



**MEMORANDUM**

**To:** Kirkland Planning Commission

**From:** David Barnes, Senior Planner  
Adam Weinstein, AICP, Deputy Planning Director

**Date:** July 31, 2018

**Subject:** Kirkland Zoning Code (KZC) 125, Planned Unit Development (PUD)  
Code Amendments  
File Number CAM18-00380

**Staff Recommendation**

- Listen to a presentation on key issues related to amendments of KZC 125 (PUD)
- Provide staff with feedback on a revised list of possible public benefits that should be offered in conjunction with a PUD application (see Attachment 1).
- Support staff to continue pursuing the creation of a PUD public benefit valuation tool

Staff also recommends that the Planning Commission raise any policy issues that they would like addressed and/or identify any additional information that would be helpful in advancing this project.

**Project Background**

At the [June 28, 2018 Planning Commission meeting](#), staff gave an overview of KZC Chapter 125 (PUD), explained the motivation behind the code amendments, and discussed the historical issues that staff and City Council have experienced while processing PUD applications. In addition, staff asked for direction on two key issues:

- Revising the list of public benefits shown in KZC Section 125.35.3 to make it more up-to-date and reflective of the public benefits that the City finds desirable.
- Confirming the desired alternative for valuing PUD public benefits and the value that the applicant receives with an approved PUD.

Staff received feedback from the Planning Commission and was instructed to return to a future meeting with revised draft code related to public benefits and to obtain more information regarding the development of a valuation tool to help applicants, staff and decision-makers determine if the PUD public benefits are sufficient in relation to the benefits the applicant receives.

In July 2018, staff met with the Planning and Economic Development Council Subcommittee and the Public Works-Parks-Human Services Council Subcommittee to

provide a brief on this code amendment process and get feedback on potential public benefit additions and to gauge support for a public benefit valuation tool. Staff heard that many ideas for potential public benefits can be found in City plans. Subcommittee members noted that utilizing these plans as a basis for PUD public benefits would be an efficient way for the applicant, staff and decision-makers to know that the proposed public benefit is desirable to the City. In addition, support for funding a PUD benefit valuation tool was widely accepted because it would provide another tool that would help decision-makers evaluate whether public benefits are sufficient.

## Analysis

### Key Issues

1. Revision of KZC Section 125.35.3 to update the list of public benefits that should be proposed as part of a PUD (new KZC text is underlined; deleted text is shown in ~~strikeout~~).
  
3. The applicant is providing one (1) or more of the following benefits to the City as part of the proposed PUD:
  - a. The applicant is providing public facilities that could not be required by the City for development of the subject property without a PUD.

*Rationale – This provision is being retained as it is still relevant.*

- b. The proposed PUD will preserve, enhance or rehabilitate natural features of the subject property such as significant woodlands, wildlife habitats, ~~or~~ streams, wetlands or geologically hazardous areas that the City could not require the applicant to preserve, enhance or rehabilitate through development of the subject property without a PUD.

*Rationale – This provision is being amended to include other critical areas that would benefit from preservation and rehabilitation.*

- c. ~~The design of the PUD incorporates active or passive solar energy systems.~~ The proposed PUD will provide a significant amount of entry-level housing (i.e. small-footprint single-family units, duplex or triplex units, and or Accessory Dwelling Units) that is demonstrably affordable in relation to typical market rate housing.

*Rationale – Policy H-2.4 from the Housing Element (which is also referenced in the adopted Housing Strategy Plan) provides that the City should: "Allow a broad range of housing and site planning approaches in single-family areas to increase housing supply and choice, to reduce cost, and to ensure design quality and neighborhood compatibility." Alternative energy systems are addressed in subpart e.2, below.*

- d. The applicant is proposing public benefits identified in the Comprehensive Plan, City-adopted plans including, but not limited to the Park, Recreation, and Open Space Plan (PROS) and Capital Improvement Program (CIP) and the Urban Forestry Strategic Management Plan.

*Rationale – Both the Planning and Economic Development and the Public Works, Parks and Human Services Council Subcommittees recommended adding language to encourage applicants to fund or build projects already identified in City planning documents.*

~~d.~~ The design of the proposed PUD is superior in one (1) or more of the following ways to the design that would result from development of the subject property without a PUD:

- 1) Increased provision of usable open space or recreational facilities that provide permanent public access.

*Rationale – City Council members have indicated in past discussions that any open space or recreational facilities such as parks and playgrounds must be accessible and open to the public to be considered a public benefit.*

- ~~2) Superior circulation patterns or location or screening of parking facilities. Incorporation of renewable energy systems (i.e. solar, geothermal or wind) designed to create as much energy as the project uses on an annual basis also known as Net-Zero or Carbon Neutral projects.~~

*Rationale – Removed language that is outdated and not relevant because regulations now require optimal circulation patterns and screening. Policy E-5.7 of the Environment Element in the Comprehensive Plan states that the City should: "Pursue 100 percent renewable energy use by 2050 through regional collaboration." This policy lends support to the overall goal of Kirkland becoming carbon neutral or a net zero carbon community. Adding language that encourages a high degree of renewable energy use as part of PUDs would help promote this goal.*

- ~~3) Superior landscaping, buffering, or screening in or around the proposed PUD.~~

*Rationale – This is a standard project requirement.*

- ~~4) Superior architectural design, placement, relationship or orientation of structure.~~

*Rationale – This is a standard project requirement.*

- ~~5) Minimum use of impervious surfacing materials.~~

*Rationale – Many if not all projects already discourage the use of impervious surfaces because existing regulations require onsite stormwater management.*

Staff Recommendation: Revise KZC Section 125.35(3) as shown above and in Attachment 1 to help applicants understand the types of public benefits the City would support, with the intent of obtaining those benefits through the PUD approval process.

## 2. PUD Public Benefit Valuation Tool:

Staff recently met with the Planning and Economic Development Council Subcommittee and the Public Works – Parks – Human Services Council Subcommittee and received feedback on three issues. The first is that the Council still questions whether or not public benefits provided for PUD's clearly outweigh the impact of the modifications requested by the applicant. The second is that the Council would find it useful to get a report that details the costs associated with PUD public benefits provided as compared to the value of the benefits received by the applicant. Third, all Council members on the Subcommittees expressed support for developing a PUD benefit valuation tool. They believe that having this additional

financial information would allow staff to more effectively review PUD applications and negotiate with applicants, and would allow the Council to more effectively determine whether a PUD's public benefits are sufficient (in the context of other policy considerations, such as furtherance of Comprehensive Plan goals).

Staff consulted with local economic firms to better understand how a PUD valuation tool could be developed, and the following bullets summarize a conceptual approach to developing such a tool:

- Develop a consistent set of criteria for evaluating the cost and benefits for the applicant and the City for all project types.
- Develop a spreadsheet-based tool that can be used with established criteria to evaluate project benefits.
- Develop consistent templates that can produce scorecards and report summaries which relay the conclusions of the analysis in a simple, easy-to-understand format.
- After final development of the tool, provide training for City staff of how to use the tool with applicants and to create reports for staff reports

Staff Recommendation: Move forward with preparing a Request for Proposal (RFP) that would allow the City to further evaluate the development of a PUD benefit valuation tool.

### **Questions and Requested Direction**

Staff would like to leave this first meeting with clear input and direction from the Planning Commission on the following questions:

1. Are the revisions to the PUD public benefit list reasonable? Are there any additions the Planning Commission would want to see added to the list?
2. Does the Planning Commission support moving the investigation of the PUD benefit valuation tool forward and preparing an RFP for its creation?
3. Does the Planning Commission have additional guidance for staff on these topics and/or questions to resolve?

### **Attachments:**

1. Draft KZC 125 (PUD) Code

cc: CAM18-00380

## Chapter 125 – PLANNED UNIT DEVELOPMENT

### Sections:

125.05	User Guide
125.10	Process for Deciding on a PUD Application
125.15	Decision on the PUD – Application
125.20	Decision on the PUD – What Provisions May Be Modified
125.25	Decision on the PUD – Uses in a PUD
125.30	Decision on the PUD – Density
125.35	Decision on the PUD – Criteria for Approving a PUD
125.40	Decision on the PUD – Site Plan Required
125.45	Decision on the PUD – Effect of an Approved PUD
125.50	Final Site Plan Review – Application
125.55	Final Site Plan Review – General
125.60	Final Site Plan Review – Minor Modifications
125.65	Final Site Plan Review – Major Modifications
125.70	Final Site Plan Review – Effect
125.75	Map Designations

### 125.05 User Guide

This chapter establishes a mechanism for a person to propose a development that is innovative or otherwise beneficial, but which does not strictly comply with the provisions of this code.

This mechanism, which is called a Planned Unit Development or PUD, is intended to allow developments which benefit the City more than would a development which complies with the specific requirements of this code.

If you are interested in proposing a Planned Unit Development or if you wish to participate in the City’s decision on a proposed PUD, you should read this chapter.

### 125.10 Process for Deciding on a PUD Application

An application for a PUD has two (2) stages. The first stage is described in KZC 125.15 through 125.45 and results in the City’s decision whether or not to grant the PUD. The decision on this stage will be made using Process IIB described in Chapter 152 KZC. During the second stage described in KZC 125.55 through 125.75, the City will review the final site plan of the project to ensure that it is consistent with the PUD as approved. The decision on this stage will be made by the Planning Director, unless the City Council determines, with the approval of the preliminary PUD, that either:

1. There is substantial public interest in the PUD; or
2. Substantial changes in the proposed preliminary PUD are required; or
3. Additional technical information is required prior to approval of the final PUD.

If the City Council determines that one (1) of the above conditions exists, then the final PUD will be reviewed and decided upon using Process IIB, described in Chapter 152 KZC. The applicant may request to have the preliminary and final PUD applications reviewed concurrently. However, the request does not ensure that one (1) or both of the applications will be approved.

### 125.15 Decision on the PUD – Application

In addition to the application materials required in Chapter 152 KZC, the applicant shall submit a completed application on the form provided by the Planning and Building Department, along with all the information listed on that form.

(Ord. 4491 § 3, 2015)

**125.20 Decision on the PUD – What Provisions May Be Modified**

The City may modify any of the provisions of the code for a PUD except:

1. The City may not modify any of the provisions of this chapter; and
2. The City may not modify any provision of this code that specifically states that its requirements are not subject to modifications under a PUD, including all provisions in Chapter 90 and 85 KZC; and
3. The City may not modify any of the procedural provisions of this code; and
4. The City may not modify any provision that specifically applies to development on a regulated slope; and
5. The City may not modify any provision pertaining to the installation and maintenance of storm water retention/detention facilities; and
6. The City may not modify any provision pertaining to the installation of public improvements; and
7. The City may not modify any provision regulating signs; and
8. The City may not modify any provision regulating the construction of one (1) detached dwelling unit.

(Ord. 4551 § 4, 2017)

**125.25 Decision on the PUD – Uses in a PUD**

1. The City may approve any use that is listed as potentially allowed in the zone in which the PUD is proposed.
2. The City may approve any use that the Comprehensive Plan specifically states is appropriate in the area that includes the subject property.

**125.30 Decision on the PUD – Density**

The maximum residential densities that the City may approve in a PUD are as follows:

1. Except as allowed under subsections (2) and (3) of this section, the maximum permitted residential density is the greater of that recommended by the Comprehensive Plan or 110 percent of that permitted in the zone in which the PUD is located.
2. If the PUD is designed, developed and maintained as “special needs housing,” additional density may be permitted on the following basis:
  - a. Housing for senior citizen households, or for mentally, physically or emotionally impaired persons, except for assisted living facilities, may be permitted a maximum density of up to 1.5 times the maximum density recommended by the Comprehensive Plan or, if the development includes affordable housing units approved pursuant to Chapter 112 KZC, the maximum density allowed for the development through Chapter 112 KZC, whichever is greater; provided, that traffic impacts, impacts to public services and utilities, and impacts to adjacent properties are comparable to the impacts of the project if it were not providing special needs housing and if it were developed at the maximum density permitted in the zone in which the project is located.
  - b. Housing for low or moderate income households in low density zones may be permitted a maximum density above the density permitted under subsections (1) and (2)(a) of this section based upon the percentage of dwelling units which are low or moderate income units, using the following multipliers:

Density		
% of Low or Moderate Income Units	=	Multiplier
5 – 9%	=	1.1
10 – 14%	=	1.2

15 – 19%	=	1.3
20 – 24%	=	1.4
25% +	=	1.5

3. If a project consists of special needs housing, the applicant shall prepare a document, to be approved by the City Attorney, stating that the PUD will become void and use and occupancy must cease if the development is used for any purpose other than that for which it was specifically approved. This document, which will run with the subject property, must be recorded in the King County Recorder's Office.

4. If the PUD is proposed in an RS 35, RSX 35, RS 12.5, RSX 12.5, RS 8.5, RSX 8.5, RS 7.2, RSX 7.2, RS 5.0 or RSX 5.0 Zone, the City will subtract the area actually used for vehicular circulation and surface parking areas that serve more than one (1) dwelling unit, before determining the maximum number of dwelling units potentially permitted under this section.

(Ord. 4491 § 11, 2015; Ord. 3938 § 1, 2004; Ord. 3814 § 1, 2001)

### 125.35 Decision on the PUD – Criteria for Approving a PUD

The City may approve a PUD only if it finds that all of the following requirements are met:

1. The proposed PUD meets the requirements of this chapter.
2. Any adverse impacts or undesirable effects of the proposed PUD are clearly outweighed by specifically identified benefits to the residents of the City.
3. The applicant is providing one (1) or more of the following benefits to the City as part of the proposed PUD:
  - a. The applicant is providing public facilities that could not be required by the City for development of the subject property without a PUD.
  - b. The proposed PUD will preserve, enhance or rehabilitate natural features of the subject property such as significant woodlands, wildlife habitats, ~~or~~ streams, wetlands or geologically hazardous areas that the City could not require the applicant to preserve, enhance or rehabilitate through development of the subject property without a PUD.
  - c. ~~The design of the PUD incorporates active or passive solar energy systems.~~ The proposed PUD will provide a significant amount of entry-level housing (i.e. small-footprint single-family units, duplex or triplex units, and or Accessory Dwelling Units) that is demonstrably affordable in relation to typical market rate housing.
  - d. The applicant is proposing public benefits identified in the Comprehensive Plan, City-adopted plans including, but not limited to the Park, Recreation, and Open Space Plan (PROS) and Capital Improvement Program (CIP) and the Urban Forestry Strategic Management Plan.
- ~~e.~~ The design of the proposed PUD is superior in one (1) or more of the following ways to the design that would result from development of the subject property without a PUD:
  - 1) Increased provision of usable open space or recreational facilities that provide permanent public access.
  - 2) ~~Superior circulation patterns or location or screening of parking facilities.~~ Incorporation of renewable energy systems (i.e. solar, geothermal or wind) designed to create as much energy as the project uses on an annual basis also known as Net-Zero or Carbon Neutral projects.
  - 3) ~~Superior landscaping, buffering, or screening in or around the proposed PUD.~~
  - 4) ~~Superior architectural design, placement, relationship or orientation of structure.~~

~~5) — Minimum use of impervious surfacing materials.~~

4. Any PUD which is proposed as special needs housing shall be reviewed for its proximity to existing or planned services (i.e., shopping centers, medical centers, churches, parks, entertainment, senior centers, public transit, etc.).

**125.40 Decision on the PUD – Site Plan Required**

As part of the approval of the PUD, the City shall incorporate a site plan submitted by the applicant of the PUD showing at a minimum:

1. The topography at 5-foot intervals of the PUD after grading.
2. The structures in the PUD.
3. All relevant dimensions of the PUD, including the outside dimensions and required yards.
4. The pedestrian and vehicular circulation and parking areas in the PUD.
5. The areas of common open space, or areas to be dedicated to the City.
6. The landscaping of the PUD, including the general type, location, and growth characteristics of the vegetation.
7. Any other relevant physical feature in the PUD.

**125.45 Decision on the PUD – Effect of an Approved PUD**

1. General – Except as specified in subsection (2) of this section, the applicant must comply with KZC 125.50 through 125.70 before commencing any development activities on the subject property.
2. Exception – If the City approves the preliminary PUD, the applicant may, subject to all other applicable codes and ordinances, begin clearing and grading of the site, and any other site work on the subject property that is specifically approved in the resolution or ordinance approving the preliminary PUD.

(Ord. 3814 § 1, 2001)

**125.50 Final Site Plan Review – Application**

In addition to the application materials required in Chapter 152 KZC, the applicant shall submit the following:

1. A completed application on the form provided by the Planning and Building Department, along with all information listed in that form.
2. A site plan of the PUD as approved by City Council.
3. Any information or material that City Council, by ordinance approving the PUD, indicated is to be submitted as part of the final site plan review.

(Ord. 4491 § 3, 2015)

**125.55 Final Site Plan Review – General**

The City shall use the final site plan review process for the following two (2) purposes:

1. To check the final site plan submitted under KZC 125.50 to ensure that the PUD conforms in all respects to that which was approved by City Council.
2. To make any decisions or determinations that the City Council, by ordinance approving the PUD, indicated are to be made during the final site plan review. Any decisions or determinations made during this process become part of the approved PUD.

**125.60 Final Site Plan Review – Minor Modifications**

The City may require or approve a minor modification to the site plan of the PUD as approved by City Council if:

1. The change will not have the effect of reducing landscaped area, or reducing or encroaching into buffering areas or reducing the amount of open space in the PUD; and
2. The change will not have the effect of increasing the residential density of the PUD; and
3. The change will not have the effect of increasing the area devoted to nonresidential uses in the PUD; and
4. The change will not increase the height of any structure above the height allowed in the underlying zone nor change the orientation of structures which would result in reduced view corridors or increase in the perceived bulk and mass of the structure; and
5. The City determines that the change will not increase any adverse impacts or undesirable effects of the project, or that the change in no way significantly alters the project.

**125.65 Final Site Plan Review – Major Modifications**

If an applicant seeks a modification to an approved PUD that does not meet all of the requirements of KZC 125.60, he/she may do so by submitting the application material required for approval of a new PUD. The City will process and decide upon this application, using the provisions of this chapter, as if it were an application for a new PUD.

**125.70 Final Site Plan Review – Effect**

If the City approves the final site plan, the applicant may proceed with the development of the PUD subject to all other applicable codes and ordinances.

**125.75 Map Designation**

1. General – Upon completion of the PUD as approved, the City shall place the designation “PUD” on the subject property on the Zoning Map.
2. Effect – This PUD designation means that any redevelopment of the subject property must either:
  - a. Comply with the PUD as approved; or
  - b. Comply with all of the requirements for development in the zone in which the subject property is located without a PUD.

