

ORDINANCE NO. 2217

AN ORDINANCE OF THE CITY OF KIRKLAND AMENDING THE KIRKLAND COMPREHENSIVE ZONING ORDINANCE AS HERETOFORE ADOPTED BY ORDINANCE NO. 2183.

WHEREAS, following public hearings held on February 6, 1973 and February 8, 1973, as required by RCW Chapter 35A.63 and Chapter 23.62 of Ordinance 2183, the Houghton Community Council and the Kirkland Planning Commission have recommended certain amendments to the Kirkland Comprehensive Zoning Ordinance adopted by Ordinance 2183.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Kirkland as follows:

Section 1. The following sections or subsections of Ordinance No. 2183 be and they hereby are amended as follows:

<u>Section No.</u>	<u>Amended Text</u>
23.04 - Definitions:	[Recreational-area, -commercial, --An-area operated-for-profit-and-devoted-to-facilities and-equipment-for-recreational-purposes, (Ord.-2183,-May-15,-1972)]
23.04 (New Definition)	<u>Recreational area, commercial. An area operated for profit and devoted to facilities and equipment for recreational purposes including swimming pools, tennis courts, playgrounds and other similar uses whether the use of such area is limited to private membership or whether open to the public upon the payment of a fee.</u>
23.04 (New Definition)	<u>Recreational area or community clubhouse, non-commercial. An area devoted to facilities and equipment for recreational purposes, swimming pools, tennis courts, playgrounds, community club houses and other similar uses maintained and operated by a non-profit club or organization whose membership is limited to the residents within the area.</u>
23.06.060	<u>Annexed Area: Whenever, prior to annexation, the proposed extended Comprehensive Plan and zoning regulations and/or map have been prepared and adopted by the City pursuant to RCW 35A.14.330, such plan and zone regulations and/or map shall, upon the effective date of annexation of all or any part of the area therein included, be deemed to amend this ordinance including the zoning map, to the extent set forth in the annexation ordinance.</u>

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23.06.060 (cont.)

Any other property or area which may, because of annexation, become a part of the city shall be deemed to be zoned ~~[RS-35,--and-the]~~ with a classification or classifications the same as, or as nearly comparable with the King County classification or classifications therein zoned immediately prior to annexation. The annexation ordinance shall be the authority for amending or extending the zoning map consistent herewith, whether or not such annexation ordinance so specifies.

23.08.020(2)(a)

Accessory building not exceeding 20% of the area of the rear yard, with the exception of private garages accommodating not more than two cars and a trailer. ~~[If-a-garage-is-part of-a-principal-structure,-accessory-garage shall-not-exceed-20%-of-the-rear-yard.]~~ In no case shall an accessory building exceed 1000 square feet in gross floor area.

23.08.030 - Conditional Uses

23.08.030(4)(d)

If more than five (5) children are cared for at any one time, all buildings and structures on the lot shall maintain a distance of not less than twenty (20) feet from any ~~[property]~~ property line that is a common property line with "R" classified property. Screening shall be as provided in a similar manner as parking areas in Section 23.40.040.

23.08.030(10)

~~[(10)--Recreational-facilities,-community-and non-commercial,-including-club-house-facilities, provided.]~~

~~(a)-Any-building-or-structure-on-the-site, excluding-retaining-walls,-bulkheads-and piers,-shall-maintain-a-distance-not-less than-twenty-five-feet-from-any-abutting "R"-classified-property;~~

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23.08.030(10)
(continued)

~~(b)--Any lights provided to illuminate any building or recreational area shall be so arranged as to direct the light away from adjacent properties.]~~

Recreational area or community clubhouse,
non-commercial.

23.20.060

Area and Dimensional Regulations: The following dimensional standards shall be required for all uses in the CBD zone:

Lot Area:	No Minimum
Lot Width:	No Minimum
Front Yard:	<u>[15-ft.] No Minimum</u>
Side Yards:	None Required
Rear Yards:	None Required

23.26.020 -
Initiation of
HAC Zone

23.26.020(1)

Such reclassification shall not be subject to ~~[a-Resolution-of-Intent-to-Reclassify,]~~ the provisions of Sections 23.62.030, 23.62.040, 23.62.050, 23.62.080, or 23.62.110 of Chapter 23.62 of this ordinance;

23.26.100
(new section)

Fees: There shall be no fee involved for the application of an HAC designation.

23.28.010

Definition and Purpose: A Planned Unit Development is not a land use zone, but rather a special approach in land development applied to achieve the basic objections of good zoning practices. The use of this approach is intended to permit a degree of flexibility and diversification in the use of land in planned group building developments which will provide a development of the land as good or better than that resulting from the traditional lot-by-lot development, while insuring compliance with the objectives of the Comprehensive Plan; permitting more advantageous use of sites through group building or large-scale site planning in the arrangement of specific structures and open spaces within such a development. The use of PUD superimposes special regulations upon the

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23.28.010 (cont.)

underlying zones without changing the fundamental intent of the underlying zone regulations, though providing for modifying the specific requirements and the literal application of those requirements. ~~[The use of this approach may permit the inclusion of land uses other than those permitted by the underlying zone subject to the requirements. This Ordinance is thus not a zoning category but a special procedure providing a privilege for departure from otherwise applicable zoning. (Note--Waterfront Districts shall not be subject to the provisions of Chapter 23.28 of this Ordinance).]~~

23.28.160 -
Procedures for
Approval:

23.28.160(6)

In the event that the Commission does not approve the final PUD proposal, ~~[this decision may be appealed to the Council.]~~ that decision shall be final unless the owner files notice of appeal to the City Council with the City Clerk within 30 days of the Commission's action. A public hearing shall be called prior to final determination by the Council.

23.30.030 - Uses
Requiring Unclassi-
fied Use Permit:

23.30.030(9)
(New Section)

(9) Housing designed for the elderly, with the exception of projects which can in all respects comply with the provisions of Chapter 23.10.

23.30.030(10)
(New Section)

(10) Storage of operable or inoperable automobiles, exclusive of off-street parking facilities incidental to a primary use.

23.30.030(11)
(New Section)

(11) Recreational area, commercial.

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23.40.070(2)

Side Lines of Property: The portions of the perimeter not landscaped, as provided in Paragraph (1) above, shall be sight screened from adjoining residence zones by a solid planting ~~[of]~~ of evergreen or deciduous trees and evergreen shrubs. The initial minimum height of trees forming a part of such screen shall be 4 to 6 feet for evergreen trees and 8 to 10 feet for deciduous trees. Such trees shall be spaced on the perimeter of the site with a maximum distance of 15 feet, center to center. The shrubs used in perimeter screen shall be so located that there will be a minimum of two shrubs in depth in said screen. The planting bed in which the screening shrubs and trees are located shall be no less than 12 feet in depth. The minimum initial height of shrubs which are a part of the side line screens shall be 18 inches.

23.52.050

Non-Conforming Uses of Land and/or Structures:
Where, at the effective date of adoption or amendment of this Ordinance, lawful use of land exists that is made non-conforming under the terms of this Ordinance as enacted or amended, such use may be continued so long as it remains otherwise lawful, subject to the following provisions:

(1) No such non-conforming use of land and/or structure shall be enlarged or increased nor extended to occupy a greater area than was occupied at the effective date of adoption or amendment of this Ordinance.

(2) No non-conforming use of land and/or structure shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this Ordinance.

(3) If any such non-conforming use of land and/or structure ceases for any reason for a period of more than 30 days, any subsequent use shall conform to the regulations specified by this Ordinance for the district in which such land and/or structure is located.

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23.52.050
(cont.)

(4) No existing structure devoted to a use not permitted by this Ordinance in the zone in which it is located shall be structurally altered except in changing the use of the structure to a use permitted in the zone in which it is located.

~~(5) -- Any non-conforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this Ordinance, but no such use shall be extended to occupy any land outside such buildings.]~~

[46] (5) If no structural alterations are made, any non-conforming use of a structure, or structure and premises, may be changed to another non-conforming use provided that the Board of Adjustment by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the zone than the existing non-conforming use. In permitting such change, the Board of Adjustment may require appropriate conditions and safeguards in accord with the provisions of this Ordinance.

[47] (6) Any structure, or structure and land in combination, in or on which a non-conforming use is superseded by a permitted use, shall thereafter conform to the regulations for the zone in which such structure is located, and the non-conforming use may not thereafter be resumed.

23.58.070

Procedure: The Board of Adjustment shall act in strict accordance with the procedure specified by law and by this Ordinance. The Board shall keep a verbatim and written record of its proceedings in its files. All appeals and applications made to the Board shall be in writing on forms prescribed by the Board. Every appeal or application shall refer to the specific provision of the ordinance involved, and shall in a precise manner set forth the interpretation that is claimed in an appeal, or the details of the variance

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23.58.070 (cont.)

that is applied for, and the grounds on which it is claimed that the variance should be granted, as the case may be. Every decision of the Board of Adjustment shall be ~~[by-resolution]~~ made from specific findings receiving the affirmative vote of a majority of the quorum or of the members present, if such number exceeds a quorum. Each resolution shall contain a full record of the findings of the Board in a particular case.

23.58.080

Findings Required: The findings of the Board ~~[as-included-in-the-resolution]~~ shall include a report from the Planning Department in which comparison is made of the petitioner's request for a variance and of the present land utilization pattern within the neighborhood area of the petitioner's land. Such report may contain other pertinent information regarding any existing or pre-existing conditions related to topography, geology, traffic, utilities, existing and proposed land utilization and such conditions set forth by the official plans, development plans and the comprehensive plans as may be included in the Board's findings. Where the petition is an appeal from an interpretation of a provision of this Ordinance, the report from the Planning Department shall include a comparison of the effect of the official's interpretation upon the future enforcement and application of this Ordinance. The Board's findings shall include the relevant facts which support and oppose the contention of the petitioner which the Board shall deem necessary to a fair review of its decision..

23.58.090

Planning Commission Advisory Opinion: No ~~[more]~~ less than eight (8) days before the hearing required by law on an application or appeal to the Board of Adjustment, a copy of the petition shall be transmitted to the Planning Commission, together with a notice of the date of the hearing, and a request that the Planning Commission submit to the Board its opinion on the application or appeal. The Planning Commission may submit a resume of such advisory opinion prior to the Board's final decision. Upon failure to submit such a report, the Planning Commission shall be deemed to have approved the application or appeal.

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23.60.010

Intent and Practical Application: In specific cases such variance from the terms of this Ordinance as will not be contrary to the public interest may be granted by the Board of Adjustment where, owing to special conditions, a literal enforcement of this Ordinance would result in unnecessary hardship. A variance from the terms of this Ordinance shall not be granted by the Board of Adjustment unless and until a written application for a variance is submitted showing the following:

[1)--That-special-conditions-and-circumstances exist-which-are-peculiar-to-the-land,-structure, or-building-involved-and-which-are-not-applicable-to-other-lands,-structures,-or-buildings in-the-same-zone-and;

[2)--That-there-are-unique-physical-conditions, including-irregular-narrowness-or-shalowness-of-lot-size-or-shape,-or-exceptional-topographical-or-other-physical-conditions-peculiar-to-and-inherent-in-the-particular-lot,-and-that as-a-result-of-such-unique-physical-conditions, practical-difficulties-or-unnecessary-hardship arise-in-complying-strictly-with-the-setback or-bulk-provisions-of-the-ordinance,-and-that the-alleged-practical-difficulties-or-unnecessary hardships-are-not-due-to-circumstances-created generally-by-the-strict-application-of-such-provisions-in-the-district-in-which-the-lot-is located-and;

[3)--That-because-of-such-physical-conditions, there-is-no-reasonable-possibility-that-the development-of-the-lot-in-strict-conformity-with the-provisions-of-this-Ordinance-will-allow-a reasonable-use-of-such-lot-and-that-the-grant of-a-variance-is-therefore-necessary-to-enable the-owner-to-realize-a-reasonable-use-of-such-lot.

[4)--That-the-special-conditions-and-circumstances-do-not-result-from-the-actions-of-the applicant,-and;

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23.60.010 (cont.)

~~[(45)--That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance and,~~

~~[(46)--That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, structures, or buildings in the vicinity and zone in which subject property is situated.]~~

(1) That the variance shall not constitute a grant of special privilege inconsistent with the limitation upon uses of other properties in the vicinity and zone in which the property on behalf of which the application was filed is located; and

(2) That such variance is necessary, because of special circumstances relating to the size, shape, topography, location or surroundings of the subject property, to provide it with use rights and privileges permitted to other properties in the vicinity and in the zone in which the subject property is located; and

(3) That the granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone in which the subject property is situated.

23.64.040

Fee Schedule: A fee schedule is hereby established for miscellaneous services as follows:

text amendments	\$100
zone change petition	100
unclassified use permit	[50] 100
(pursuant to Sec. 23.30.030)	
variance	25
appeal from administrative interpretation	25
conditional use permit	[50] 100
planned unit development	100
[landscape plan checking	50]

~~[(Fees shall be paid at the time of filing application)]~~

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Section 2. To the extent that the subject matter and provisions of this ordinance are within the disapproval jurisdiction of the Houghton Community Council as created by Ordinance No. 2001, this ordinance shall become effective within the Houghton Community, either upon approval of the Houghton Community Council, or failure of said Community Council to disapprove within 60 days from the date of passage of this ordinance.

Section 3. Except as provided in Section 2, this ordinance shall be in full force and effective five days from and after its passage by the council and publication as required by law.

PASSED by the Kirkland City Council in regular meeting on the 19th day of March, 1973.

SIGNED in authentication thereof on the 19th day of March, 1973.

William T. Woods
Mayor

Attest:

T. J. Adams
Director of Administration and Finance
(ex officio City Clerk)

Approved as to form:

Raymond
City Attorney

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