bonus densities, height and bulk increases, parking reductions, or other regulatory changes or other incentives;
 - (c) The jurisdiction shall determine that increased residential development capacity or other incentives can be achieved within the identified area, subject to consideration of other regulatory controls on development; and
 - (d) The jurisdiction may establish a minimum amount of affordable housing that must be provided by all residential developments being built under the revised regulations, consistent with the requirements of this section.

Under the framework of this legislation, cities have the authority to take the following approaches with the goal that affordable housing will be incorporated into market-rate housing developments:

- Provide a purely voluntary incentive based program, as the City of Kirkland has done in the RM and other zones that have a specific density limit where extra density and other incentives are available in exchange for affordable housing;

- Provide a voluntary incentive based program associated with rezones, as the City of Kirkland has done in the Totem Lake and Rose Hill business districts where significant extra height and other incentives are available in exchange for affordable housing;
- Provide a mandatory inclusionary housing program associated with rezones where increased development potential is provided and affordable housing is required regardless of whether the developer chooses to take advantage of the added development potential, which the City of Kirkland has not done.

The legislation does not address mandatory inclusionary housing where affordable housing would be required without the City providing an option to increase residential development capacity. Such an approach would raise legal issues. In the 1980s and 1990s, Washington courts struck down several attempts by the City of Seattle to require residential developments to provide affordable housing. RCW 36.70A.540 is, in part, a response to the previous court decisions that precluded local jurisdictions from requiring developers to provide affordable housing.

The Housing Partnership paper “The Ins and Outs – A Policy Guide to Inclusionary and Bonus Housing Programs in Washington” is included as Attachment 2. It provides a good summary of the legal, economic and practical issues that surround inclusionary and incentive programs.

1.D. Inclusionary and Incentive Programs in Washington State

Federal Way and Redmond are the only two cities in Washington State that currently have inclusionary housing requirements in place. Federal Way has a mandatory affordable housing requirement in multifamily and mixed use developments of 25 or more units. It requires a minimum of two affordable units or five percent of the unit total (whichever is greater). One bonus unit may be constructed for each affordable unit, with a maximum 10% increase above the underlying density. (For example, if 40 units could be built on a property based on zoning regulations, the developer would be required to provide two affordable units. They could build an additional two units of market rate housing for a total of 42 units. If they provided four affordable units, they could build a maximum of 44 units on the property.)

Only one project has been large enough to be required to provide affordable units since the program was adopted in 1997, although an 800 unit multifamily project is currently under review. Federal Way also has a voluntary incentive program in single-family zones, where the minimum lot size can be reduced by a maximum of 20% if affordable housing is provided. The maximum income threshold for affordable ownership units is 80% of King County median income and the maximum income threshold for affordable rental units is 50% of King County median income.

Redmond adopted an inclusionary housing requirement in its City Center neighborhood when the neighborhood plan was updated in 1993. During that process, the maximum residential density limitations were removed and development capacity was increased. The program has phased in over time. It was voluntary for the first 250 units built in the neighborhood. The next 250 units were required to provide 10% of the units affordable to those earning no more than 90% of King

County median income. They are now in the third phase of the program and all developments over 10 units are required to provide 10% of the units affordable to those earning no more than 80% of King County median income. Approximately 100 affordable housing units have been developed in the City Center neighborhood through this program.

Redmond has also adopted inclusionary housing requirements in four of its single-family neighborhoods. The Willows/North Rose Hill, Grasslawn, North Redmond and Education Hill neighborhoods have all been updated since 2002 and now require that developments of 10 or more units provide at least 10% of the units as affordable housing. At least one bonus unit is allowed for each affordable unit provided, with a maximum density increase of 15% allowed. A variety of housing types such as cottages and duplexes are allowed to accommodate the affordable units. A few affordable units have resulted from this program.

Sixteen other jurisdictions in Washington State have voluntary incentive programs for affordable housing. Most of these programs provide somewhere between 0.75 and 1.5 bonus units for each unit of affordable housing provided. The definition of affordable varies from 50% to 80% of median income. The City of Seattle currently has a voluntary incentive program in several of its downtown zones. The City Council will be reviewing a proposal to expand the voluntary incentive program throughout the City when development regulations are changed to provide significant additional development capacity.

1.E. Inclusionary and Incentive Programs across the United States

Arthur Sullivan and Dawn Nelson attended the second National Inclusionary Housing Conference in San Francisco at the end of October. The conference provided a great overview of inclusionary programs across the country. There are currently over 200 jurisdictions nationwide that have inclusionary housing programs. Several cities that have recently adopted their programs, such as Chicago, New York and Baltimore, shared their experiences in getting programs approved, along with the details of their programs. There is a long history of inclusionary housing in California, where 170 out of 475 cities have adopted inclusionary programs which have resulted in 70,000 affordable units in the last 20 years. Many representatives from California jurisdictions and housing providers shared their knowledge in break-out sessions. Some of the primary messages from the conference were:

- Few incentive based affordable housing programs have proven to be successful and they are being replaced by mandatory programs.
- Inclusionary housing is not a panacea for the lack of affordable housing; it needs to be used as one tool in the range of options available to jurisdictions. Public funding of affordable housing is the most effective way to ensure that it is created.
- Inclusionary housing programs are more legally defensible if they have:
 - Broad applicability
 - Options for compliance

- Tightly drafted appeal or waiver provisions
 - Wide array of offsets and incentives
 - Supporting findings and justifications
- Inclusionary housing campaigns can be politically charged and divisive. It is important to work closely with the development community and other core partners in developing an inclusionary program, have a strong public advocacy and education strategy, and use data to make the case for the overall program and its specific elements.
 - Jurisdictions need to have reasonable goals for inclusionary programs and be willing to review and modify them over time to ensure that they are providing real value to the community and to the developers that are subject to the regulations.

It also must be remembered that the Washington court rulings on affordable housing impose constraints on Washington cities that cities in other states do not have to face. From a legal standpoint, the City Attorney's Office has recommended that inclusionary programs should comply with the recently adopted state legislation (RCW 36.70A.540).

1.F. Next Steps for Affordable Housing Regulations

Staff needs input from the City Council in order to pursue further affordable housing regulations. Specific questions that need to be answered are:

Does the Council want staff to prepare options for changing the existing affordable housing incentives in multifamily zones and the Totem Lake and Rose Hill business districts to mandatory affordable housing requirements? For example, in multifamily zones a minimum percentage of units in developments over a certain size threshold would be required to be affordable and the existing density bonus and other incentives could be used.

Does the Council want staff to prepare options for creating mandatory affordable housing requirements in business districts that don't currently have affordable housing incentives? Examples of approaches include:

- **Requiring affordable housing to achieve the extra story of residential in zones that currently allow an additional story for residential development.**
- **Expanding the area where an extra story of height is allowed for residential development, resulting in slight increases in height (from one to four feet) over the height allowed for office developments.**

Are there specific types of increases to development potential, such as additional height, that should not be considered as part of these programs?

2. Preservation and Land Acquisition

2.A. Preservation of Existing Affordable Rental Housing

ARCH staff has compiled a database of all existing rental properties in Kirkland including the following information:

- Address
- Number of units
- Year built
- Average size of units
- Elevator present
- Site size (square feet)
- Zoning Designation
- Number of units allowed per zoning.
- Land value
- Improvement value
- Total value
- Date of last sale
- Amount of sale
- Taxpayer name
- Taxpayer address

The database includes 5,600 units in 190 rental properties, all with more than four units. The following table shows the distribution of units based on the number of units in a property:

# of Units in Property	# Properties
4- 10 Units	130 Properties
11- 20 Units	17 Properties
21- 50 Units	14 Properties
51 – 100 Units	12 Properties
101+ Units	17 Properties
TOTAL: 5600 Units	190 Properties

Staff analyzed the data to determine if there are ways to sort the data to help identify properties that are good candidates for preservation. Two initial sorts have been done and field tested as described below.

Ratio of land value to improvement value. A sort by the ratio of land value to improvement value resulted in a very wide range of ratios. (A ratio greater than 1 means that land value is greater than the value of improvement and a ratio less than 1 means that land value is less than improvement value). There are roughly equal number of properties with a ratio greater than 1 and those with a ratio less than 1. Properties with a high ratio may give some indication of properties which are potentially ripe for redevelopment because their land value is significantly greater than

the value of improvement. These properties may also currently provide relatively affordable housing.

A field survey was done on about a dozen properties, revealing some potential trends. For example, several properties with ratios of 1 or 2, did not appear to be prime for redevelopment although they did show signs of needing some form of rehabilitation. Several properties with ratios over 4 showed signs of inattention. However, there were also enough exceptions to these trends to imply that universal conclusions are difficult to make. For example one property with a ratio over 4 was being well maintained by a long term owner.

Ratio of current units to units allowed by current zoning. A second sort was done on the ratio of allowed units to number of actual units. This would be another way to assess potential properties for redevelopment. One factor complicating this analysis is that a number of zones that allow housing do not have any explicit density cap. Most of the 'underdeveloped' properties (ratio less than 1), would only allow one or two additional units. There were a handful of developments (not in zones with no density cap), which would allow increases of 1/3 or more additional units. These ranged in size from 6 units to 248 units.

2.B. Land Acquisition for Affordable Housing

ARCH staff has compiled a database of tax exempt properties, including properties that are in public ownership (city, county, housing authority, schools), churches and properties owned by non profits agencies. This database contains the following information:

- Parcel number
- Owner
- Address
- Land value
- Improvement value
- Lot size (square feet)
- Zoning designation
- Name of school (school properties only)

There are almost 350 parcels in this database (some sites have several contiguous parcels), of which approximately one half are owned by the City. Other public land owners include the State of Washington, Lake Washington School District, Lake Washington Technical College, Evergreen Hospital, Seattle City Light, and King County. No explicit field testing has been done at this point with this data base. The intent would be to see if any of these properties are under-used or underdeveloped, whereby some portion of the property could be used for housing development.

2.C. Next Steps for Preservation and Land Acquisition Strategies

The ultimate objective of these two strategies is to secure property or buildings and make them available for affordable housing. To achieve this objective, tasks can be broken down into three areas:

- Identifying potential sites or properties.
- Working with owners to secure the right to create affordable housing.
- Creating financing strategy(ies) to purchase land and/or existing properties.

i. Identifying potential sites or properties

Further Evaluation of Data. The data collection described above is a first step in this area. The evaluation of the data collected indicates that using the data may not be as simple as picking one or two factors for identifying properties. Instead it may be a matter of cross evaluating several factors: property age, size of property, ratio of allowed to permitted number of units, ratio of land to improvement value, date of last sale. While this may not lead to a clear priority list of properties or land sites, it does appear this could be a helpful step toward better understanding potential opportunities, and helping to somewhat narrow down searches. (For example, a property with a high land to improvement value, and capacity to add more housing might be a good profile to target.) Staff will pursue this as a next step.

Should City Prioritize Type of Housing. **One question for the Council to consider is if there are certain types of affordable housing needs that should be prioritized for these strategies** (e.g. serve homeless or other special needs populations, permanent housing with larger units). If so, it would be useful to have that discussion prior to moving to the next two steps of these strategies. This discussion could be influenced by the priorities of other funders that would ultimately be sought to support the permanent financing. Another perspective is that there are enough challenges with identifying properties, and there are enough needs in the community that the City should pursue any property that is available at a reasonable price and be open to a broad range of funders.

Partnering with Community Agencies. Ultimately, if sites are identified, the City will need a community partner to develop, own and operate the housing. **To what extent should the City coordinate its efforts with these potential partners?** Arguments in favor of close coordination are:

- If the City prioritizes certain types of housing, then there are certain groups that are more logical partners.
- These groups are continuously looking for opportunities and the more efforts that are underway, the better.

Arguments against close coordination are:

- There are only so many financing resources available for affordable housing and presumably, any properties identified by a City would be an immediate priority for ARCH and potentially other funders.

- By working with certain groups, opportunities might be narrowed to those most consistent with their mission. (This could be an advantage if the City decides it wants to focus on certain types of opportunities.)

At a minimum, staff recommends that the City make potential community partners aware of the City's efforts and invite those partners to provide some level of input to the City as it plans its efforts.

ii. Working with owners to secure the right to create affordable housing

The primary constraint to these two strategies is that it requires the cooperation of private property owners to work with the City to secure either land and/or existing properties. Such relationships will be voluntary and must be forged in the realities of the open real estate market. In the current market environment, two primary constraints are being able to act in a timely manner and the value of real estate. In addition, private owners may need to be convinced that doing affordable housing does not mean that they have to sell their property below market value. Therefore, the City needs to establish a process for contacting property owners of sites. **Staff recommends convening a meeting to discuss strategies for approaching owners once properties are identified. This meeting should include persons from the private sector (realtors, owners, including church and other public land owners) and potential community partners.**

iii. Creating financing strategies to purchase land and/or existing properties

Assuming success with the first two steps, financing will be needed to secure properties. It takes time to apply for and receive public funding, which is needed to create affordable housing. The City experienced this with DASH's acquisition of Plum Court, where interim financing was needed prior to securing all the long term public financing. This issue isn't unique to East King County, and there has been some discussion about trying to have financing strategies to secure properties. There are some limited sources now, and there may be some additional funds in the future, but they are likely to still need local and/or private dollars as part of an overall financing package. ARCH has also discussed this issue and has, on several occasions in the past, made early commitments to projects prior to other funds being available. The key is that there is increasing discussion around this topic, and therefore there may be other resources that could partially help if needed. As with the previous topic, a key first step is to plan ahead. **Therefore, it is recommended that there be a series of meetings with various parties (other funders, agencies, private lender) to develop strategies for financing properties if they become available.**

3. South Kirkland Park and Ride

There is an opportunity to provide a considerable level of affordable housing at the South Kirkland Park and Ride lot. This property, owned by King County Metro is approximately 7 acres in size and

is divided between the City of Kirkland and the City of Bellevue. The property is currently not zoned for residential use within either city and would require zoning and Comprehensive Plan changes. Both cities would need to work cooperatively to make this a feasible affordable housing/transit oriented development project.

Staff from Kirkland, Bellevue and King County Metro have been meeting to explore the potential for this type of project. It is on Kirkland's Planning Work Program and staff is poised to move forward. Bellevue will likely brief their City Council in January. If the City of Bellevue is open to considering this, one of the first steps would be to develop some "principles of agreement" for all parties involved (Bellevue, Kirkland, King County and ARCH). Staff will report back to the Council probably in February after further discussions with King County and Bellevue.

Attachments

1. Affordable Housing Incentives in TL and RH Zones
2. "The Ins and Outs – A Policy Guide to Inclusionary and Bonus Housing Programs in Washington" prepared by The Housing Partnership

Affordable Housing Incentives in Totem Lake and Rose Hill Business District Zones

Zone	Zone Type	Base Height Limit*	Incentive
TL 1A	Office	30'	Height increase from 30' to 80' with 10% affordable housing (when new right-of-way dedication and improvement are not required)
TL 1B	Multifamily	30'	Height increase from 30' to 80' with 10% affordable housing (when new right-of-way dedication and improvement are not required)
TL 5	Commercial	35'	Height increase from 35' to 45' with two stories of residential and 10% affordable housing
TL 6A & 6B	Commercial	35'	Height increase from 35' to 65' with 10% affordable housing
TL 10B	Office	40'	Height increase from 35' to 60' with 10% affordable housing
TL 10C	Office	40'	Height increase from 40' to 55' and freestanding residential development allowed in some areas with 10% affordable housing
TL 10D	Office	80'	Height increase from 45' to 65' with 10% affordable housing
RH 1A	Commercial	67'	Height increase from 35' to 67' with 10% affordable housing
RH 2A	Commercial	67'	Height increase from 35' to 67' with 10% affordable housing
RH 2B	Commercial	55'	Height increase from 35' to 55' with 10% affordable housing
RH 3	Commercial	45'	Height increase from 45' to 67' with mixed use development and 10% affordable housing
RH 7	Commercial	30'	Height increase from 30' to 45' with mixed use development and 10% affordable housing

* The Base Height Limit is the listed height limit for the primary use allowed in the zone. Some zones limit residential development to a lower height unless affordable housing is provided.