



**CITY OF KIRKLAND**  
**PLANNING AND BUILDING**  
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## MEMORANDUM

<b>To:</b>	Planning Commission
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**Date:** March 21, 2025

**Subject:** **Briefing on Middle Housing Code State Compliance – File No. CAM24-00561**

### RECOMMENDATION:

Planning Commission (PC) should receive a second briefing to review and discuss proposed zoning code amendments to comply with newly mandated State rules for middle housing, as well as provide direction regarding potential affordable housing requirements. Additionally, staff will update the PC on the feedback received from the City Council (Council) at their March 18, 2025 meeting regarding these topics.

The PC should focus on the below questions during their review of this memorandum:

1. Does the PC have any questions or feedback on staff's draft zoning amendments related to density, Accessory Dwelling Units (ADUs) and housing typologies?
2. What feedback does the PC have on staff's draft inclusionary zoning (affordable housing set-asides) framework?
3. Does the PC have any questions or feedback on staff's draft zoning amendments regarding multifamily density, cottage gross floor area, or accessory dwelling unit requirements.
4. Does PC wish to have an additional briefing prior to a public hearing?
5. Which parking amendment option does the PC prefer?

### BACKGROUND:

Washington State House Bill (HB) 1110 requires cities, including Kirkland, to enable diverse 'middle housing' types in residential zones to allow for increased densities and to support the development of more varied and/or affordable housing.

On February 27, 2025, the PC was briefed on proposed zoning code amendments to comply with State requirements and considered options for inclusionary zoning (i.e. affordable housing

set-asides). Staff has since briefed and relayed PC's feedback on these amendments and inclusionary options to Council.

In response to feedback received from PC, Council, and the public, staff has prepared this memorandum presenting adjustments to the number of allowed housing types, options for how to count ADUs towards maximum allowed density, and a draft approach to implementing inclusionary zoning per PC feedback from February 27.

#### **DISCUSSION/ANALYSIS:**

State law mandates that Kirkland allow at least six out of nine identified middle housing types (duplexes, townhomes, etc.) in all residential zones to increase affordability and density, addressing a historical lack of these options. Kirkland currently permits three of these housing types in low-density residential zones, and all of the middle housing types in the City's multi-family zones.

As originally drafted, the proposed code would have allowed all nine types, relying on existing zoning to regulate size and density maximums. In other words, the defined housing typologies have very little to do with the amount of density that ultimately occurs in a middle housing development; that is dictated by the density allowances in the Zoning Code. For example, a six-unit project will generally only be allowed near transit or if it includes affordable units. It's also important to remember that achieving density is not just about the maximum number of units

allowed per lot. Development standards like floor area ratio, lot coverage, and building height also play a crucial role in what can feasibly be built on a lot.

Staff initially recommended that all nine housing types (see image below) be allowed to enable developers to pick housing types that are neighborhood context-sensitive and result in the best design outcome. That said, staff believes that a smaller subset of housing options would still result in good design outcomes.



**Figure 1: Image of nine middle housing building types (source: The Urbanist). Note: Not all typologies as shown may be compliant with maximum zoned densities and massing restrictions: i.e. maximums on floor area ratio, lot coverage, and building height.**

#### Planning Commission and City Council Feedback on Housing Types

The PC, at their February 27 meeting, cautioned against exceeding State mandates and emphasized the need for careful consideration when assessing where to allow differing housing types throughout the city. On March 18, the Council was supportive of only allowing 6 out of 9 middle housing types in low-density zones (duplexes, triplexes, fourplexes, townhouses, cottages, and stacked flats). Multifamily zones may have all the housing types in low-density zones plus fiveplexes and sixplexes.

### Code Amendments based on Feedback Received

Based on feedback from the PC and Council, staff made the following adjustments to the allowed housing types in the draft middle housing code (see Attachments 2 and 3).

#### *Low-Density Zones*

To meet the State's minimum density requirement of four dwelling units per lot in low-density zones, staff amended the draft code to allow the following six housing types: duplexes, triplexes, fourplexes, townhomes, stacked flats, and cottages (leaving out allowances for fiveplexes, sixplexes, and courtyard apartments). These selections are either currently permitted or align with the State's base density requirements. These types can also be combined to achieve six units per lot for properties within a quarter-mile of a major transit stop. For instance, townhomes can be built in configurations of two units or more.

#### *Medium- and High-Density (Multifamily) Zones*

In addition to the six housing types permitted in low-density zones, staff amended the draft code to allow fiveplexes and sixplexes in multifamily zones. This will enable denser housing options that are more appropriate for these more intensively developed areas.

#### Staff's Update to the Proposed Draft Code

Staff added the following footnote 1 to "Density" in the development standards chart located in KZC 113.25: "Multiplexes containing more than four units are not permitted in low density zones."

#### *Courtyard Apartments*

Staff does not recommend including courtyard apartments as one of the identified typologies, although would note that duplexes arranged around a courtyard would yield a cottage apartment configuration. If a developer desires to build a courtyard apartment project (unlikely because courtyards absorb a great deal of development space, and are difficult to build with modern parking requirements), it would likely be permitted under one of the other allowed housing typologies.

#### Staff's Update to the Proposed Draft Code

Staff removed references to courtyard apartments in KZC 113.

### **Accessory Dwelling Units and Density**

ADUs are a valuable tool to address the housing shortage, allow for efficient land use, provide flexible housing options, and promote more sustainable and adaptable communities. It is for these reasons that any changes to the City's regulations on ADUs that reduce current allowances should be considered carefully. Below is an analysis of State requirements and how ADUs work within these requirements, followed by a description of staff's update to the proposed draft code.

#### ADUs and Density

State law does not classify ADUs as one of the nine mandated housing types, six of which cities must permit. However, cities can count ADUs towards State-required minimum density targets.

Currently, the City's middle housing regulations allow up to two Attached ADUs (AADUs) per development (e.g., in cottages, duplexes, triplexes), excluding them from density calculations—a practice mirroring ADU treatment in single-family zones. The first version of the proposed draft code (presented at the February 27 PC meeting and the March 4 Council meeting) proposed

increasing the AADU allowance to one per middle housing unit (with no maximum for the site as a whole), while still excluding them from density calculations.

Despite allowing ADUs in existing middle housing types since the last major code update in 2020, staff has rarely encountered development projects utilizing that allowance. Nevertheless, requiring ADUs to count towards the State's density requirement would represent a shift from the City's current policy.

In a requested follow up briefing to Council on March 18, staff recommended to Council the following adjustments to the proposed draft code (applicable to middle housing projects):

- Include ADUs in Unit Density Calculations: This aligns with the State's allowance for ADUs to be counted towards meeting minimum density thresholds and would provide clarity in what the City counts towards unit density.; or,
- Limit ADUs to Two Units Per Property (and do not include in density calculation): Instead of allowing one ADU per unit, limiting the number of ADUs to two per property would manage any concern over density impacts and would maintain consistency with current zoning standards.

On March 18, Council was supportive in continuing to exempt ADUs from density calculation and limiting them to a maximum of two per lot.

#### Staff's Update to the Proposed Draft Code

Staff updated footnote 3 in the Development Standards in KZC 113.25 with the following text: "The maximum number of ADUs is two per subject property."

#### **Inclusionary Zoning: State Requirements and City Options**

Inclusionary zoning is a vital tool for cities to address housing needs by offering development incentives in exchange for affordable housing. Particularly in high-cost real estate markets where the price of new housing is out of reach for most economic segments of the population, inclusionary requirements can ensure that some of the economic gains from rising real estate values help to create more affordable options for low- and moderate-income families. In the context of middle housing and low-density housing types, inclusionary policies are particularly important to expanding access to homeownership. Such policies are best crafted based on local economic analysis to ensure requirements are balanced across all housing types and new housing construction is not overly constrained. In the context of middle housing, this includes careful consideration of exemptions and calibration of fee in lieu rates.

#### Legal Basis

State law (RCW 36.70A.540) provides authority for local governments to enact inclusionary zoning when they have "increased residential development capacity through zoning changes, bonus densities, height and bulk increases, parking reductions, or other regulatory changes or other incentives." Phase 1 and 2 of the City's middle housing implementation would constitute increased residential development capacity, meaning that some degree of inclusionary zoning could be required. Staff's recommended approach, consistent with PC guidance, is to adopt modest inclusionary requirements as part of Phase 1 and build on those in Phase 2 when additional development allowances are considered. Alternately, the City could defer enacting inclusionary zoning to Phase 2 and signal an intent to do so in the ordinance enacting the Phase 1 code amendments. As described in more detail below, on March 18 Council supported adopting modest inclusionary requirements (developed per PC feedback from February 27) as part of Phase 1, with a delayed implementation date.

#### Current Inclusionary Zoning in Kirkland

The City of Kirkland has a successful history of implementing inclusionary zoning when increasing density and other development allowances, including application to middle-density zones where smaller scale projects have been built. Such policies require that housing developments of four or more new units set aside at least 10 percent of those units at prices that are affordable to households with incomes of 80 percent or 100 percent of area median income (AMI), depending on the zone. When the requirement results in a fraction lower than 0.66, the developer may pay a fee in lieu of the fractional unit. The policy has yielded meaningful results in medium-density zones including:

- 19 on-site affordable owner-occupied homes with long-term affordability
- More than \$5.1 million in fees in lieu of an additional 18.1 affordable units
  - These funds have been invested directly in local affordable housing projects and through the ARCH Trust Fund, providing a substantial increase in the City's funding for affordable housing

The expansion of middle housing densities across the City's single-family zones offers an opportunity to extend the impact of the City's inclusionary policies across a larger swath of Kirkland's residential neighborhoods. Recent sales data demonstrates that new single-family and middle housing built in these areas is out of reach for the vast majority of residents, and without an inclusionary policy, future growth in these neighborhoods is unlikely to contribute much to the overwhelming need for more affordable housing.

Housing Type	Count	Median of square feet	Median of price	Median of \$/square feet
Attached Accessory Dwelling Units (AADU)	1	1,328	\$1,100,000	\$828
Cottage	6	1,600	\$1,599,000	\$1,000
Detached Accessory Dwelling Unit (DADU)	16	1,313	\$1,175,000	\$966
Detached Condo	63	1,764	\$1,547,950	\$884
Duplex, Condo	9	2,665	\$2,050,000	\$952
Primary Residence (sold separate from ADU)	11	3,030	\$2,560,000	\$795
Primary Residence + AADU	1	3,704	\$2,399,000	\$648
Single-family Residence (SFR)	83	4,039	\$3,098,000	\$806
Primary Residence + Carriage Unit	1	4,921	\$6,275,000	\$1,275
Primary Residence + DADU	3	3,890	\$3,450,000	\$921
Townhouse	3	3,000	\$2,215,000	\$738
Townhouse (condo)	15	2,202	\$1,300,000	\$718

**Table 1: Sales of new homes in Kirkland between March 2024-March 2025. Table excludes income restricted homes.**

### State Inclusionary Zoning Mandates

State law mandates that cities facilitate affordable housing in single-family residential areas by granting increased density for middle housing projects that include affordable units. In most areas, this requires allowing up to six units per lot, if two units are designated as affordable:

renter-occupied at 60% Area Median Income (AMI) and owner-occupied at 80% AMI. An exception (to the affordable housing requirements) exists for properties near major transit stops, where the final two units need not be affordable (i.e., all six units could be market-rate). Kirkland's only current major transit stop is the Sound Transit Stride Station at I-405 and NE 85th Street. Exceptions to State-mandated affordable housing requirements would also apply to future major transit stops along the K-line. Despite these State standards, cities can impose different affordable housing inclusionary requirements that would still allow for the development of six units per lot. Different requirements may be useful because economic modeling conducted by ARCH suggests that developers are unlikely to build six units per lot if two of those units (33 percent of total units) must be affordable. This extremely high affordable housing set-aside would make six-unit projects in most of the City largely infeasible.

#### City Inclusionary Options and Feedback

Staff presented various inclusionary zoning options to the PC on February 27 and Council on March 4, including: the State requirement (Option 1), expanding existing City inclusionary requirements to single-family areas (Option 2), and applying requirements from the first unit onward (Options 3 & 4), all while exploring exemptions for units under 1,000 square feet (see Table 2).

	<b>Option 1: State Req.</b>	<b>Option 2: Apply Existing KZC 112 Req. (4+ unit)</b>	<b>Option 3: Apply KZC 112 Req. (1+ unit)</b>	<b>Option 4: Apply KZC 112 Req. (1+ unit / modified AMI)</b>
<b>Minimum Unit Application</b>	5+ (2 affordable up to 6 units)	4+	1+	1+
<b>Affordable Requirement</b>	60% AMI (renter-occupied)  80% AMI (owner-occupied)	10% Affordable at: • 50% AMI (renter-occupied)  • 100% AMI (owner-occupied)	10% Affordable at: • 50% AMI (renter-occupied)  • 80% AMI (owner-occupied)	10% Affordable at: • 50% AMI (renter-occupied)  • 100% AMI (owner-occupied)
<b>Optional Size Exemption (Units ≤ 1,000 sq. ft)</b>	N/A	Yes	Yes	Yes

**Table 1: State inclusionary requirement and staff's inclusionary options presented at the March 4 City Council meeting.**

At their February 27 meeting, the PC provided guidance to explore Options 3 and 4 further, focusing on:

- Include smaller projects (starting at 1 unit);
- Include incentives (regulations that make it easier to develop middle housing);
- Provide clear inclusionary requirements;
- Exempt smaller housing units from requirements;
- Minimize impacts to existing homeowners who might want to undertake a renovation or addition;
- Ensure that requirements do not overly constrain new middle housing projects; and
- Address existing unvested projects through vesting or delay of implementation.



Based on this guidance from the PC, staff drafted the following inclusionary components that are intended to synthesize the range of various inputs from individual Commissioners:

- **Minimum Unit Application:** 1 unit or more.
- **Affordable Requirement (based on existing requirement):** 10 percent affordable at 50 percent AMI (rental) or 100 percent AMI (owner-occupied).
- **Size Exemption:** Housing units of up to 1,700-2,000 square feet would be exempt, meaning that all middle housing would be exempt from inclusionary requirements.
- **Renovations and Rebuilds:** Would be completely exempt from inclusionary requirements.
- **Delayed Effective Date:** These new inclusionary requirements could be adopted with Phase 1, but would go into effect at a later date in order to allow existing, in-progress projects to avoid new inclusionary requirements.

This approach would have no impact on the cost or supply of middle housing projects. In addition, renovation and rebuild projects would be exempt from inclusionary requirements, meaning that existing homeowners would be unaffected by the new regulations. Current homeowners could benefit from increased density allowances if they wish to build additional housing on their properties. Large, single-family houses would be impacted and could cost more to develop. Some or all of those costs could be passed on to the consumer, depending on the strength of the housing market. However, this higher cost may incentivize developers to build middle housing rather than single-family homes. In general, this approach would generate a modest amount of in-lieu fees from single-family development, which would be used for the creation or preservation of affordable housing. In enacting a very modest and low-impact inclusionary program in the lower-density zones, this approach would also help create a fairer and more consistent inclusionary program in Kirkland, because inclusionary zoning currently is primarily focused on townhome and apartment projects. It is expected that this approach would provide a foundation for modified inclusionary zoning that could be enacted as part of the Phase 2 code amendments.

	<b>Option 1: State Req.</b>	<b>Option 2: (1+ unit with delayed effective date)</b>	<b>Option 3: Defer all action to Phase 2</b>
<b>Minimum Unit Application</b>	5+ (2 affordable up to 6 units)	1+	Defer inclusionary requirements to Phase 2 for integration with an optimized middle housing code.
<b>Affordable Requirement</b>	60% AMI (renter-occupied)  80% AMI (owner-occupied)	10% Affordable at: • 50% AMI (renter-occupied)  • 100% AMI (owner-occupied)	
<b>Option: Size Exemption (Units ≤ 1,700 – 2,000 sq. ft)</b>	N/A	Yes	
<b>Option: Exempt retained units.</b>	N/A	Yes	
<b>Option: Does not apply added sq. ft. on existing units.</b>	N/A	Yes	

**Table 1: Revised inclusionary requirement options based on PC and Council feedback.**



Council considered the options shown in Table 3 at their March 18 meeting. City Council feedback indicated support for Option 2, which was developed primarily based on PC feedback, with a strong emphasis on ensuring flexibility, delayed implementation, and careful consideration of potential impacts. Staff will need to provide further information regarding the delayed effective date, address concerns regarding developer impacts, and incorporate clear statements of intent to ensure alignment with Council's priorities. Council indicated they will be seeking specific recommendations from the PC on any inclusionary requirement enacted in Phase 1.

Staff is seeking additional PC feedback on Option 2 in order to move forward and draft inclusionary requirements.

### **Additional Development Standard Amendments**

The following *provisions* have been *added to the draft code amendments* since the PC's February 27, 2025 study session.

#### Minimum Density in Medium and High-density Zones (KZC 113.25, footnote 7)

Currently, in medium and high-density zones the City requires development to meet a minimum density requirement of 80% of the maximum allowed density for the underlying zone. This requirement was adopted by Council in 2020 when middle housing regulations were adopted. To preserve this requirement in the context of new middle housing allowances now applicable in medium and high-density zones, staff has added footnote 7 to KZC 113.25's "density" section. This footnote ensures continued application of the minimum density requirement in these zones.

#### Cottage Gross Floor Area (KZC 113.25, footnotes 11, 13, 15, and KZC 113.35.2)

Additional amendments have been added to the "density" section of KZC 113.25 footnotes 11, 13, and 15 along with amendments to KZC 113.35.2. These additions provide clarity on how gross floor area and floor area ratio are calculated for middle housing projects that include cottages. This clarification is essential due to the specific gross floor area size limitations defined for cottages, a distinction not present in other middle housing types. It also addresses developer confusion on this topic. The updated standards reflect both City staff's regulatory approach and the development community's design considerations.

#### Affordable Housing (KZC 113.25 and KZC 113.40)

In potentially implementing new inclusionary housing requirements in the lower-density zones, staff aims to preserve current affordable housing requirements in multifamily zones. Accordingly, the "affordable housing" section of KZC 113.25 has been further updated to reference two distinct sections: KZC 113.40, which will contain new inclusionary requirements for low-density zones (where most middle housing is anticipated), and KZC 112, which outlines existing multifamily zone regulations. The drafting of KZC 113.40 will incorporate feedback from the PC and Council.

#### Accessory Dwelling Units (KZC 115.07 and KZC 115.08)

To ensure consistency between City and State regulations regarding ADUs, staff have revised KZC 115.07. Key changes to comply with State requirements include:

- Reduced parking requirements for ADUs located within a half-mile of major transit stops.
- Elimination of ADU entrance location restrictions.
- Updated methodology for calculating ADU gross floor area, reflecting current staff practices and design preferences from the development community.

- Inclusion of a placeholder provision enabling future ADU subdivision through unit lot subdivisions, pending further updates. Title 22 KMC subdivision regulations are being amended as a separate project to align with new State subdivision requirements allowing for unit lot subdivisions.

KZC 115.08, which previously imposed size and height limits on all accessory structures (including sheds, greenhouses, and detached garages), has been amended to exclude ADUs.

This amendment addresses a conflict with state law, which prohibits cities from setting maximum gross floor area requirements for ADUs under 1,000 square feet. Currently, KZC 115.08 limits total accessory structure area to 1,200 square feet plus 10% of lot area exceeding 7,200 square feet. By removing ADUs from this section, Kirkland eliminates any size restrictions for ADUs below 1,200 square feet.

ADU height will continue to be regulated under KZC 115.07, separate from the height restrictions applied to other accessory structures in KZC 115.08.

### **Timing and Future Amendments**

To fully align City code with State requirements, staff is continuing to develop draft amendments in several remaining areas. The following revisions are considered more technical in nature, where the revisions themselves do not have a direct relation to density:

- **Affordable Housing:** Staff will develop draft inclusionary housing requirements after incorporating further feedback from the PC.
- **Nonconformances:** Amendments are being reviewed to allow ADUs to be created from existing structures that do not currently meet setback or lot coverage requirements.
- **Street Improvements:** Revisions are being prepared to align local street improvement requirements with State allowances for ADUs.
- **Parking Requirements:** Amendments are being reviewed to incorporate State regulations regarding tandem parking, permissible parking surface materials (gravel, grass block pavers), maximum residential parking stall sizes, and the management of nonconforming parking areas.

These amendments reflect either preliminary PC feedback (e.g., regarding potential affordable housing requirements) or technical adjustments necessary for State compliance. Given the more technical nature of these required amendments, staff requests PC guidance on whether they wish to receive a briefing on these amendments before a public hearing.

A public hearing on middle housing code amendments is tentatively scheduled for the PC meeting on May 8, 2025. This public hearing date allows some flexibility for the hearing to be continued if the PC requires additional time to formulate a recommendation for the City Council (and in time for Council to consider adopting the code amendments prior to the State deadline).

### **Middle Housing Parking Data**

Following PC feedback from the February 27, 2025 meeting, staff compiled parking data from recent middle housing projects. Table 4 compares:

- Current City parking requirements.
- Actual parking provided at each project.
- State parking requirements for projects outside a half-mile of a Major Transit Stop (MTS). These State requirements are the maximum number of parking spaces that a City can require as a parking minimum (i.e., the City cannot set parking requirements

any higher than these State standards). Note: All of the projects below are located outside the half-mile radius of an MTS.

The data shows that 8 out of 9 projects provided more parking than currently mandated by the City. Most projects provided at least 2 parking stalls per unit, meeting or exceeding State requirements for locations outside a half-mile of an MTS. Per HB 1110 cities may not require parking within a half-mile of an MTS. Outside of a half-mile of an MTS cities may not require more than two parking stalls per unit.

Project Locations	Total Units	Total: Parking Stalls Req. (City)	Total: Parking Stalls Provided	Total: State Maximum Parking Outside ½ Mile of MTS
7418 120TH CT NE*	7	13	14	14
12712 82nd AVE NE	6	10	11	12
12230 NE 73RD ST *	2	2	6	4
12224 NE 73RD ST*	2	2	6	4
12407 NE 107TH PL	2	3	4	4
13020 132ND AVE NE	4	7	10	8
12114 NE 108TH ST	3	5	6	6
710 4TH ST	2	2	4	4
1011 6TH ST*	4	4	4	8

**Table 1: Project comparison to local and State parking requirements. \*Projects are within one-half mile of frequent transit service with 15-minute headways during commute hours. These projects require 1 space per unit but are still subject to guest parking requirements.**

An analysis of the parking built for recent middle housing projects compared to the State's parking requirements reveals several key points. First, while developers generally align parking provisions with market demand, resulting in the number of parking spaces provided being closer to State requirements, the State code would require *more* parking what our current middle housing standards require. If the State standards are adopted, it would lead to higher parking mandates in areas where the City's current standards are in place. Second, in a suburban context like Kirkland, where car dependency is common, developers commonly provide more parking than the City requires. Implementing the State's requirements, especially the increased parking near frequent transit, could hinder the City's goal of fostering higher-density housing near reliable transit services. Finally, increased parking requirements result in more hard surfaces, creating a conflict with other city priorities, such as increasing middle housing supply and preserving community benefits like tree retention on private property.

Staff requests PC feedback on two options for regulating parking in middle housing developments:

- **Option 1:** Retain the City's current parking requirements, which consider proximity to frequent transit. Add the State requirement for parking within a half-mile of a Major Transit Stop (MTS).

- **Option 2:** Adopt the State's parking requirements, replacing the City's existing regulations.

**Staff Recommendation:**

Staff recommends Option 1 which is a hybrid approach that retains the city's existing frequent transit parking standards while simultaneously implementing the state's requirements for parking within a half-mile of a major transit stop to align the City's parking standards with State requirements.

**Benefits:**

- This approach offers flexibility to the development community, allowing them to provide parking that best suits their buyers' needs.
- This approach also aligns with the City's current policy of encouraging housing development near reliable transit.
- This approach avoids the negative consequences of requiring too much parking such as tree removal, increases in impervious surfaces, and adding cost to housing development.

**NEXT STEPS:**

Staff will integrate the Planning Commission's feedback from the March 27, 2025 meeting into the draft code amendments. Future code amendments will be presented to the PC in April for a briefing, or at the May 8, 2025 public hearing, based on PC preference.

**ATTACHMENTS:**

1. Public Feedback Themes
2. Proposed Draft Amendments to Chapters 5 and 113 KZC (legislative edits)