

ORDINANCE NO. 2877

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO ZONING, PLANNING AND LAND USE AND AMENDING ORDINANCE 2740 AS AMENDED, THE KIRKLAND ZONING ORDINANCE.

Whereas, the City Council has received from the Kirkland Planning Commission a recommendation to amend certain sections of the text of the Kirkland zoning ordinance, Ordinance 2740 as amended, all as set forth in that certain report and recommendation of the Planning Commission dated May 29, 1985 and bearing Kirkland Department of Planning and Community Development File No. IV-84-107; and

Whereas, prior to making said recommendation the Planning Commission, following notice thereof as required by RCW 35A.63.070, on May 16, 1985, held a public hearing on the amendment proposals and considered the comments received at said hearing; and

Whereas, pursuant to the State Environmental Policies Act there has accompanied the legislative proposal and recommendation through the entire consideration process, a final declaration of non-significance (including supporting environmental documents) issued by the responsible official pursuant to WAC 197-11-340 and WAC 197-11-390; and

Whereas, in regular public meeting the City Council considered the report and recommendation of the Planning Commission, now, therefore,

Be it ordained by the City Council of the City of Kirkland as follows:

Section 1. Zoning text amended: The following specified subsections of Section 5.10 of Ordinance 2740 as amended, the Kirkland zoning ordinance, be and they hereby are amended to read as follows:

5.10.22. Adult Entertainment Activity or Use - All of the following:

1. Adult theatre means a building or enclosure or any portion thereof used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" (as defined in Sections 5.10.882⁵ and 5.10.882⁴) for observation by patrons therein and which excludes minors by virtue of age.
2. Adult bookstore means an establishment which in whole or in portion thereof has a substantial or significant portion of its stock and trade books, magazines or other periodicals, which are distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" (as defined in Sections 5.10.882⁵ and 5.10.882⁴) and which excludes minors by virtue of age.
3. Adult cabaret means a cabaret, nightclub or other establishment which features go-go dancers, exotic dancers, strippers, male or female impersonators, similar entertainers or attendants, who are so clothed or dressed as to emphasize "specified anatomical areas" (defined in Sections 5.10.882⁴) and/or whose performance or other activities include or mimic "specified sexual activities" (defined in Section 5.10.882⁵) and which establishment excludes minors by virtue of age.

5.10.491. Low Income Household - A household whose total gross income is less than or equal to 80% of the median household income in the Seattle Metropolitan Statistical Area. For low income senior citizen households, total assets shall not exceed the maximum established by the City Council.

5.10.492. Low Income Unit - A unit which contains a low income household. In addition, the rent for this type of unit shall not exceed 30% of the gross income of the eligible low income household.

5.10.832. Senior Citizen Household - A household which consists of people, all of whom are age 62 or older.

5.10.883. Special Needs Housing - Housing which is specifically designed and maintained to meet the needs of senior citizen households, mentally, physically or emotionally impaired persons or low income households.

5.10.8834. Specified anatomical areas - Both of the following:

1. Less than completely and opaquely covered:
 - a. Human genitals, pubic region;
 - b. buttock;
 - c. breast below a point immediately above the top of the areola;
2. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

5.10.8845. Specified sexual activities - All of the following

1. Human genitals in a state of sexual stimulation or arousal;
2. Acts of human masturbation, sexual intercourse or sodomy;
3. Fondling or other erotic touching of human genitals, pubic region, buttock or breast.

5.10.8856. Storm Drainage - The movement of water, due to precipitation, either surficially or sub-surficially.

Section 2. Chapter 122 of Ordinance 2740 as amended, is hereby repealed.

Section 3. Zoning text amended: Chapter 125 of Ordinance 2740 as amended, the Kirkland zoning ordinance, be and they hereby are amended to read as follows:

CHAPTER 125 - PLANNED RESIDENTIAL UNIT DEVELOPMENT

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- 125.05 User Guide

This Chapter establishes a mechanism for a person to propose a primarily-residential 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 Residential Unit Development or PRUD, is intended to allow primarily-residential 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 Residential Unit Development or if you wish to participate in the City's decision on a proposed PRUD, you should read this Chapter.

125.10 Process for Deciding on a PRUD Application

An application for a PRUD has two stages. The first stage is described in Section 15 through 45 55 of this Chapter and results in the City's decision whether or not to grant the PRUD. The decision on this stage will be made using Process III described in Chapter 155 of this Code. During the second stage described in Section 55 65 through Section 75 85 of this Chapter, the City will review the final site plan of the project to ensure that it is consistent with the PRUD as approved. The decision on this stage will be made using Process I, described in Chapter 145 of this Code, unless the ~~Planning Director determines in writing that it would be within the public interest to have the final PRUD reviewed by City Council.~~ City Council determines, with the approval of the Preliminary P.U.D., 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.

In which case, If the City Council determines that one of the above conditions exists, then, the final PRUD will be reviewed and decided upon using Process III, described in Chapter 155 of this Code. The applicant may request to have the Preliminary and Final P.U.D. applications reviewed concurrently. However, the request does not ensure that one or both of the applications will be approved.

125.15 Decision on the PRUD - Application

In addition to the application materials required in Chapter 155 of this Code, the applicant shall submit a completed application on the form provided by the Planning Department, along with all the information listed on that form.

125.20 Decision on the PRUD - What Provisions May be Modified

The City may modify any of the provisions of the Code for a PRUD 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 PRUD; 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 wetland, flood plain, or 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 any requirement pertaining to the installation of public improvements; and
7. The City may not modify any provision pertaining any provision regulating signs; and
8. The City may not modify any provision pertaining any provision regulating the construction of one detached dwelling unit.

125.25 Decision on the PRUD -- Zones Appropriate for a PRUD

~~The City may approve a PRUD in any zone where residential use is listed as potentially allowed.~~

125.3025 Decision on the PRUD - Uses in a PRUD

1. Residential -- The City may approve the following residential uses in a PRUD:

a. Any type of dwelling unit that is listed as allowable in the zone in which the PRUD is proposed.

b. Any other type of dwelling unit or housing type that is specifically consistent with the comprehensive plan in the proposed location.

2. Non-Residential -- The City may approve uses other than residential uses in a PRUD as follows:

1 a. The City may approve any use that is listed as potentially allowed in the zone in which the PRUD is proposed.

2 b. The City may approve any use that the Comprehensive Plan specifically states is appropriate in the area that includes the subject property.

3. Limitation on Non-Residential Use -- The City may approve a non-residential use in a PRUD under paragraph 2 of this Section only if this use is incidental to the primary residential use in the PRUD. -- The City may limit the scope and location of these non-residential uses.

125.3530 Decision on the PRUD - Density

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

1. If the PRUD provides housing or care to low income persons, the elderly, or mentally, physically or emotionally impaired persons, the allowable density will be determined on a case-by-case basis based on the following factors:
- a. The proposed size of the units.
 - b. The nature of the facility.
 - c. The impacts of the proposed development in comparison to the impacts of traditional residential uses. -- Including, but not limited to, consideration of the following factors:
 - 1) Traffic generation.
 - 2) Noise levels.
 - 3) Building bulk, design and orientation.
 - 4) The demand on public services.
1. Except as allowed under paragraphs 2 and 3 of this section, the maximum permitted residential density is the greater of that recommended by the Land Use Policies Plan or 110% of that permitted in the zone in which the PUD is located.
2. If the P.U.D. is designed, developed and maintained as "Special Needs Housing," additional density may be permitted on the following basis:
- a) Housing for senior citizens households, or for mentally, physically or emotionally impaired persons may be permitted a maximum density of up to 1.5 times the maximum density recommended by the Land Use Policies Plan, 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 income households may be permitted a maximum density above the density permitted under paragraphs 1 and 2.a. of this Section based upon the percentage of dwelling units which are low income units, using the following multipliers:

<u>% of "Low Income Units"</u>	<u>=</u>	<u>Density Multiplier</u>
<u>5 - 9%</u>	<u>=</u>	<u>1.1</u>
<u>10 - 14%</u>	<u>=</u>	<u>1.2</u>
<u>15 - 19%</u>	<u>=</u>	<u>1.3</u>
<u>20 - 24%</u>	<u>=</u>	<u>1.4</u>
<u>25% +</u>	<u>=</u>	<u>1.5</u>

3. If a project is approved under this section consists of special needs housing, the applicant shall prepare a document, to be approved by the City Attorney, stating that the PRUD 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 Department of Elections and Records.

2. If Paragraph 1 of this Section does not apply, and if the Comprehensive Plan specifically establishes a higher density for the area that includes the subject property than is permitted in the zone in which the PRUD is proposed, the City may approve a density up to that established in the Comprehensive Plan.

3. If paragraphs 1 and 2 of this Section does not apply, the City may approve a density of up to 105% of the density permitted in the zone in which the PRUD is proposed.

125.40 Decision on the PRUD -- Computation of Density

The City shall subtract the following area before determining the maximum number of dwelling units potentially permitted under Section 35-30 of this Chapter:

1. The City will subtract the area that the City determines is necessary to support any non-residential use under Section 30.2 of this Chapter.
- 2.4. If the PRUD is proposed in an RS 35, RS 12.5, RS 8.5 or RS 7.2 zone, the City will subtract the lesser of--
 - a. ---20% of the area remaining after any subtraction under paragraph 1 of this Section; or
 - b. ---The area actually used for vehicular circulation and surface parking areas that serve more than one dwelling unit, before determining the maximum number of dwelling units potentially permitted under this section.

125.45 Decision on the PRUD -- Maximum Lot Coverage

The maximum lot coverage of a proposed PRUD is 50%. At least 15% of the area that may not be covered with buildings or circulation or parking areas must be in a continuous piece not interrupted by buildings or circulation or parking areas.

125.5035 Decision on the PRUD - Criteria for Approving a PRUD

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

1. The proposed PRUD meets the requirements of this Chapter.
2. Any adverse impacts or undesirable effects of the proposed PRUD are clearly outweighed by specifically identified benefits to the residents of the City.
3. Any increase in density in the PRUD under paragraphs 2 or 3 of Section 35 of this Chapter is accompanied by additional benefits to the City under paragraph 4 of this Section.
- 4.3. The applicant is providing one or more of the following benefits to the City as part of the proposed PRUD:

- a. The applicant is providing public facilities that could not be required by the City for development of the subject property without a PRUD.
- b. The proposed PRUD 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 PRUD.
- ~~e. The proposed PRUD is designed for low or moderate income persons or for the elderly or mentally, physically or emotionally impaired persons.~~
- c.d. The design of the PRUD incorporates active or passive solar energy systems or heat pumps.
- d.e. The design of the proposed PRUD is superior in one or more of the following ways to the design that would result from development of the subject property without a PRUD:
 - 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 PRUD.
 - 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 churches, parks, entertainment, senior centers, public transit, etc.).

125.5540 Decision on the PRUD - Site Plan Required

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

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

125.6045 Effect of an Approved PRUD

1. General - Except as specified in paragraph 2 of this Section, the applicant must comply with Sections 65 50 through 85 70 of this Chapter before commencing any development activities on the subject property.
2. Preliminary Site Work - If the City approves the PRUD, the applicant may, subject to all other applicable Codes and Ordinances, begin any site work on the subject property that is specifically approved in the ordinance approving the PRUD.

125.6550 Final Site Plan Review - Application

In addition to the application materials required in Chapter 145 or 155 of this Code, the applicant shall submit the following:

1. A completed application on the form provided by the Planning Department, along with all information listed in that form.
2. A site plan of the PRUD as approved by City Council

3. Any information or material that City Council, by ordinance approving the PRUD, indicated is to be submitted as part of the final site plan review.

125.7055 Final Site Plan Review - General

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

1. To check the final site plan submitted under Section 60 50 of this Chapter to ensure that the PRUD 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 PRUD indicated are to be made during the final site plan review. Any decisions or determinations made during this process, become part of the approved PRUD.

125.7560 Final Site Plan Review - Minor Modifications

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

1. The change is necessary because of natural features of the subject property not foreseen by the applicant or the City prior to the approval of the PRUD; and
2. The change will not have the effect of reducing landscaped area, buffering areas or the amount of open space in the PRUD; and
3. The change will not have the effect of increasing the residential density of the PRUD; and
4. The change will not have the effect of increasing the area devoted to non-residential uses in the PRUD; and
5. The change will not result in any structure, or vehicular circulation or parking area being moved more than 10 feet in any direction and will not reduce any required yards; and
6. The change will not result in any increase in the height of any structure; and
7. The City determines that the change will not increase any adverse impacts or undesirable effects of the project and that the change in no way significantly alters the project.

125.8065 Final Site Plan Review - Major Modifications

If an applicant seeks a modification to an approved PRUD that does not meet all of the requirements of Section 70 60 of this Chapter, he/she may do so by submitting the application material required for approval of a new PRUD. The City will process and decide upon this application, using the provisions of this Chapter, as if it were an application for a new PRUD.

125.8570 Final Site Plan Review - Effect

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

125.9075 Map Designation

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

125.9580 Lapse of the Approved PRUD

1. Increased Time - City Council may, by the Ordinance approving the PRUD, extend the time limits of Sections 155.115 and 145.110 of this Code for that PRUD.
2. Effect on Land Use if PRUD Lapses - If an approved PRUD lapses under the time limits of Sections 155.115 or 145.110 of this Code, or paragraph 1 of this Section, any development on the subject property must comply with all applicable laws of the City as if the PRUD had not been granted.

Section 4. If any section, subsection, sentence, clause, phrase, part or portion of this ordinance, including those parts adopted by reference, is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 5. To the extent that the subject matter of this ordinance is subject to the disapproval jurisdiction of the Houghton Community Council as created by Ordinance 2001, said plan shall become effective within the Houghton community either upon approval of the Houghton Community Council, or upon failure of said community council to disapprove this ordinance within 60 days of its passage.

Section 6. Except as provided in Section 4, this ordinance shall be in full force and effect five days from and after its passage by the City Council and publication or posting as required by law.

Passed by majority vote of the Kirkland City Council in regular, open meeting this 17th day of June 1985.

Signed in authentication thereof this 17th day of June, 1985.

Doris Cooper
MAYOR

ATTEST:

Wm. Johnson
Director of Administration & Finance
(ex officio City Clerk)

APPROVED AS TO FORM:

[Signature]
City Attorney

CERTIFICATION OF POSTING

I hereby certify under penalty of perjury that the foregoing ordinance was posted on the 18th day of June, 1985 in accordance with the provisions of RCW 35A.12.160 and City of Kirkland Ordinance No. 2600.

Janice Perry
Clerk

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