



CITY OF KIRKLAND

Planning and Building Department
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MEMORANDUM

To: Planning Commission

From: Allison Zike, AICP, Deputy Planning & Building Director
Adam Weinstein, AICP, Planning & Building Director

Date: March 13, 2023

Subject: 2023 Miscellaneous Code Amendments Public Hearing,
File No. CAM23-00134

Staff Recommendation

Conduct a public hearing to receive testimony on the proposed draft miscellaneous Kirkland Zoning Code (KZC) amendments (see Attachment 1). At conclusion of the public hearing, deliberate on the proposed amendments and make a recommendation to City Council (Council). Council is anticipated to consider and act on the recommendation of the Planning Commission (PC) on April 18, 2023.

Background

Staff keeps an ongoing list of miscellaneous code amendments that are necessary to reflect current practice, clarify sections of the Kirkland Zoning Code (KZC) and Kirkland Municipal Code (KMC), maintain consistency with relevant state and/or federal regulations, and promote good planning principles. The KZC and KMC are updated periodically to correct the issues that have been identified and are included on the list.

The proposed 2023 miscellaneous code amendment package consists of a limited number of minor KZC amendments that include administrative and non-policy items. This year's package of amendments is smaller in scope than recent years; the proposed package is proposed to address several "clean-up" items that will be helpful to correct in the near-term, but are not intended to take a substantial effort for staff or Planning Commission to work through as there are several other priority items for review in 2023. Staff has followed all required public noticing steps for interested parties to learn more and participate.

Proposed Amendments

To assist the PC in deliberating and making a recommendation on the amendments included in detail as Attachment 1, staff provides the following list of the proposed amendments, with brief descriptions of each.

1. KZC 15.30, Special Regulations (PLA3C, Density/Dimensions)

Description: Clean-up a special regulation to clarify that Floor Area Ratio (FAR) regulations apply to all lots in the PLA 3C zone, regardless of lot size. This reference was inadvertently omitted from the KZC code amendments associated with the former Houghton Community Council sunseting amendments, and is aligned with the policy direction established by City Council and recommended by the PC during that process (to remove all discrepancies between land use regulations in the former Houghton Community Council jurisdiction and regulations in the rest of the City where conditions are similar).

Effect: Completes implementation of the prior code amendment package; corrects code to align with policy intent of prior direction.

2. KZC 35.20.200 (Permitted Uses Table, Retail Establishments Providing Storage Services, HENC 1 and 3 Zones)

Description: Amend the permitted uses code section in the HENC 1 and 3 zones to specify that storage services are not allowed as a primary use. The amendment was inadvertently omitted from a previous code amendment package that was intended to disallow storage services as a primary use citywide. As in other areas where storage services are allowed, such uses would be permitted as an ancillary use.

Effect: Completes implementation of the prior code amendment package; corrects code to align with policy intent of prior direction.

3. KZC 55.27.010, Special Regulations (Hospital/Medical Uses in TL 3 Zones)

Description: Amend specifications related to the Evergreen Hospital Master Use Plan required in the TL 3 zones. The amendment would retain the requirement for a Master Use Plan and the components that must be included in a Master Use Plan, but removes specific thresholds from the Zoning Code (e.g., square footage, vehicle trips) to allow increases to be proposed and reviewed for approval by City Council through a Process IIB decision, which is the existing review process requirement. Such a review would include consideration of traffic impacts and needed mitigation. Additionally, there is an amendment to clarify the allowed height of rooftop appurtenances to match the adopted intent of the code.

Effect: Will allow expansions to be proposed and reviewed through a Process IIB decision (Hearing Examiner hearing, City Council decision). Current codified thresholds would not accommodate meaningful expansion of the institution.

4. KZC 70.15 (Holmes Point Overlay Standards)

Description: Add reference(s) to the Holmes Point Drive Street Design Standards, which have been adopted by Council.

Effect: No regulatory change. Improves clarity of applicable requirements.

5. KZC 95.46.1.a (Modifications to Land Use Buffer Requirements)

Description: Remove a requirement for adjoining property owners to approve a land use buffer modification, which is an existing requirement in addition to criteria reviewed by the Planning Official. Per the City Attorney's office, this requirement (unique within the KZC) is not legally defensible as zoning authority cannot be abdicated to a private citizen. At the March 9 briefing, some Commissioners provided feedback that a proposal to modify a land use buffer under the subject code section should require notice to the adjoining property owner(s). Due to an ongoing appeal of the KZC 95 amendments adopted in 2022 to the Growth Management Hearings Board, staff has been advised that no additional requirements should be added at this time. Planning Commission could request staff bring any desired new requirements forward with a miscellaneous code amendments package at a future date after the tree code appeal has been resolved.

Effect: No regulatory change. Staff has already been directed to cease applying this requirement.

6. KZC 115.42 (Floor Area Ratio Calculation)

Description: Update the FAR calculation section to consistently include language that clarifies when one structure is considered "behind" another for the purpose of identifying potential exemptions from FAR allowances for Accessory Dwelling Units or garages. This amendment would codify an interpretation of code already being implemented.

Note, an amendment discussed at the March 9 PC briefing to clarify that carports are included in the types of building components (along with breezeways or walkways) that render two structures "attached" for purposes of FAR calculations/exemptions has been determined to be unnecessary after further staff analysis.

Effect: No regulatory change. Codifies staff interpretation of code.

7. KZC 115.25.2 (Work Hours Exceptions)

Description: Add a Work Hours exception allowance (allowing work outside of the normal allowed days/hours for development activity) for instances in which the Public Works Department deems it is necessary to perform work in off-hours in order to avoid significant impacts to traffic, utilities, or other

public services. In practice, such work hours exceptions have been granted by the Planning Official out of necessity.

Effect: No regulatory change. Clarifies instances in which a work hours exception may be granted to align with current procedures.

8. KZC 162.20.1 (Abatement of Nonconformance That Was Illegal When Initiated)

Description: Minor amendment to clean-up an incorrect reference to require compliance with the full KZC ("code") instead of just KZC 162 ("chapter").

Effect: No regulatory change. Corrects an error in the code.

9. KZC 180.17B (Plates - Calculating Average Building Elevation)

Description: Amend text in the Plate 17B exhibit to consistently reflect the applicable code language in KZC 115.59 which requires covered porches to be included in the area of a structure used to calculate Average Building Elevation.

Effect: No regulatory change. Corrects an error in the code.

Code Amendment Process and Criteria

Pursuant to KZC 160.60 and KZC 135.25, the City may amend the text of the Zoning Code only if it finds that:

1. The proposed amendment is consistent with the applicable provisions of the Comprehensive Plan; and
2. The proposed amendment bears a substantial relation to public health, safety, or welfare; and
3. The proposed amendment is in the best interest of the residents of Kirkland; and
4. When applicable, the proposed amendment is consistent with the Shoreline Management Act and the City's adopted shoreline master program.

The proposed Zoning Code amendments are consistent with the Comprehensive Plan, bear a substantial relation to public health, safety, or welfare, and are in the best interest of the residents of Kirkland because they are intended to clarify the existing regulations and make them more effective.

State Environmental Policy Act (SEPA)

To fulfill environmental review requirements, the proposed code amendments require the City to issue a SEPA addendum to the City of Kirkland 2015 Comprehensive Plan Update Draft and Final Environmental Impact Statement. The SEPA addendum (File SEP23-00167) is under review as of the packet publication date. Staff anticipates issuance of the SEPA addendum prior to the public hearing date.

Next Steps

At conclusion of the public hearing, PC will deliberate on the proposed amendments and make a recommendation to Council. Council is scheduled to consider the 2023 Miscellaneous Code Amendments on April 18, 2023.

Attachment

1. Proposed KZC Amendments

cc: File Number CAM23-00134

Proposed KZC Amendments

1. KZC 15.30, Special Regulation DD-27 (PLA3C, Density/Dimensions)

DD-27. ~~For lots containing less than 7,200 square feet, the~~ Floor Area Ratio (F.A.R.) requirements of KZC 115.42 shall apply. The maximum Floor Area Ratio is 50 percent of the lot size; provided, that **on lots containing less than 7,200 square feet,** F.A.R. may be increased to 60 percent if:

- a. With the exception of accessory features, all roof forms consist of ridgelines peaked near the center of the structure, with a minimum pitch of four feet vertical to 12 feet horizontal; and
- b. A setback of at least 7.5 feet is provided along each side yard.

See KZC 115.42, Floor Area Ratio (F.A.R.) calculation for Detached Dwelling Units in Low Density Residential Zones, for additional information.

2. KZC 35.20.200 (Permitted Uses Table, Retail Establishments Providing Storage Services, HENC 1 and 3 Zones)

KZC 35.20 (*Note- only amended cells in KZC 35.20 table shown)

		HENC 1, HENC 3
35.20.200	Retail Establishment providing storage services	DR 25, 26, <u>31</u>

PU-31. This use not permitted unless accessory to another permitted use.

3. KZC 55.27.010, Special Regulations (Hospital/Medical Uses in TL 3 Zones)

KZC 55.27.010, Special Regulation 6

6. In order to retain openness and public views across a portion of the site, development within the southern 100 feet of TL 3A, located east of the driveway leading to the hospital parking garage and west and north of the curb along 124th Avenue NE, shall be limited to 75 feet in height (see Plate 33).

Elsewhere, in TL 3A, building heights may be increased up to 150 feet above average building elevation, with the height increases to be based on the following considerations:

- a. The extent that the increased building heights would have impacts on the surrounding residential areas, and the proposed methods for mitigating such impacts, as determined by an analysis of shadowing, transition and lighting impacts;

- b. The extent that taller buildings would be stepped back from the perimeters of TL 3 boundaries, away from adjacent residential zones;
- c. The extent that impacts to territorial views from public streets would be avoided or minimized through mechanisms such as variations in building heights, horizontal modulation and other techniques aimed at reducing the appearance of building mass; and
- d. The extent that rooftop appurtenances of buildings would have significant impacts on residential areas and public views. Rooftop appurtenances of medical buildings shall not exceed 15 feet in height and 50 percent of the total rooftop area of individual buildings, ~~and total building height shall not exceed 150 feet.~~

KZC 55.27.010, Special Regulation 9

9. This use requires an approved conceptual Master Plan. Approval of the Master Plan shall be through Process IIZ, Chapter 150 KZC. The Master Plan approved for the site will become the guiding document for the location, configuration and nature of improvements to be constructed within the TL3 zone. The Master Plan must be approved by an ordinance, and contain a conceptual site plan to be kept on file with the City. The Master Plan must contain:

- a. A conceptual site plan which shows the approximate location and size of all known and potential future development.

~~Developed building square footage may not exceed 1.2 million square feet, nor may vehicle trips exceed either 27,500 average daily trips or 2,150 p.m. peak trips (whichever is achieved first).~~ An estimate of trip generation based on projected uses and trip rate, approved by the City, must be provided with the Master Plan. The trip rate shall reflect only those trips generated by the hospital. Trips associated with the operation of a transit center shall not be included in the total trips under this special regulation. Specific trip generation and traffic analysis must be provided with subsequent building permits.

- b. A proposed phasing plan for development of the campus, describing which of the proposed improvements will be included with each phase.
- c. Proposed sub-areas for the campus. The following elements are to be addressed by sub-area:
 - 1) Anticipated uses.
 - 2) Maximum building height (including penthouses/rooftop-mounted equipment).
 - 3) Minimum building setbacks from property lines and/or edges of easements.
 - 4) Guidelines for stepping back taller building elements from the perimeter of the campus.
 - 5) Areas of buffers and landscaping.
 - 6) Estimated building square footage.
 - 7) Maximum lot coverage.

- 8) Open/green spaces – location and proposed activities to occur in these spaces. The use of green roofs is encouraged, and will be considered in the evaluation of open and green spaces on the campus.
 - 9) Vehicular and pedestrian access points and through ways. Connections to the Totem Lake Mall and the transit center should be included in the plan. The plan should also explore options for providing pedestrian connections across the site.
 - 10) Parking – number of stalls and location.
 - 11) Lighting – specific standards to limit the impact of internal and external light sources on off-site areas.
- d. Discussion of 124th Avenue NE, south of NE 130th Lane, including future projects contemplated by Evergreen Hospital Medical Center within this roadway. A memorandum of understanding for this section of 124th Avenue NE between Evergreen Hospital Medical Center and the City of Kirkland should be developed during the review of the Master Plan.
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4. KZC 70.15 (Holmes Point Overlay Standards)

KZC 70.15 - Standards

- 5. Subdivisions and short subdivisions shall be subject to the following requirements:
 - a. Applications for subdivisions and short subdivisions shall provide a comprehensive review of Tree Retention Plans as outlined in KZC 95.30(2) through (5), including the location of the required PNA. Phased review of Tree Retention Plans as described in KZC 95.30(6)(a) is not permitted within the Holmes Point Overlay zone;
 - b. New public or private road improvements shall be the minimum necessary to serve the development on the site in accordance with **the adopted Holmes Point Street Design Standards, or as otherwise provided for in** Chapter 110 KZC. The City shall consider granting modifications to the road standards to further minimize site disturbance, consistent with pedestrian and traffic safety, and the other purposes of the road standards; and
 - c. Impervious surfaces and other alterations within each lot shall be limited as provided in subsections (2) and (3) of this section. In townhouse or multifamily developments, total impervious surfaces and other alterations shall be limited to 2,600 square feet per lot or dwelling unit in the R-6 and R-8 zones, and 3,300 square feet per lot or dwelling unit in the R-4 zone.

KZC 110 (*Note- amendment will add new subsection 110.55)

110.55 Public Improvements in the Holmes Point Overlay

New public right-of-way improvements shall be required in accordance with the adopted Holmes Point Street Design Standards.

5. KZC 95.46.1.a (Modifications to Land Use Buffer Requirements)

KZC 95.46.1- Modifications to Landscaping Standards

1. Modification to Land Use Buffer Requirements. The applicant may request a modification of the requirements of the buffering standards in KZC 95.42. The Planning Official may approve a modification if:
 - ~~a. The owner of the adjoining property agrees to this in writing; and~~
 - a**. The existing topography or other characteristics of the subject property or the adjoining property, or the distance of development from the neighboring property decreases or eliminates the need for buffering; or
 - b**. The modification will be more beneficial to the adjoining property than the required buffer by causing less impairment of view or sunlight; or
 - c**. The Planning Official determines that it is reasonable to anticipate that the adjoining property will be redeveloped in the foreseeable future to a use that would require no, or a less intensive, buffer; or
 - d**. The location of pre-existing improvements on the adjoining site eliminates the need or benefit of the required landscape buffer.
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6. KZC 115.42 (Floor Area Ratio Calculation)

KZC 115.42 – Floor Area Ratio (FAR) Calculation

1. Gross floor area for purposes of calculating F.A.R. and maximum floor area for detached dwelling units in low density residential zones and attached dwelling units in PLA 3C shall include the entire area within the exterior walls for each level of the structure. It shall also include the area of all carports, measured as the area of the carport roof. It shall not include the following:
 - a. Attic area with less than five (5) feet of ceiling height, as measured between the finished floor and the supporting members for the roof.
 - b. Floor area with a ceiling height less than six (6) feet above finished grade. The ceiling height will be measured to the top of the structural members for the floor above. The finished grade will be measured along the outside perimeter of the building (see Plate 23). For window wells, finished grade will be measured at the outside perimeter of a window well only when it is designed and constructed to the minimum dimensions required by the current building code adopted by the City of Kirkland.
 - c. On lots less than 8,500 square feet, the first 500 square feet of an accessory dwelling unit or garage contained in an accessory structure, when such accessory structure is located more than 20 feet from and behind the main structure, or 10 feet from and behind the main structure if the accessory structure contains an accessory dwelling unit (see subsection (3) of this section for additional information on the required distance between structures); provided, that the entire area of an accessory structure, for which a building permit was issued prior to March 6, 2007, shall not be included in the gross floor area used to calculate F.A.R. For purposes of this section, “behind” means located behind an imaginary plane drawn at the back of the main

structure at the farthest point from, and parallel to, the street or access easement **adjacent to the front facade** ~~serving the residence.~~

- d. On lots greater than or equal to 8,500 square feet, the first 800 square feet of an accessory dwelling unit or garage contained in an accessory structure, when such accessory structure is located more than 20 feet from and behind the main structure, or 10 feet from and behind the main structure if the accessory structure contains an accessory dwelling unit (see subsection (3) of this section for additional information on the required distance between structures); provided, that the entire area of an accessory structure, for which a building permit was issued prior to March 6, 2007, shall not be included in the gross floor area used to calculate F.A.R. **For purposes of this section, "behind" means located behind an imaginary plane drawn at the back of the main structure at the farthest point from, and parallel to, the street or access easement adjacent to the front facade.**
 - e. Uncovered decks.
 - f. Covered decks, porches, and walkways that are open on at least three (3) sides or have a minimum 50 percent of the perimeter of the deck, porch, or walkway open. Deck, porch, or walkway perimeters with the following characteristics are considered open:
 - 1) Have no walls of any height; and
 - 2) Have no guard rails taller than the minimum height required by the Building Code.
 - g. One (1) exemption of 100 square feet if the dwelling unit has an internal staircase and/or an area with a ceiling height greater than 16 feet.
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7. KZC 115.25.2 (Work Hours Exceptions)

KZC 115.25 – Development Activity- Limitations On

- 1. General – It is a violation of this code to engage in any development activity before 7:00 a.m. or after 8:00 p.m., Monday through Friday, or before 9:00 a.m. or after 6:00 p.m. Saturday. No development activity may occur on Sundays or on the following holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day.
- 2. Exceptions
 - a. The Planning Official may grant written permission to engage in a development activity outside of the hours established by subsection (1) of this section if either:
 - 1) The activity or operation will not impact any residential use; or
 - 2) The permission will facilitate the construction of publicly funded improvements that will serve the general population of the City of Kirkland and such permission is necessary to avoid undue delay of project completion and/or long-term inconvenience or disruption to the general public, **or**
 - 3) The Public Works Official determines it is necessary in order to avoid significant, unavoidable impacts to traffic, utilities, or other public services.**
 - b. The Planning Official may limit the hours of operation permitted under subsection (1) of this section, if:
 - 1) The reduced hours will best serve the public's health, safety and welfare; or

- 2) There have been substantial verifiable complaints received by the Planning and Building Department that the development activity is interfering with the health and repose of residents of a residential use which is permitted in the zone in which the development activity is located.

If the Planning Official determines that the hours of operation on a site should be limited pursuant to subsections (2)(b)(1) or (2) of this section, he/she shall provide written notice to the owner of the property affected by this decision one (1) week prior to the imposition of the restriction.

The Planning Official shall have the right to repeal this restriction at any time it can be shown that the development activity can and will be conducted so as not to be contrary to subsections (2)(b)(1) and (2) of this section.

8. KZC 162.20.1 (Abatement of Nonconformance That Was Illegal When Initiated)

KZC 162.20 - Abatement of Nonconformance That Was Illegal When Initiated

1. General – Except as specified in subsection (2) of this section, any nonconformance that was illegal when initiated must immediately be brought into conformance with this chapter **code**. The City may, using the provisions of Chapter 1.12 KMC, immediately abate any nonconformance that was illegal when initiated.
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9. KZC 180.17B (Plates - Calculating Average Building Elevation)

KZC 180.17B *Note - Below text in Plate 17B amended to read:

*Wall Segment includes the perimeter of a deck or porch, unless the deck or porch has no walls at or below the deck or porch level and no roof above the deck or porch.

