



CITY OF KIRKLAND

Planning and Community Development Department
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MEMORANDUM

To: David Ramsay, City Manager
From: Eric Shields, Planning Director
Date: April 23, 2009
Subject: Zoning Code Interpretation: Schools in LIT Zones

RECOMMENDATION

Determine whether the Zoning Code should be interpreted to allow schools in the LIT zone. If so, direct the Planning Director to prepare a formal code interpretation.

BACKGROUND DISCUSSION

The Issue: Mr. Ken Rice owns property located at 400 6th St. S. in a Light Industrial Technology (LIT) zone. He is interested in selling the property to someone who wishes to locate a Montessori school there. Both Mr. Rice and the potential purchaser contacted the Planning Department about whether the LIT zoning would allow a Montessori school. They were told that it would not. Mr. Rice then contacted me to determine if there is any way to accommodate the school. During the course of our conversation, we identified one section of the LIT regulations that could conceivably be interpreted to allow a school. I agreed to consult the City Council about whether such an interpretation would be desired.

Uses Allowed in the LIT Zone: Most of the permitted uses in the LIT zone are light industrial in nature, for example warehousing, wholesale trade and contracting services. Offices and high technology uses are also permitted and in recent years have been the most predominant type of new construction. Day care centers are allowed if they are accessory to other permitted uses, occupying no more than 20% of the floor area of a building. A few other uses such as accessory restaurant uses are also permitted.

Schools are allowed in nearly all zones in the City, but not in the LIT zone (this is also true of churches). Community facility uses, on the other hand are also allowed in all or nearly all zones, including LIT zones (the same is true of government facility uses). See the attachment showing regulations for the LIT zone. See also the attachment showing the example of school regulations in the PR zone.

Definition of Community Facility: The Zoning Code defines Community Facility as:

“A use which serves the public and is generally of a noncommercial nature. Such use shall include food banks, clothing banks, and other nonprofit social service organizations; nonprofit recreational facilities; and nonprofit performance arts centers.”

The Question: The question for the Council is whether a school should be considered to be within the scope of a Community Facility. I don't think the City specifically had schools in mind when the community facility definition was written, particularly since schools are specifically listed as a permitted use in most zones and have their own definitions. However, a school could be considered to serve the public and be noncommercial in nature. If the Council concludes that a school would be acceptable in the LIT zone, then it would be possible for a written zoning code interpretation to be prepared that would recognize schools as being within the scope of the Community Facility use in the LIT zone.

One thing to keep in mind is that the question must be addressed for the LIT as a whole and would not be site specific. In other words, the decision will apply to all LIT zoned land throughout the City, not just to the property that is currently of interest at 400 6th Ave. S.

Attachments:

- LIT Zone regulations
- PR Zone school regulations

Chapter 48 – LIGHT INDUSTRIAL TECHNOLOGY (LIT) ZONES

48.05 User Guide. The charts in KZC 48.15 contain the basic zoning regulations that apply in the LIT zones of the City. Use these charts by reading down the left hand column entitled Use. Once you locate the use in which you are interested, read across to find the regulations that apply to that use.

Section 48.10

Zone
LIT

Section 48.10 – GENERAL REGULATIONS

The following regulations apply to all uses in this zone unless otherwise noted:

1. Refer to Chapter 1 KZC to determine what other provision of this code may apply to the subject property.
2. If any portion of a structure is adjoining a low density zone, then either:
 - a. The height of that portion of the structure shall not exceed 20 feet above average building elevation; or
 - b. The horizontal length of any facade of that portion of the structure which is parallel to the boundary of the low density zone shall not exceed 50 feet.See KZC 115.30, Distance Between Structures/Adjacency to Institutional Use, for further details.
(Does not apply to Hazardous Waste Treatment and Storage Facilities uses).
3. Except if adjoining a low density zone, structure height may be increased above 35 feet in height through a Process IIA, Chapter 150 KZC, if:
 - a. It will not block local or territorial views designated in the Comprehensive Plan;
 - b. The increased height is not specifically inconsistent with the applicable neighborhood plan provisions of the Comprehensive Plan; and
 - c. The required yard of any portion of the structure may be increased up to a maximum of one foot for each foot that any portion of the structure exceeds 35 feet above average building elevation. The need for additional setback yards will be determined as part of the review of any request to increase structure height.(Does not apply to Hazardous Waste Treatment and Storage Facilities and Public Parks uses).
4. If the property is located in the NE 85th Street Subarea, the applicant shall install a through-block pedestrian pathway to connect an east-west pathway designated in the Comprehensive Plan between 124th Avenue NE and 120th Avenue NE pursuant to the through-block pathway standards in KZC 105.19(3) (See Plate 34K).
5. Retail uses are prohibited unless otherwise allowed in the use zone charts.

DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS

Section 48.15	USE ↓ REGULATIONS ↑	Required Review Process	MINIMUMS			MAXIMUMS		Lot Coverage	Height of Structure	Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
			Lot Size	REQUIRED YARDS (See Ch. 115)									
				Front	Side	Rear							
.010	Packaging of Prepared Materials Manufacturing See Spec. Regs. 1 and 2.	Within the NE 85th Street Subarea, D.R., Chapter 142 KZC. Otherwise, none.	None	20'	0'	0'	90%	If adjoining a low density zone other than RSX, then 25' above average building elevation. Otherwise, 35' above average building elevation with a maximum of two stories, exclusive of parking levels.	A	C	1 per each 1,000 sq. ft. of gross floor area.	1. The following manufacturing uses are permitted: <ol style="list-style-type: none"> Food, drugs, stone, clay, glass, china, ceramics products, electrical equipment, scientific or photographic equipment, fabricated metal products; Fabricated metal products, but not fabrication of major structural steel forms, heavy metal processes, boiler making, or similar activities; Cold mix process only of soap, detergents, cleaning preparations, perfumes, cosmetics, or other toilet preparations; Packaging of prepared materials; Textile, leather, wood, paper and plastic products from pre-prepared material; and Other compatible uses which may involve manufacturing, processing, assembling, fabrication and handling of products, and research and technological processes. 2. May include as part of this use, accessory retail sales, office or service utilizing not more than 20 percent of the gross floor area. The landscaping and parking requirements for these accessory uses will be the same as for the primary use.	
.020	A Retail Establishment Providing Storage Services									E	See KZC 105.25.	1. May include accessory living facilities for resident security manager.	
.030	Warehouse Storage Service									C	1 per each 1,000 sq. ft. of gross floor area.	1. May include, as part of this use, accessory retail sales, office or service utilizing no more than 20 percent of the gross floor area. The landscaping and parking requirements for these accessory uses will be the same as for the primary use.	
.040	Wholesale Trade												
.050	Industrial Laundry Facility												
.060	Wholesale Printing or Publishing												

Section 48.15

Zone
LIT

USE ZONE CHART

DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS												
Section 48.15	USE ↓ REGULATIONS →	Required Review Process	MINIMUMS				MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
			Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage	Height of Structure				
				Front	Side	Rear						
.070	Wholesale Establishment or Contracting Services in Building Construction, Plumbing, Electrical, Landscaping, or Pest Control	Within the NE 85th Street Subarea, D.R., Chapter 142 KZC. Otherwise, none.	None	20'	0'	0'	80%	If adjoining a low density zone other than RSX, then 25' above average building elevation. Otherwise, 35' above average building elevation with a maximum of two stories, exclusive of parking levels.	B	E	1 per each 1,000 sq. ft. of gross floor area.	1. Outdoor storage for this use must be buffered as established in Chapter 95 KZC for Landscape Category A.
.075	A Retail Establishment providing rental services										1 per each 300 sq. ft. of gross floor area.	
.080	A Retail Establishment providing banking and related financial services											
.090	High Technology										A	



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Section 48.15	USE ↓ REGULATIONS ↑	Required Review Process	MINIMUMS			MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)	
			Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage					Height of Structure
				Front	Side	Rear						
.100	Office Use	Within the NE 85th Street Subarea, D.R., Chapter 142 KZC. Otherwise, none.	None	20'	0'	0'	70%	35' above average building elevation with a maximum of two stories, exclusive of parking levels except as specified in Spec. Reg. 2.	C See also Spec. Reg. 1a.	E	If a medical, dental, or veterinary office, then 1 per each 200 sq. ft. of gross floor area. Otherwise, 1 per each 300 sq. ft. of gross floor area.	<ol style="list-style-type: none"> The following regulations apply only to veterinary offices: <ol style="list-style-type: none"> If there are outdoor runs or other outdoor facilities for the animals, then use must comply with Landscape Category A. Outside runs and other outside facilities for the animals must be set back at least 10 feet from each property line and must be surrounded by a fence or wall sufficient to enclose the animals. See KZC 115.105, Outdoor Use, Activity and Storage, for further regulations. <ol style="list-style-type: none"> If adjoining a low density zone other than RSX, then 25 feet above average building elevation; and In the Norkirk Neighborhood, south of 7th Avenue and west of 8th Street, maximum height is 40 feet above average building elevation, with no limit on number of stories.
.110	Auction House See Spec. Reg. 1.	Within the NE 85th Street Subarea, D.R., Chapter 142 KZC. Otherwise, none.	None	20'	0'	0'	80%	If adjoining a low density zone other than RSX, then 25' above average building elevation. Otherwise, 35' above average building elevation with a maximum of two stories, exclusive of parking levels.	B	E	1 per each 300 sq. ft. of gross floor area.	<ol style="list-style-type: none"> Livestock auctions are not permitted. Outdoor storage for this use must be buffered as established in Chapter 95 KZC for Landscaping Category A.
.120	Kennel	Within the NE 85th Street Subarea, D.R., Chapter 142 KZC. Otherwise, none.	None	20'	0'	0'	See Spec. Reg. 1.	See Spec. Reg. 1.				<ol style="list-style-type: none"> Outside runs and other facilities for the animals must be set back at least 10 feet from each property line and must be surrounded by a fence or wall sufficient to enclose the animals. See KZC 115.105, Outdoor Use, Activity and Storage, for further regulations. Must provide suitable shelter for the animals. Must maintain a clean, healthful environment for the animals.
.130	Day-Care Center See Spec. Reg. 1.	Within the NE 85th Street Subarea, D.R., Chapter 142 KZC. Otherwise, none.	None	20'	0'	0'	80%	If adjoining a low density zone other than RSX, then 25' above average building elevation. Otherwise, 35' above average building elevation with a maximum of two stories, exclusive of parking levels.	D	B	See KZC 105.25.	<ol style="list-style-type: none"> This use is permitted if accessory to a primary use, and: <ol style="list-style-type: none"> It will not exceed 20 percent of the gross floor area of the building; The use is integrated into the design of the building. A six-foot-high fence is required along the property lines adjacent to the outside play areas. Hours of operation may be limited to reduce impacts on nearby residential uses. Structured play areas must be set back from all property lines as follows: <ol style="list-style-type: none"> Twenty feet if this use can accommodate 50 or more students or children. Ten feet if this use can accommodate 13 to 49 students or children.

REGULATIONS CONTINUED ON NEXT PAGE

Section 48.15

Zone
LIT

USE ZONE CHART

DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS													
Section 48.15	USE ↓ REGULATIONS ↓	Required Review Process	MINIMUMS			MAXIMUMS		Lot Coverage	Height of Structure	Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
			Lot Size	REQUIRED YARDS (See Ch. 115)									
				Front	Side	Rear							
.130	Day-Care Center (continued)											<p>REGULATIONS CONTINUED FROM PREVIOUS PAGE</p> <ol style="list-style-type: none"> An on-site passenger loading area may be provided. The City shall determine the appropriate size of the loading areas on a case-by-case basis, depending on the number of attendees and the extent of the abutting right-of-way improvements. Carpooling, staggered loading/unloading time, right-of-way improvements or other means may be required to reduce traffic impacts on any nearby residential uses. May include accessory living facilities for staff persons. The location of parking and passenger loading areas shall be designed to reduce impacts on any nearby residential uses. These uses are subject to the requirements established by the Department of Social and Health Services (WAC Title 388). 	
.140	Mini-Day-Care See Spec. Reg. 1.	Within the NE 85th Street Subarea, D.R., Chapter 142 KZC. Otherwise, none.	None	20'	0'	0'	80%	If adjoining a low density zone other than RSX, then 25' above average building elevation. Otherwise, 35' above average building elevation with a maximum of two stories, exclusive of parking levels.	D	B	See KZC 105.25.	<ol style="list-style-type: none"> This use is permitted if accessory to a primary use, and: <ol style="list-style-type: none"> It will not exceed 20 percent of the gross floor area of the building; The use is integrated into the design of the building. A six-foot-high fence is required along the property lines adjacent to the outside play areas. To reduce impacts on nearby residential uses, hours of operation of the use may be limited and parking and passenger loading areas relocated. Structured play areas must be set back from all property lines by five feet. An on-site passenger loading area may be required depending on the number of attendees and the extent of the abutting right-of-way improvements. The location of parking and passenger loading areas shall be designed to reduce impacts on nearby residential uses. May include accessory living facilities for staff persons. These uses are subject to the requirements established by the Department of Social and Health Services (WAC Title 388). 	

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			Lot Size	REQUIRED YARDS (See Ch. 115)									
				Front	Side	Rear							
.150	Recycling Center	Within the NE 85th Street Subarea, D.R., Chapter 142 KZC. Otherwise, none.	None	20'	0'	0'	80%	If adjoining a low density zone other than RSX, then 25' above average building elevation. Otherwise, 35' above average building elevation with a maximum of two stories, exclusive of parking levels.	A	C	See KZC 105.25.	1. May deal in metal cans, glass, and paper. Other materials may be recycled if the Planning Director determines that the impacts are no greater than those associated with recycling metal cans, glass, or paper. The individual will have the burden of proof in demonstrating similar impacts.	
.160	Public Utility			C	B								
.170	Government Facility Community Facility			C See Spec. Reg. 1.									
.180	Hazardous Waste Treatment and Storage Facilities	Within the NE 85th Street Subarea, D.R., Chapter 142 KZC. Otherwise, none.	None	30'	0'	0'	90%	35' above average building elevation with a maximum of two stories, exclusive of parking levels. See Spec. Reg. 2.	A	C	1 per each 1,000 sq. ft. of gross floor area.	1. Must comply with the state siting criteria adopted in accordance with RCW 70.105.210. 2. Structure height may be increased above 35 feet in height through a Process IIA, Chapter 150 KZC, if: a. It will not block local or territorial views designated in the Comprehensive Plan; and b. The increased height is not specifically inconsistent with the applicable neighborhood plan provisions of the Comprehensive Plan; and c. The need for an increase in height is directly related to the hazardous waste treatment and/or storage activity; and d. The required yard of any portion of the structure may be increased up to a maximum of one foot for each foot that any portion of the structure exceeds 35 feet above average building elevation. The need for additional setback yards will be determined as part of the review of any request to increase structure height.	
.190	Vehicle or Boat Repair, Services, Storage, or Washing			20'	80%	E							See KZC 105.25.

Section 48.15



USE ZONE CHART

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			Lot Size	REQUIRED YARDS (See Ch. 115)									
				Front	Side	Rear							
.195	Automobile Sales	Process I, Chapter 145 KZC	None	20'	0'	0'	80%	If adjoining a low density zone other than RSX, then 25' above average building elevation. Otherwise, 35' above average building elevation with a maximum of two stories, exclusive of parking levels.	A	C See Spec. Reg. 7.	See KZC 105.25.	<ol style="list-style-type: none"> 1. This use is permitted only on properties that adjoin 8th Street or 7th Avenue in the Norkirk Neighborhood. 2. Outdoor automobile sales, storage, and display are not permitted. 3. Outdoor sound systems are not permitted. 4. Outdoor balloons, streamers, and inflatable objects are not permitted. 5. Test drives must be accompanied by an employee through the LIT zone and limited to 8th Street, 7th Avenue, and either 6th Street or 114th Avenue NE enroute to Central Way/NE 85th Street. 6. Hours of operation are limited to 7:00 a.m. to 8:00 p.m. 7. Cabinet signs are not permitted. 8. This use primarily entails the sale of alternative fuel vehicles such as biodiesel, ethanol, and electric vehicles. 	
.200	Restaurant See Spec. Reg. 1.	Within the NE 85th Street Subarea, D.R., Chapter 142 KZC. Otherwise, none.							B	E	1 per each 100 sq. ft. of gross floor area.	<ol style="list-style-type: none"> 1. This use is permitted if accessory to a primary use, and: <ol style="list-style-type: none"> a. It will not exceed 20 percent of the gross floor area of the building; b. The use is integrated into the design of the building; and c. There is no vehicle drive-in or drive-through. 	
.210	Public Park	Development standards will be determined on case-by-case basis. See Chapter 49 KZC for required review process.											

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			Lot Size	REQUIRED YARDS (See Ch. 115)									
				Front	Side	Rear							
.220	Commercial Recreation Area and Use	Within the NE 85th Street Subarea, D.R., Chapter 142 KZC. Otherwise, none.	None	20'	0'	0'	80%	If adjoining a low density zone other than RSX, then 25' above average building elevation. Otherwise, 35' above average building elevation with a maximum of two stories, exclusive of parking levels.	A	E	See KZC 105.25.	<ol style="list-style-type: none"> The use is permitted only if the property is located between NE 107th Street (extended) and NE 116th Street; and between I-405 and 116th Avenue NE. The use shall be conducted within a wholly-enclosed building. The building housing the use shall have been in existence on June 1, 2004, and shall not be altered, changed, or otherwise modified to accommodate the use if the cost of such alteration, change, or modification exceeds 30 percent of the replacement cost of that building. The use must be discontinued when there is an alteration, change, or other work in a consecutive 12-month period to the space in which the use is located, and the cost of the alteration, change or other work exceeds 30 percent of the replacement cost of that space. 	

DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS

Section 25.10	USE ↓ REGULATIONS ↘	Required Review Process	MINIMUMS			MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)	
			Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage					Height of Structure
				Front	Side	Rear						
.090	School or Day-Care Center	<p>Within the NE 85th Street Sub-area, D.R., Chapter 142 KZC. Otherwise, none.</p> <p>If this use is adjoining a low density zone, then Process I, Chapter 145 KZC.</p>	<p>8,500 sq. ft. if PR 8.5 zone, otherwise 7,200 sq. ft.</p>	<p>If this use can accommodate 50 or more students or children, then:</p> <p>50' 50' on each side 50'</p> <p>If this use can accommodate 13 to 49 students or children, then:</p> <p>20' 20' on each side 20'</p>	70%	<p>If adjoining a low density zone other than RSX, then 25' above average building elevation. Otherwise, 30' above average building elevation. See Spec. Reg. 7.</p>	D	B	See KZC 105.25.	<ol style="list-style-type: none"> A six-foot-high fence is required only along the property lines adjacent to the outside play areas. Structured play areas must be set back from all property lines as follows: <ol style="list-style-type: none"> Twenty feet if this use can accommodate 50 or more students or children. Ten feet if this use can accommodate 13 to 49 students or children. An on-site passenger loading area must be provided. The City shall determine the appropriate size of the loading area on a case-by-case basis, depending on the number of attendees and the extent of the abutting right-of-way improvements. Carpooling, staggered loading/unloading time, right-of-way improvements or other means may be required to reduce traffic impacts on nearby residential uses. May include accessory living facilities for staff persons. To reduce impacts on nearby residential uses, hours of operation of the use may be limited and parking and passenger loading areas relocated. These uses are subject to the requirements established by the Department of Social and Health Services (WAC Title 388). For school use, structure height may be increased, up to 35 feet, if: <ol style="list-style-type: none"> The school can accommodate 200 or more students; and The required side and rear yards for the portions of the structure exceeding the basic maximum structure height are increased by one foot for each additional one foot of structure height; and The increased height is not specifically inconsistent with the applicable neighborhood plan provisions of the Comprehensive Plan; and The increased height will not result in a structure that is incompatible with surrounding uses or improvements. <i>This special regulation is not effective within the disapproval jurisdiction of the Houghton Community Council.</i> For a Mini-School or Mini-Day-Care Center use, electrical signs shall not be permitted and the size of signs may be limited to be compatible with nearby residential uses. These uses are subject to the requirements established by the Department of Social and Health Services (WAC Title 388). 		