CITY OF KIRKLAND
Planning and Building Department
123 5th Avenue, Kirkland, WA 98033
425.587.3600- www.kirklandwa.gov

MEMORANDUM

To: Kirkland Planning Commission

From: David Barnes, Senior Planner
Adam Weinstein, AICP, Deputy Planning Director
Eric Shields, AICP, Planning and Building Director

Date: June 22, 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 direction on amendments to KZC 125 that would:
    - Require that a financial analysis be prepared that compares the value of the provided public benefits to the City to the value of the PUD's benefits to the applicant (and that could also compare the value of the provided public benefits to the costs of impacts on the community); and
    - Revise the list of possible public benefits (KZC 125.35) that the City considers desirable.

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. Based on direction, staff will prepare draft code for review at a future study session.

Project Background

This project is part of the 2018-20 Planning Work Program adopted in February 2018 by City Council. The description of this work program item reads:

> *The Zoning Code indicates that a PUD should be approved if it includes "identified benefits to the residents of the City," but does not provide direction on the scope or nature of these public benefits. In the past, this ambiguity has made it difficult to ascertain whether benefits offered by project applicants are sufficient to meet the intent of the Zoning Code. This task will provide a framework for more effectively evaluating whether public benefits are sufficient for PUDs, and will include consideration of an approach that looks at the potential value of a PUD's benefits to an applicant against the value of the proposed public benefits.*

A PUD is a mechanism that allows an applicant to propose a development that is beneficial to the City, but may not strictly comply with all code requirements (although some code requirements, such as those pertaining to critical areas such as wetlands and streams may not be modified using a PUD). Residential subdivisions have been the predominant use of many recent PUD applications. As part of a PUD application, the applicant is required to provide public benefits that must exceed adverse or undesirable effects of the project. Requested modifications from code requirements have included such items as reduced building setbacks, averaging lot coverage or floor area over the entire site (versus on a lot by lot basis) and measuring height from the finished grade instead of the average grade of a lot. Using the measurement for height as an example of a modification request, staff is typically easily able to determine if there will be impacts in regard to blockage of views or limiting daylight, or other impacts to surrounding properties. In working on PUD applications over the years, staff has found that there has been a desire expressed among decision-makers to also compare the value of public benefits provided by the applicant and the value of the PUD's benefits to the applicant. Decision-makers have indicated that they could more effectively determine whether a PUD should be approved if they had this comparison data.

Another potential amendment is updating the list of public benefits that are currently codified in KZC 125.35(3), to address changes in technologies and the desire for public benefits that would not be provided routinely as part of typical development projects. For example, superior landscaping and architectural design (both listed in KZC 125.35(3)) would be normal expectations for any sizable development project. An example of a desirable public benefit that would not normally be required is the construction of a trail or a school walk route that has many benefits to citizens, such as increasing public safety and promoting mobility. Other desirable public benefits include publicly accessible open space. Resolving the two key issues identified above would provide more guidance on PUDs to applicants, staff and decision-makers.

Analysis

<u>Key Issues</u>

1. Establish a method to determine if the value of public benefits provided to the City exceeds the value of the PUD's benefits to the applicant (the costs of project-related impacts could also be identified). Options for addressing this issue are presented below. One key cautionary note is that valuing a project's impacts, public benefits, and value to an applicant is a difficult endeavor, and one that involves multiple assumptions about public utility, environmental gain, and the desire or need for housing and economic growth. Any of the methodologies presented below should be considered a potentially useful but imperfect tool in evaluating the costs and benefits of PUDs.

    a. *Require an applicant to provide an Economic Cost/Benefit Analysis*. One way this could be accomplished is to amend the code to require an applicant to fund the preparation of a report created by a qualified professional such as an economist that establishes a value for the public benefits proposed and contrasts those benefits with a value of the PUD's benefits to the applicant.

This report would be overseen by the City, and could also address the cost of project impacts.

Pros: This method could make it easier for staff to recommend approval or denial of a PUD because it would yield an independent, third party valuation of project benefits/costs. This report would also be of value to decision-makers and help them make an informed decision about the PUD.

Cons: The qualified professional preparing the report may have good technical experience in creating a report that establishes values for PUD benefits provided to the City and the PUD's value to the applicant, but there is the possibility that the report methodology would not be consistent from project to project and between different qualified professionals. This approach might end up placing more burden on staff than currently exists and reduce the utility of the independent report. In addition, an applicant would incur additional expenses of approximately $5,000-$10,000 for the professionally prepared report. The cost of the report would add to the costs of a development project, which in a good economy could be passed along to the consumer.

b. *Require an applicant to provide their own report which establishes values for the public benefits and the value of the modifications they would receive if the PUD is approved*. Under this scenario, an applicant would provide a report that provides clear and convincing evidence showing how the public benefits provided exceed the value of the PUD's benefits the applicant receives.

Pros: This report may be less costly than one prepared by an independent economist, and could be more easily prepared by applicants. Similar to the previous option, the report would also be of value to decision-makers and help them make an informed decision about the PUD.

Cons: The City would have less oversight over this type of report, and there is the potential that the report would not be as technically sound as one prepared by an independent economist. This may make it more difficult to determine if the project is meeting the code requirements.

c. *Contract with an economic development firm to create a tool that staff can use to compare the costs of the public benefits to the value of the modifications that the applicant received through the PUD process*. Staff has discussed the feasibility of this concept with a local economics firm.

Pros: This tool could be administered by staff and would ensure that different PUDs are subject to the same evaluation criteria. Having a tool and methodology could help staff explain when greater public benefits should be provided if the tools shows a greater benefit to the applicant than to the City. This could speed up the negotiation process and in turn make the PUD process more efficient for staff and decision-makers.

Cons: There is a monetary investment that the City would need to make to procure the valuation tools and methodology and no budget is currently allocated for this task. Staff would have to spend more time in the review process learning how to use the tools. In addition, an easily-usable valuation tool may not easily be able to address nuances in costs/benefits among the diversity of projects encountered in the City.

Staff Recommendation: Consider the options presented above and provide feedback to staff.

2. Revision of criteria in KZC 125.35(3) to establish a list of public benefits that the City considers beneficial for the community:

   The intent of the potential public benefits list in KZC 125.35(3) is to provide the applicant a menu of ideas that they could provide to the City to satisfy the requirement for public benefits. Chapter 125 was re-adopted in 1989 via ordinance number 3719 and this section has not been updated since that time. Some of the listed public benefits (e.g., active or passive solar energy systems, superior circulation patterns, superior architectural design) are project features that are routinely included as part of typical development projects. This list could be revised and brought up-to-date by identifying project elements that could be legitimately considered public benefits based on the Comprehensive Plan or other citywide policy documents.

   Pros: Establishing a more current public benefits list may result in the City receiving more appropriate public benefits and reduce time spent by the applicant in deciding how to structure their benefits package.

   Cons: More stringent public benefit requirements could add to the cost of development and/or discourage new PUD applications.

Staff Recommendation: Revising KZC Section 125.35(3) to help applicants understand the types of public benefits the City would like with the intent of obtaining those benefits through the PUD approval process.

Public Outreach

The public outreach for this code amendment process will include putting this project on the City's webpage with other code amendment projects so that citizens can sign up for updates and follow the progress on public meetings that will be conducted through the summer and early fall of 2018. Outreach will be conducted with notice of the project to neighborhood groups, the developer's partnership and the Master Builders Association. It is expected that the City will receive public comment from stakeholders during the project and at the required public hearing.

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. Is the comparison of the value of public benefits provided to the City versus the value of a PUD's benefits to the applicant warranted in the first place?
2. What approaches should staff pursue for both key issues?
3. Does the Planning Commission have additional guidance for staff on these topics and/or questions to resolve?

Attachments:
1. Existing 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 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 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.

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 open space or recreational facilities.

2) Superior circulation patterns or location or screening of parking facilities.

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.