

A 10 Minute Guide to Zoning

If you want some control over the look and feel of where you live, you need to understand a bit about zoning ordinances. They tell your neighboring property owners (or developers) what they can build on a piece of land – how many homes, how big they can be, how many trees can be cut down. And once a property owner files an application to develop a parcel in accordance with existing zoning, there's really not much you can do to stop him or her so long as what's being proposed meets the zoning criteria.

In short, if the current zoning for your neighborhood allows too much construction, you're essentially powerless to stop it – unless you change the zoning before neighbors and builders decide to exploit what the law permits.

Is zoning a mystery to you? It can get complicated quickly. However, the basic principles are straightforward, and they're all you really need to know to speak intelligently about zoning policy. Here are the key points:

What's the purpose of zoning?

Zoning laws were first enacted in the 19th century as cities became more industrialized and local leaders recognized that they couldn't allow, for example, a meat packing plant to open up next to somebody's home. Zones for houses, businesses, factories were originally created to keep compatible uses together and to minimize conflicts between incompatible activities.

What do zoning ordinances do?

Most zoning ordinances today specify not only what kinds of land uses are permitted in a given area, but also how intensive those uses can be – with the result that different zoning decisions have a wide range of aesthetic and socioeconomic effects. Many neighborhood zoning regulations allow only single-family, detached homes, and these residential zones vary according to the minimum permitted lot size. Some residential zones permit only 4 lots per acre, or 6, or 8. (These carry designations like RSA 4, or RSA 6, RSA 8, etc). Often, multi-family zones (apartments and condos) and commercial areas (professional offices and shops) are laid out next to the lower-density residential areas. Each zone will include specifications on the amount of building lot coverage that is allowed, how tall the buildings can be, how many feet each building must be set back from the property line, and what type of sidewalks or roads need to be installed.

In addition to the basic zoning classifications that are applied to a neighborhood, other more general ordinances may govern how many trees must be preserved on a piece of land, or what a builder must do to mitigate the risk of erosion or water runoff on a hillside parcel, or what must be done to preserve a wetland.

Can zoning ordinances be changed?

Zoning ordinances are laws that a city council adopts. The council can change zoning from time to time based on the needs of the community. It can amend zoning laws to increase density or to introduce

commercial or industrial uses to what was once a residential area (upzoning) or, conversely, it can downzone an area (reducing an RSA 8 zone to an RSA 6 or even something less dense). Generally speaking, city councils have broad authority to revise zoning based on their judgment about what's best for the community.

In Washington State, cities are required by law to prepare comprehensive plans that look at their housing and job needs over the next twenty years; these plans dictate the type of zoning that the city must implement. Regional planners tell communities how many more dwelling units they'll have to accommodate and how many more jobs they can expect their employers will create. (The idea behind the comprehensive plan laws is to discourage urban sprawl and to ensure that cities build the infrastructure necessary to handle population growth.) The cities must incorporate these projections into their comprehensive plans – and the local zoning needs to be consistent with those plans. So, a city will often look at changing its zoning laws when it updates its comprehensive plan – which it is required to do by state law every eight years. Kirkland is in the midst of its comprehensive plan update right now.

While cities have the power to make broad policy decisions about zoning there are some things they can't do. They can't "spot zone", which means – in general terms – that they can't single out a piece of property for special treatment, like allowing it to be developed for an intense (and highly profitable use) without giving the same privilege to neighboring properties, unless the city has a good public policy reason for doing so. And the city can't impose development restrictions that are so strict that owners are essentially robbed of the value of their private property. If a city attempts that, it may be required to compensate the owners for their loss in market value.

Along with the legal limitations on a city's ability to change zoning are the political costs of revising existing rules. Zoning changes are often highly controversial because they affect not only the character of a neighborhood but also the value of the properties within that neighborhood. There are winners and losers in these debates, and zoning battles often wind up in court (with taxpayers footing the city's legal bills). Zoning issues are some of the toughest questions elected officials have to contend with. Not surprisingly, zoning modifications are easiest to achieve when there's a consensus in the community about what should be done. That's why grass roots input is critical in the zoning process.

Can a zoning amendment stop a development application that's already in process?

Generally speaking, once a property owner files an application to subdivide a parcel or to build on that parcel, the owner has a "vested right" to have his or her application considered in accordance with the zoning rules that were in effect at the time the application was filed. Subsequent changes in zoning typically don't apply retroactively.

While zoning laws give city staff a certain amount of discretion in evaluating a subdivision or a building permit application, the staff is generally required to apply the relevant zoning regulations as approved by the city council. Staffers are not supposed to make their own policies along the way.

Consequently, when you see a placard on a lot to be developed or receive a development notice in the mail, your opportunity to change the outcome is likely to be limited – unless the application seeks a

variance (an exception) from the applicable zoning ordinance. If the application is to subdivide a parcel to a density that conforms with zoning regulations, your opportunity to comment is essentially limited to pointing out, if you can, that the proposal violates some aspect of the relevant zoning classification – perhaps one of the lots is actually too small for the applicable minimum lot size, or perhaps the setbacks will be too narrow, etc. You can complain that a proposed development doesn't conform with the current character of the neighborhood, but you're unlikely to prevail if the development complies with the zoning regulations.

So, how do I protect what I value in my neighborhood?

You look at the zoning ordinance that applies to where you live. If you think it allows too much development or the wrong kind of development, advocate to get it changed to something more appropriate. Get together with your neighbors and see if you can agree on a common solution.

Will anyone listen?

Finn Hill's zoning was created years ago by King County, long before we were annexed by the City of Kirkland. The City is now asking us what we think of the King County zoning ordinances. City officials are willing to consider reasonable changes. Just like every neighborhood in Kirkland, we have to accommodate our fair share of expected population growth. But zoning codes can be written in an infinite number of ways to balance growth, density, the need for open space, and commercial development. In fact, some new zoning approaches focus as much on how a neighborhood will look as on the particular activities permitted in a neighborhood. (This new style of zoning uses "form-based codes", which stress aesthetics.)

We have a precious opportunity to shape the future of Finn Hill. Let's get engaged in learning about our zoning ordinances and making sure that they are written in the way that preserves what we love about Finn Hill.