



CITY OF KIRKLAND

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MEMORANDUM

To: David Ramsay, City Manager

From: Eric Shields, Planning Director
Jeremy McMahan, Planning Supervisor
Jon Regala, Senior Planner

Date: January 26, 2009

Subject: CENTRAL BUSINESS DISTRICT AMENDMENTS PUBLIC HEARING, FILE NO. ZON08-00019

RECOMMENDATION

Conduct City Council deliberations on the draft amendments to the Central Business District (CBD) and provide staff with direction for any desired revisions to the amendments.

Council should review and discuss the issues identified and the proposed approach to working through the amendments over the next three meetings as set forth in the Background section below. Staff is recommending that the deliberations for February 3rd focus on the ground floor retail issues discussed at the public hearing.

BACKGROUND

The following discussion points were identified by the City Council at the January 20th public hearing. The complete January 20th packet can be accessed by clicking [this link](#) and a summary of the amendments is included as Attachment 1. Staff would recommend that the City Council work through the issues in the order identified below over the course of the February 3rd and February 17th City Council meetings. At the conclusion of those deliberations, staff recommends that the public hearing be reopened for public comment on any revisions made. This could occur as soon as March 3rd.

Note that underlying all of the issues identified below is the goal and requirement that the regulations are consistent with the applicable provisions of the Comprehensive Plan. A more general discussion of that may be found at the end of this memo. It should also be noted that the interim regulations expire in April 2009.

Issues to Discuss at the February 3 Meeting (see staff analysis below)

- I. GROUND FLOOR RETAIL
 - A. What does the Comprehensive Plan require for "superior retail"?
 - B. Should banks be treated the same throughout CBD?

- C. Do we need to define “related financial services”?
- D. Is the use “Entertainment, Cultural, and/or Recreational Facility” an appropriate street level use in CBD 1?
- E. Is the required minimum 15’ retail height appropriate?
- F. Is the 20’ minimum retail depth appropriate?
- G. Does the Chaffey site (south of Second Avenue South) need further consideration?
- H. What guidance can we expect from the Hovee report?

Issues to Discuss at February 17 Meeting (staff analysis to be provided in the next Council packet)

II. UPPER STORY SETBACKS

- A. Should the 30’ Lake Street setback be measured from the property line (as drafted), back of sidewalk, face of building, or other point?
- B. Upper story setbacks on other streets:
 - 1. Is the 20’ average setback the right number?
 - 2. Should the zone where setback averaging area is calculated be more than 30’?
- C. Should sites with multiple frontages be treated differently?
- D. Should there be greater setbacks at the corner of Central Way and Third Street?

III. OTHER ISSUES

- A. Do the regulations provide for the mix of heights envisioned in the Comprehensive Plan?
- B. Do the regulations provide for the residential use of upper stories envisioned in the Comprehensive Plan?
- C. What should the role of the Comprehensive Plan be in the Design Board Review process and is it consistent with other zones?

IV. TECHNICAL ISSUES. The following technical issues identified in the course of the public hearing can be addressed by staff in future drafts of the regulations. These items do not necessarily require Council deliberations.

- A. Clarify that drive-through curb cut for banks are not allowed on Park Lane.
- B. Clarify that only bank drive-through uses that are currently located in CBD 1 are grandfathered to remain or be relocated in CBD 1.
- C. Review design departure language.
- D. Update the new Plate XY for clarity and consistency.

GROUND FLOOR RETAIL

Following are the ground floor retail issues identified at the hearing with a brief staff response in italics.

- A. What does the Comprehensive Plan require for “superior retail”?

The Comprehensive Plan does not define “superior retail”, leaving the reader to determine the meaning based on the context of the provision. The specific context is in relation to incentive policies that are intended to encourage residential use of upper stories and strengthen the retail fabric by allowing an additional story of development (Page XV.D-10). Policies list the factors in allowing the additional story, one of which is that the project “provides superior retail space at the street level”.

In the more general context, the Comprehensive Plan for the downtown is in many respects a retail revitalization plan for the district. The land use policies (Page XV.D-4) address the need for a critical mass of retail uses and services to preserve the area’s economic vitality. The Plan notes that “the enhancement of the area for retail and service businesses will be best served by concentrating such uses in the pedestrian core and shoreline districts and by encouraging a substantial increase in the amount of housing and office floor area either within or adjacent to the core”. Land use policies for the Core Area talk about orienting land uses to the pedestrian in terms of design and activity, with appropriate uses listed as retail, restaurant, office, residential, cultural, and recreational. Honing in on the “mix and image”, the Plan lists restaurants, delis, specialty retail shops, gift shops, art galleries, import shops, etc. as the mix and image contemplated in the vision statement (XV.D-6). At its most specific, the Plan lists two uses that are “prohibited” in the Core Area - drive-through facilities and ground floor offices – due to their detrimental impact on the pedestrian character and vitality of the Core Area (XV.D-6). Regarding these specific “prohibitions” in the Plan, existing regulations restrict office uses on the ground floor and preclude any additional drive-through facilities. Existing bank drive-through facilities are currently grandfathered with the intent of not discouraging redevelopment of the bank properties in CBD 1.

Given the general lack of specificity (which is appropriate at the policy level but has obviously proved challenging at the regulatory level), the Council has broad latitude to develop a set of regulations that they believe fulfill the policy intent.

Options for discussion: see item B below

B. Should banks be treated the same throughout CBD 1?

This issue stems from the discussion of Comprehensive Plan consistency and whether the regulations need to be exactly the same throughout an entire zone. Based on the Comprehensive Plan Consistency analysis at the end of this memo, staff concludes the Council has the latitude to decide this matter as it sees fit. The Council may choose to make use distinctions based on the characteristics of the streets or they may choose not to make those distinctions. In either case, the Council decision should be based on their assessment about the intent of the Comprehensive Plan and the extent to which banks are a component of the desired retail fabric of CBD 1.

Options for discussion:

- Allow banks in all of CBD 1
- Prohibit banks in all of CBD 1
- Prohibit banks on specific streets in CBD 1 (Park Lane and Lake Street in draft ordinance)
- Limit square footage or percentage of retail frontage of banks in all of CBD 1
- Remove grandfathering provisions for drive-throughs in combination with one of the options above

- *Provide height incentive/disincentive to discourage banks in all of CBD 1 – for example, withholding 10' of building height if the property will have a bank.*

C. Do we need to define “related financial services”?

The Kirkland Zoning Code contains a use listing in many commercial zones titled “Banking and Related Financial Services”. Neither the term “banking” nor the term “related financial services” are defined by the Zoning Code. In practice, what constitutes a “bank” is clear while what constitutes a “related financial service” is arguably less so. Commercial banks are defined by the NAICS (North American Industry Classification System) code as follows:

“This industry comprises establishments primarily engaged in accepting demand and other deposits and making commercial, industrial, and consumer loans. Commercial banks and branches of foreign banks are included in this industry.”

By implication, to be allowed as a permitted use, a “financial service” must be “related” to these banking functions and that relation would be considered accepting deposits and lending money. Examples of such uses in Kirkland include credit unions, savings and loan companies, loan services, and mortgage companies. It should be noted that the KZC definition of “office” specifically excludes “banks, loan companies and similar financial institutions”, making those uses retail by virtue of the parallel “retail” definition including services that “...are traditionally not permitted within an office use”.

Options for discussion:

- *No changes, keep as drafted*
- *Distinguish between allowances for “banking” and “related financial services” by dividing the use into two uses (“banking” and “banking related financial services”). This would facilitate regulating the two uses differently – for example by allowing banks on the ground floor but not related financial services.*
- *Create definition of “related financial services” to identify the spectrum of related uses*

D. Is the use “Entertainment, Cultural, and/or Recreational Facility” an appropriate street level use in CBD 1?

There was some discussion at the public hearing about the list of required street level uses for CBD 1 included in the draft CBD 1 General Regulations. As drafted, the list includes Retail; Restaurant or Tavern; Banking and Related Financial Services; or Entertainment, Cultural and/or Recreational Facility use. These uses are all currently allowed street level use in the CBD 1 zone.

As discussed above in relation to banks, “Entertainment, Cultural, and/or Recreational Facility use” is not a defined term in the KZC. Based on past practice, examples of such permitted uses would include movie theaters, museums, health clubs, bowling alleys, martial arts studios, etc. This category of uses is included in virtually every retail zone in the City. If the Council desired to remove the category from CBD 1, the rationale might parallel the discussion of banks as to whether these are “superior” retail uses and part of the mix envisioned in the Comprehensive Plan.

Options for discussion:

- *No changes, keep as drafted. Staff would suggest this approach for consistency.*

- *Prohibit these uses in some or all of CBD 1*

E. Is the required minimum 15' retail height appropriate?

The KZC currently establishes a minimum height of 13' for street level retail. Note that the height is measured from floor to floor so the actual interior dimension of the space is somewhat less than 13'. This minimum was established because Kirkland (and many other communities) found that developments were compromising the height of the retail space as a means of either providing higher residential or office stories above or minimizing the additional construction costs and challenges of building taller ground floors.

The City Council suggested increasing the minimum height from 13' to 15' as a design approach to establishing "superior" retail requirements for CBD 1. Photographic examples of existing retail heights are included in Attachment 2. The pole shown in the photographs is 15' tall and the red lines approximate the 15' height on the wall. Examples of compromised retail space are evident in the pictures of Plaza on State and Tiara de Lago. Both of these projects predate the current 13' minimum and both have consistently struggled to attract and retain retail tenants. On the newer projects, note that the sites slope so the retail tend to be higher on one end and lower on the other end. Since building height is measured from the midpoint on the street, that midpoint is reflective of the code requirement (see "Kirkland Central center section" example).

The taller retail spaces tend to have a more traditional main street feel with more glazing for displays and visual interest. However, the examples would also indicate that the design of the storefront contributes more to the "superior" nature of the retail space than the distinction between 13' and 15' heights. For example, the Paisley Cupboard/Tria Moda storefront is very attractive within a ground floor height of approximately 12'.

Options for discussion:

- *No changes, keep as drafted with 15' required.*
- *Reduce to current 13' minimum standard. On review, staff has concluded that 13' provides generous retail heights. Revised design guidelines can enhance the storefront design requirements.*
- *If 13' minimum, decide whether to reflect that in the total allowed building height.*

F. Is the 20' minimum retail depth appropriate?

The draft regulations presented at the public hearing would shift the way street level uses are regulated in CBD 1. Some concern about the proposed minimum 20' depth has been expressed in that it may not be flexible enough to deal with unique site constraints. Currently, all of the uses listed in CBD 1 are allowed with the exception that the special regulations for office and residential uses state that these uses are only allowed on the street level if they provide 30' of retail space between the office or residential space and the right-of-way. The draft regulation modifies this restriction in the following ways:

- *Moves it into General Regulations and puts it in terms of a retail requirement rather than a residential or office restriction.*
- *Would not allow hotel rooms at the street front (corresponding to the residential restriction).*
- *Would not allow parking garages within the required depth at the street front.*

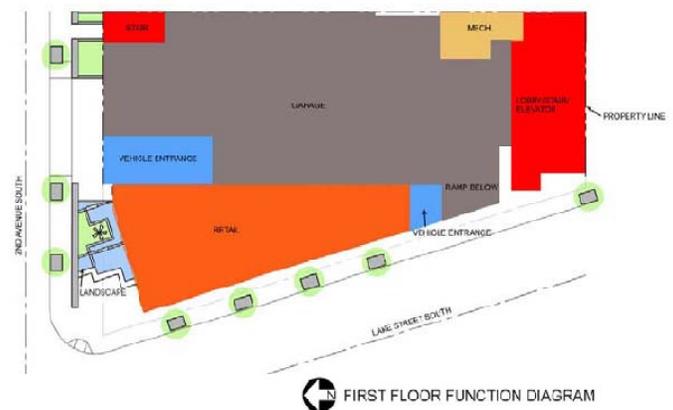
- Establishes flexibility in terms of averaging the 30' depth provided a minimum 20' is provided.
- Allows the DRB or Planning Director to approve minor reductions in the depth.
- Allows limited lobbies for non-retail uses within the required depth, subject to design review.

Options for discussion:

- Retain the 20' minimum depth as drafted. With the provisions for minor reductions, staff believes that adequate flexibility to address unique circumstances is built into the draft regulation.
- Consider a shallower minimum depth. Staff would suggest not less than 10' in order to provide adequate space for circulation and retail displays.

G. Does the Chaffey site (south of Second Avenue South) need further consideration?

As staff noted at the hearing, the retail requirements at this site are challenging under the current code and the proposed revisions. The site is south of the traditional retail core and it may be difficult to attract retail to the site. Preliminary concepts reviewed for the site indicated that access to the site would require multiple curb cuts, further compromising the retail frontage across the Lake Street and Second Avenue South frontages (see diagram to right). If the site is not well suited to retail let alone "superior" retail, it raises the question of whether the maximum height allowances are appropriate for the area.



Options for discussion:

- Modify the retail requirement (eliminate or reduce the depth or frontage requirements)
- Reduce the allowed height, for example – 4 stories (45') rather than 5 stories (55')
- Both of the above

H. What guidance can we expect from the Hovee report?

The City Council has previously received a draft of the initial part of the Hovee report ([Downtown Kirkland Retail Strategy: Interim Report](#)). The report contains Hovee's assessment of existing retail conditions throughout the eight CBD zones, ranking conditions from outstanding, good, weak, and not retail. The Downtown Advisory Committee is in the process of completing the study, including an assessment of what they see as retail potential on a block by block basis. In addition, the report will present a toolkit for the City and partner agencies to use to help downtown achieve its retail potential. The DAC is expecting to deliver the final report to Council in March.

COMPREHENSIVE PLAN CONSISTENCY

The questions around Comprehensive Plan consistency concern the regulations for ground floor retail space and address three particular issues:

- Consistency with the Comprehensive Plan,
- Consistency in applying regulations within a zoning district, and
- Relationship of new zoning regulations to recent Council decisions on design review appeals.

Consistency with the Comprehensive Plan: Under the Growth Management Act, development is to be regulated by the Zoning Code and other applicable regulations, not by the Comprehensive Plan. Development regulations, however, must be consistent with the Comprehensive Plan (RCW 36.70A.040). This requirement is included as one of the criteria for amendments to the text of the Kirkland Zoning Code in 135.25. While the Act requires development regulations to be consistent with comprehensive plans, it does not provide any indication as to how to measure such consistency. The Central Puget Sound Growth Management Hearings Board has defined consistency to mean that “provisions are compatible with each other – that they fit together properly. In other words, one provision may not thwart another.” *Lawrence Michael Invs. V. Town of Woodway*, Cent. Puget Sound Growth Mgmt. Hearings Bd. (CPSGMHB) No. 98-3-0012, Final Decision and Order (Jan. 8, 19999), at 23 [consistency of comprehensive plans of adjacent cities] (quoting *W. Seattle Def. Fund v. City of Seattle*, CPSGMHB No. 94-3-0016, Final Decision and Order (Apr. 4, 1995), at 27) [internal consistency of comprehensive plan] (available at <http://www.gmhb.wa.gov/central/decisions/index.html>).

This interpretation was adopted by the Washington Court of Appeals in *Chevron U.S.A., Inc. v. Central Puget Sound Growth Management Hearings Board*, 123 Wn.App. 161, 167 (2004). The Washington State Department of Community, Trade and Economic Development (CTED) defined consistency as part of its assignment from the legislature to adopt procedural criteria to assist counties and cities in adopting comprehensive plans and development regulations. Washington Administrative Code 365-195-210 includes the following definition:

. . . that no feature of a plan or regulation is incompatible with any other feature of a plan or regulation. Consistency is indicative of a capacity for orderly integration or operation with other elements in a system.

Whether the Council applies the Board’s interpretation of consistency, CTED’s definition, or another, it is up to the Council to decide whether the proposed amendments are consistent with the applicable provisions of the Comprehensive Plan. Staff previously provided a detailed matrix listing the proposed amendment and the supporting policies from for the Downtown Plan section of the Comprehensive Plan to assist the Council in this regard (see Attachment 3).

Currently, zoning regulations for the CBD1 zone incorporate downtown Comprehensive Plan policies by reference and direct the Design Review Board to determine consistency on a case by case basis. A primary objective of the new zoning regulations is to make the policies much more specific by reducing the discretion and judgment that will need to be exercised for individual projects on fundamental zoning issues.

The Comprehensive Plan establishes height limits for two different sub-zones of CBD 1 and indicates that projects may include an additional story if they meet a number of conditions, including that the taller projects provide “superior retail space at the street level.” No specific direction is provided in the Plan on the meaning of superior retail; although, the land use section of the Downtown Plan does have a broad statement about the desired mix of uses in the core area: “Restaurants, delicatessens, and specialty retail shops, including fine apparel, gift shops, art

galleries, import shops and the like constitute the use mix and image contemplated in the Vision for the Downtown.”

Consequently, in order to be consistent with the Comprehensive Plan, the new zoning regulations must assure that all projects in CBD 1 that are allowed to have an extra story of height be required to provide superior retail space (among other things). At the same time, the Plan gives considerable discretion to the Council in defining what superior retail is. Council guidance in preparing the new regulations has been to require all projects, regardless of height, to provide superior retail space. As a result all projects would be eligible for the maximum heights specified in the Plan.

Consistency in applying regulations within a zoning district: Although regulations are required to be consistent with the Comprehensive Plan, there is no reason why they need to be exactly the same throughout an entire zone. As noted above, the Comprehensive Plan policies for superior retail are rather general and leave considerable discretion for the Council in adopting Zoning regulations. The Council has identified two components of superior retail to incorporate into the regulations. The first component has to do with design. Regulations and design guidelines have been drafted to promote superior building design for ground floor retail spaces and the public area abutting buildings. The regulations address these design issues consistently throughout the entire CBD 1 zone.

The other component of superior retail has to do with permitted ground floor uses. The draft regulations continue to allow the ground floor uses now permitted in CBD 1, except that banks are not permitted on two streets: Park Lane and Lake St. Consequently, the use aspect of superior retail would be treated differently on some streets than others within the same zone. Since the Comprehensive Plan does not specifically direct that ground floor retail uses be the same throughout the zone, the Council has the discretion to tailor superior retail standards on a street by street basis. Therefore, the Council could conclude, for instance, that the Downtown Plan policies for superior retail require that the Zoning Code allow for the provision of superior retail in the CBD 1 zone, but that it is not inconsistent to treat the use aspect of superior retail differently on some streets than others. Ultimately, it is the City Council's decision on this matter.

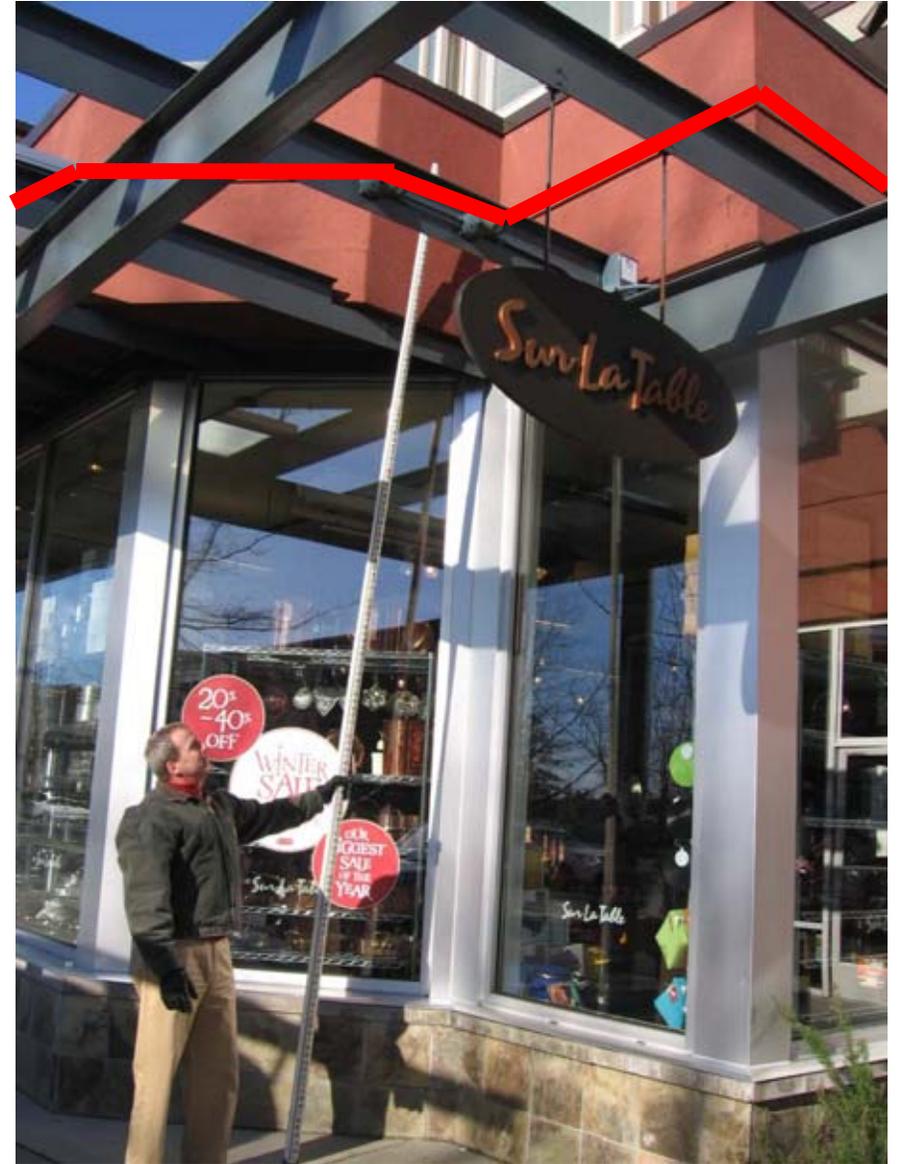
Relationship of new zoning regulations to recent design review decisions: A question has also been raised about whether the new zoning regulations are bound by recent City Council decisions on appeals of Design Review Board approvals. The brief answer is that they are not. The appeals were decided as quasi-judicial matters in which the Council was considering whether the projects complied with applicable zoning regulations. Adoption of the new zoning regulations is a legislative matter wherein the Council is afforded broad discretion. As discussed above, the primary constraint in adopting new regulations is to assure that they are consistent with the Comprehensive Plan.

ATTACHMENTS

1. Summary of Amendments
2. Photographs of Retail Heights
3. Comprehensive Plan Consistency Matrix



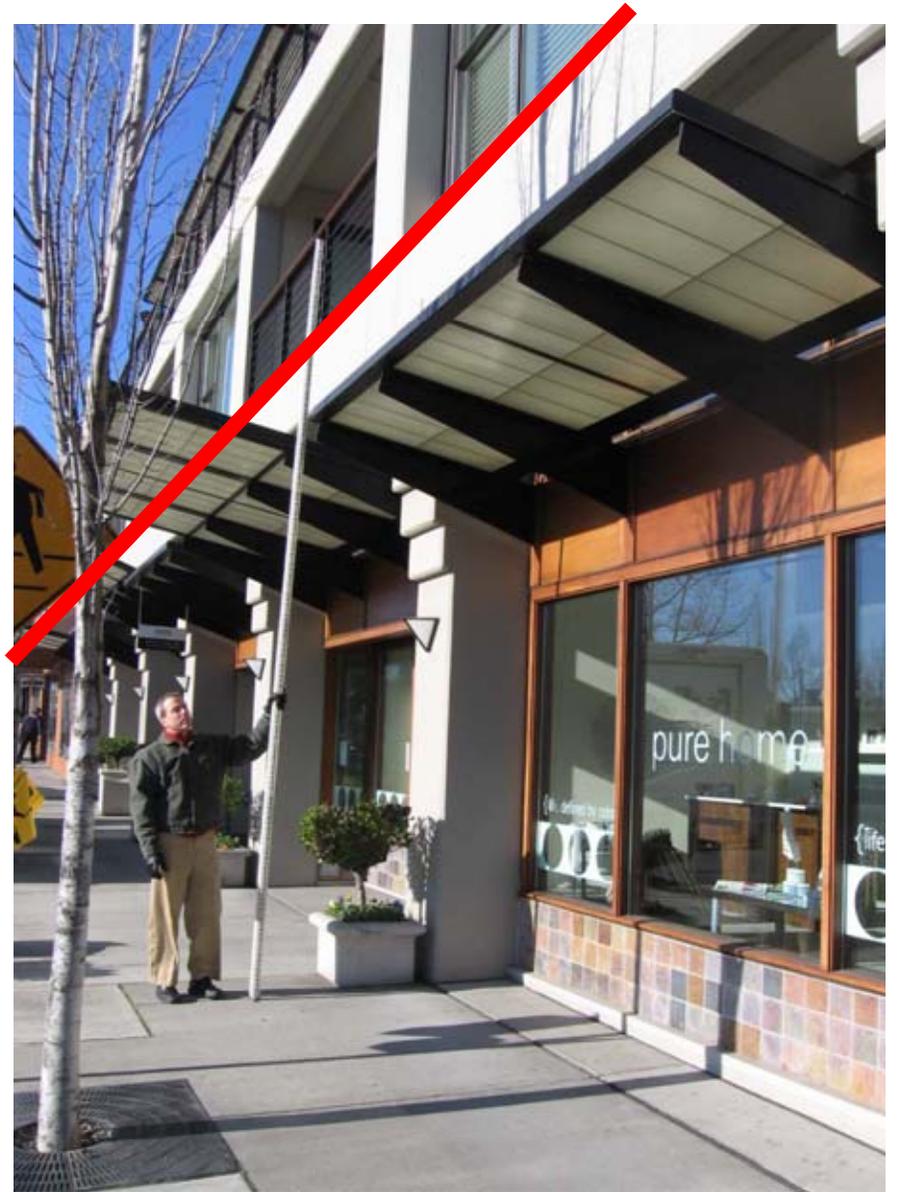
Tiara de Lago



Sur La Table



Bead World



Marina Heights



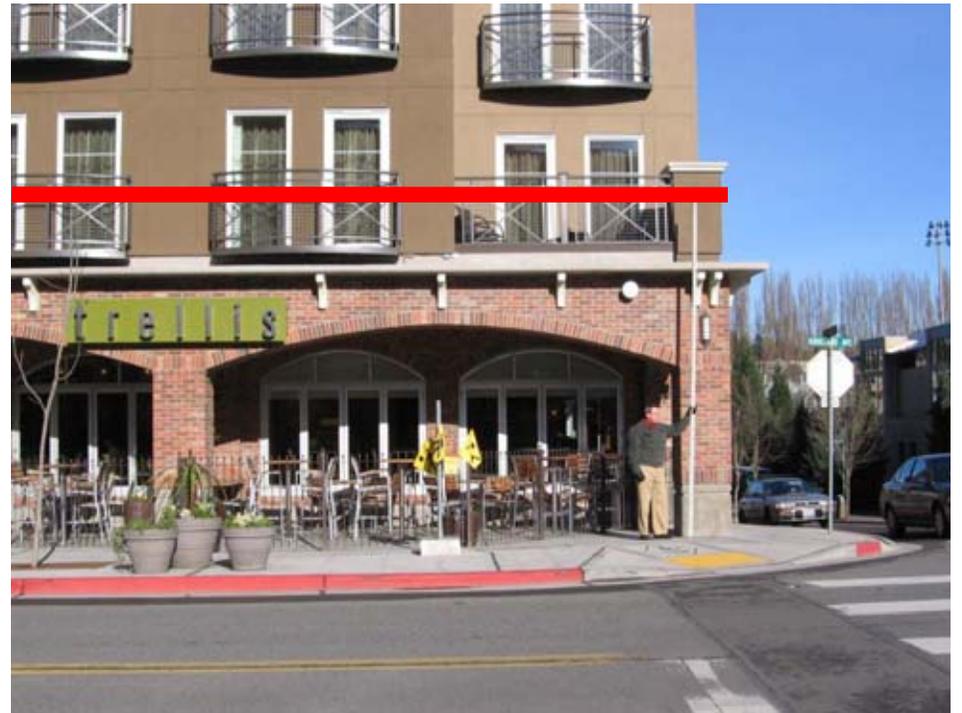
Howard Mandeville



Paisley Cupboard/Tria Moda



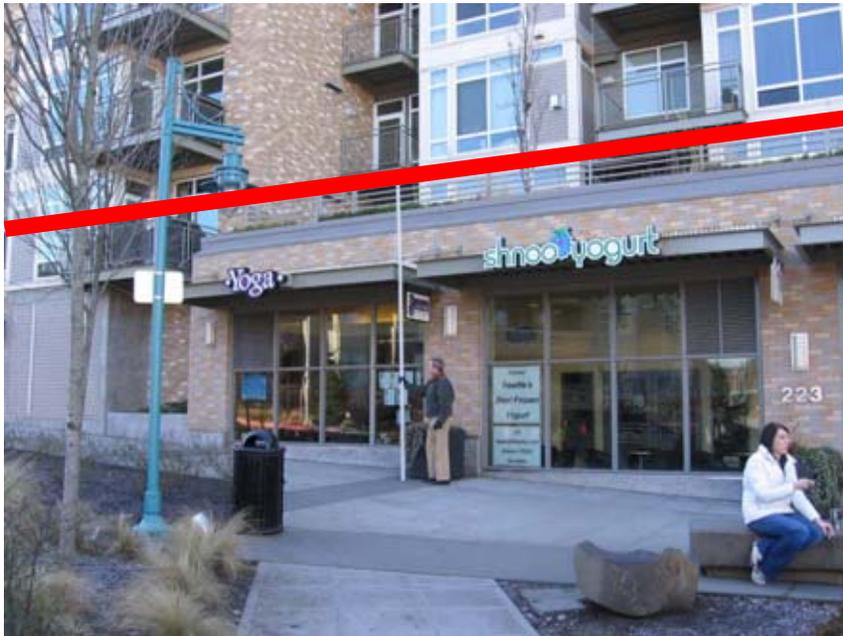
Heathman west end



Heathman east end



Plaza on State



Kirkland Central east end



Kirkland Central center section



Merrill Gardens east end



Merrill Gardens west end

COMPREHENSIVE PLAN CONSISTENCY MATRIX

The criteria for amendments to the Kirkland Zoning Code require that the City Council find that the proposed amendment is consistent with the applicable provisions of the Comprehensive Plan. In this case, the intent of the City Council is to explicitly codify the policies found in the Downtown Plan section of the Comprehensive Plan. The matrix below summarizes the Downtown Plan policies in the first column and the related draft amendments in the second column. The complete text of the Downtown Plan is included as Attachment 1.

Policies For All development	Regulatory Response
2-4 stories in 1A, 2-5 stories in 1B	
<ul style="list-style-type: none"> ▪ Stories above 2nd setback (stepped back) from street 	<ul style="list-style-type: none"> ▪ Establish a building setback formula and supporting design guidelines that require buildings to step back above the 2nd story (see CBA 1A/1B, draft General Regulation 5.c & d).
<ul style="list-style-type: none"> ▪ Buildings 2 stories along Lake Street 	<ul style="list-style-type: none"> ▪ Limit buildings to two stories within 30' of Lake Street (see CBA 1A/1B, draft General Regulation 5.a and d).
<ul style="list-style-type: none"> ▪ Street frontages 2 stories along: <ul style="list-style-type: none"> ○ Park Lane west of Main ○ 3rd Street ○ Kirkland Avenue 	<ul style="list-style-type: none"> ▪ Establish a building setback formula and supporting design guidelines that require buildings to step back above the 2nd story (see CBA 1A/1B, draft General Regulation 5.c & d). Applies to all CBA 1A/1B streets other than Lake Street and Central Way).
<ul style="list-style-type: none"> ▪ Buildings up to 3 stories along Central, avoid continuous 3 story street wall 	<ul style="list-style-type: none"> ▪ Limit buildings to three stories within 30' of Central Way (see CBA 1A/1B, draft General Regulation 5.b and d).
Areas designated 1B best opportunities for new development	
<ul style="list-style-type: none"> ▪ Mix of 2-4 stories 	<ul style="list-style-type: none"> ▪ Limit portions of buildings along Lake Street to two stories (see CBD 1A/1B, draft General Regulation 5.a and d). Limit portions of buildings along Central Way to three stories (see CBA 1A/1B, draft General Regulation 5.b and d). Limit height off all other street frontages through average setback requirements above the second story (see CBA 1A/1B, Draft General Regulation 5.c & d).
<ul style="list-style-type: none"> ▪ East of Main modulate height and façade widths to break large buildings into appearance of multiple smaller buildings 	<ul style="list-style-type: none"> ▪ See average setback requirement (CBA 1A/1B, draft General Regulation 5.c & d) and draft new design guidelines. See also existing requirements for vertical and horizontal modulation in Design Guidelines for Pedestrian Oriented Business Districts.
<ul style="list-style-type: none"> ▪ South of Kirkland Avenue building from steps up from north and west, tallest at base of hillside 	<ul style="list-style-type: none"> ▪ See average setback requirement.
<ul style="list-style-type: none"> ▪ Buildings over 2 stories generally reduce mass above 2nd story 	<ul style="list-style-type: none"> ▪ See average setback requirement.

Policies for “Bonus” Story	Regulatory Response
Additional 4 th story in Design District 1A, additional 5 th story in District 1B	<ul style="list-style-type: none"> ▪ Amend zoning map to divide CBD 1 into CBD 1A and CBD 1B zones consistent with the Design Districts (see draft ordinance O-4178). ▪ Establish allowed height in feet rather than stories (see draft use zone charts). ▪ Allow 45’ maximum height in CBD 1A (see draft CBD 1A/1B use zone charts). ▪ Allow 55’ maximum height in CBD 1B (see draft CBD 1A/1B use zone charts).
<ul style="list-style-type: none"> ▪ At least 2 upper stories are residential in 1A, at least 3 upper stories are residential in 1B 	<ul style="list-style-type: none"> ▪ Establish maximum building heights based on the height of one story of retail (at 15’ minimum) with three (CBD 1A) or four (CBD 1B) stories of residential (at 10’ typical) above. Because office stories are typically taller than residential stories, the allowed heights will continue to incentive residential use of upper stories (more residential stories would fit within the height envelope). The draft code is not so prescriptive as to require the uppermost stories to be residential. See draft CBD 1A/1B use zone charts.
<ul style="list-style-type: none"> ▪ Height is less than 4’ taller than a 3 story office project in 1A (current code allows at 41’), less than 1’ taller than a 4 story office project in 1B (current code allows 54’) 	<ul style="list-style-type: none"> ▪ Establish maximum building heights of 45’ in CBD 1A and 55’ in CBD 1B (see draft CBD 1A/1B use zone charts).
<ul style="list-style-type: none"> ▪ Stories above 2nd stepped back significantly 	<ul style="list-style-type: none"> ▪ See average setback requirement (CBA 1A/1B, draft General Regulation 5.c & d) and draft new design guidelines. Note guidelines that require building mass to recede as height increases.
<ul style="list-style-type: none"> ▪ Building form stepped back at 3rd, 4th, and 5th stories 	<ul style="list-style-type: none"> ▪ See average setback requirement (CBA 1A/1B, draft General Regulation 5.c & d) and draft new design guidelines. Note guidelines that require building mass to recede as height increases.
<ul style="list-style-type: none"> ▪ Project provides superior retail space at street level 	<ul style="list-style-type: none"> ▪ Establish enhanced retail design standards that apply to all of CBA 1A/1B, regardless of height. ▪ Require retail uses at the street level at a minimum average depth of 30’ (see draft CBD 1A/1B General Regulation 3). ▪ Require minimum retail height of 15’ (see draft KZC 50.62.2) and draft storefront glazing guidelines (note that existing guidelines already establish strong retail design standards). ▪ Increase sidewalk width requirement from 10’ to minimum 13’ average (see draft CBD 1A/1B General Regulation 4). ▪ Establish open space/plaza incentives in conjunction with upper story setback requirements (see draft CBD 1A/1B General Regulation 5.d). ▪ Prohibit “Banking and Related Financial Institution” and related drive through uses on Park Lane and Lake Street. Grandfather use existing prior to 2004 (Bank of America). See draft 50.12.025 Special Regulations.
<ul style="list-style-type: none"> ▪ Height of rooftop appurtenances and screening limited and integrated into roof form 	<ul style="list-style-type: none"> ▪ Limit height of rooftop appurtenances to not exceed height of roof form (up to 4’ for flat roofs with parapets, up to 8’ for pitched roofs). Modifications not permitted (see draft KZC 50.62.3).