

City of Kenmore



City of Kenmore - 18120 68th Avenue NE - P.O. Box 82607 - Kenmore, WA 98028
Phone: 425-398-8900 - Fax: 425-481-3236 - E-mail: cityhall@kenmorewa.gov

City of Kenmore Planning Commission Meeting Agenda

Tuesday, May 21, 2019 @ 7:00 p.m.

**Kenmore City Hall
18120 68th Ave. NE, Kenmore, WA 98028**

If you have any questions or to confirm agenda items prior to the meeting, or if you require special accommodations, please call Bridgit Baker at 425-398-8900. You may also stop by City Hall at 18120 68th Avenue NE, Kenmore. Planning Commission agendas are also available on our website at www.kenmorewa.gov.

- 1. CALL TO ORDER**
- 2. CITIZEN COMMENTS**
- 3. APPROVAL OF MINUTES**

[May 7, 2019 Planning Commission Meeting Minutes](#)

- 4. AGENDA ITEMS**

[Phase 2 of the Manufactured Housing Communities Project Memo](#)
[Attachment 1 - Draft Comprehensive Plan Amendments](#)
[Attachment 2 - Information from Mike Stanger](#)
[Attachment 3 - Development Information for Surrounding Zoning Districts](#)
[Attachment 4 - Microhousing Standards](#)
[Attachment 5 - Legal Opinion on "First Right to Rent"](#)

- 5. ADJOURNMENT**
- 6. UPCOMING MEETINGS:**
June 4, 2019, 7:00 p.m.
June 18, 2019, 7:00 p.m.

**City of Kenmore
Planning Commission Meeting
May 7, 2019 @ 7:00 p.m.**

Planning Commission Members – In Attendance

Mark Ohrenschall, Chair
Mike Mulcare, Vice Chair
Carol Baker
Suzanne Greathouse
Nathan Loutsis
Dennis Olson
Michael Vanderlinde

Consultants & Staff

Debbie Bent, Community Development Director
Lauri Anderson, Principal Planner
Bridgit Baker, Code Enforcement Officer
Janina Meeks, Admin. Assistant
Amy Summe, Shannon & Wilson

1. CALL TO ORDER

The meeting was called to order by Chair Ohrenschall at 7:00 p.m.

2. CITIZEN COMMENTS

No citizens rendered comments.

3. APPROVAL OF MINUTES

Commissioner Mulcare motioned to approve the April 16, 2019 minutes which was seconded by Commissioner Greathouse. The motion passed 6-0 with 1 abstention.

4. AGENDA ITEMS

Debbie Bent began by briefly reviewing the process already completed and the next steps for the Critical Areas and Shoreline Master Program amendments. Lauri Anderson explained that the staff sought further clarification on the DOE buffer width recommendation changes. Review of the best available science guidance found that the DOE expectation is that if there is a reduced buffer that is degraded it will be enhanced. Staff recognized that the previous recommendations did not include language to deal with enhancing those smaller, degraded buffers.

The new section presented addresses this lack and increases the standard buffer width if an applicant chooses not to enhance the buffer. Staff looked at rules in Kirkland and Shoreline and found there are similar, but not the same, provisions. Staff wanted to ensure fairness and flexibility for site-specific situations, so made

sure to include language to define the minimum threshold for action at 500 square feet and ensure required enhancement is proportional to impact at a 1:1 ratio.

Staff suggested this amendment be presented to the City Council at the May 20th City Council meeting, not the joint meeting on May 13. The Planning Commission agreed. This amendment will need to have a public hearing scheduled as it was not part of the previous hearing for the CAR/SMP. Staff believes most citizens will utilize the enhancement opportunity provided instead of adding to the width of the buffer.

Commissioner Baker moved to approve the staff recommendations on degraded wetland buffer enhancements in Attachment 1 and was seconded by Commissioner Vanderlinde. Commissioner Mulcare asked if Ecology had seen and approved the new recommendations, Lauri Anderson confirmed that Ecology had vetted and approved them. The motion passed 7-0 with no abstentions.

Debbie Bent and Lauri Anderson explained the typical process for the Commissioners to present their recommendations to the City Council. The Planning Commission discussed how they would present the information and determined they would focus on six sections of the amendments that had the most citizen engagement and questions: the PAUE, wetland rating and enhancement, habitats of importance, geological hazards, flood hazard and development, and Swamp Creek commercial. Commissioner Olson will not be at the joint meeting with the council.

Debbie Bent introduced the next agenda item. A new ordinance was approved by the City Council for the zoning of all six Mobile Home Parks in the City, as well as a resolution for the Planning Commission to provide policy direction on re-zoning the four parks north of SR522 for increased density with affordable housing requirements after 10 years.

Lauri Anderson explained that this is akin to an option they considered last year to up-zone the parks with affordability requirements. Rather than require the property owners to come in to ask for a new zoning, the option would be to put in "phased" zoning so the change would occur automatically after 10 years. The Planning Commission will be looking at issues like bus rapid transit and the impact to housing needs, what potential future needs make the up-zoning with affordability requirements important, what the standards should be, and what the requirement for affordable housing should be.

Mike Stanger with ARCH will be at the next meeting to discuss economic feasibility. There are three policy questions that will need to be addressed: should the number of units provided through the redevelopment match the number of units in the parks; is there a maximum density that should be considered; and what level of affordability should be targeted?

Commissioner Vanderlinde raised a concern about flexibility and links to other zoning and variances. Commissioner Mulcare raised questions about density and building height limitations and the decision made about existing residents potential

right of first tenancy. Staff will review and bring back information about downtown density and the decision made on first tenancy rights.

Ideally, the schedule going forward will be discussion over the next three meetings and the public hearing held in July, and maybe present to the Council at the end of July. The gap between presenting to the Council in July and adoption by the Council in November is because this will impact the City's comprehensive plan, for which changes can only be adopted once per year. This and the PROS plan will be the focus for the Planning Commission for the next several months.

5. ADJOURNMENT

Chair Ohrenschall adjourned the meeting at 8:34 p.m.

Planning Commission

Approved by Planning Commission on: _____



18120 68TH AVENUE NE PO Box 82607
KENMORE, WASHINGTON 98028

MEMO

TO: Planning Commission

FROM: Debbie Bent, Community Development Director *DB*
Lauri Anderson, Principal Planner *WPK*

DATE: May 16, 2019

SUBJECT: Phase 2 of the Manufactured Housing Communities Project

On May 7, we introduced Phase 2 of the Manufactured Housing Communities (MHCs) project. At your meeting on May 21, staff will present draft Comprehensive Plan language (see Attachment 1) that would support a future upzoning of the four MHCs north of SR-522. Feedback from the Commission is needed.

Also on May 21, Mike Stanger with ARCH will provide a “tutorial” on the interplay between housing density, affordability requirements and the economic feasibility of development (see Attachment 2).

At your June 4 meeting, staff hopes to receive preliminary direction from the Planning Commission on the MHC upzoning. As a prelude to that meeting, staff will make recommendations for each of the MHCs. The Planning Commission’s preliminary recommendations would be the subject of a public hearing in early July.

As a reminder, staff identified a series of policy questions at your last meeting that the Planning Commission could consider. Those questions include:

1. Should the number of affordable units provided through redevelopment match the number of existing units in the MHCs? Units in the MHCs are as follows:

Lake Terrace (7000 NE 181 st Street)	11
Unnamed (7021 NE 181 st Street)	20
Kenmore Village (7614 NE Bothell Way)	27
Lakewood (6837 NE 182 nd Street)	63

2. Is there a maximum density that should be considered? Currently, the City’s highest densities are in the optional Transit-Oriented Development District (TOD) at 150 dwelling units per acre. Existing densities in the MHCs are as follows:

Lake Terrace (7000 NE 181 st Street)	12 dwelling units per acre (formerly 48)
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Unnamed (7021 NE 181 st Street)	12 dwelling units per acre (formerly 48)
Kenmore Village (7614 NE Bothell Way)	12 dwelling units per acre (formerly 24)
Lakewood (6837 NE 182 nd Street)	12 dwelling units per acre (formerly 48)

3. What level of affordability should be targeted? Staff recommends that the Planning Commission consider future affordability levels based on Countywide need. In 2015, 3% of total housing units in Kenmore were affordable at very low-income (30% or less of median income), 13% at low-income (30-50% of median) and 15% at moderate income (50-80% of median). This compares with the most recent estimated Countywide need at 13% for very-low-income, 12% for low-income, and 15% at moderate income.

Attachment 3 provides some basic development information for the zones surrounding the MHCs: Downtown Commercial (DC), Downtown Residential (DR), UC East (Urban Corridor East) and R-24 (Multifamily Residential, 24 du/acre).

As requested by the Commission, the ordinance addressing microhousing and the City Attorney's response to the question of "first right to rent" are included as Attachments 4 and 5.

Attachments

- Attachment 1: Draft Comprehensive Plan amendments
- Attachment 2: Information from Mike Stanger
- Attachment 3: Development information for surrounding zoning districts
- Attachment 4: Microhousing standards
- Attachment 5: Legal opinion on "first right to rent"

NEW SUBSECTION UNDER “FUTURE LAND USE” IN THE LAND USE ELEMENT

Phased Zoning

Phased zoning is an implementation tool that automatically adjusts zoning in the future to recognize anticipated changes in land use and housing needs identified in the Comprehensive Plan, and to support the long-term vision for an area.

- **Manufactured Housing Communities (MHCs).** As the City continues to grow and develop, the need for more housing, including affordable housing, will increase. Kenmore already has a significantly lower percentage of multifamily housing than most other eastside communities. Several large parcels in the downtown remain undeveloped or underdeveloped and it is likely that these parcels will develop first. However, the redeveloped MHCs near downtown could be a significant source of new housing in the future. The MHCs presently are close to, if not at, capacity and are developed at fairly low densities (9-19 du/acre). Surrounding properties in the downtown have permitted densities ranging from 48 du/acre up to 150 du/acre in the transit-oriented development district.

The City’s future capacity for employment also will need to increase. As new growth targets are adopted by the City in the next round of Comprehensive Plan review (2035), the City will have to consider how and where to allow for additional employment capacity. The four MHCs north of SR-522 are adjacent to areas planned for commercial and mixed use development.

Bus rapid transit (BRT) to Kenmore along SR-522 is expected to be operational in 2024. All of the MHCs north of SR-522 are within walking distance of the anticipated station areas at the Metro Park and Ride and at 68th Avenue NE and SR-522. The densities of the four parks north of SR-522 are generally not high enough to generate the level of ridership sufficient to support the bus rapid transit system. Mixed use developments in central areas close to public transit would allow for easier access to neighborhood amenities and services and could make residents less dependent on autos. Allowing future, denser redevelopment in proximity to the new BRT stations makes sense.

Phased zoning for the MHCs north of SR-522 supports future housing and employment growth in areas that will be well-served by transit. This phasing is consistent with the long-term vision for the City’s downtown as described in the Downtown Sub-Element.

NEW POLICY

Policy LU-2.1.4.5: Phased zoning should be applied to the four existing manufactured housing communities north of SR-522 to acknowledge future growth pressures, the communities’ proximity to regional rapid transit and the long-term vision for the areas as described in the Downtown Sub-Element and on the Land Use Plan Map. Residential density increases, and requirements for the provision of affordable housing in any redevelopment, are appropriate, as is increased commercial development capacity downtown.

ATTACHMENT 2

SAMPLE PROJECT

Assumptions

Lot area	140,000	sq ft				
Current zoning	MHC					
Current base density limit	39	units				
Proposed residential	420	units				
	131	units/acre				
	Market rent	Unit mix	Parking ratio	Assessed Value		
Studio	\$1,485	20%	1.0	\$180,000		
1-bedroom	\$1,950	50%	1.0	\$250,000		
2-bedroom	\$2,800	20%	1.5	\$335,000		
3-bedroom	\$2,940	0%	1.7	\$400,000		
Weighted avg	\$2,004		1.1			
Required parking	462	spaces				
Land cost	\$50,000	per unit				
Structured parking	\$50,000	per stall				
Transportation impact fee	\$7,114	per unit				
Parks impact fee	\$1,727	per unit				
School impact fee	\$0	per unit				
Cap rate	5%					
	CASE 1		CASE 2		CASE 3	
Land use requirement	10%	50 AMI	10%	80 AMI	10%	50 AMI
Reduced parking ratio	1.0	per unit	0.9	per unit	none	
Reduction	42	Spaces	84	Spaces	0	spaces
Fee waivers	80%	affrd units	80%	affrd units	80%	affrd units
MFTE	8	years	8	years	12	years
Additional affrd units	0%		10%	80 AMI	5%	50 AMI
Total affordable	63	units	42	units	42	units
Avg rent	\$1,042		\$1,354		\$1,042	
Additional mkt units	318	Units	297	Units	318	Units

ATTACHMENT 2

	CASE 1		CASE 2		CASE 3	
PUBLIC BENEFITS	Total	Per Affrd Unit	Total	Per Affrd Unit	Total	Per Affrd Unit
Total (\$1,000)	\$14,547	\$231	\$13,094	\$156	\$14,547	\$231
Rent gap	\$14,547	\$231	\$13,094	\$156	\$14,547	\$231
Fees-in-lieu						
PRIVATE BENEFITS						
Total (\$1,000)	\$25,211	\$400	\$26,409	\$314	\$25,337	\$402
Additional capacity	\$15,922	\$253	\$14,872	\$177	\$15,922	\$253
Reduced parking	\$2,100	\$33	\$4,200	\$50	\$0	0
Fee waivers	\$456	\$7	\$594	\$7	\$446	\$7
MFTE	\$6,744	\$107	\$6,744	\$80	\$8,970	\$142
Ratio Private: Public		1.7		2.0		1.7

ATTACHMENT 3

DEVELOPMENT STANDARDS FOR ZONES ADJACENT TO THE MHCs

Zone	Base density (du/acre)	Maximum Height	Multifamily allowed?	Commercial allowed?	TOD?
R-24	24	60'	Yes	No, generally	No
DR	48	60'-80'	Yes	Yes, limited	No
UC East	48	55'	Yes	Yes	Yes
DC	48	35'-65'	Yes	Yes	No
TOD Overlay	60-150	65'	Yes	Yes, limited	--

CITY OF KENMORE
WASHINGTON
ORDINANCE NO. 16-0415

**AN ORDINANCE OF THE CITY OF KENMORE,
WASHINGTON, RELATING TO MICROHOUSING
DWELLING UNITS; ADOPTING NEW SECTION
18.20.830 OF THE KENMORE MUNICIPAL CODE;
AMENDING SECTIONS 18.20.810, 18.20.835 AND
18.40.030 OF THE KENMORE MUNICIPAL CODE;
AND PROVIDING AN EFFECTIVE DATE.**

WHEREAS, in 2015, the City Council assigned review of microhousing issues to the Planning Commission as part of the 2015 docket; and

WHEREAS, the Planning Commission reviewed and recommended amendments to Title 18 of the Municipal Code to address microhousing; and

WHEREAS, on December 1, 2015, the Planning Commission held a public hearing to receive public feedback on the proposed amendments; and

WHEREAS, the City's Responsible Official, under the State Environmental Policy Act, issued a determination of nonsignificance for the amendments; and

WHEREAS, the City notified the Washington State Department of Commerce of the proposed amendments pursuant to RCW 36.70A.106; and

WHEREAS, on January 11, 2016, a representative of the Planning Commission presented the Planning Commission's microhousing recommendations to the City Council; and

WHEREAS, the City Council desires to adopt regulations to address microhousing;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF KENMORE, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Adoption of New Section 18.20.830 of the Kenmore Municipal Code. The City Council adopts new section 18.20.830 of the Kenmore Municipal Code addressing microhousing to read as set forth in Attachment A, attached hereto and incorporated herein by reference.

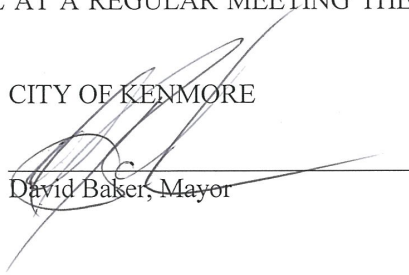
Section 2. Adoption of Amendments to Sections 18.20.810, 18.20.835 and 18.40.030 of the Kenmore Municipal Code. The City Council adopts amendments to Sections 18.20.810, 18.20.835, and 18.40.030 of the Kenmore Municipal Code to read as set forth in Attachment B, attached hereto and incorporated herein by reference.

ATTACHMENT 4

Section 3. Effective Date. This Ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication.

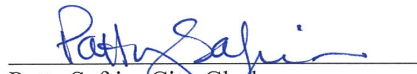
PASSED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE 1st DAY OF FEBRUARY, 2016.

CITY OF KENMORE



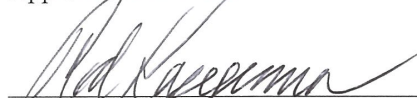
David Baker, Mayor

ATTEST/AUTHENTICATED:



Patty Safrin, City Clerk

Approved as to form:



Rod P. Kaseguma, City Attorney

Filed with the City Clerk: January 22, 2016
Passed by the City Council: February 1, 2016

Ordinance No.: 16-0415

Date of Publication: February 5, 2016

Effective Date: February 10, 2015

City of Kenmore Ordinance No. 16-0415
ATTACHMENT A

- **Add a new definition of microhousing dwelling unit as follows:**

18.20.830 Dwelling unit, microhousing.

“Microhousing dwelling unit” means an apartment with a total square footage of less than 320 square feet and a habitable space, as defined in the International Building Code as adopted in the Kenmore Municipal Code, of at least 220 square feet. The room(s) are intended for use solely by the dwelling’s occupant(s), although common kitchen or bath facilities may be provided.

City of Kenmore Ordinance No. 16-0415
ATTACHMENT B

- **Amend the definition of dwelling unit as follows:**

18.20.810 Dwelling unit.

“Dwelling unit” means one or more rooms designed for occupancy by a person or *family* for living and sleeping purposes, containing *kitchen facilities* and rooms with internal accessibility, for use solely by the dwelling’s occupants.
Microhousing dwelling units may share kitchen facilities with other dwelling units in place of providing kitchen facilities within each unit.

- **Amend the definition of multiple-family dwelling as follows:**

18.20.835 Dwelling, multiple-family.

“Multiple-family dwelling” means a one-family dwelling attached to one or more one-family dwellings by common roofs, walls, or floors. Also includes one or more dwellings attached to nonresidential *uses*. This definition does not include *accessory dwelling units, community residential facilities, supportive living facilities*, or nursing and personal care facilities.

A. Apartment. A residential *building* containing two or more *dwelling units* or a single *dwelling unit* and a nonresidential use, which are attached at one or more common roofs, walls, or floors. Typically, the unit’s habitable area is provided on a single level. Unit entrances may or may not be provided from a common corridor. *Microhousing dwelling units* are considered apartments.

B. Townhouse. A one-family, ground-related dwelling attached to one or more such units or to a nonresidential *use* in which each unit has its own exterior, ground-level access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one or more vertical common walls. Typically the units are multi-story.

- **Amend parking standards as follows:**

18.40.030 Computation of required off-street parking spaces.

Add a new line under “Apartment” to read:

LAND USE	MINIMUM PARKING SPACES REQUIRED Citywide, Except in Downtown Commercial and Downtown Residential Zones West of 68 th Avenue NE	MINIMUM PARKING SPACES REQUIRED Downtown Commercial and Downtown Residential Zones West of 68 th Avenue NE
Apartment:		
<u>Microhousing dwelling units</u>	<u>Within ¼ mile of SR-522:</u> <u>.75 per dwelling unit.</u> <u>Otherwise, 1.2 per dwelling</u> <u>unit.</u>	<u>Within ¼ mile of SR-522:</u> <u>.75:du. Otherwise, 1.0:du.</u> <u>Tandem stalls permitted</u>
Studio units	1.2 per dwelling unit	1.0:du; tandem stalls permitted

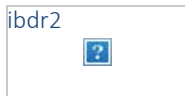
ATTACHMENT 5

From: [Jacob J. Stillwell](#)
To: [Lauri Anderson](#)
Subject: RE: Mobile home park/ Seattle first in time analysis
Date: Wednesday, June 20, 2018 4:04:40 PM

Hi Lauri – thanks for refreshing my memory! Yes, a property owner can choose to take advantage of increased densities in exchange for those kinds of affordable housing restrictions. The voluntary nature of that arrangement makes it fundamentally different from the Seattle first in time litigation (incentivizing vs. mandating). I haven't seen any policies where developers are incentivized to rent to specific people, versus to set aside affordable units generally, in exchange for certain benefits. This wouldn't be an unlawful taking of private property for private benefit because the developer would be voluntarily entering into this arrangement. However, to avoid a "gifting of public funds" challenge, the city would want to make sure to highlight the public function being served by this policy – i.e., preserving affordable housing, mitigating displacement, etc.

I hope that clarifies things – thanks!

Jake



Jacob J. Stillwell | Attorney

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From: Lauri Anderson [mailto:landerson@kenmorewa.gov]
Sent: Wednesday, June 20, 2018 3:45 PM
To: Jacob J. Stillwell <jstillwell@insleebest.com>
Subject: RE: Mobile home park/ Seattle first in time analysis

Hi Jake-- I think we agreed earlier that the City could require the first right to rent in exchange for giving the property owner a benefit. For example, we will increase your density and in exchange you must provide affordable units and rent them to the folks currently living on your property. Is this still a problem?

Lauri

From: Jacob J. Stillwell [<mailto:jstillwell@insleebest.com>]
Sent: Wednesday, June 20, 2018 3:37 PM
To: Lauri Anderson <landerson@kenmorewa.gov>
Subject: Mobile home park/ Seattle first in time analysis

Hi Lauri,

ATTACHMENT 5

I apologize for the delay in providing an analysis of the recent Seattle “first in time” case as it relates to the mobile home park options. I was waiting to see if I could access the parties’ appellate briefs, but they haven’t been submitted yet.

The King County Superior Court’s decision in *Chong, et. al. v. City of Seattle* likely prohibits a city law requiring a property owner developer to rent new units to displaced mobile home park residents. In *Chong*, Seattle passed a “first in time” ordinance, which required landlords to rent apartments to the first applicant meeting the rental criteria. Relying on *Manufactured Housing Communities of Washington v. State*, in which the Supreme Court invalidated a state law giving mobile home park tenants the right of first refusal to buy the mobile home in which they lived, the superior court held: “Choosing a tenant is a fundamental attribute of property ownership. Like a sale of a fee interest, a lease is a disposition of a property interest. *Manufactured Housing* held that selecting a buyer to purchase a property interest is a fundamental attribute of property ownership. Similarly, the right to grant a right of first refusal in the context of a leasehold is just as fundamental as the right to sell fee title in *Manufactured Housing*.”

Also citing *Manufactured Housing*, the court held that the Seattle ordinance was an unlawful government taking of private property for private use: “The state in *Manufactured Housing* defended the right-of-first-refusal law by lauding its public benefits: preserving housing stock for the poor. The Court held that such benefits could not transform the private nature of the taking into a public one. Similarly, the FIT rule is a taking for private use, regardless of any public benefit.”

Property owners of new developments that displaced mobile home park tenants could make a similar argument that any city law requiring them to rent to displaced residents 1) deprives them of their right to dispose of their own property, and 2) is a public taking of private property for private use. Now, the city could always encourage such activity through, for example, inclusionary zoning at affordable rates. But a rental requirement would likely face legal challenges. That said, Seattle did appeal this ruling. However, as I mentioned, we aren’t able to review the appellate arguments just yet. I’ll be sure to keep an eye on this case as it progresses. Please let me know if you have any questions.

Thanks,

Jake



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