



MEMORANDUM

DATE: July 12, 2012

To: Planning Commission

FROM: Jeremy McMahan, Planning Supervisor
Eric Shields, AICP, Planning Director

SUBJECT: Commercial Codes, KZC, Comprehensive Plan and Design Guideline
Amendments, File No. ZON11-00042

RECOMMENDATION

Deliberate and make a recommendation on the amendments that will be transmitted to the City Council for their consideration.

The Planning Commission is reminded to bring their meeting packets from the June 28th public hearing.

BACKGROUND

The Planning Commission conducted a public hearing the draft amendments on June 28, 2012. The Commission considered all written and oral testimony up to that date. The Commission closed the public hearing on June 28th and left the record open until 5:00 p.m. on July 11th for additional written comment. The Commission deliberated amendments to the BC-related KZC amendments and provided staff with corrections (see Attachment 1). The meeting was continued to July 19, 2012 for Commission deliberations on draft Comprehensive Plan and BN-related amendments.

PUBLIC COMMENT

Additional correspondence received as of July 11 at 5:00 p.m. is included as Attachment 2.

Attachments

1. Corrected BC-related KZC Charts
2. Public Comment received prior to 5:00 p.m. on July 11, 2012

CHAPTER 45 – COMMUNITY BUSINESS

45.05 User Guide. The charts in KZC 45.05 are read down the left hand column

Section 45.08

Zone
BC, BC 1,
BC 2

In the BC zone,

Section 45.08 – General
The following regulations apply:

1. Refer to Chapter 45.05
2. If any portion of a structure is used for commercial purposes:
 - a. The height of structure shall be limited to the maximum height of structure by three feet for a three-story building with the required 13-foot commercial floor.
 - b. The maximum height of structure shall be limited to the maximum height of structure by three feet for a three-story building with the required 13-foot commercial floor.

3. At least 75 percent of the total gross floor area located on the ground floor of all structures on the subject property must contain retail establishments, restaurants, taverns, hotels or motels, or offices. These uses shall be oriented to an adjacent arterial, a major pedestrian sidewalk, a through-block pedestrian pathway or an internal pathway.
4. In BC 1 and BC 2 zones, developments creating four or more new dwelling units shall provide at least 10 percent of the units as affordable housing units as defined in Chapter 5 KZC. Two additional units may be constructed for each affordable housing unit provided. See Chapter 112 KZC for additional affordable housing incentives and requirements.
5. In the BC 1 and BC 2 zones, side and rear yards abutting a residential zone shall be 20 feet.
6. In the BC 1 and BC 2 zones, all required yards for any portion of a structure must be increased one foot for each foot that any portion of the structure exceeds 35 feet above average building elevation (does not apply to Public Park uses).
7. Maximum height of structure is as follows:
 - a. In the BC zone, if adjoining a low density zone other than RSX, then 25 feet above average building elevation. Otherwise, 30 feet above average building elevation. Except if adjoining a low density zone, structure height may be increased above 30 feet in height through a Process IIA, Chapter 150 KZC, if:
 - i. It will not block local or territorial views designated in the Comprehensive Plan;
 - ii. The increased height is not specifically inconsistent with the applicable neighborhood plan provisions of the Comprehensive Plan; and
 - iii. The required front yard of any portion of the structure is increased one foot for each foot that any portion of the structure exceeds 30 feet above average building elevation (does not apply to Public Park uses).
 - b. In the BC 1 zone, 35 feet above average building elevation.
 - c. In the BC 2 zone, 35 feet above average building elevation. Structure height may be increased to 60 feet in height if:
 - i. At least 50 percent of the floor area is residential;
 - ii. Parking is located away from the street by placing it behind buildings, to the side of buildings, or in a parking structure;
 - iii. The ground floor is a minimum 15 feet in height for all retail, restaurant, or office uses (except parking garages); and
 - iv. The required yards of any portion of the structure are increased one foot for each foot that any portion of the structure exceeds 30 feet above average building elevation (does not apply to Public Park uses).

4. In the BC 1 and BC 2 zones, the following requirements shall apply to all development that includes residential or assisted living uses:

a. The development must include commercial use(s) with gross floor area on the ground floor equal to or greater than 25 percent of the parcel size for the subject property. Commercial floor area shall be one or more of the following uses: Retail; Restaurant or Tavern; Entertainment, Cultural and/or Recreational Facility; or Office.

b. The commercial floor shall be a minimum of 13 feet in height. The height of the structure may exceed the maximum height of structure by three feet for a three-story building with the required 13-foot commercial floor.

c. Commercial uses shall be oriented to adjoining arterials.

d. Residential uses, assisted living uses, and parking for those uses shall not be located on the street level floor unless an intervening commercial frontage is provided between the street and those other uses or parking subject to the standards above. The intervening commercial frontage shall be a minimum 20 feet in depth. The Planning Director may approve a minor reduction in the depth requirements if the applicant demonstrates that the requirement is not feasible given the configuration of existing or proposed improvements and that the design of the commercial frontage will maximize visual interest. Lobbies for residential or assisted living uses may be allowed within the commercial frontage provided they do not exceed 20 percent of the building's linear commercial frontage along the street.

CHAPTER 47 – COMMUNITY BUSINESS X (BCX) ZONES

47.05 User Guide. The charts in KZC 47.10 contain the basic zoning regulations that apply in each of the BCX 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 47.08

Zone
BCX

Section 47.08 – 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 provisions 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 15 feet above average building elevation, or
 - b. The maximum horizontal facade shall not exceed 50 feet in width.
 See KZC 115.30, Distance Between Structures/Adjacency to Institutional Use, for further details.
3. The required yard of any portion of the structure must be increased one foot for each foot that any portion of the structure exceeds 30 feet above average building elevation (does not apply to Public Park uses). 33
4. Except if adjoining a low density zone, structure height may be increased above 30 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.
 (Does not apply to Public Park and Automotive Service Center uses).
5. ~~At least 75 percent of the total gross floor area located on the ground floor of all structures on the subject property must contain retail establishments, restaurants, taverns, hotels or motels, or offices. These uses shall be oriented to an adjacent arterial, a major pedestrian sidewalk, a through-block pedestrian pathway or an internal pathway.~~

5. The following requirements shall apply to all development that includes residential or assisted living uses:

- a. The development must include commercial use(s) with gross floor area on the ground floor equal to or greater than 25 percent of the parcel size for the subject property. Commercial floor area shall be one or more of the following uses: Retail; Restaurant or Tavern; Entertainment, Cultural and/or Recreational Facility; or Office.
- b. The commercial floor shall be a minimum of 13 feet in height. The height of the structure may exceed the maximum height of structure by three feet. ~~for a three-story building with the required 13-foot commercial floor.~~
- c. Commercial uses shall be oriented to adjoining arterials.
- d. Residential uses, assisted living uses, and parking for those uses shall not be located on the street level floor unless an intervening commercial frontage is provided between the street and those other uses or parking subject to the standards above. The intervening commercial frontage shall be a minimum 20 feet in depth. The Planning Director may approve a minor reduction in the depth requirements if the applicant demonstrates that the requirement is not feasible given the configuration of existing or proposed improvements and that the design of the commercial frontage will maximize visual interest. Lobbies for residential or assisted living uses may be allowed within the commercial frontage provided they do not exceed 20 percent of the building's linear commercial frontage along the street.

From: [Jack Arndt](#)
To: [Jay Arnold](#); [Jon Pascal](#); [Mike Miller](#); [Byron Katsuyama](#); [Glenn Peterson](#); [C. Ray Allshouse](#); [Andrew Held](#); [Robin Jenkinson](#); [Eric Shields](#); [Jeremy McMahan](#)
Cc: uwkkg@aol.com
Subject: May 31st Council Meeting
Date: Wednesday, May 30, 2012 8:23:39 PM

Planning Commission/Department

We would like to re-forced that you are the experts with your knowledge and expertise to come forward with the correct density level to fit into the neighborhood plan surrounding Lake Washington Blvd/10th Street.

It was very clear during the last council meeting that the opinions of McBride, Marchione, Sweet, and Walen of our city council did not have the best interest of Kirkland citizens in mind when they made their recommendation on the BN zoning. They were only focused to the interests of the developer in order to avoid a potential lawsuit by the developer. They also did not understand their role in letting you, the experts determine from a planning commission/department what the area can support.

Council Members Steroff, Nixon, and Asher supported you on moving forward with a residential zoning plan.

We trust you will come forward with your leadership and vision based on facts not opinions in what the area can support in density caps for all the concerns that have been voiced during the past 6 months. We encourage you not to back down to 4 council members and do what is right for the future of Kirkland.

Sincerely,

Jack & Christy Arndt
6424 Lake Washington Blvd.

From: [Jack Arndt](#)
To: [Mike Miller](#); [Jon Pascal](#); [Andrew Held](#); [Glenn Peterson](#); [C Ray Allshouse](#); [Byron Katsuyama](#); [Jay Arnold](#); [Robin Jenkinson](#); [Eric Shields](#); [Jeremy McMahan](#)
Subject: June 28th, 2012 Public Hearing BN Residential Market Properties
Date: Friday, June 22, 2012 12:17:29 PM

Dear Members of Planning Commission/Department;

In advance of the public hearing on June 28th, we wanted to again re-force our support to your expertise in what is right for the long term benefit/mission of Kirkland, it's residential area's, traffic flow, etc. This decision process cannot be left up to either our elected city council, which the majority does not have the expertise to make recommendations on zoning or developers who are interested in only their short term objectives without any regards to the community.

The experts are you, who we as citizens depend on in making the right decisions on zoning requirements to protect both of our future residential areas and that of the business community. It is clearly evident that the area's in question support the Planning Commission's decision that the 3 BN Residential Market Properties should remain as Residential Market Commerical and not be changed to any other designation.

With the traffic issues we experience which contines to get worse each year on Lake Washington Blvd. higher density would create even more of a negative impact on traffic, getting into downtown Kirkland to support our local businesses and decreasing residential property values. We therefore support zoning text that meets the criterion of lowest intensity commerical use that blends with the neighborhood and minimizes the traffic issues beyond what already exists. The area simply cannot support high density due to the reasons that have been voiced over the past nine months.

We trust you will leverage your expertise and make the "right" recommendation based on the support which has been voiced by the the citizens of Kirkland and supported with clear facts. This is also is in line our Municipal Code (under 170.50) which states that when provisions of code are in conflict with each other "the most restrictive applies".

Sincerely,

Jack & Christy Arndt
6424 Lake Washington Blvd. NE

From: [alison barnes martin](#)
To: [Mike Miller](#); [Jon Pascal](#); [Andrew Held](#); [Glenn Peterson](#); [C Ray Allshouse](#); [Byron Katsuyama](#); [Jay Arnold](#); [Robin Jenkinson](#); [Eric Shields](#); [Jeremy McMahan](#)
Subject: June 28, 2012 Public Hearing BN Residential Market Properties
Date: Friday, June 22, 2012 10:17:59 AM

Good Morning!

Thank you for letting me voice my opinion regarding the Planning Commission's decision. I am so glad that the three BN Residential Market Properties will remain as Residential Market Commercial. I am so pleased that they will not be changed to any other designation.

Also, I think that it's really important that we follow our city laws and always apply the most restrictive rules when there might be any conflict.

I love Kirkland and what makes Kirkland special is that it is a quaint residential town with charming restaurants and shops. I realize that development must exist, however, I think that it's important to keep the same "intensity".

Thank you so much,

Alison Barnes
6620 Lake Washington Blvd.
Kirkland, WA 98003

From: judithbeto@comcast.net
To: [Mike Miller](#); [Jon Pascal](#); [Jay Arnold](#); [Andrew Held](#); [Byron Katsuyama](#); [Glenn Peterson](#); [C Ray Allshouse](#); [Joan McBride](#); [Doreen Marchione](#); [Penny Sweet](#); [Amy Walen](#); [Bob Sternoff](#); [Dave Asher](#); [Toby Nixon](#); [Kurt Triplett](#); [Robin Jenkinson](#); [Eric Shields](#); [Jeremy McMahan](#)
Cc: uwkkg@aol.com
Subject: Opinion of NEW KIRKLAND RESIDENT and Registered VOTER - You must deny Lake Washington Blvd increased density proposal
Date: Monday, July 09, 2012 4:47:02 PM

Dear City Officials

I just moved into 10104 NE 62nd Street on the corner of Lake Washington Blvd and 62nd Street in Kirkland

I moved here with my husband on July 1 from Oak Brook Illinois

I was AMAZED to understand there is a consideration of increased density along Lake Washington Blvd?

That a potential development is being considered for the property just north of me where the dry cleaners is - next to the vacant lot

The traffic this week - July 4 - has been overwhelming-----

I can only envision that my street will look like this ALL SEASON long - with 300+ extra cars wandering up and down the boulevard?

I cannot imagine any elected official would even consider creating such a traffic and density nightmare for a community as amazing as Kirkland. We came here because we really felt that the community had a united plan?

But to serve the needs of one developer? to allow density incompatible with the current ordinance??? how can this happen?

We are two new registered voters -- and cannot imagine that any city official would take the risk of voting for such a proposal and be proud of this?

Please don't vote for such a character changing ordinance!

Judy and Steve Beto
10104 NE 62nd Street
Kirkland WA 98033
708-227-0128

From: [Terri Campbell](#)
To: [Mike Miller](#); [Jon Pascal](#); [Jay Arnold](#); [Andrew Held](#); [Byron Katsuyama](#); [Glenn Peterson](#); [C Ray Allhouse](#); [Joan McBride](#); [Doreen Marchione](#); [Penny Sweet](#); [Amy Walen](#); [Bob Sternoff](#); [Dave Asher](#); [Toby Nixon](#); [Kurt Triplett](#); [Robin Jenkinson](#); [Eric Shields](#); [Jeremy McMahan](#)
Cc: uwkkg@aol.com
Subject: Lower Intensity Ordinance for Lake Washington Blvd.
Date: Sunday, July 08, 2012 8:08:53 PM

Dear City Officials:

Lowest Intensity was decided and adopted by Ordinance for properties along Lake St S & 10th Ave S as well as Lake Washington Blvd and NE 64th Ave.

Intensity of use would be the sum of the residential uses (measured in units per acre) plus the non-residential uses (measured as FAR). This is per Kirkland documents.

I do not believe that any of you can say that 48 units per acre plus the commercial component will end up as lowest intensity use or that it will meet the other criteria and fit with the residential character of the neighborhood in similar size, scale and intensity of use.

It is your job to implement the decisions that were already made and then reconfirmed nearly every 5 years since 1995.

Please do not get sidetracked by a developer's wish list. This is not about a project. It is about what has been thoughtfully studied and planned for the properties identified as Residential Market. This looked at dozens of variables including topography, ingress/egress, accidents at unsignalized intersections (this was one of the worst), etc.

Thank you,

Terri Campbell-Rise
10316 NE 60th St.
Kirkland, WA
425-283-2832

From: [Barbara Canterbury](#)
To: [Mike Miller](#); [Jon Pascal](#); [Jay Arnold](#); [Andrew Held](#); [Byron Katsuyama](#); [Glenn Peterson](#); [C Ray Allshouse](#); [Joan McBride](#); [Doreen Marchione](#); [Penny Sweet](#); [Amy Walen](#); [Bob Sternoff](#); [Dave Asher](#); [Toby Nixon](#); [Kurt Triplett](#); [Robin Jenkinson](#); [Eric Shields](#); [Jeremy McMahan](#)
Subject: Traffic in Kirkland
Date: Monday, July 09, 2012 7:51:49 AM

To all:

Have you driven Lake Washington Blvd recently. It's a nightmare and you are still considering the development of a huge density project?

Do you live around here? Please consider those of us who live and shop Kirkland. Please be responsible and do the right thing.

Regards,

Barbara Canterbury
Canterbury Associates
Computer Training and Consulting
MOS Certified Word Expert
206 621-7012
bjcanterbury@yahoo.com
www.canterburyassociates.com
1st Street South

From: uwkkg@aol.com
To: Jeremy McMahan
Subject: Fwd: Ultra-high density apartment building
Date: Wednesday, June 13, 2012 4:25:42 PM

Hi Jeremy...

This letter has come through other neighbors who have asked me to forward this to you. We continue to get new folks every week.

Thanks for doing what you can.

Karen

-----Original Message-----

From: Laura Loomis <lauraloomis923@gmail.com>
 To: Karen Levenson <Uwkkg@aol.com>
 Sent: Wed, Jun 13, 2012 3:54 pm
 Subject: Fwd: UHtra-high density apartment building

Karen,

Can you forward this letter to John McMahan? I don't have access to his email address at the moment.

Laura

Sent from my iPad

Begin forwarded message:

From: Chang Sophie <popoasia@gmail.com>
 Date: June 13, 2012 1:07:42 PM PDT
 To: Laura Loomis <lauraloomis923@gmail.com>;
 tswan@kirklandwa.gov, eshields@kirklandwa.gov, ktriplett@kirklandwa.gov
 Subject: UHtra-high density apartment building

Hi,

My name is Sophie Chang. I live at where near by downtown Kirkland. Almost every good weather days I walked around lake from Marina Park to Carillon Point with my dog, I enjoyed it very much. I saw the flyer mention about this huge neighborhood alert and I didn't put much action for it before. Now, I would like to write an email to city hall regarding to keep our beautiful city as quiet and quality environment. We only have one Earth, such as we only have one Kirkland city in Washington State. I hope whoever in charge this project can "seriously" thinking about the units size and amount of units. I work for properties management company, pretty much figure what business men's mind. One thing I would like to point out is making money is important, but how about keep quality environment? If the investor also live in the building, I think the whole project would be totally different. Whoever charge this project from city, PLEASE reconsidering this project and make things to right direction. Thank you very much.

Sophie Chang

From: [Anthony Cowan](#)
To: [Mike Miller](#); [Jon Pascal](#); [Jay Arnold](#); [Glenn Peterson](#); [C Ray Allshouse](#); [Andrew Held](#); [Byron Katsuyama](#); [Joan McBride](#); [Doreen Marchione](#); [Penny Sweet](#); [Amy Walen](#); [Toby Nixon](#); [Bob Sternoff](#); [Dave Asher](#); [Kurt Triplett](#); [Robin Jenkinson](#); [Eric Shields](#); [Jeremy McMahan](#)
Subject: Potala
Date: Tuesday, July 10, 2012 7:58:52 AM

Dear City of Kirkland Officials,

I am a recent Homeowner to Lake Street S., Kirkland, but have lived for many years in the Bellevue area. With the spectacular summer weather of last weekend (and hopefully going forward) it created a huge traffic snarl up and gridlock. I have observed this on many previous summers, but the traffic density is getting worse and worse along Lake Washington Boulevard and Lake Street South.

For this reason alone, I cannot imagine that you would consider increasing the density (or intensity) of this pleasant residential area. Also the parking is clearly becoming an ever more difficult problem, particularly in the summer months.

I trust you will continue to abide by and enforce the 1995 Ordinance for Lowest Residential Density (or intensity) for properties along Lake Street South, 10th Ave South, Lake Washington Boulevard and N.E. 64th Avenue.

Thank you for your attention and consideration of my comments.

Sursum Corda.

Anthony
A.H. Cowan,
Chairman, CEO
Caledonian Insurance Group
Exec Assist: 206.877.0902
Fax: 206.232.9515
e-mail: acowan@ciginsure.com
Web: www.ciginsure.com

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From: [Anthony Cowan](#)
To: [Mike Miller](#); [Jon Pascal](#); [Glenn Peterson](#); [Andrew Held](#); [Byron Katsuyama](#); [Jay Arnold](#); [C Ray Allshouse](#); [Joan McBride](#); [Doreen Marchione](#); [Penny Sweet](#); [Amy Walen](#); [Bob Sternoff](#); [Toby Nixon](#); [Dave Asher](#); [Robin Jenkinson](#); [Kurt Triplett](#); [Eric Shields](#); [Jeremy McMahan](#)
Subject: ZON11-00042 BN-Res Market - Meeting Current Standards for Low Density/Intensity.
Date: Wednesday, July 11, 2012 12:23:39 PM

Dear City of Kirkland Officials,

I would like to summarize the steps that we feel are essential for current decisions to be appropriate in light of city policies, zoning and comprehensive plans, which provides direction where conflicts exist (with codes, plans and ordinances the most restrictive, to apply), and the documented restrictions applied to parcels when other developers approached the city during 1998, 2001, 2002, 2004, 2007 and 2009).

We would request the Planning Commission to:

- 1) Require the building(s) to aesthetically fit the neighborhood in size, scale and character as required by the Comprehensive Plan.
- 2) Provide wording that will Implement the Comprehensive Plan definition of Residential Market and continue to apply it to the Lake St S and/or 10th Ave S parcels as was approved by ordinance on several occasions.
- 3) Apply the original density cap of 12 per acre plus neighborhood oriented commercial so that the overall "intensity" (residential intensity + non-residential intensity) fits with the neighborhood as required by numerous chapters in the Comprehensive Plan.

SIZE and SCALE:

- a) Floor Plate – The City has provided examples of surrounding structures and their floor plates. The floor plate of new development along Lake St S and/or 10th Ave S should be no larger than the largest of the floor plates in the neighborhood block. If it is larger, it does not meet the requirement to blend with the neighborhood.
- b) Facade Length – The City has provided examples of the facade length of other buildings in the neighborhood. The facade length should be no greater than the longest facade that already exists in the neighborhood. If it is longer it does not meet the requirement to be compatible with the neighborhood.
- c) Distance between buildings - Should not be any closer than other buildings in the neighborhood.
- d) Lot Coverage - Surrounding properties are all at 20-30% lot coverage based on the documents that planning staff has provided to the commission. It is important to note that surrounding properties (and this property) are non-conforming and therefore cannot now have their floor plate enlarged beyond the 20-30%. With neighboring properties at such low % lot coverage, it creates a huge incompatibility if you allow new development to be built larger and higher than that. New development should be restricted to 20-30% lot coverage as that is consistent with the non-conformance policies on all the properties in the area (including subject property). If a decision is made to increase the lot coverage, it should not be above 60% lot coverage. That WAS the previously allowed percentage in the

neighborhood (although no one else built beyond 30%).

e) Setback from the street - Lake Washington Boulevard and Lake St S have always required a greater setback than normal. This has created gardens, and waterfalls and public art to great neighbors, citizens of Kirkland and visitors that come to locate their business or do their shopping and dining. Any new development should maintain the setback consistent with other buildings or it will detract from the pleasant feeling of the boulevard and be an unusual intrusion.

f) Architectural Review Board - It is important to have an Architectural Review Board as we do in so many areas of the city. This should provide for the strongest review possible as this area, near our parks, needs to maintain the "look" of Kirkland that will continue to draw folks to our community to live, play, locate business and do their recreating, dining and shopping.

In closing:

A Density Cap/Intensity similar to the surrounding neighborhood is most important and by itself it will likely cure all the other potential issues. This tight restriction on density is also needed to meet policies and obligations in almost every chapter of the Comprehensive Plan and items within the zoning code.

Thank you for your consideration.

Anthony
A.H. Cowan,
Chairman, CEO
Caledonian Insurance Group
Exec Assist: 206.877.0902
Fax: 206.232.9515
e-mail: acowan@ciginsure.com
Web: www.ciginsure.com

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From: [Eric Shields](#)
To: [Jeremy McMahan](#); [Teresa Swan](#)
Subject: FW: Stop Potala
Date: Monday, June 25, 2012 8:59:17 PM

[Eric Shields](#)

From: David Crosby [mailto:dimcrosby@yahoo.com]
Sent: Monday, June 25, 2012 8:51 PM
To: Planning Commissioners; %20Uwkkkg@aol.com
Subject: Stop Potala

Please Please Please

Stop this oversized developement from being build in Kirkland!

Potala has no place in Kirkland.

Thank you,

David

David, Irna and Matteo Crosby
dimcrosby@yahoo.com
425 576-9207

From: [Ginnie DeForest](#)
To: [C Ray Allshouse](#); [Jay Arnold](#); [Andrew Held](#); [Robin Jenkinson](#); [Byron Katsuyama](#); [Jeremy McMahan](#); [Mike Miller](#); [Jon Pascal](#); [Glenn Peterson](#); [eric shield](#); [Kurt Triplett](#)
Cc: ukkg@aol.com
Subject: BN-residential market zone
Date: Thursday, May 31, 2012 12:11:45 PM

To Members of Kirkland Planning Commission

At a previous City Council meeting you were asked to consider changing the zoning of property at Lake St. and 10th Ave. South to neighborhood center. I live at 945 1st St. So. which is directly opposite the 10th Ave. So. side of that property. We already have a wonderful neighborhood center called Houghton Center and Houghton Village a half mile away. I walk to it all the time. In addition it is less than a mile to the edge of the downtown core, and I walk that very often. Going south on Lake Washington boulevard we have a Super 24 about a half mile away and Kid Valley and Beach House Bar and Grill, and shops, restaurants and Post Office at Carillon Point, all within a mile's walk. We do not need another neighborhood center. Although the city wants to encourage retail business, one has wonder how much can be sustained within a mile radius. A small residential market might serve a need, but too much on the above property might struggle to be viable or negatively impact what we already have. So far Houghton thrives; competition is good, but too much of the same is not necessarily good. In addition, a submerged first floor should not be allowed if you want retail to be attractive.

I think we need limits to density and development that fits the scale of surrounding neighborhood. This can be done by a cap such as Councilman Nixon suggested of perhaps 1.5 times surrounding density which would generate a maximum of under 50 units, or by controlling lot coverage by fixing a percentage compatible with surrounding properties or through use of FAR as they did where I previously lived on Mercer Island.

Lastly, I have a lot of concern about traffic due to points of ingress and egress. Too much density will overload 10th Ave. So. which can barely handle two-way traffic when larger vehicles are in the curbside parking spaces.

Thank you for your consideration of these concerns,
Virginia DeForest
425-739-0730
<ginniedeforest@yahoo.com>

From: [Ginnie DeForest](#)
To: [C Ray Allshouse](#); [Jay Arnold](#); [Andrew Held](#); [Robin Jenkinson](#); [Byron Katsuyama](#); [Jeremy McMahan](#); [Mike Miller](#); [Jon Pascal](#); [Glenn Peterson](#); [Eric Shields](#); [Kurt Triplett](#)
Subject: Input for tne June 28th Public Hearing on BN Residential Market Properties
Date: Monday, June 25, 2012 10:00:11 AM

I plan to be at the hearing, but I'm giving this written testimony since there may not be time for everyone to speak.

I fully support keeping these properties as Residential Market and not upzoning to Neighborhood Center. I live across from the property at Lake St. and 10th Ave. S. Neighborhood Centers should be placed where there is a need, and they fit in with the neighborhood. We have a wonderful neighborhood center at Houghton within half mile walk. I'm not familiar with the other so zoned properties, but there are many places in Kirkland that could use intense development to meet Growth Management responsibilities such as around Juanita Village and in Totem Lake where it is really needed.

Appropriate density in the top concern. A cap of 12-24/acre would fit with the neighborhood. Other ways to achieve the desired low density are making sure buildings are in scale, e.g. several small ones instead of one large one, and restrictions on how much of the lot structures can cover. Coverage of under 60% is the limit around Lake and 10th, and most are only developed to 20-30% coverage. There should be a Design Board Review to ensure structures that fit with the neighborhood and are attractive, and that the businesses fulfill the purpose of serving the neighborhood. It is important that development and zoning conform to the Comprehensive Plan, and where there is a conflict the most restrictive applies per Municipal Code.

Finally, your decisions on these issues will establish whether neighborhoods in the future will welcome appropriate development as truly serving them or not.

Virginia DeForest
945 1st Street So., #101
Kirkland, WA 98033

From: [Kathy or Larry Saltz](#)
To: ktriplett@kirlandwa.gov; [Jeremy McMahan](#); [Eric Shields](#); [Jon Pascal](#); [Andrew Held](#); tennysonkk@aol.com; [Karen Tennyson](#); [Glenn Peterson](#); [George Pressley](#); [Byron Katsuyama](#); [C Ray Allshouse](#); [Mike Miller](#); [Jay Arnold](#)
Subject: Kirkland council June 28,2012
Date: Sunday, June 24, 2012 3:11:06 PM

June 24,2012

Dear Kirkland Council,

Thank you for your time and attention to the very important issue of what is to allowed to be built at the sites located at 10th Ave S and Lake St S.

I believe that what is built there must reflect the existing comprehensive zoning plan for the BN Residential Market parcels in the city of Kirkland.

As an owner of property in that neighborhood, I ask for development in accord with the Comprehensive Plan as this is where anticipated development is coordinated so as not to be piecemeal response to developer interests.

Thank you,

Kathleen Dier
6214 101st Court NE
Kirkland, Washington

From: [Kathy or Larry Saltz](#)
To: [Jeremy McMahan](#)
Subject: Potala Village site
Date: Wednesday, June 27, 2012 11:47:51 AM

June 24,2012

Dear Kirkland Planning Commissioner Jeremy McMahan; ZON11-00042

Thank you for your time and attention to the very important issue of what is to be built at the proposed Potala Village site.

As an owner of property in that neighborhood, I ask for development in accord with residential market-commercial zoning.

The parcels at Lake St S and 10th Ave S should remain as "Residential Market - Commercial" and NOT "Neighborhood Center - Commercial."

Please make sure that the Residential Market properties fulfill their definition of providing public open spaces. Currently there is nothing in the zoning text that carries out the Comp Plan requirement for community gathering spaces. Additionally, it is customary in Kirkland to require 200 square ft of open space per unit, yet that has yet to be expressed in these Residential Markets. Adding the provision for 200 sq foot of open space or even greater requirement would fulfill the goal of providing community gathering areas and would help avoid some of the stress that would otherwise be placed on local areas such as the street corners or parks.

Thank you,

Kathleen Dier
6214 101st Court NE
Kirkland, Washington
lesaltz@earthlink.net

From: jkfoster756@frontier.com
To: [Jay Arnold](mailto:Jay.Arnold@kirklandwa.gov); jpascall@kirklandwa.gov; [Mike Miller](#); [Byron Katsuyama](#); [Glenn Peterson](#); [C Ray Allshouse](#); [Andrew Held](#); [Robin Jenkinson](#); [Kurt Triplett](#); [Eric Shields](#); [Jeremy McMahan](#)
Cc: uwkkg@aol.com
Subject: BN-Residential Market at Lake WA Blvd & 10th St.....
Date: Wednesday, May 30, 2012 4:14:51 PM

Dear Friends,

I'm writing to urge you to keep the designation of BN-Residential Market for the property at Lk Wa Blvd and 10th St. as that is what it should be for small business on residential property. There is no where near enough room for larger businesses as could be located in a neighborhood center designation.

Development should "fit" the neighborhood. Records show surrounding properties are 20 - 30% lot coverage. Lot coverage at Lake WA Blvd and 10th St. should be similar, at most 60%.

Density should also "fit" in with the surrounding properties which are 12 - 24 per acre. Lake WA Blvd. is one of the gateways into our city. We should aim to keep it as pleasant as possible for residents and visitors. Small businesses to serve the neighborhood and perhaps a small cafe for residents and visitors. We ought not to add to the congestion on Lake WA Blvd by allowing too many residents and/or large businesses on the property. Let's keep Kirkland as a pleasant place to live as well as a nice getaway for those seeking to escape from the congestion of a Seattle or Bellevue.

Thank you for your attention to this matter.

Joan Foster
756 State St. #A
Kirkland, WA 98033

From: jugandmary@comcast.net
To: [Mike Miller](#); [Jon Pascal](#); [Andrew Held](#); [Glenn Peterson](#); [C Ray Allshouse](#); [Byron Katsuyama](#); [Jay Arnold](#); [Robin Jenkinson](#); [Eric Shields](#); [Jeremy McMahan](#)
Subject: portola project
Date: Sunday, June 24, 2012 1:21:06 PM

Dear all

My wife and I along with our children have been a resident of Kirkland since 1973. We raised our children here, and after they had finished their college careers we moved into our home on Lake Washington Blvd. We have watched the growth of Kirkland over the years; some good and some not so good.

Our condo is in the 6400 block, and I can tell you the traffic between 4:30 to 6:00 in the evening is backed up to our driveway. It is not much better in the morning. I can't imagine what the proposed Portola project would add to an already congested environment. I noticed you did a traffic study within the last couple of month, which I am sure will bare out what I am telling you.

A couple of other questions; where is the guest parking; where are the children going to play; by moving the bicycle lanes out you have made driving even more difficult for both the drivers and the bicyclist (there are runners using these lanes/parents running down the lanes pushing their children in jogging carts); you hold 7/8 running and bicycling events a year(how is that going to work).

All you have to do If you want to see how this going look is to drive to downtown Redmond. I don't believe this is what you are looking for.

Hopefully, you will take what your constituency is saying, and do what is right for the city and it's citizens.

Sincerely,

George Fouch
6424-Lake Wash. Blvd. N.E. #32
Kirkland, Wa

From: [Atis Freimanis](#)
To: [Mike Miller](#); [Jon Pascal](#); [Andrew Held](#); [Glenn Peterson](#); [C Ray Allshouse](#); [Byron Katsuyama](#); [Jay Arnold](#); [Robin Jenkinson](#); [Eric Shields](#); [Jeremy McMahan](#)
Subject: RE: Commercial Code and Plan Amendments - Public Hearing File No. ZON11-00042
Date: Thursday, June 28, 2012 11:55:57 AM

Dear Planning Commission,

In regards to Commercial Code and Plan Amendments - Public Hearing File No. ZON11-00042, I would like to urge the planning commission to ensure that their review fully incorporates the will of area residents that will be impacted by Comp Plan and zoning regulations. I share the view of the vast majority of Kirkland area residents that want to ensure that the unique "small town" character of Kirkland is maintained.

The official Kirkland vision statement specifically mentions small town feel:

Vision Statement

Kirkland is an attractive, vibrant, and inviting place to live, work and visit. Our lakefront community is a destination for residents, employees and visitors. Kirkland is a community with a **small-town feel**, retaining its sense of history, while **adjusting gracefully** to changes in the twenty-first century. (bold emphasis added by me)

A graceful adjustment to the twenty-first century suggests development that is consistent with resident wishes, is well planned and executed and does not cause public outrage. Graceful adjustment requires careful planning and gradual, phased implementation that does not disrupt neighborhoods.

This mandate is further reflected in the specific direction given by City Council to the Planning Commission:

"While mixed use development with residential and commercial uses is encouraged in the City's commercial districts, **development should also be compatible in scale and character so as to fit well with surrounding uses.**" (bold emphasis added by me)

This is a key point that area residents are concerned about and the concept applies to the entire BN family of zones. It is critical that the Comprehensive Plan and all zoning provide language to ensure that excursions from intended use and development inconsistent with neighborhood character are not possible.

There is an opportunity now to clarify Comp Plan and zoning language to clean up unintentional oversights in the past that could lead to development that is radically different in character with existing neighborhoods (specifically pockets of density).

Density makes sense in the downtown core and also as a gradual increase to entire neighborhoods, but disruptive individual pockets of density make no sense at all.

In regards to the specific measures set forth for Planning Commission consideration:

- Consider a Comprehensive Plan amendment to change the commercial designation

for the Lake Street South commercial area from "Residential Market" to "Neighborhood Center".

- This idea is proposterous and completely out of character with the surrounding neighborhood. Moss Bay already has a downtown center and there is an existing Neighborhood Center at Houghton. There are no letters or public coments requesting this (in fact there are numerous letters opposed) Where is the public demand for this? This is an artificial recommendation submitted for political reasons and does not in the least bit reflect public opinion or good planning. **Say "No" to Neighborhood Center.**

- Consider a maximum residential density limit.
 - Density for the entire family of BN zones should be directly proportional to surrounding density
 - Specifically 1.5 times the lowest surrounding density, which allows for reasonable density increases that grow in unison with surrounding neighborhoods. Note that this one rule allows densities to be different for each BN(x) zone and always remain in character for surrounding neighborhoods
- Do not favor requirement for commercial space to be at street level.
 - Commercial developments need to be accessible. It makes sense to retain a street level requirement
- Do not favor an additional maximum three story height limit.
 - The requirement should be that story height limits at street level not exceed those of surrounding properties in order to retain neighborhood character.
- Do not favor limiting the size of building floor plates.
 - Floor plates need to be limitd so that they not exceed surrounding properties. Once again this speaks to ensuring that CP and zoning language ensure that neighborhood character is maintained
- Require minimum 13' height for commercial space.
 - no opinion on this item
- Make buffers for retail and office consistent at five feet (Commission has proposed consistency with a 15 foot buffer).
 - Buffers of 15 feet are essential when talking about 30 foot structures. The planning commision has already considered the canyon effect of a second story on a parking garage in back lanes. Three stories with only 10 feet (5+5) between them will create an even greater canyon effect. This is especially omininous in cases where there is neighboring residential since it will cut off all natural light to the neighbor. 15 feet needs to be the minimu standard here, with an additional 10 feet per story to allow natural light to get to neighboring residential lawns and gardens.
- Prohibit auto-oriented commercial uses.
 - agree. Traffic ingress/egress for commercial can be a huge problem
 - Language needs to be added that ensures that residential ingress/egress from mized use does not exceed that of surrounding properties in the neighborhood.
- Establish minimum ground floor commercial frontage requirements.
 - the minimum ground florr commercial requiremtn should be such that a casual observer will consider the site to be commercial and not residential in nature. Recommend 51% of the first floor to be commercial

- Require commercial use to be oriented to the street
 - agree

- Limit the size of commercial uses to 4,000 square feet.
 - agree

- Maintain 80% lot coverage.
 - In cases where surrounding lot coverage is far less (eg. less than 30% on average in Moss Bay), and 80% lot coverage is vastly out of character. Lot coverage should be at 60% unless the majority of surrounding properties are at least 50% lot coverage.

- Establish a design review process and supporting guidelines or regulations.
 - This is critical to maintain neighborhood characteristics.
Comp Plan and zoning language should provide language that clearly states the intent of a zone so that design reviews have a starting point

I urge the Planning Commission to heed the will of the people and ensure that Comp Plan and zoning language is consistent with maintaining neighborhood character, the unique small town feel of Kirkland and does not allow development to disrupt that character. Planned, gradual density increase is a reality and is no problem if it is applied evenly across the board. Please ensure that Kirkland grows gracefully and maintains the small town feel as mandated by the city's official vision statement.

Respectfully,

Atis Freimanis
10108 NE 68th ST, Apt 4
Kirkland, WA 98033
freimanis@sbcglobal.net

From: [Spina Galletta](#)
To: [Mike Miller](#); [Jon Pascal](#); [Jay Arnold](#); [Andrew Held](#); [Byron Katsuyama](#); [Glenn Peterson](#); [C Ray Allshouse](#); [Kurt Triplett](#); [Robin Jenkinson](#); [Eric Shields](#); [Jeremy McMahan](#)
Subject: Pls stop Potala development
Date: Monday, June 25, 2012 11:53:58 AM

My family lives on 6620 Lake Washington Blvd, Kirkland, near the future Potala condo

we want the commission to send an exceptionally strong message to the city council that the parcels at Lake St S and 10th Ave S should remain as "Residential Market - Commercial" and not "Neighborhood Center - Commercial." This was deeply researched and debated from 1991-1995 and repeatedly thereafter. Neighborhood Center is a much more intense type of commercial development. Residential Market was a designation specifically designed for 4 properties bordering the Boulevard since numerous citizens argued that there should be no commercial use at these sites. Very small building with low intensity use and neighborhood serving business was the result of years of investigation and assisted with the identified issues of vehicular ingress/egress at the sites as well as ensuring that the "Residential Markets" would fit within their neighborhoods. It was the hope that by carefully inserting low-intensity, neighborhood serving Residential Markets at the identified sites they would lead to other carefully placed Residential Markets that would be welcomed into their neighborhoods. Over time this was to encourage walkable goods and services in neighborhoods in a way that was compatible with neighborhood "look" and "feel" and "size" and "character."

From: [Robert Gemmell](#)
To: [Mike Miller](#); [Jon Pascal](#); [Jay Arnold](#); [Andrew Held](#); [Byron Katsuyama](#); [Glenn Peterson](#); [C Ray Allhouse](#); [Joan McBride](#); [Doreen Marchione](#); [Penny Sweet](#); [Amy Walen](#); [Bob Sternoff](#); [Dave Asher](#); [Toby Nixon](#); [Kurt Triplett](#); [Robin Jenkinson](#); [Eric Shields](#); [Jeremy McMahan](#)
Subject: re
Date: Monday, July 09, 2012 11:38:56 AM

Kirkland City Officials:

Re the development plans for Lake St. S. and 10th Ave S., as well as other Kirkland sites at similarly congested locations, I strongly urge you to keep the Lowest Intensity development designation possible.

At a recent Planning Commission hearing, I related two problems I personally experienced along the hectic Lake Wash Blvd/Lake St S. Last year while walking I was hit by a "speeding" skateboarder on the sidewalk close to our condo - this year I was hit by a bicyclist while in my car waiting for a jogger to pass before pulling into our condo drive. And, just yesterday, my wife driving along Lake Wash. Bl. S. had to screech to a halt as two pedestrians, at a cross walk, darted out between a stalled line of traffic in the opposing lane.

Good weather or bad, this main thoroughfare is severely congested for significant portions of the day. I sometimes feel I am engaged in a hazardous contest of dodge ball (or rather dodge car, bicycle, jogger, walker and skateboarder) just to get in and out of our residence.

Someday, there will be a serious injury accident along this street. Please do the sensible thing and maintain the lowest development intensity along Lake St. S and Lake Wash. Bl. SE.

Thank you,

Robert and Phyllis Gemmell
6424 Lake Wash. Bl. SE

From: [Giuseppem1](#)
To: [Mike Miller](#); [Jon Pascal](#); [Andrew Held](#); [Glenn Peterson](#); [C Ray Allshouse](#); [Byron Katsuyama](#); [Jay Arnold](#); [Robin Jenkinson](#); [Eric Shields](#); [Jeremy McMahan](#)
Subject: June 28, 2012 Public Hearing BN Residential Market Properties
Date: Friday, June 22, 2012 9:27:35 AM

I represent a family of 3 living nearby the Potala target location

We support the Planning Commission's decision that the 3 BN Residential Market Properties should remain as Residential Market Commercial and not be changed to any other designation

We support zoning text that meets the criterion of lowest intensity commercial use that blends with the neighborhood. If a development were only residential then 24/acre would have the same "INTENSITY" of the neighborhood that is built up to 24/acre.

We want to highlight that both the Zoning code and the Comprehensive Plan are integral parts of Kirkland's Municipal Code.

the Municipal Code (under 170.50) states that when provisions of code are in conflict with each other "the most restrictive applies." It also states that if Ordinances are more restrictive they apply. Thus when we are reviewing the zoning which was waiting for it's new text, and the comprehensive plan and the ordinances that created the low intensity designation of Residential

From: [Nancy Gode](#)
To: [Mike Miller](#); [Jon Pascal](#); [Glenn Peterson](#); [Andrew Held](#); [Byron Katsuyama](#); [Jay Arnold](#); [callhouse@kirklandwa.gov](#); [Joan McBride](#); [Doreen Marchione](#); [Penny Sweet](#); [Amy Walen](#); [Bob Sternoff](#); [Toby Nixon](#); [Dave Asher](#); [rjenkinson@kirklandwa.gov](#); [Kurt Triplett](#); [Eric Shields](#); [Jeremy McMahan](#)
Cc: [uwkkg@aol.com](#)
Subject: FW: Potala: Thurs is last email day
Date: Wednesday, July 11, 2012 11:01:23 AM

Dear City Officials:

Re: "Kirkland's Future" on Lake Street

My name is Nancy Gode.

I live at 6514 103rd Ave NE, Kirkland with my husband Richard.

We had formerly lived in Juanita since 1965. Our four, now grown children attended LW schools and I served on the Lake Washington School Board.

I have written you before regarding this "COMPLEX" issue and have attending most of the Planning and City Council Meetings wearing RED.

YOU were not the cause, BUT you have inherited the PROBLEM.

I realize that the issues are not SIMPLE and the council is in a TIGHT place.

However, I'd like to suggest the Hawaiian term = "PONO" which means TO DO WHAT IS RIGHT. You have been elected by Kirkland constituents to whom you have pledged to serve.

AND you are not only serving presently, but dependent on your decision - you will leave a legacy for 'Kirklanders of the Future'.

I realize the developer found an 'opening' due to previous lapses via city government, however YOU have an opportunity to PUT THINGS RIGHT FOR YOUR CITIZENS and BE A MODEL to future officials and residents regarding "neighborhood", "density", "space", "architecture", & "traffic/congestion".

Two of the speakers at the last Planning meeting were quite eloquent regarding the Comprehensive Plan and the economic and quality of life issues - be sure you receive their input.

Thank you for serving and be sure to 'try on the moccasins of Kirklanders' and NOT of the developer.....Nancy Gode

From: [Pamela Goral](#)
To: [Mike Miller](#); [Jon Pascal](#); [Jay Arnold](#); [Andrew Held](#); [Byron Katsuyama](#); [Glenn Peterson](#); [C Ray Allhouse](#); [Joan McBride](#); [Doreen Marchione](#); [Penny Sweet](#); [Amy Walen](#); [Bob Sternoff](#); [Dave Asher](#); [Toby Nixon](#); [Kurt Triplett](#); [Robin Jenkinson](#); [Eric Shields](#); [Jeremy McMahan](#)
Subject: Zoning/BN Residential
Date: Sunday, July 08, 2012 8:24:07 PM

Dear City of Kirkland:

Per Kirkland planning, there has been an ordinance in place for the lowest Intensity for properties along Lake St S & 10th Ave S and Lake Washington Blvd and NE 64th Ave.

There is no doubt that 48 units per acre plus the commercial properties will end up as lowest intensity use or that it will meet the other criteria and fit with the residential character of the neighborhood in similar size, scale and intensity of use.

Please follow the decisions that are already in place and that have been reconfirmed several times over the past 15+ years.

Please do not get distracted and try to compromise a resolution because of incorrect zoning. The correct number for development is 12 and anything more is a failure to the people of Kirkland.

Thank you,
Pamela Goral
945 1st St So.
Kirkland 98033

From: [Pamela Goral](#)
To: [Planning Commissioners](#); [Mike Miller](#); [Jon Pascal](#); [Glenn Peterson](#); [C. Ray Allshouse](#); [Byron Katsuyama](#); jamold@kirklandwa.gov; [Robin Jenkinson](#); [Eric Shields](#); [Jeremy McMahan](#)
Subject: JUNE 28 PUBLIC HEARING BN RESIDENTIAL MARKET PROPERTIES
Date: Friday, June 22, 2012 6:11:43 PM

Gentlemen:

We have been Kirkland residents for more than 30 years and are alarmed at the zoning and development planning that could very well destroy the flavor of our city.

We strongly support any zoning that meets the lowest intensity commercial use and blends with the surrounding neighborhood. We hope that the Planning Commission's decision will be to keep the 3BN residential market properties as residential market commercial and not changed to any other designation. We understand that the Zoning code and the Comprehensive Plan are integral parts of Kirkland's Municipal Code. Since it has been determined that they are in conflict with one another, city laws state that the most restrictive should apply. Therefore, the intensity and density of any proposed developments should be reasonable to the existing neighborhoods.

Sincerely,

Pamela Goral
Stan Handaly

From: [Eric Shields](#)
To: [Teresa Swan](#); [Jeremy McMahan](#)
Subject: FW: Potala Development
Date: Monday, June 25, 2012 3:15:44 PM

[Eric Shields](#)

From: Larry Granston [mailto:lgranston@gmail.com]
Sent: Monday, June 25, 2012 2:59 PM
To: Planning Commissioners; Uwkkg@aol.com
Subject: Potala Development

I strongly oppose the Potala Development because it is far too dense to fit with the existing neighborhood. The Developers want more density simply so they can make more money but such a development is in direct conflict with the existing zoning and character of the area. I urge you to disapprove the proposed project.

Larry Granston
225 2nd St. S. D1
Kirkland, WA 98033
425.941.6070

From: [Shawn Greene](#)
To: [Mike Miller](#); [Jon Pascal](#); [Jay Arnold](#); [C Ray Allshouse](#); [Byron Katsuyama](#); [Andrew Held](#); [Glenn Peterson](#); [Joan McBride](#); [Doreen Marchione](#); [Penny Sweet](#); [Amy Walen](#); [Bob Sternoff](#); [Dave Asher](#); [Toby Nixon](#); [Kurt Triplett](#); [Robin Jenkinson](#); [Eric Shields](#); [Jeremy McMahan](#)
Subject: ZON11-00042 BN-Res Mkt
Date: Sunday, July 08, 2012 10:04:48 PM

Dear City Officials

As a long time Moss Bay Kirkland resident, 25 years to be precise, I am very concerned regarding the proposed project on the corner of Lake Street and 10th Avenue South. Myself and family currently reside at 29 10th Avenue South, directly adjacent to the proposed "Potala" project.

We purchased our current home in 2002. My husband and myself went to the City of Kirkland on a few occasions to discuss the potential of the said property and we were informed on EVERY occasions that the maximum number of units was 12 per acre.

We specifically went back to the city in 2005 when the home next door parcel # [935490-0240](#) went on the market. At that time a builder, I believe it was LUX Homes was interested in developing the property, a city staff member provided and reviewed with us their proposed plans. Those plans consisted of 3 units/townhomes along with a very small office on the ground floor, we again were told this would be the maximum allowed (12 units per acre) on this 9500 sq ft. lot.

I personally have attended all but one of the City Council & Planning Commission meetings over the course of the last 9 months and have left each one wondering how and why this issue is perpetuated.

- The developer was informed of density limits in the first Pre-Submittal meeting.
- The Moss Bay Neighborhood Plan is clear in it's intent that density be limited.
- This area was previously downzoned from **24 to 12 units per acre** for specific reasons.
- Developers had previously been denied higher density on these parcels. Would this be considered a "spot zone" to accommodate this one developer?

I hope for the sake of our community and the future of Kirkland you do not allow a project of this magnitude to be built in a medium to low density neighborhood. We purchased our home based on the city's planned development and it did not include ULTRA HIGH density in this area!!!

I do not feel it is fair for our neighborhood to sacrifice our way of life and property values due to the errors of the City and its staff.

It is time to stop ignoring the historical facts and take care of the people who currently live, love and support this community.

Sincerely
 Shawn Greene and Family
 29 10th Ave S

Kirkland WA 98033
Shawn@czgreene.com

From: [Grimm, Tom](#)
To: "[mmiller@kirklandwa.gov](#)"; "[jpascal@kirklandwa.gov](#)"; "[gpeterson@kirklandwa.gov](#)"; "[aheld@kirklandwa.gov](#)"; "[bkatsuyama@kirklandwa.gov](#)"; "[jarnold@kirklandwa.gov](#)"; "[callshouse@kirklandwa.gov](#)"; "[jmcbride@kirklandwa.gov](#)"; "[dmarchione@kirklandwa.gov](#)"; "[psweet@kirklandwa.gov](#)"; "[awalen@kirklandwa.gov](#)"; "[bsternoff@kirklandwa.gov](#)"; "[tnixon@kirklandwa.gov](#)"; "[dasher@kirklandwa.gov](#)"; "[rjenkinson@kirklandwa.gov](#)"; "[ktriplett@kirklandwa.gov](#)"; "[eshields@kirklandwa.gov](#)"; "[jcmahan@kirklandwa.gov](#)"
Cc: [Gari Grimm \(gmgrimm@gmail.com\)](#); [dknapp3140@aol.com](#); [acowan@ciginsure.com](#); [jcowan@ciginsure.com](#); [Carolhasman@gmail.com](#); [JNC2nd@yahoo.com](#)
Subject: FW: ZON11-00042 BN-Res Market - Meeting Current Standards for Low Density/Intensity.
Date: Wednesday, July 11, 2012 3:15:20 PM
Attachments: [RE Potala.msg](#)
[RE Potala.msg](#)

This email is a follow-up to Mr. Cowan's email below. You all have seen me as the president of the Waterford East HOA espouse the same principles, so I can assure you that Mr. Cowan has put into words what our entire building believes should happen.

Adherence to the Comprehensive Plan will result in each of the desired results stated below being implemented. It will also avoid continued denigration of the Kirkland life by crowding, traffic, noise, accidents, road rage, and pollution from vehicles creeping down Lake Washington Blvd. and Lake Street, all of which will get worse with any higher density than in the surrounding properties. People come to visit Kirkland because of the parks, water and, view and friendly merchants. They will avoid the problems over-crowding causes.

Please help to preserve what we have by retaining the 12 D.U. per acre limit for residential density.

Tom

Thomas H. Grimm
 Waterford East Board President

1003 Lake St. So., Unit 201, Kirkland WA 98033
 Direct 206.654.2244 | Direct Fax 206.652.2944
 Mobile: 206.612.2195
grimm@ryanlaw.com

From: Anthony Cowan [mailto:acowan@ciginsure.com]
Sent: Wednesday, July 11, 2012 2:44 PM
To: Grimm, Tom
Subject: FW: ZON11-00042 BN-Res Market - Meeting Current Standards for Low Density/Intensity.

Dear Tom,

FYI ~ Please read email below and attachments.

Best Regards,

Anthony
 A.H. Cowan,
 Chairman, CEO

Caledonian Insurance Group
 Exec Assist: 206.877.0902
 Fax: 206.232.9515
 e-mail: acowan@ciginsure.com
 Web: www.ciginsure.com

From: Anthony Cowan
Sent: Wednesday, July 11, 2012 12:24 PM
To: 'mmiller@kirklandwa.gov'; 'jpascal@kirklandwa.gov'; 'gpeter@kirklandwa.gov';
 'aheld@kirklandwa.gov'; 'bkatsuyama@kirklandwa.gov'; 'jarnold@kirklandwa.gov';
 'callhouse@kirklandwa.gov'; 'jmcbride@kirklandwa.gov'; 'dmarchione@kirklandwa.gov';
 'psweet@kirklandwa.gov'; 'awalen@kirklandwa.gov'; 'bsternoff@kirklandwa.gov';
 'tnixon@kirklandwa.gov'; 'dasher@kirklandwa.gov'; 'rjenkinson@kirklandwa.gov';
 'ktriplett@kirklandwa.gov'; 'eshields@kirklandwa.gov'; 'jmcMahon@kirklandwa.gov'
Subject: ZON11-00042 BN-Res Market - Meeting Current Standards for Low Density/Intensity.

Dear City of Kirkland Officials,

I would like to summarize the steps that we feel are essential for current decisions to be appropriate in light of city policies, zoning and comprehensive plans, which provides direction where conflicts exist (with codes, plans and ordinances the most restrictive, to apply), and the documented restrictions applied to parcels when other developers approached the city during 1998, 2001, 2002, 2004, 2007 and 2009).

We would request the Planning Commission to:

- 1) Require the building(s) to aesthetically fit the neighborhood in size, scale and character as required by the Comprehensive Plan.
- 2) Provide wording that will Implement the Comprehensive Plan definition of Residential Market and continue to apply it to the Lake St S and/or 10th Ave S parcels as was approved by ordinance on several occasions.
- 3) Apply the original density cap of 12 per acre plus neighborhood oriented commercial so that the overall "intensity" (residential intensity + non-residential intensity) fits with the neighborhood as required by numerous chapters in the Comprehensive Plan.

SIZE and SCALE:

- a) Floor Plate – The City has provided examples of surrounding structures and their floor plates. The floor plate of new development along Lake St S and/or 10th Ave S should be no larger than the largest of the floor plates in the neighborhood block. If it is larger, it does not meet the requirement to blend with the neighborhood.
- b) Facade Length – The City has provided examples of the facade length of other buildings in the neighborhood. The facade length should be no greater than the longest facade that already exists in the

neighborhood. If it is longer it does not meet the requirement to be compatible with the neighborhood.

c) Distance between buildings - Should not be any closer than other buildings in the neighborhood.

d) Lot Coverage - Surrounding properties are all at 20-30% lot coverage based on the documents that planning staff has provided to the commission. It is important to note that surrounding properties (and this property) are non-conforming and therefore cannot now have their floor plate enlarged beyond the 20-30%. With neighboring properties at such low % lot coverage, it creates a huge incompatibility if you allow new development to be built larger and higher than that. New development should be restricted to 20-30% lot coverage as that is consistent with the non-conformance policies on all the properties in the area (including subject property). If a decision is made to increase the lot coverage, it should not be above 60% lot coverage. That WAS the previously allowed percentage in the neighborhood (although no one else built beyond 30%).

e) Setback from the street - Lake Washington Boulevard and Lake St S have always required a greater setback than normal. This has created gardens, and waterfalls and public art to great neighbors, citizens of Kirkland and visitors that come to locate their business or do their shopping and dining. Any new development should maintain the setback consistent with other buildings or it will detract from the pleasant feeling of the boulevard and be an unusual intrusion.

f) Architectural Review Board - It is important to have an Architectural Review Board as we do in so many areas of the city. This should provide for the strongest review possible as this area, near our parks, needs to maintain the "look" of Kirkland that will continue to draw folks to our community to live, play, locate business and do their recreating, dining and shopping.

In closing:

A Density Cap/Intensity similar to the surrounding neighborhood is most important and by itself it will likely cure all the other potential issues. This tight restriction on density is also needed to meet policies and obligations in almost every chapter of the Comprehensive Plan and items within the zoning code.

Thank you for your consideration.

Anthony
A.H. Cowan,
Chairman, CEO
Caledonian Insurance Group
Exec Assist: 206.877.0902
Fax: 206.232.9515
e-mail: acowan@ciginsure.com
Web: www.ciginsure.com

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From: [Jon Pascal](#)
To: [Anthony Cowan](#)
Subject: RE: Potala
Date: Wednesday, July 11, 2012 12:25:42 PM

Anthony - I believe residential density limits will be established. The question will be at what magnitude. I support 24 units/acre, but I believe most other Commissioners and Council members would like to see something higher, such as 48 units/acre. While I agree the density should be consistent with the surrounding density, (which is zoned 12 units/acre, but most buildings are closer to 21 units/acre and built before that zoning was established) we must recognize we are also requiring any developer to build ground floor commercial. We must be flexible in the regulations to account for the fact it is a mixed-use development. That is why I am also in favor of greater lot coverage and making the ground floor commercial more pedestrian focused by allowing the ground floor closer to the back of the sidewalk. I know neighbors don't agree with this, but the fact is this area is zoned differently because it requires commercial be built on the ground floor.

Hopefully that helps you understand where I am coming from.

Jon Pascal
Planning Commissioner
City of Kirkland
206.890.3868

From: Anthony Cowan [acowan@ciginsure.com]
Sent: Wednesday, July 11, 2012 7:59 AM
To: Jon Pascal
Subject: Potala

Dear Jon,

Thank you so much for your response, and I agree with all of your comments.

The fact that we both agree that "Traffic, pedestrian safety, and parking will continue to be an issue in the future" leads to the logical and inescapable conclusion that to continue with the Lowest Residential Density (or Intensity) is the only sensible planning outcome. Any variation will just make matters even worse.

Let us hope that logic will prevail?

Regards,

Anthony
A.H. Cowan,
Chairman, CEO
Caledonian Insurance Group
Exec Assist: 206.877.0902
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From: [Jon Pascal](#)
To: [Anthony Cowan](#)
Subject: RE: Potala
Date: Tuesday, July 10, 2012 9:52:31 AM

Anthony - Yes, we all love that corridor. Everyone wants to recreate along it or drive along it. Others live along it or want to live along it. Bottom line, though, it is a public corridor for everyone. Regardless of the BN zoning issue, we will need to manage it in a safe and efficient manner. Traffic, pedestrian safety, and parking will continue to be an issue into the future regardless of what development takes place.

Jon Pascal
 Planning Commissioner
 City of Kirkland
 206.890.3868

From: Anthony Cowan [acowan@ciginsure.com]
Sent: Tuesday, July 10, 2012 7:58 AM
To: Mike Miller; Jon Pascal; Jay Arnold; Glenn Peterson; C Ray Allshouse; Andrew Held; Byron Katsuyama; Joan McBride; Doreen Marchione; Penny Sweet; Amy Walen; Toby Nixon; Bob Sternoff; Dave Asher; Kurt Triplett; Robin Jenkinson; Eric Shields; Jeremy McMahan
Subject: Potala

Dear City of Kirkland Officials,

I am a recent Homeowner to Lake Street S., Kirkland, but have lived for many years in the Bellevue area. With the spectacular summer weather of last weekend (and hopefully going forward) it created a huge traffic snarl up and gridlock. I have observed this on many previous summers, but the traffic density is getting worse and worse along Lake Washington Boulevard and Lake Street South.

For this reason alone, I cannot imagine that you would consider increasing the density (or intensity) of this pleasant residential area. Also the parking is clearly becoming an ever more difficult problem, particularly in the summer months.

I trust you will continue to abide by and enforce the 1995 Ordinance for Lowest Residential Density (or intensity) for properties along Lake Street South, 10th Ave South, Lake Washington Boulevard and N.E. 64th Avenue.

Thank you for your attention and consideration of my comments.

Sursum Corda.

Anthony
 A.H. Cowan,
 Chairman, CEO
 Caledonian Insurance Group
 Exec Assist: 206.877.0902
 Fax: 206.232.9515
 e-mail: acowan@ciginsure.com
 Web: www.ciginsure.com

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From: roundh@aol.com
To: [Mike Miller](#); [Jon Pascal](#); [Glenn Peterson](#); [Andrew Held](#); [Byron Katsuyama](#); [Jay Arnold](#); [C. Ray Allshouse](#); [Joan McBride](#); [Doreen Marchione](#); [Penny Sweet](#); [Amy Walen](#); [Bob Sternoff](#); [Toby Nixon](#); [Dave Asher](#); [Robin Jenkinson](#); [Kurt Triplett](#); [Eric Shields](#); [Jeremy McMahan](#)
Subject: ZON11-00042 BN-Res Mkt Zoning decision
Date: Wednesday, July 11, 2012 5:00:23 PM

Dear officials:

Please read and consider the points made here about zoning that is inconsistent with surrounding properties and illegal spot zoning

Quotes from: David W. Owens, Professor, Institute of Government

Spot zoning occurs when a relatively small tract of land is zoned differently from the surrounding area.

There are several notable aspects to this definition. First, spot zoning can be an issue with initial zoning as well as with subsequent rezonings.

The second factor in a spot zoning analysis is compatibility with the existing comprehensive zoning plan.

The third factor in spot zoning analysis is who benefits and who is harmed by the rezoning and what the relative magnitude of each consequence is.

The fourth factor in spot zoning analysis is the relationship between the proposed uses and the current uses of adjacent properties. The greater the disparity, the more likely the rezoning is to be held illegal.

Thanks,
Hugh Levenson
6620 Lake Washington Blvd NE, Kirkland

From: roundh@aol.com
To: [Mike Miller](#); [Jon Pascal](#); [Jay Arnold](#); [Glenn Peterson](#); [C Ray Allshouse](#); [Andrew Held](#); [Byron Katsuyama](#); [Joan McBride](#); [Doreen Marchione](#); [Penny Sweet](#); [Amy Walen](#); [Toby Nixon](#); [Bob Sternoff](#); [Dave Asher](#); [Kurt Triplett](#); [Robin Jenkinson](#); [Eric Shields](#); [Jeremy McMahan](#)
Subject: ZON11-00042 Res Mkt: Context & Intensity attachment
Date: Sunday, July 08, 2012 9:52:02 AM
Attachments: [EIS Context and Intensity.pdf](#)

Dear city officials:

I am writing to you today regarding the Context and Intensity of Development as considered and approved into law by prior ordinances. This is for the sites along Kirland's waterfront boulevard.

You will see in the law document attached there are many issues that come into play when considering the intensity with which a property may be developed. I am speaking specifically of residential intensity which we also call density. Many of the considerations discussed in this reference article were the basis for the 1995 decision on INTENSITY allowed on the boulevard properties.

I'd like to add some descriptions that might help paint the picture of resulting development if it is built to a high residential intensity vs a low residential intensity (or density). This goes beyond building size and is much more important. This is about overcrowding and the impacts of so many people and so many residential units.

What we enjoy re: LOW/MEDIUM Residential Densities:

- Gardens, fountains and statues are close to the sidewalk giving passers-by a relaxed ambience.
- Neighbors know each other and take time to interact
- Condos and apartments have few enough windows that they can be staggered for privacy of others (windows don't peer into each other, or look upon the backyards or balconies or into the windows of others and each unit has windows that can be positioned for daylight).
- Neighbors have enough room between them that noises from one development are not intrusive to others
- There are few enough windows (and staggering of windows) such that light from one development does not have significant impact on neighbor development
- Pedestrian, bicycle or scooter transportation is not greatly hampered since the number of cars traversing a driveway is quite limited
- Guest parking is generally available along the street, although it is slightly challenged
- Residents report a feeling of relaxation due to lower housing congestion

HIGH INTENSITY DEVELOPMENT - NOT INDICATED FOR LAKE ST S/ 10th Ave S

- No setback with gardens, fountains, artwork - only the hard facade of

a building pulled right up to the curb in order to accommodate a maximum of tiny housing units. This provides a much different ambience, not relaxed and inviting like the garden/lake setting that currently exists.

- Too many neighbors (many transient due to low rent and small units). Neighbors no longer feel the connection with their neighbors. There are more unknown neighbors coming and going. The neighborhood feel is forever lost.

- The feeling of privacy in one's home is lost. Where there was previously the ability to stagger windows to avoid visual intrusion into the lives of others, there are now hundreds of windows looking directly into neighbor backyards, neighbor balconies, neighbor windows.

The use of one's personal space to relax and "get away" is stolen when so many new windows intrude.

- The prior ability to enjoy the dark night sky and stars (and the dark lake with reflected lights) is lost when light from hundreds of windows provides too much light in the foreground. This impacts views for local neighbors but also to the public as a whole (public views are protected in Kirkland).

- Noise becomes a major problem. There are hundreds of residents with competing sounds from stereos, TVs and the like. HVAC / Airconditioners supporting more than a couple hundred residents.

- Pedestrians, bicycles and scooters cannot pass the driveway at all during peak hours. This is because the city traffic study indicated that ultra high density would produce one car per 30 seconds over the driveway and a survey of time required to get out of (or into) the driveway is greater than 30 seconds causing backup of cars within the parking structure and 100% of the time a car will be sitting across the sidewalk waiting to enter the flow of traffic.

- Guest parking which can currently be found along the street with a small bit of difficulty will become non-existent. With a problematic parking structure, many residents of an overcrowded building will park on the city streets. The number of cars will crowd out those who currently rely on streets for guest parking and will crowd out visitors to our city.

- The feeling of overcrowding will replace the current feeling of neighborhood. This crowded feeling will certainly be imposed upon those who choose to live in the ultra-high density dwelling as they will be in extremely close quarters with other apartment dwellers. They will be subject to impacts of sound through the walls, floors and open windows. They will be subject to incompatible sleep schedules and wake schedules as often happens when in close proximity dwellings. They will have no open space as part of their apartment complex.

- The feeling of overcrowding will replace the current feeling of neighborhood for visitors. They will no longer be visiting an area where they enjoy the lower intensity, neighborhood feel and beautiful garden setting.

- MOST PRONOUNCED will be the feeling of overcrowding that will cause increased level of discomfort and stress upon those who intentionally selected lower intensity area for their home. Science has shown us that overcrowding causes increased level of stress and decreased

feeling of healthful wellbeing. These increased levels of stress impact sleep, ability to concentrate or study, blood pressure, etc. This is particularly true for individuals who have self-selected to live in lower intensity areas.

Thank you for carefully considering that the density of residential units has numerous negative consequences on apartment residents, neighbors, citizens and visitors and that these consequences are caused INDEPENDENT of the size of the building. They are caused by intense residential use ... period.

Thank you,
Hugh Levenson
6620 Lake Washington Blvd NE, Kirkland WA 98033

ENVIRONMENTAL UPDATE

An update and explanation of environmental laws

May 2003

Determining "Significance" Under NEPA

Recent Court Decisions Highlight the Importance of "Context" and "Intensity"

Introduction

The National Environmental Policy Act (NEPA) requires federal agencies to prepare an environmental impact statement (EIS) for any proposed action "significantly affecting the quality of the human environment." Because of this requirement, the word *significantly* is one of the key terms used in NEPA compliance. The presence of significant environmental effects triggers the requirement to prepare an EIS; the absence of significant environmental effects allows a federal agency to prepare a Finding of No Significant Impact (FONSI). To assist federal agencies in determining the appropriate level of analysis and the concomitant requisite documentation, an environmental assessment (EA) is typically prepared to determine the presence of significant effects.

Because the EIS is a more detailed document than a FONSI and requires a more extensive preparation process, federal agencies typically favor preparation of an EA to support a FONSI. According to the U.S. Environmental Protection Agency, federal agencies annually prepare more than 50,000 EAs leading to FONSI, contrasted with about 500 EISs. Despite this overwhelming trend in NEPA compliance, the conclusion of *no significant impact* is often not well supported by the accompanying EA.

According to the NEPA Regulations adopted by the President's Council on Environmental Quality (CEQ) (40 CFR 1500-1508), the term *significantly* is based on the twin criteria of *context* and *intensity* (40 CFR 1508.27).

Defining Context and Intensity

Context means the affected environment in which a proposed action would occur; it can be

local, regional, national, or all three, depending upon the circumstances.

Intensity means the degree to which the proposed action would involve one or more of the following 10 factors:

Adverse impacts on local homes, businesses and parks

- Adverse effects associated with "beneficial projects";
- effects on public health or safety; Traffic/car/ped/bike
- unique characteristics of the geographic area (e.g., historic resources, park lands, prime farmland, wetlands, wild and scenic rivers, ecologically critical areas); Scenic Lake WA, Seattle & Oly Mtn
- degree of controversy; HIGHLY CONTROVERSIAL
- degree of highly uncertain effects or unique or unknown risks;
- precedent-setting effects;
- cumulative effects; Adds cumulatively to traffic and ingress/egress issues
- adverse effects on scientific, cultural, or historical resources;
- adverse effects on endangered or threatened species or designated critical habitat (pursuant to the Endangered Species Act); and Bald eagle salmonoids, bull trout
- violations of federal, state, or local environmental law.

Recent Court Decisions

Unfortunately, neither those regulations nor most agency NEPA procedures provide adequate guidance about how to use the criteria in decision-making. The failure to document and discuss these criteria can leave a federal agency vulnerable to legal challenge. Three recent decisions in the 9th Circuit Court of Appeals illustrate what can happen if agencies misapply the context and intensity criteria.

National Parks & Conservation Association v. Babbitt (9th Cir. 2001) 241 F 3d. 722

The National Park Service (NPS) was asked to increase the number of large cruise ships and other tour boats that would be allowed in Glacier Bay National Park, Alaska. To support its decision to allow such an increase, the NPS prepared a FONSI supported by an EA, in which it concluded that the increase would not “significantly affect the quality of the human environment.” The National Parks & Conservation Association disagreed and challenged the agency for failing to prepare an EIS.

The court began its decision by noting:

Glacier Bay National Park and Preserve is a place of unrivaled scenic and geological values associated with natural landscapes and wildlife species of inestimable value to the citizens.

The Bay was proclaimed a national monument in 1925 and a national park in 1980. UNESCO designated Glacier Bay an international biosphere reserve in 1986 and a world heritage site in 1992.

Against this context, the court then considered three of the intensity criteria in the CEQ NEPA regulations: (1) the unique characteristics of the geographic area, (2) the degree to which the effects of the project were controversial, and (3) the degree to which the effects were uncertain.

In view of its opening remarks, the court had little problem concluding that the Glacier Bay environment represented the classic example of “unique characteristics,” the impacts on which would likely be significant. Because the unique characteristics were undisputed, the court then focused on the other two criteria.

With regard to *uncertainty*, the NPS admitted that for every issue discussed in the EA, environmental impacts would occur, but concluded that the degree of such impacts were “unknown” or “uncertain.” Additionally, by way of mitigation, the NPS committed to: (a) postapproval monitoring of the increased ship traffic; (b) postapproval ecological studies to

determine the extent of ecological impacts; and (c) development of additional postapproval management programs that could possibly reduce the impacts.

The court found that there was considerable *uncertainty* regarding both the possibility of impacts of increased ship traffic and the effectiveness of proposed mitigation measures to actually reduce the impacts. In evaluating the NPS’s efforts, the court concluded that the agency did not take NEPA’s requisite “hard look” at the environmental consequences prior to project approval. Further, the court noted that the lack of predecision environmental information was the very problem that NEPA (and EISs in particular) had been designed to address.

With regard to *controversy* the decision also held that the EA was deficient. In reaching this conclusion, the court focused both on the sheer volume of negative comments (citing “An outpouring of public protest”) and the fact that the majority of the comments related specifically to the uncertainty of the impacts.

Anderson v. Evans (9th Circuit 2002) 314 F 3d. 1006

A Native American tribe proposed to resume whale hunting in a particular part of Puget Sound in the state of Washington. In approving the resumption of hunting, the National Oceanic and Atmospheric Administration (NOAA) prepared a FONSI supported by an EA in which it concluded that the hunt would not “significantly affect the quality of the human environment.” The lawsuit followed. In its decision, the 9th Circuit considered both the *context* of the proposal and several of the *intensity* factors.

With regard to *context*, the court held that a resource may be “locally significant” even if it is not significant from a regional or national perspective. Accordingly, the court concluded that the relatively small resident whale population in the Puget sound rendered the context significant.

With regard to *intensity*, the court found that the NOAA failed to correctly decide three of the ten *intensity* factors: *controversy*, *uncertainty*, and *precedent-setting effect*. The court found that the EA neither adequately addressed the three factors, nor was it supported by evidence on the record. Consequently, the court held that the resumption of whaling had the potential to “significantly affect the quality of the human environment” and accordingly ordered the preparation of an EIS.

Public Citizen v. Department of Transportation
(9th Circuit 2003) 316 F 3d. 1002

The U.S. Department of Transportation prepared a FONSI supported by an EA in connection with proposed regulations that would allow certain Mexican trucks to be driven in the U.S. under the North American Free Trade Agreement. The FONSI was challenged on the basis that the agency's conclusion of nonsignificance of the impacts was improper under several of the *context* and *intensity* criteria in the CEQ NEPA regulations. The appellate court agreed.

With regard to *context*, the court held that the agency used the wrong context when it compared future truck emissions to a national emissions inventory rather than to the local air pollution situation in the border communities where the impacts would occur. According to the court, this use of the wrong context resulted in the agency understating the significance of the air quality impacts. The fact that most border communities were already in violation of air quality standards was an important factor in the court's reasoning.

With regard to *intensity*, the court found that the agency had misused four of the 10 criteria found in the CEQ NEPA regulations. First, it failed to consider the adverse public health aspects of the new regulations. Second, the agency overlooked the high level of uncertainty regarding future levels of truck traffic and the resultant emissions. According to the court, the uncertainty itself was a trigger for a finding of significance. Third, the agency failed to consider that the increased truck emissions would likely

violate both the California and federal Clean Air Acts. Finally, the court found that the overwhelming outpouring of public protest (90% of comments in opposition) was a trigger for the *controversy* criterion of significance.

How to Avoid Problems

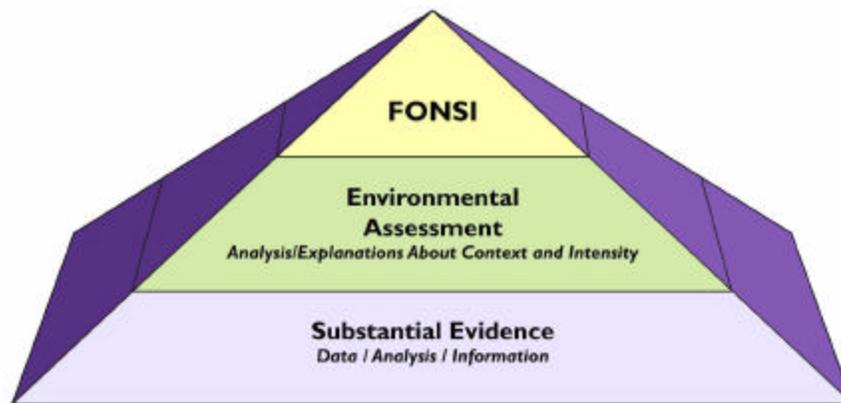
As emphasized by the foregoing decisions, when a federal agency intends to rely on a FONSI for NEPA compliance, it must convincingly demonstrate - with either hard data, certain and definitive mitigation measures, or both - that the impacts of the proposed action would not be significant. This is best done by a systematic and careful evaluation of the context and intensity criteria, with the necessary factual documentation to support its conclusions of nonsignificance.

One way of ensuring that context and intensity get proper consideration is to develop an EA worksheet or checklist that explicitly incorporates the context and intensity factors. This worksheet should include a discussion of context and all relevant intensity factors for each resource of the human environment potentially affected by the federal action.

Further, to support a FONSI, an agency's EA must include an explanation, supported by substantial evidence, for each of the context and intensity factors. If an agency intends to use the EA to support a FONSI there must be substantial evidence to support the conclusion that all the impacts would not be significant (see figure, Page 4). If, on the other hand, substantial questions remain unanswered about the significance of environmental impacts, the agency should prepare an EIS.

The above cases suggest that, at least in some instances, federal agencies may attempt to predetermine that an EIS will not be necessary and then use the EA to rationalize that conclusion-whether or not the evidence supports it. To avoid such problems, federal agencies should stop using EAs as surrogates for EISs. Rather, the EA should be used as intended by the CEQ regulations: as a tool to determine the whether to prepare an EIS or a FONSI.

Determining Significance with the FONSI Pyramid



To support a FONSI, a lead agency must document and explain in the EA that the impacts of a proposed action would not be significant. Accordingly, the analysis in the EA must include a discussion of the applicable context and intensity factors for each resource that would be affected by the proposed action. It should explain why the combination of context and intensity would result in significant or nonsignificant impacts.

The conclusions regarding significance in the EA must, in turn, be based on substantial evidence that consists of data, analysis, and information. This relationship may be schematically represented by a pyramid, in which the FONSI is supported by the EA, which is in turn supported by the substantial evidence.

The more solid the pyramid that the lead agency builds, the better that agency's chances of withstanding challenges to its decision to rely on a FONSI.

NOTE: In the April 2003 *Environmental Update* regarding recently voided CEQA Guidelines sections, it was noted that Section 15152 (f)(3)(c) was voided, but the text was not struck out in the update. Please note that this section

was, indeed, voided by the California Court of Appeal in its *Communities for a Better Environment v. California Resources Agency* (2002) [103 Cal.App.4th 98] decision.

For more information about NEPA compliance, please contact::

- Sacramento, CA: Ken Bogdan (KBogdan@jsanet.com) 916/737-3000
- Ashland, OR: Ron Bass (RBass@jsanet.com) 541/488-3278
- Bellevue, WA: Grant Bailey (GBailey@jsanet.com) 425/822-1077
- Irvine, CA: Mark Bethke (MBethke@jsanet.com) 949/260-1080
- Phoenix, AZ: Barbara Wilson (BWilson@jsanet.com) 602/256-6662.

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From: [Stan Handaly](#)
To: [Mike Miller](#); [Jon Pascal](#); [Jay Arnold](#); [Andrew Held](#); [Byron Katsuyama](#); [Glenn Peterson](#); [C Ray Allhouse](#); [Joan McBride](#); [Doreen Marchione](#); [Penny Sweet](#); [Amy Walen](#); [Bob Sternoff](#); [Dave Asher](#); [Toby Nixon](#); [Kurt Triplett](#); [Robin Jenkinson](#); [Eric Shields](#); [Jeremy McMahan](#)
Subject: Kirkland Development
Date: Sunday, July 08, 2012 8:35:02 PM

Dear City of Kirkland:

Per Kirkland planning, there has been an ordinance in place for the lowest Intensity for properties along Lake St S & 10th Ave S and Lake Washington Blvd and NE 64th Ave.

There is no doubt that 48 units per acre plus the commercial properties will end up as lowest intensity use or that it will meet the other criteria and fit with the residential character of the neighborhood in similar size, scale and intensity of use.

Please follow the decisions that are already in place and that have been reconfirmed several times over the past 15+ years.

Please do not get distracted and try to compromise a resolution because of incorrect zoning. The correct number for development is 12 and anything more is a failure to the people of Kirkland.

Thank you,

Stan Handaly
945 1st St So
Kirkland WA 98033

June 26, 2012

**RE: Comments for June 28, 2012 Public Hearing BN Residential Market Properties
Permit No. ZON11-00042**

Dear Planning Commissioners:

Thank you for holding a public hearing on the BN issues which you have been asked to study for the purpose of making recommendations to City Council, and for accepting written public comments. I am appreciative for the opportunity to submit my comments, and hope that public input will be given appropriate, serious weight and consideration as you finalize your fact finding, deliberations, and decision making.

I would also hope that the language we use may have a universal, commonly understood meaning. However:

- When a **multi-family residential** complex is a hair's breadth away from being erected on a site zoned **Commercial/Neighborhood Business/Residential Market**, one can be forgiven for having doubts.
- When the City informs a developer, in writing and highlighted in yellow,¹ that the legal density of properties about which he is inquiring for a potential project is 12 units per acre and he is not stopped dead in his tracks by the City when he comes back with a proposal for a 143-unit (marked down from 180+) apartment/office complex with a 316-car garage, one can be forgiven for having doubts.
- And, also quoting from the above-mentioned document, when Kirkland's City Planner informs a developer of the legislative directive, "You will need to keep in mind **whenever there is a conflict between regulations, the most restrictive applies,**" (page 2), and that restriction is allowed to be ignored, one can be forgiven for having doubts.

But I live in hope.

The _____ that dare not speak its name

The issues before you concern BN zones in general, but we all know that minus the aberrant Potala Village project being proposed for the BN zone on the corner of Lake and 10th, we would not be here. And despite his various attorneys' requests that for the public in these discussions, he and his project remain the-developer-and-project-that-we-dare-not-speak-their-names, his name is Lobsang Dargey and his project is Potala Village. And according to the recent lawsuit we have all read, apparently Dargey's wife, Plaintiff Tamara Agassi Dargey, is also the developer - albeit until now a secret, silent project partner, whose financial and operational involvement *remains* secret. As Mr. and Mrs. Dargey have retained attorneys to legally represent them on this one issue and speak at public City meetings to influence officials and citizenry, and have had representatives lobby politicians and speak publicly to the citizens of Kirkland at City Council, Planning Commission, and various neighborhood association meetings to promote and persuade public opinion *strictly* on the Potala Village project for well over a

¹ Source: December 3, 2009 "Zoning Worksheet" (page 141) by Kirkland City Planner Desiree Goble to Lobsang Dargey and his development team, prior to any purchase or lease agreement by developer.

year, it doesn't make sense to pretend otherwise and prohibit the public from acknowledging the Dargeys and Potala Village in this exercise, so I will refer to them by name here.

The following include some of my comments, concerns and recommendations to the Commissioners:

Nix “Neighborhood Center” council member-orchestrated distraction. Retain “Residential Market” designation for Commercial BN zone on Lake Street S

The fact that we all have to waste any of our valuable time on earth contemplating and discussing the ludicrous injection into the proceedings of Council member Amy Walen's recommendation to turn neighborhood business “Residential Market”-zoned properties into the shopping mall size designation of “Neighborhood Center” should make citizens and City officials alike want to **request an official inquiry into how that came about and who is behind it.**

After more than a year of listening to informed citizens present evidence supporting opposition to a super high density, out-of-scale-and-character- behemoth proposed for “Residential Market” properties, Walen in tandem with her “May Surprise” proposition's co-sponsors, Mayor Joan McBride, and Council members Penny Sweet and Doreen Marchione assert, *on behalf of City government*, the correct response is to completely change the zoning code and transform the corner of Lake Street S and 10th Avenue S into a shopping mall grade zone. This bonehead move epitomizes the lack of sense that has led us to this point. It also displays an utter lack of respect for citizens, the Planning Commission, and the work we have all been forced to do over the past year or so to correct and clarify zoning restrictions. It also, conveniently, plays into the hands of the developer's false claim that the City is trying to change the zoning code after he began project planning. I believe this is a ham-handed attempt by three council members and the mayor to muddy the waters to try to support the developer's false claim. Why would they pull this move at this juncture?

Is changing these “Residential Market” properties into “Neighborhood Center” properties good city planning? Is a shopping mall grade zone the proper and responsible use for a site intended to serve a neighborhood's small business needs in a low intensity manner? **Is turning these into “Neighborhood Center” properties a decision each of you Commissioners can put your name to with pride and publicly live with the consequences?** If not, I strongly suggest that you forcefully recommend to the City Council that “Residential Market” remain the designation.

Restrict lot coverage to 60% – no special privileges for favored developers

As I am sure the Commissioners do not want to give special treatment to any particular developer, it would follow that you would maintain the restriction of lot coverage for BN “Residential Markets” at 60 %. The nearest “Residential Market” to the Lake Street S. and 10th Avenue S “Residential Market” is the Super 24 property on the corner of Lake Washington Boulevard and 64th Street, which is restricted to 60 % lot coverage – as are surrounding properties to Lake and 10th. Allowing one BN “Residential Market” property higher lot coverage than any other is blatant favoritism, prejudicial, creation of a spot zone, and cannot stand.

Amendment needed to restrict setbacks for developer's ploy of assembling a patchwork of multiple properties to form one site for a single mega project

This REALLY needs to be formally addressed. A defining problem with the proposed Potala Village site on the Lake and 10th BN "Residential Market" zone is the fact that developers Lobsang Dargey and Tamara Agassi Dargey have created one big Super Property for a single development out of a patchwork of purchased-and-leased properties – in this case, three. Each of these three properties has yard and setback requirements for construction, but somehow if a developer combines multiple properties into one, multiple setbacks disappear and an out-of-scale construction project seems to be allowed to rise as a monolith almost flush with its big footprint boundaries and overpower its surroundings. Restrictions need to be set with regard to:

- 1) How many individual parcels may be combined by a developer to form one construction project.
- 2) The total square footage of setbacks for individual properties needs to be combined as a factor in the equation to determine setbacks for a single footprint project constructed over the area of the combined properties.

Story cap

Buildings in BN "Residential Market" zones need to top out at three floors. This, again, is a matter of consistency, compatibility, and fairness with surrounding properties. There are no 4-story or above buildings in any other "Residential Market" zone.

No ground floor residential use for BN properties

Properties zoned for neighborhood businesses should not include a multi-family residential component. Neither residences nor residential lobbies ought to be allowed. Multi-family projects belong on multi-family zoned properties.

A BN residential density cap is imperative – lowest intensity to blend with surrounding area

I have to say that I am alarmed by what the verbiage of the hearing notice portends. Under the first heading of amendments to be considered, items "b" through "k" begin with action words that would be included in an amendment: "reduce," "standardize," "prohibit," and "require." Item "a" dealing with density, however, begins with the **weasel words** "consider establishing." An amendment is not a consideration, it is a directive. I find it disturbing that item "a" does not begin, "Establish maximum residential density limit . . ." which would make me think it was being taken seriously.

As informed citizens have repeatedly said ad nauseam, the residential density of BN zones in a residential neighborhood needs to be consistent with that of surrounding parcels. How do you justify this not being the accepted rule? As the entire neighborhood surrounding the BN zone on Lake Street S is capped at **12 units per acre – and that is the restriction the City gave to developer Lobsang Dargey via City Planner Desiree Goble prior to Dargey buying or purchasing any properties – the residential density cap should likewise be 12 units per acre.** A compromise position would expand the limit to 24 units per acre, as neighborhood properties

were so capped before 12 units per acre became the law. **But 24 units per acre ought to be the maximum residential density allowed for the Lake Street S commercial BN zone.**

The utter disconnect involved in considering residential density on properties designated for neighborhood business commercial use is the crux of the problem. What developer Lobsang Dargey and his wife Tamara Agassi Dargey are proposing for the neighborhood business zone on Lake Street S is a **multi-family residential complex** with office space and an underground garage for over 300 automobiles. Potala Village would be neither a neighborhood business nor a residential market . . . so why is it even being given any consideration? **It is of unprecedented proportion and unprecedented use. The reason it is unprecedented is because, as even City Council members have stated, this proposed use was never intended.**² If it was never intended by the City, it goes against everything the City has ever done, **it goes against density limitations the City gave to every single one of the owners of properties surrounding the site,** and it goes against plain old common sense. Why has the City allowed one developer and his wife to pursue this project this far and unnecessarily wreak havoc with the legislative process, zoning code restrictions, and the relationship between citizens and its elected officials?

SIDE BAR: Casino zoning and subjective policy creation

I don't understand why either the City or citizens feel compelled to bid and bargain with one particular developer over density restrictions; and I don't understand why individuals with temporary power believe the outcome should reflect their personal wish list. This ought not to be a subjective enterprise. Who cares if Mayor McBride has a personal love of density or Council member Walen suddenly has a desire for a density cap in excess of 24 units per acre? They are here today, and gone tomorrow. Caps are to be set by the City, with input by the Planning Department, following specified planning criteria for the purpose of creating a well planned city that will outlive any politician's term(s) and the objectives of any benefactors or preferred developers whose interests they serve or favor. Caps are for developers to abide by, not to attempt to out-manuever by bully-and-bluster tactics and constant threats of lawsuits in order to impose their will and their maximum profitability scheme on the City and residents. If the tactics of Lobsang Dargey and his wife Tamara Agassi Dargey succeed in their pursuit of building their deviant construction project, it will be a precedent-setting event that the City and all those who allow it will come to regret.

BN zone construction projects require parking restrictions

I hope it would be obvious that a garage parking stall restriction is necessary for any construction project on a BN zone. The sudden imposition of 316 new parking stalls proposed for Potala Village, for example, and the constant coming and going of all those cars housed there onto Lake/LWB from one driveway will cause untold problems and hazards with regard to traffic flow and safety issues concerning vehicles, pedestrians, bicycles, skateboards, etc. In addition to increased jockeying for street parking and overflow traffic being forced onto

² "I truly believe that there was never an intention to allow for unlimited density in zoning this property. I don't believe the City intended to do it that way. I believe that this is what we discovered in this process." – Council Member Penny Sweet. . . . "It (referring to the Potala Village project) caused the community to inhale (gasp!) . . . 'We didn't know this was allowed.'" – Council Member Dave Asher . . . "There are times when things don't look quite right, and this is one of those that need to be look at." – Council Member Bob Sternoff - All quotes from Kirkland City Council meeting, November 15, 2011.

residential side streets, endangering children playing and walking to and from local schools. It's a disaster waiting to happen . . . unless the City Council, acting on good recommendation from the Planning Commission, prevents it by requiring sensible parking restrictions.

Corrections and clarifications, NOT CHANGES in zoning code

The City is in this pickle because of ambiguities, inconsistencies, and the lack of follow-through to reconcile its Comprehensive Plan with its Zoning Code. It is not because a hard-line and accepted standard needs to change into something else.

I want the Planning Commission and City Council to specify in the course of their final recommendations and decisions that what we have all been going through for over a year is a pursuit of corrections and clarifications to the City's zoning code in order to make it comply with the Comprehensive Plan, which is a legislative requirement. **It is tying up the loose ends of a zoning incompatibility issue that occurred due to unintentional ambiguities of language and intent, resulting from unfulfilled processes and unknown persons working for the City without malicious intent or purpose.** As a written part of recommendations and decisions, it needs to be stated unequivocally that the results are corrections and clarifications of the City's zoning code, not changes.

Many citizens of Kirkland have spent much time and energy for over a year researching the City's zoning inconsistencies, and presenting hard documentary evidence from the City's own records which clearly show that what developer Lobsang Dargey and his wife Tamara Agassi Dargey propose building on a BN site consisting of a patchwork of three properties is not consistent with Kirkland's Comprehensive Plan, which is the overarching legal guide for development, and therefore, cannot be allowed and permitted.

Accommodation must be made to the Comprehensive Plan, not to Mr. and Mrs. Lobsang Dargey.

If you are still with me, thank you for reading through to the end. (Hopefully, there are a few Evelyn Wood speed readers among you.) Although the City Council will make the ultimate decisions, recommendation from the Planning Commission is such an important and persuasive element to the process. The fact that you are all so generous to the city with your time and talents reflects your commitment to a healthy, cohesive city planning legacy for Kirkland, as you see it. Thank you for your service in this endeavor, which I hope will conclude with maintaining the "Residential Market" designation and remembering that, **"Whenever there is a conflict between regulations, the most restrictive applies."** Thank you.

Sincerely,

Robin Herberger
6401 Lake Washington Blvd. NE, #403
Kirkland, WA
Mediaworks1@frontier.com

From: [Robin Herberger](#)
To: [Mike Miller](#); [Jon Pascal](#); [Jay Arnold](#); [C Ray Allhouse](#); [Byron Katsuyama](#); [Andrew Held](#); [Glenn Peterson](#); [Joan McBride](#); [Doreen Marchione](#); [Penny Sweet](#); [Amy Walen](#); [Bob Sternoff](#); [Dave Asher](#); [Toby Nixon](#); [Kurt Triplett](#); [Robin Jenkinson](#); [Eric Shields](#); [Jeremy McMahan](#)
Subject: LOW DENSITY: BAD FOR BONES, GOOD FOR KIRKLAND
Date: Tuesday, July 10, 2012 4:27:07 PM

Dear Commissioners (along with City Council Members and staff):

I know you get it. I know you get what a one-off, skies-the-limit residential density complex on the Lake Street S BN zone would do to the community. And at this stage of the game, if you don't, one more letter from me isn't going to suddenly make you see the light. But as public opinion, participation and informed input are elements of city planning, I'm going to have another go. Of course, how much weight is actually given to that public input depends on the value that the City Council gives to it - to us, their constituents whose welfare and safety they are entrusted to safeguard along with the health and vitality of Kirkland.

Congestion is experienced by the body, mind and spirit. It is a restricting, clogging, claustrophobic feeling that impedes flow and freedom and progress. And if that's not enough, it also contributes to unnecessary hazards to life and limb. If, after over a year of overwhelming public comment and submission of documented evidence supporting the City's intention for lowest intensity development on the BN zone on Lake Street S, the City instead rejects that evidence and the public will and makes a purposeful, purely subjective decision to allow unprecedented unlimited density, the impacts on the community will be deleterious on many levels and lead to massive congestion. The decision will leave a legacy for the Boulevard and for the Council itself. What will it be?

Will the legacy that the current Council leaves to the city be the preservation of the character, livability, and unique natural beauty so generously offered to all who enjoy and appreciate it? Or will the legacy be the increased traffic, noise and environmental pollution, more crowded and less enjoyable parks and recreational activities along the Boulevard that an unlimited density project will bring? Will their legacy include stress, anxiety, and a basic irritation with other people – people we encounter along the Boulevard who:

- 1) Cause us, through no fault of their own, to spend an hour trying to drive from Carillon Point to downtown
- 2) Make existing residents fearful and stressed just trying to get in and out of their home driveways
- 3) Endanger neighborhood children's lives by careening their cars through side streets in an effort to avoid traffic jams caused by the sudden injection of a 316-stall parking garage the Council allowed to be built to accommodate an unprecedented,

ultra-high density residential complex built on a site intended for small neighborhood shops

- 4) Cause cyclists (some with child carriers attached behind) and skateboarders to swerve into vehicle lanes to get around cars waiting to exit that 316-stall parking garage
- 5) Endanger runners (sometimes pushing baby strollers/carriages), who often use bicycle lanes, by trying to “make a break for it” in making a quick turn into that 316-stall garage before the next car comes along
- 6) Cause us to not take our kids to the parks as often because they have become too overcrowded and noisy due, quite understandably, to people living in pocket-sized apartments and their guests having to escape the confinement of undersized living spaces and non-existent common open space as often as possible

Will the decision create a legacy for Kirkland to be known as much for its congestion and aggravation as for its natural beauty and open spaces? For its headaches and sadly diminished charm? Will it cause people in a year or two to say, “I’d like to live, shop, visit, eat, walk in the parks in Kirkland, but there’s just too much traffic, too many people, I can’t stand it. It’s just too much of a hassle to go to Kirkland anymore. It’s a shame. I used to love going there.”

Density is the lynchpin. Unbridled residential density on the BN zone will lead to all of those negative impacts; maintaining residential compatibility with neighborhood properties of 12 units per acre will prevent it.

The crossroads at Lake and 10th is also a crossroads for the continued good health, welfare and quality of life along the Boulevard, and for the reputation of the City Council itself. Commissioners, please help guide the current City Council to make the right decision for Kirkland. Please help them choose to honor the City’s Comprehensive Plan by correcting, clarifying and completing the already-ordained process of reconciling it with the zoning code. Help them leave a legacy of which we can all be proud by recommending the lowest intensity development for the BN on the Boulevard. I think you will. I can feel it in my high density bones.

Robin Herberger
 6401 Lake Washington Blvd., #403
 Kirkland, WA
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From: [Robin Herberger](#)
To: [Mike Miller](#); [Jon Pascal](#); [Glenn Peterson](#); [Andrew Held](#); [Byron Katsuyama](#); [Jay Arnold](#); [C. Ray Allhouse](#); [Joan McBride](#); [Doreen Marchione](#); [Penny Sweet](#); [Amy Walen](#); [Bob Sternoff](#); [Toby Nixon](#); [Dave Asher](#); [Robin Jenkinson](#); [Kurt Triplett](#); [Eric Shields](#); [Jeremy McMahan](#)
Subject: The Last of the Mohicans / ZON11-00042-BN Residential Market
Date: Wednesday, July 11, 2012 1:50:54 PM

Dear Commissioners (along with City Council members and staff):

With the public comment deadline looming, here is my final contribution to the citizen input portion of the process. By the sheer volume of correspondence you have received from Kirkland residents across the city, the time and energy they have spent researching and presenting documented evidence, and the legitimate concerns passionately expressed in writing and at public meetings, I think you understand how important the issue surrounding the BN Residential Market zone on Lake Street S is to this community.

All we are asking is that the zoning code be reconciled with the Comprehensive Plan as it is supposed to be. We don't want change; we want compliance. We want consistency, compatibility, and fairness of structural design and of the City's treatment of all property owners. We want to preserve the character, scale, charm, and livability of a city in which we all take pride. Please consider the following as you deliberate:

TOP 3 REQUIREMENTS

DENSITY CAP: 12 units per acre, which is consistent with 1) surrounding properties; and 2) the restriction correctly given by the City to the latest prospective developer of the Lake & 10th properties before any purchase or lease agreements were made by him. Twelve units per acre for this property is also the restriction given by the City to: 1) prospective developers of the largest of the three Lake & 10th properties who preceded the latest prospective developer; and 2) owner(s) of surrounding properties before they purchased their homes (thus the City gave them an official and informed expectation that they would not one day wake up with a 3-4 story apartment building looming over their home with a hundred+ tenants peering into their windows, deck and yard).

RESIDENTIAL MARKET: Supply verbiage implementing the Comp Plan's definition of Residential Market and uphold approved ordinance that continues its application to the Lake Street S & 10th Avenue S properties.

SIZE, SCALE, CHARACTER: Uphold the Comp Plan's requirement for whatever will be built on the Lake & 10th BN zone to aesthetically conform to other neighborhood structures in size, scale and character. Working to ensure harmony of character and scope within a neighborhood is an essential element of city planning that benefits the form and function

of a city, and the well-being of residents.

REQUIRED FEATURES TO ACHIEVE COMPATIBILITY, CONSISTENCY, AND FAIRNESS FOR SIZE AND SCALE:

Floor Plate: In order to meet the requirement of blending with the surrounding neighborhood, the floor plate of any new development at Lake & 10th should not be any larger than the largest floor plate in the neighborhood block.

Façade Length: Another issue of neighborhood compatibility and consistency. The façade length of any new development at Lake & 10th BN zone should not be longer than the longest façade that currently exists in the neighborhood.

Lot coverage: As all properties surrounding the Lake & 10th BN zone are at 20-30% lot coverage, this should also be the limitation for any new development on the BN zone. As the BN zone and surrounding properties all fall under the non-conforming designation and cannot have this coverage increased, an unfair exception for the proposed new development should not be allowed.

Setbacks: Larger than typical setbacks have sensibly been required along Kirkland's one-of-a-kind Lake Washington Boulevard. An unfair exception allowing smaller setbacks should not be made for any new development on a BN zone along this gateway street.

Building proximity: If more than one building is constructed on the Lake & 10th BN zone, the distance between them should not be closer than that of any other buildings in the neighborhood.

Design review: Any new development proposed to be built along Kirkland's distinctive and iconic waterfront Boulevard needs to be carefully vetted by the Design Review Board to ensure compatibility with its surroundings, aesthetic appropriateness, and harmony of character and design. This is an essential part of the city planning process.

So, now you deliberate on the recommendations to be made. I think some of what City Planning is about is to help create a vision for a community while balancing the needs of constituencies within the community and the wants of those who desire to be part of that community. Its goal is to improve communities, enhance the health and welfare of residents, and help fulfill a shared vision of a city to be enjoyed by future generations. As you work this out, the right answers will be informed by asking, "What is best for the community?" The community has been telling you. Please understand, and pass it along to the City Council. Thank you.

Robin Herberger
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Kirkland, WA
Mediaworks1@frontier.com

From: [Robin Herberger](#)
To: [Mike Miller](#); [Jon Pascal](#); [Jay Arnold](#); [C Ray Allshouse](#); [Byron Katsuyama](#); [Andrew Held](#); [Glenn Peterson](#); [Joan McBride](#); [Doreen Marchione](#); [Penny Sweet](#); [Amy Walen](#); [Bob Sternoff](#); [Dave Asher](#); [Toby Nixon](#); [Kurt Triplett](#); [Robin Jenkinson](#); [Eric Shields](#); [Jeremy McMahan](#)
Subject: ZON11-00042 - Henry David Thoreau and All That Jazz
Date: Thursday, July 05, 2012 2:41:39 PM

Dear Commissioners, Council Members and Staff:

It's really not that complicated. It doesn't require any change - just implementation of the Comp Plan and the already agreed upon definitions and designations of "Residential Market" properties into the zoning code and land use charts. We just want you to complete a process that has fallen through the cracks. There is no need for layers of complications to be added by either Council members who want to further muddy the waters by injecting a new and wildly inappropriate zoning designation or by developers and their attorneys. You don't need to whittle all those square pegs, trying to make them fit into all the new holes some people want to start digging. Just use the round pegs you already have - there's enough to go around. Simplify, simplify, simplify.

And now the jazz interlude . . .

"Making the simple complicated is commonplace; making the complicated simple, awesomely simple, that's creativity." - Charles Mingus, jazz double bassist and composer

Be creative! Simply insert the "Residential Market" text, approved and required by City ordinances, into the zoning code. Thank you.

Robin Herberger
6401 Lake Washington Blvd., NE, #403
Kirkland, WA 98033
mediaworks1@frontier.com

From: [Lori Isch](#)
To: [Jeremy McMahan](#)
Cc: [lori.isch](#)
Subject: Potala Project - traffic
Date: Monday, June 04, 2012 4:00:56 PM

My primary issue with the project, assuming that the density will be scaled back a bit more to be in alignment with other such properties along S Lake Washington Blvd, is TRAFFIC.

Does the Comprehensive plan address the traffic issues on LWB? It seems to me that we are not doing enough to disincent the drive-through commuter traffic, and that traffic is what is making living on the Blvd so painful. So, the thought of a couple hundred more cars is putting people over the deep end.

There needs to be a STRATEGIC traffic plan. The minor improvements aren't doing enough.

There should be at least 2 more stop lights - people just fly down the street (South in the mornings). Such as, one light on the corner of the Potala project, and another south of Carillon Point. There needs to be some way for people to get out of their driveways easier. And, the drive-through commuters coming from North of downtown Kirkland, should be routed to 405 or 108th Ave. I would actually block Lake Washington at the tee, where you turn to go South. Going to downtown Kirkland should be a destination. All the extra traffic and the poor parking hurts the downtown businesses. I rarely drive North to downtown Kirkland because of the hassle. It is easier to go South to Bellevue.

Some creative and radical ideas are needed. We are letting the commuters who use Lake Washington as a pass-through impact the lives and neighborhoods of the people that live here!

[Lori Isch](#)
home owner, NE 64th Street

lori.isch@usa.net
425 444 7321 (cell)

From: [Charles Kan](#)
To: [Jeremy McMahan](#)
Cc: [PlanningInfo](#)
Subject: Comments on Amendments to Kirkland Comprehensive Plan and Zoning Code (MSC 2 Market Steet)
Date: Friday, June 22, 2012 10:56:25 AM

Dear Mr. McMahan,

Thank you for meeting me in person and explaining in detail regarding Potential Comprehensive Plan & Zoning Code Amendments for Market Street (MSC 2).

First of all, I like the following proposed changes:

Minimum Commercial Floor Area
Residential on Ground Floor of Structure
Commercial Orientation
Maximum Height
Required Yards
Land Use Buffer
Use Limitations
Maximum Building Length
Review Process

But I am concerned about the following proposed changes:

1. Residential Density (Density limit between 24-48 units/acre)
I would like to have NO CHANGE or 48 units/acre limit is desired.
Market trend for high end condo and apartment is small unit (studio, one bedroom and two bedroom)
2. Maximum Store Size (4,000 s.f.per establishment).
I prefer NO limit in case my current pet food store (Dooley's Dog House) needs larger space.

Best regards,
Charles Kan
Partner of Lakeside Plaza (Market Street)
Tel: [425 957-1688](tel:425-957-1688)

From: [Maureen Kelly](#)
To: [Mike Miller](#); [Jon Pascal](#); [Jay Arnold](#); [Andrew Held](#); [Byron Katsuyama](#); [Glenn Peterson](#); [C Ray Allhouse](#); [Kurt Triplett](#); [Robin Jenkinson](#); [Eric Shields](#); [Jeremy McMahan](#)
Cc: kellyonkirkland@comcast.net
Subject: June 28th Public Hearing: Commercial Codes, KZC, Comprehensive Plan and Design Guideline
Date: Monday, June 25, 2012 10:20:18 AM

Dear Planning Commission,

A few thoughts to ponder, specifically for the BN Zone Public Hearing and recommendations to the City Council.

MESSAGE TO CITY COUNCIL - NO NEIGHBORHOOD CENTER DESIGNATION!: Please, send a STRONG message to the City Council. The ZONING for parcel at Lake St, Lake WA Blvd & 10th should NOT be changed to Neighborhood Center (Houghton Center, Juanita, etc.)!!! This was never the intent and would irrevocably change the texture of the neighborhood, traffic flow and general ambiance of Kirkland's signature boulevard.

DENSITY CAP: Surrounding areas are either single family residential or low-medium density residential (12-24 per acre). Allow 24 per acre with allowance for affordable housing, NOT 48 per acre that would ultimately end up near 70 units per acre! This is too much for the location, neighborhood and infrastructure.

BN LOT COVERAGE: 60% or less. Most of the surrounding properties are 20-30% lot coverage. Super 24 site on Lake WA Blvd is 60%.

BN HEIGHT RESTRICTION: 3 stories means 3 stories from street level (Lake Washington Blvd in the case of the Potala project). Not 4 or more by means of some convoluted formula that allows more height than the general public expects or understands.

BN DESIGN REVIEW: Must be mandatory for any zone that allows high density/high impact development, particularly as it impacts adjacent residential neighborhoods! I plan to address this issue at the Public Hearing. Note attached photos.

BN OPEN SPACE: Mandatory 200sf+ open space per unit. This will decrease mass and provide an ease of transition with the adjacent single family homes and lower density multi-family. Example: Without open space and public gathering space, tremendous stress will be placed on the waterfront multi-family condos that provide public fishing and walkway access in front of their units.

MAUREEN KELLY

Lakeview Resident since 1981

Kirkland, WA 98033

T 206 465 5550 | F 425 827 3400

WE SUPPORT DESIGN REVIEW

Mr. Miller has wisely supported the idea that DESIGN REVIEW should be included regardless of the ultimate zoning decided for this BN parcel. We strongly support that. I want to show you examples of WHY Design Review will be so critical if the current developer proceeds with his plan. It will be sorely needed, as shown by the following examples:

- First, here is the only project so far completed by this developer, **Everett PotalaVillage**: http://www.potalavillageeverett.com/property_home_page/home?page_name=multimedia
- Next, here is the original proposal for **Potala Village Kirkland**
- Next, this is what was planned for **Potala Village West Seattle**: http://www.studio19architects.com/#!__t-work-mixed/vstc20=page-8 (copy and paste URL into browser because I couldn't get the hyperlink to work/ CP)
- Next, let's look at the REVISED proposal for Potala Kirkland, which has been renamed "**Kirkland Aqua**": http://www.studio19architects.com/#!__t-work-mixed/vstc23=page-3/vstc20=kirkland (copy and paste URL into browser because I couldn't get the hyperlink to work/ CP)
- Finally, here's the developer's idea of what his next project in Everett might look like, which he calls **Pagoda Village Everett**:

You be the judge. I think Mr. Miller is on to something here in recommending Design Review.

Maureen Kelly
6201 Lake Washington Blvd NE #102
Kirkland, WA 98033



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- Potala Village Everett
- Cogswell Building
- Everett Public Market
- Kirkland Aqua

Potala Village Everett



Potala Village Everett is a mixed-use project consisting of 108 market-rate apartment units, 150 secured parking stalls, and 15,000 square feet of retail space. This project is the first Three Star Built Green multi-family project in Snohomish County, located in the Central Business District on the corner of the two arterials, Pacific and Rucker streets. (Car traffic volume on Rucker alone is approximately 45,000 cars per day.)

The project's central location provides amenities and access to everything the city has to offer, including views of Possession Sound and Port Gardner. The Potala Village apartments, shops and eateries are within walking distance of performing arts and sports venues, state, county, and city job centers, medical clinics and Providence Regional Hospital, fitness centers, educational campuses and a library. Additionally, it is a short drive to a regional transit center and major employers such as Boeing and the Everett Naval Base.

Synergy Construction received the Associated Builders and Contractors National Pyramid Award for Excellence in Construction in the Multifamily/Condominium category for their work on the Potala Village Everett project! First in the Nation for this category!



Everett, WA





ATTACHMENT 2

Work

Press

Contact

- **Everett Farmer's Market Apartment Complex**
- **Kirkland Aqua Condominium**
- **Kirkland Potala Village**
- **West Seattle Potala Village**

Kirkland Potala Village

A 164-unit apartment with retail on ground floor and 3-story underground parking along Lake Washington Blvd.



< 1/3 >

Work

Press

Contact

- **Everett Farmer's Market Apartment Complex**
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A 164-unit apartment with retail on ground floor and 3-story underground parking along Lake Washington Blvd.



< 2/3 >

- Everett Farmer's Market Apartment Complex
- Kirkland Aqua Condominium
- Kirkland Potlatch Village
- West Seattle Potlatch Village

Kirkland Aqua Condominium

The Aqua is a mixed-use condo project consisting of approximately 110 high-end condo units, 260 secured residential and commercial parking stalls, and 8,000 square feet of retail space on the Ground Floor.



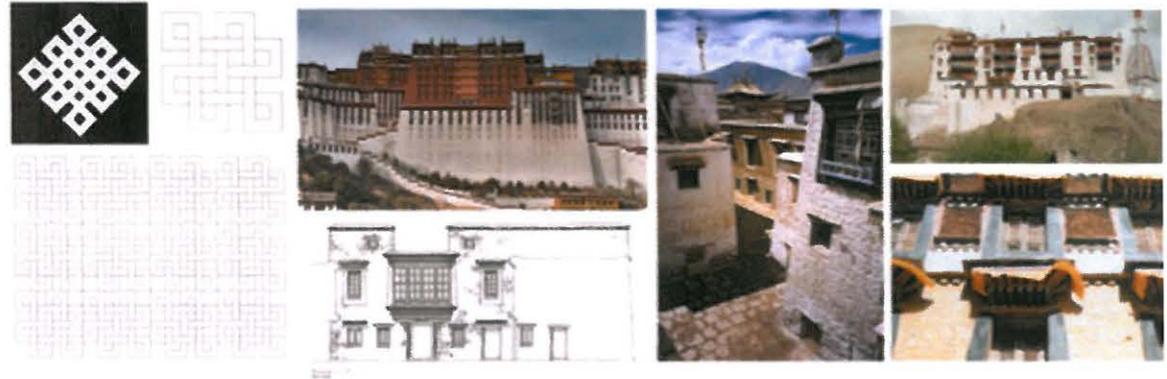
< 1/3 >

Work

Press

Contact

- Everett Farmer's Market Apartment Complex
- Kirkland Aqua Condominium
- Kirkland Potala Village
- West Seattle Potala Village



Option 1

SCHEMATIC A

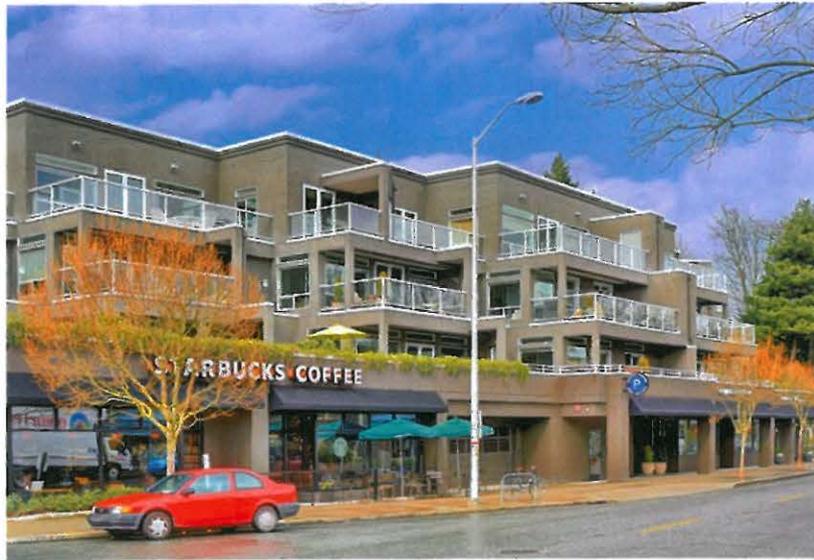
West Seattle Potala Village

This is a mixed-use apartment development on a 31,050 square foot site in West Seattle. The building mass is broken into three segments by open courts that break down the long street façade and blend in with the surrounding single family neighborhoods.



California Ave. Street Elevation Scale 3/32" = 1'-0"

< 1/3 >



From: mkelly@windermere.com
To: [Mike Miller](#); [Jon Pascal](#); [Jay Arnold](#); [C Ray Allshouse](#); [Byron Katsuyama](#); [Andrew Held](#); [Glenn Peterson](#); [Joan McBride](#); [Doreen Marchione](#); [Penny Sweet](#); [Amy Walen](#); [Bob Sternoff](#); [Dave Asher](#); [Toby Nixon](#); [Kurt Triplett](#); [Robin Jenkinson](#); [Eric Shields](#); [Jeremy McMahan](#)
Subject: ZON11-00042
Date: Thursday, July 05, 2012 9:08:29 PM

Dear Planning & Council members:

Do not make this more difficult than it needs to be. You are required to implement zoning that reflects the agreed upon Comprehensive Plan and Residential Markets. Please make that happen.

Thank you.

Maureen Kelly
6201 Lake Washington Blvd NE
Kirkland, WA 98033

From: [Ravi Khanna](#)
To: roundh@aol.com
Cc: [Mike Miller](#); [Jon Pascal](#); [Jay Arnold](#); [Glenn Peterson](#); [C Ray Allshouse](#); [Andrew Held](#); [Byron Katsuyama](#); [Joan McBride](#); [Doreen Marchione](#); [Penny Sweet](#); [Amy Walen](#); [Toby Nixon](#); [Bob Sternoff](#); [Dave Asher](#); [Kurt Triplett](#); [Robin Jenkinson](#); [Eric Shields](#); [Jeremy McMahan](#)
Subject: Re: ZON11-00042 Res Mkt: Context & Intensity attachment
Date: Sunday, July 08, 2012 3:10:45 PM

Dear Hugh,

You have captured very well the basic issues raised by this Potlatch project. Our city officials should please note that their decision can either preserve the Kirkland waterfront as a desirable place to live or head us down the path of becoming Bellevue North.

Regards,

Ravi Khanna
 303 2nd St S
 Kirkland, WA 98033

On Sun, Jul 8, 2012 at 9:50 AM, <roundh@aol.com> wrote:

> Dear city officials:

>

> I am writing to you today regarding the Context and Intensity of
 > Development as considered and approved into law by prior ordinances.
 > This is for the sites along Kirkland's waterfront boulevard.

>

> You will see in the law document attached there are many issues that
 > come into play when considering the intensity with which a property may
 > be developed. I am speaking specifically of residential intensity which we
 > also call density. Many of the considerations discussed in this reference
 > article were the basis for the 1995 decision on INTENSITY allowed on the
 > boulevard properties.

>

> I'd like to add some descriptions that might help paint the picture of
 > resulting development if it is built to a high residential intensity vs
 > a low residential intensity (or density). This goes beyond building
 > size and is much more important. This is about overcrowding and the
 > impacts of so many people and so many residential units.

>

> What we enjoy re: LOW/MEDIUM Residential Densities:

>

> - Gardens, fountains and statues are close to the sidewalk giving
 > passers-by a relaxed ambience.

>

> - Neighbors know each other and take time to interact

>

> - Condos and apartments have few enough windows that they can be
 > staggered for privacy of others (windows don't peer into each other, or
 > look upon the backyards or balconies or into the windows of others and
 > each unit has windows that can be positioned for daylight).

>

> - Neighbors have enough room between them that noises from one
 > development are not intrusive to others

>

> - There are few enough windows (and staggering of windows) such that
 > light from one development does not have significant impact on neighbor

- > development
- >
- > - Pedestrian, bicycle or scooter transportation is not greatly hampered
- > since the number of cars traversing a driveway is quite limited
- >
- > - Guest parking is generally available along the street, although it is
- > slightly challenged
- >
- > - Residents report a feeling of relaxation due to lower housing
- > congestion
- >
- >
- > HIGH INTENSITY DEVELOPMENT - NOT INDICATED FOR LAKE ST S/ 10th Ave S
- >
- > - No setback with gardens, fountains, artwork - only the hard facade of
- > a building pulled right up to the curb in order to accommodate a maximum
- > of tiny housing units. This provides a much different ambience, not
- > relaxed and inviting like the garden/lake setting that currently exists.
- >
- > - Too many neighbors (many transient due to low rent and small units).
- > Neighbors no longer feel the connection with their neighbors. There
- > are more unknown neighbors coming and going. The neighborhood feel is
- > forever lost.
- >
- > - The feeling of privacy in one's home is lost. Where there was
- > previously the ability to stagger windows to avoid visual intrusion
- > into the lives of others, there are now hundreds of windows looking
- > directly into neighbor backyards, neighbor balconies, neighbor windows.
- > The use of one's personal space to relax and "get away" is stolen when
- > so many new windows intrude.
- >
- > - The prior ability to enjoy the dark night sky and stars (and the dark
- > lake with reflected lights) is lost when light from hundreds of windows
- > provides too much light in the foreground. This impacts views for
- > local neighbors but also to the public as a whole (public views are
- > protected in Kirkland).
- >
- > - Noise becomes a major problem. There are hundreds of residents with
- > competing sounds from stereos, TVs and the like. HVAC /
- > Airconditioners supporting more than a couple hundred residents.
- >
- > - Pedestrians, bicycles and scooters cannot pass the driveway at all during
- > peak hours. This is because the city traffic study indicated that ultra
- > high density would produce one car per 30 seconds over the driveway and a
- > survey of time required to get out of (or into) the driveway is greater than
- > 30 seconds causing backup of cars within the parking structure and 100% of
- > the time a car will be sitting across the sidewalk waiting to enter the flow
- > of traffic.
- >
- > - Guest parking which can currently be found along the street with a small
- > bit of difficulty will become non-existent. With a problematic parking
- > structure, many residents of an overcrowded building will park on the city
- > streets. The number of cars will crowd out those who currently rely on
- > streets for guest parking and will crowd out visitors to our city.
- >
- > - The feeling of overcrowding will replace the current feeling of
- > neighborhood. This crowded feeling will certainly be imposed upon those who
- > choose to live in the ultra-high density dwelling as they will be in
- > extremely close quarters with other apartment dwellers. They will be
- > subject to impacts of sound through the walls, floors and open windows.

- > They will be subject to incompatible sleep schedules and wake schedules as
- > often happens when in close proximity dwellings. They will have no open
- > space as part of their apartment complex.
- >
- > - The feeling of overcrowding will replace the current feeling of
- > neighborhood for visitors. They will no longer be visiting an area where
- > they enjoy the lower intensity, neighborhood feel and beautiful garden
- > setting.
- >
- > - MOST PRONOUNCED will be the feeling of overcrowding that will cause
- > increased level of discomfort and stress upon those who intentionally
- > selected lower intensity area for their home. Science has shown us that
- > overcrowding causes increased level of stress and decreased feeling of
- > healthful wellbeing. These increased levels of stress impact sleep, ability
- > to concentrate or study, blood pressure, etc. This is particularly true for
- > individuals who have self-selected to live in lower intensity areas.
- >
- > Thank you for carefully considering that the density of residential units
- > has numerous negative consequences on apartment residents, neighbors,
- > citizens and visitors and that these consequences are caused INDEPENDENT of
- > the size of the building. They are caused by intense residential use ...
- > period.
- >
- > Thank you,
- > Hugh Levenson
- > 6620 Lake Washington Blvd NE, Kirkland WA 98033
- >

From: [Linda and George](#)
To: [Mike Miller](#); jpaascal@kirklandwa.gov; [Jay Arnold](#); [Andrew Held](#); [Byron Katsuyama](#); [Glenn Peterson](#); [C Ray Allshouse](#); [Joan McBride](#); [Doreen Marchione](#); [Penny Sweet](#); [Amy Walen](#); [Bob Sternoff](#); [Dave Asher](#); [Toby Nixon](#); [Kurt Triplett](#); [Robin Jenkinson](#); [Eric Shields](#); [Jeremy McMahan](#)
Cc: uwkkg@aol.com
Subject: Potala Development
Date: Monday, July 09, 2012 9:13:28 AM

The planned density for this area has been established by Ordinance. The proposed development will not comply with that ordinance. I urge you not to make an ad hoc exception for this development. That would be cited as a precedent for any future high density development and would have a severely negative impact on existing property owners and businesses who have relied on the existing ordinances and plans.

Increased density has many impacts on the community. The one with which I am most familiar, in both my professional and private life, is traffic. I believe that each of you should drive northbound from SR 520 to downtown (all the way to the cow) during evening rush hour before you make your decision. Then, imagine conditions after adding the proposed development traffic to the mix. (most likely two cars for each new unit.)

Increased density, beyond that planned or established by ordinance, appeals to those looking for an increased tax base, however, reducing the desirability of existing properties and businesses will cause new buyers and businessmen to doubt the integrity of the process and will reduce property values (and taxes) accordingly.

Please do not make an exception for this development.

George Lamb
807 Lake Street South, #300
Kirkland, WA 98033

206.851.7738
GandLLamb@aol.com

From: Uwkgg@aol.com
To: [Robin Jenkinson](#); [Kurt Triplett](#); [Eric Shields](#); [Joan McBride](#); [Jeremy McMahan](#); [Doreen Marchione](#); [Penny Sweet](#); [Amy Walen](#); [Dave Asher](#); [Toby Nixon](#); [Bob Sternoff](#)
Cc: uwkgg@aol.com; neighboringproperties@gmail.com
Subject: 10th Ave S / Lake St S - Enforcement of prior Lawsuit - Legal Remedy/Attny fees
Date: Friday, May 25, 2012 9:26:21 AM
Attachments: [CITYOF~2.PDF](#)

Hi all:

I believe that neighbors are moving forward to involve attorneys in enforcement of prior legal agreement of maximum 22 units per acre which was to be enforceable by all successors. The legal agreement provides for attorney's fees reimbursed. The pages of the lawsuit (Passed as Resolution 2639 by COK) include both a description of the property (without exclusion for property @ 10th/Lake St S) and the provisions on how to enforce the agreement. The density cap is 22 per acre.

I am not understanding what evidence the Potala Village group believes that they have to indicate that they were led to believe that super high intensity development on Lake St S and 10th Ave S was acceptable.

Public records show many instances after the purchase of the property in 2010 wherein the new architect (old one was replaced) was still proposing different alternatives and still asking if they could get written confirmation that their project would work. Public Records request show that none of these requests got any positive response or confirmation from the city.

On the flip side, there is written documentation where restrictions were placed on the property during presubmittal meetings. The applicant was told that portions of the neighborhood plan applied "specifically to subject property." Those sections were highlighted in yellow and presented as part of the presubmittal packet. This is confirmed to be on file and written. The yellow highlights show max 12 units per acre, "consistency with developments to the north and south along LWB," Restricted commercial due to traffic ingress and egress which generally make commercial development not acceptable for the site, etc. When I confronted the applicant about knowing this all along, he stated that he was not at the presubmittal meeting and the packet was addressed to his first architect.... (he did not state that he was unaware of these restrictions).

The 2009 presubmittal information also has written documentation indicating that the driveway should not terminate on the arterial (Lake St S) and that certain specified objections would not be entertained as a reason to not have 10th Ave S as the driveway.

A check of the Washington Court Records shows Mr Lobsang Dargey and Dr David Myaskovsky (his business partner and believed large part owner of property) both frequent the court system. We cannot find that Tammy Agassi Dargey is an owner (except maybe due to marriage) as her name does not appear on any materials that we find. It seems to merely bring in the famous name of Andre Aggasi, her brother. We are unclear as to what relevance this has to the matter in front of the City.

Please hold fast to the decisions that were made about residential market properties by large groups of city and citizen stakeholders. Please do not be bullied by this applicant.

I believe that it was determined and that case law has been reviewed wherein a lack of building permit means the applicant is not vested. I am aware that prior to the imposition of the moratorium, the Attorney for the City of Kirkland, Robin Jenkinson, provided the applicant a heads up which would have allowed the applicant to get the building permit filed before the moratorium. He did not do that.

Karen Levenson

1 11. Lake Washington Investors, et al. v. Kirkland,
2 No. 837109 -

3 a. That portion of the property described in
4 plaintiff's complaint as:

5 Lot 1, Block 2, French's Homestead Villa, according
6 to plat recorded in Volume 20 of Plats, page 24,
7 in King County, Washington; EXCEPT portion conveyed
8 to King County for road purposes by deed recorded
9 under King County Recording No. 1126248;

10 shall remain on the zoning map as RM 3600 and subject to
11 said regulations.

12 b. The balance of the property described in
13 plaintiff's complaint, to wit:

14 That portion of Government Lot 4, in Section 8,
15 Township 25 North, Range 5 East, W.M., in King
16 County, Washington, lying east of Lake Washington
17 Boulevard as now established, south of the south
18 line of Block 2, French's Homestead Villa, according
19 to plat recorded in Volume 20 of Plats, page 24,
20 in King County, Washington, north of the north
21 line of Northeast 63rd Street "formerly Walnut
22 Street", and west of 102nd Avenue Northeast,
23 "formerly Second Street";

24 may be developed subject to and consistent with the general
25 provisions of the RM chapter of the zoning code, provided,
26 however, that such development shall not exceed 22 residen-
 tial units. Provided, that unless some other method is
arrived at by agreement between the owners of the real
property hereinabove described and the owners of the Shore-
house Apartment, located across Lake Washington Boulevard,
as to the existing Shorehouse off-street parking facility
presently located on the property of plaintiffs, provision
for the continuation of the "Shorehouse off-street parking
facility" shall be retained or in the alternative provided

1 for within the design for off-street parking within the
2 westerly half of the total parcel, above described, and
3 further provided that nothing herein shall be taken as
4 preventing the owners of the property hereinabove described
5 from imposing reasonable rules and regulations consistent
6 with the ordinances of the City of Kirkland on the use of
7 such off-street facilities by and for the benefit of the
8 "Shorehouse Apartment", until such time as a court of competent
9 jurisdiction shall determine that the owner of the Shorehouse
10 Apartments does not have the right and privilege of using
11 said property for off-street parking.

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B. GENERAL STIPULATIONS APPLICABLE TO ALL
CONSOLIDATED CASES

It is further stipulated by all parties to all of the
consolidated cases:

1. In the event it becomes necessary for any party to
any of the 11 consolidated actions to bring or institute any
judicial proceeding to enforce any of the provisions of the
Stipulation, Judgment, Order and Decree the prevailing party
therein shall be entitled to reasonable attorney's fees,
expert witness fees and costs.

2. Except as provided in the prior paragraph, each
party hereto shall bear their own attorney's fees and costs
incurred herein.

3. This agreement shall be for the benefit of and be
binding upon all successors and assigns of each party hereto.

4. Each party agrees to approve and support for entry
a judgment in all 11 of the consolidated actions incor-
porating the provisions of this stipulation, and (except as
may in this stipulation be specifically otherwise provided)
dismissing all actions with prejudice and which shall be a
final and binding judgment on all of the parties.

From: uwkkg@aol.com
To: [Mike Miller](#)
Cc: [Jon Pascal](#); [Jay Arnold](#); [C Ray Allshouse](#); [Andrew Held](#); [Glenn Peterson](#); [Byron Katsuyama](#); [Kurt Triplett](#); [Robin Jenkinson](#); [Eric Shields](#); [Jeremy McMahan](#)
Subject: BN-Res Mkt: Specifically In response to MIKE MILLER comments - Public Hearing 6/28/12
Date: Sunday, June 24, 2012 10:53:04 AM

BN-Res Mkt: Specifically In response to recent MIKE MILLER comments
Please enter as testimony for Public Hearing 6/28/12

Dear Mr. Miller

I am writing this letter directly to you and will cc the other planning commissioners, as well as, appropriate city staff.

The reason I am writing directly to you is there seems to be a tremendous disconnect between what the neighbors and other citizens of Kirkland clearly state and what you either misunderstand or intentionally "re-package" as our opinion. I am unclear why our numerous concerns regarding density are unheard, or otherwise not clearly on your radar.

Yes, we do agree that Design Review Board is needed and that one solid building of incompatible size, scale and character would be very harmful to the signature Boulevard. As Amy Walen said at a recent council meeting (when discussing another issue), we need to create a nice character of a city which will make people want to locate their businesses. Achieving this with the more involved process of Design Review Board is essential. Administrative Review is too low a standard. DRB should address building plate size, multiple smaller buildings, similar and compatible lot coverage, similar and compatible set backs and step backs. It should provide in all aspects for neighborhood size, scale and design of building.

But now let's talk about the BIGGEST ISSUE to the neighbors and citizens (nearly 800 of them now). We have emailed and phoned and blogged and written and signed petitions. We have testified about our concerns during Planning Commission and City Council meetings for over a year. We have explained repeatedly that density is the major issue for us for hundreds of reasons that go beyond the look or size of the building. Somehow you then say the only reason we care about density is for the size of the building. Please, please stop filtering out our concerns. Please stop re-packaging our comments !!!!!

INGRESS and EGRESS:

Have you not heard those words a thousand times during the past year and a half???

If you do not limit density, you do not limit the number of cars.
Please don't misinterpret or re-package our comments !!!!!

- 100% of us are completely convinced that you cannot sufficiently limit the number of cars due to building size or DRB alone. We have said so repeatedly.

- 1977: We have provided the documentation of traffic ingress and egress problems from the east side of the Boulevard as it was the pivotal factor in removing half of the residential density allowed to

people who had already purchased property in this area in 1977. We have reminded you that the ingress and egress issue was so bad that private property rights were reduced to everyone in this area and DWELLING UNITS PER ACRE was the mechanism chosen as being the ONLY WAY to achieve this.

- 1992-1995: We have provided the 1995 Comp Plan quotations and the minutes and the deliberations of the Growth Management Land Use Committee, the citizens, the planning commission and the city council during the years when the Comprehensive Plan was being drafted. The discussion of the time was whether to REMOVE commercial from the BN properties at Lake St S and 10th Ave S and make it a residential only property with the same residential zoning. This was because of the ingress and egress problems. The fact that a small commercial use was currently onsite and actually REDUCED INGRESS AND EGRESS when neighbors walked for services convinced the teams to allow a brand new, more limited category of commercial called "Residential Market - Commercial" and they carefully memorialized the ingress and egress troubles in the Comprehensive Plan and stated that only "LIMITED COMMERCIAL" would be at the specific site and this would allow the current neighborhood business to "REMAIN." The east side of the Boulevard was also clearly documented wherein again INGRESS AND EGRESS troubles are specifically inserted as text in the plan and residential uses along the Boulevard are capped at 12 units per acre consistent with properties to the north and south. There is also discussion that some surrounding properties were previously built at slightly higher densities before INGRESS and EGRESS became the focus.

TRAFFIC

We have provided dozens of examples of the problematic increase in traffic. We need you to stop ignoring that we feel this is a major issue that will not be addressed adequately by restricting size of building !!!!!

It will only be addressed by limiting density similar to surrounding properties.

These arguments, for the most part, are quite similar and expressed similarly as the ingress and egress arguments above. Ingress and Egress are more specific to the difficulty and safety of cars entering and exiting the driveway (and included the cities original documentation during presubmittal that the driveway should not be accessed on Lake St S/LWB). The ingress and egress include things like safety of bikers or pedestrians having to go around the cars that are trying to pull into traffic, the cars that are backing up in the parking structure as they wait for their turn to leave the property and the fact that many will choose otherwise to park on the street. The city's traffic count was for one car to enter or exit this property every 30 seconds at peak PM.

The argument about traffic is more focused on the additional number of cars adding to slowness on the boulevard and the certainty that many of these cars will then use 10th Ave S which is built and maintained specifically as a neighborhood street and not built for this increase in traffic.

PARKING

As addressed in my earlier comments, parking and how many guests or

visitors need to use city streets has been frequently addressed by neighbors, by citizens and even by visitors of Kirkland. We have done this through emails, letters, blogs, phone calls and public testimony. Please do not negate our hundreds of communications on this issue !!!!!

Building size will not sufficiently control this. The only sufficient control is limiting the number of occupants living on-site and regulating the number of parking spaces provided, as well as, the number of guest stalls. Additionally ensuring that residents and guests can enter and exit the property without too much delay is important since those who are find it too difficult to wait their turn to enter or exit the building will likely add their car to street parking so they are not late to work. Maintaining street parking for visitors to Kirkland is essential to the economic vitality of the City of Kirkland. If residents consume these precious parking spaces it becomes difficult for visitors to park and use our beaches, walk our boulevard, stop into our cafes and shops.

INTENSITY OF USE

Neighbors and citizens have shared dozens of other negative impacts of development at higher intensities. We need you to stop indicating that we have not identified these concerns with our emails, letters, phone calls, petitions and speeches !!!!!

VERY IMPORTANT is that the Environmental Impact Report for Kirkland's 2004 Comprehensive Plan specifically comments on "INTENSITY OF USES" and how they are measured. The EIS states that any residential uses are measured in "Intensity" by units per acre. The Comp Plan EIS also states that non-residential uses are measured in "Intensity" by FAR.

The overall intensity of a mixed use project would be the SUM OF THE INTENSITY provided by Units per acre (Res Uses) PLUS THE INTENSITY provided by FAR (non-residential uses). Even the EIS recognizes that more units per acre creates greater intensity. This is an independent variable to building size.

AND DON'T FORGET THAT the BN properties on Lake St S and 10th Ave S are to be intentionally the lowest intensity of use !!!

Some of the negative consequences of intense development have been noted in our emails and letters.

- They include overcrowding, too many windows looking into neighbor properties creating privacy intrusion from hundreds of new residents (inability to stagger windows to avoid this negative impact).
- Also sound intrusion to the neighborhood due the tremendous increase in residents with TVs, Stereos, Voices heard due to overly close proximity and hundreds of HVAC or other equipment sounds.
- Light intrusion as hundreds of windows where rooms are illuminated in the evening will cause this light to spill into neighboring properties reducing the ability to enjoy the night sky and PUBLIC views looking west to the Lake or South towards the city skyline will be severely impacted.
- Overuse of public spaces since a development can currently be built without a requirement of 200 sq ft of open space per unit. High intensity development without any patios, courtyard or other public

space will have an unexceptible impact on parks or "hanging out" on city streets since residents will have no where else to escape tiny dwelling spaces. This creates overuse of our parks, garbage, noise, and park curfew enforcement issues. This makes our parks and our city less inviting to those who would otherwise come to enjoy our city and frequent our restaurants and shops. The overuse of our local public spaces creates a sense of overcrowding that is detrimental to the welfare of those who chose to live in a neighborhood setting rather than downtown which is a mile to the north.

PATHOLOGY OF OVERCROWDING

I will attach a link to a site that talks about how certain people may thrive in dense urban settings and how other people (like those near Lake St S & 10th Ave S) self select into less crowded settings. This article and many others address how a big shift in density causes withdrawal behaviors, or aggressive behaviors, or other pathologies in those who did not select more intense areas for their homes. When a severe increase in density is forced upon an area where the self-selection has been purposeful for lower intensities these mental health issues arise.

<http://www.ncsociology.org/crowding.htm>

SUMMARY AND SPECIFIC REQUEST

Again, my request, on behalf of hundreds of neighbors and citizens and HOAs, is that all of our concerns about density be heard as independent concerns. We strongly request that you cease with the mischaracterizing comments - Density concerns are not just about building size, shape and character. We join you in requiring Design Review Board, but we also have numerous density-specific issues that are important to be factored in to achieve the intended "lowest intensity use" as called for in the Comprehensive Plan Land Use Chapter, Comprehensive Plan Economic Development Chapter and Comprehensive Plan Moss Bay Neighborhood Chapter.

Thank you,

Karen Levenson, as an individual
 representing Hugh and Karen Levenson and The Park Condo HOA
 representing numerous HOAs & individuals in the 10th/Lake neighborhood
 representing numerous citizens of Kirkland who have written & testified
 representing members of "S.T.O.P.", " and "OneNeighborhood Block"
 representing clients of Brian Lawler Attny and David Mann Attny
 6620 Lake Washington Blvd NE
 Kirkland, WA 98033

From: [Robin Jenkinson](#)
To: [Eric Shields](#); [Jeremy McMahan](#)
Subject: Email to Planning Commission
Date: Wednesday, June 27, 2012 3:18:51 PM

Good afternoon,

FYI.

Robin

-----Original Message-----

From: uwkkg@aol.com [<mailto:uwkkg@aol.com>]
 Sent: Wednesday, June 27, 2012 3:02 PM
 To: Mike Miller; Jon Pascal; Jay Arnold; Andrew Held; Byron Katsuyama; Glenn Peterson; C Ray Allshouse; Robin Jenkinson; ktriplett@kirkandwa.gov
 Cc: uwkkg@aol.com; neighboringproperties@gmail.com
 Subject: BN Zoning: Mike Miller conflict interest Duana Kolouskova - Lobsang Dargey attorney

Good afternoon commissioners:

I am writing on behalf of numerous residents of Kirkland and HOAs regarding conflict of interest. I am also attaching a letter from Brian Lawler, Attorney with Socius Law. He also addresses the concern about conflict of interest.

It has just come to our attention that Mike Miller appears to have been represented by Duana Kolouskova in land use issues. This was mentioned to Mr. Miller at the last Planning Commission meeting wherein he stated that he believes that he can be impartial in spite of this fact.

Now, we have just located the extent of that representation plus it appears that they serve together on Master Builders Association with Duana serving as an officer and Mike Miller (assuming same Mike Miller) is on the Board of Directors.

Additionally, we have just learned that Mike Miller (since last meeting) now becomes the Chair of the Planning Commission.

We do not believe that anyone who has been represented by an attorney could ever be sufficiently impartial when listening to argument made by that same attorney in support of another developer. We further feel that the fact that they appear to both serve in leadership roles with Master Builders Association makes their relationship much too close to create the necessary arms length for decision making. This was something that was not disclosed and which we've discovered during the last hour.

The neighbors feel that Mike Miller's biases may be creating a wall through which their arguments are not being adequately heard by him. We feel that this may be even further challenged if he presides over the planning commission hearing and we have just learned that he is the new Chair.

We ask for Mike Miller to recuse himself. It is not tenable to have him preside over the current public hearing and we ask him to consider whether his participation in the decision making might later cause issue for the developer who owns the BN Properties on Lake St S/10th Ave S. Even the appearance of a lack of fairness can cause issues going forward.

We appreciate Mr Miller's service to our community. We are sorry that this attorney relationship was not disclosed earlier by the developer's attorney and that we have just come across this information.

Please help us keep these sensitive deliberations beyond reproach and beyond anyone's questioning of bias.... Please notify us this afternoon through my email address so that neighbors and other citizens can approach tomorrow with confidence in the process.

Thank you,
Karen Levenson (Brian Lawler Attorney letter below)

Please advise us (through my email address) of the changes that might be made to correct

>I am thinking that I'll send an email to the planning commissioners and
>ask that Mike Miller not preside. I've just found that not only has he
>been represented by her, but also they seem to currently be on Master
>Builders Association. She is an Officer and he is a Director on MBA.
>I don't think it's appropriate for him to be hearing testimony from
>someone he knows so well... how can he possibly be sufficiently arms
>length.

=====

From: Brian E. Lawler [<mailto:blawler@sociuslaw.com>]
Sent: Tuesday, June 26, 2012 4:53 PM
To: Robin Jenkinson
Subject: Kirkland - Public Hearing
Importance: High

Dear City Attorney Jenkinson.

It has come to our attention that the Planning Commission Chair Mike Miller has had a professional relationship on land use issues, with the law firm representing Potala Village. It is also no secret that Mr. Miller is a strong advocate on the planning commission for pro-development positions that are favorable to Potala Village.

My clients are very concerned about this. Given the sensitivity of the current planning process on the BN zoning and applicable residential density and the pending litigation, the appearance of a potential conflict alone is enough that Mr. Miller should not preside at the hearing on the 28th.

Also, I plan to attend the hearing on the 28th.

Also, can you inform me whether the Planning Commission will act on the 28th or merely take public input.

Thank you.

Brian

Brian E. Lawler
Attorney

From: [Robin Jenkinson](#)
To: [Eric Shields](#); [Jeremy McMahan](#)
Subject: FW: Public Hearing Conflict of Interest - Public Comments circulating
Date: Thursday, June 28, 2012 9:53:53 AM

Good morning,

FYI.

Robin

-----Original Message-----

From: uwkkg@aol.com [<mailto:uwkkg@aol.com>]
 Sent: Thursday, June 28, 2012 9:49 AM
 To: Mike Miller; Jon Pascal; Jay Arnold; C Ray Allshouse; aheld@kirkland.gov; Byron Katsuyama; Glenn Peterson; Robin Jenkinson; Kurt Triplett
 Subject: Public Hearing Conflict of Interest - Public Comments circulating

Hi all:

I thought I'd provide you with one example of what is circulating amongst many of the 500-800 neighbors. Mr Arndt is President of one of the HOAs along LWB, I believe. Most of us presidents are keenly aware of process due to our "mini" governments.

Even if Mr Miller is 100% confident that he can be objective, the citizens are very uncomfortable and feel that anyone in his place could not be sufficiently arms length. Sometimes just the appearance of inpropriety is enough to cause major negative impact.

Please do the right thing. This is stretching the public's trust in the process.

Karen

-----Original Message-----

From: uwkkg <uwkkg@aol.com>
 To: jcacra <jcacra@frontier.com>
 Sent: Thu, Jun 28, 2012 9:42 am
 Subject: Public Hearing Conflict of Interest

Jack:

I believe along with you and others that this is a direct, ionflict of interest that couldn't help but taint the decision process. Some of the information was not voluntarily provided at an earlier time. We are just learning this information as we speak. Attorney Brian Lawler has made this point to the city and one of the neighbor groups asked your specific question of the planning commission yesterday. We were hoping to hear something before now.

Karen Levenson

-----Original Message-----

From: Jack Arndt <jcacra@frontier.com>
 To: uwkkg <uwkkg@aol.com>
 Sent: Thu, Jun 28, 2012 9:24 am

Karen, would that not be conflict of interest and the person should remove themselves from the decision process?

From: uwkkg@aol.com
To: [Mike Miller](#); [Jon Pascal](#); [C Ray Allhouse](#); [Andrew Held](#); [Glenn Peterson](#); [Jay Arnold](#); [Byron Katsuyama](#); [Joan McBride](#); [Doreen Marchione](#); [Bob Sternoff](#); [Amy Walen](#); [Toby Nixon](#); [Dave Asher](#); [Penny Sweet](#); [Eric Shields](#); [Jeremy McMahan](#); [Kurt Triplett](#); [Robin Jenkinson](#)
Subject: ZON11-00042 NEW: Kirkland Accident EIS Map LakeS/10thS worst re: traffic accidents
Date: Tuesday, July 10, 2012 8:30:41 AM
Attachments: [Kirkland Lake & 10th 95th Percentile in traffic ac.pdf](#)

Hi all:

JUST DISCOVERED MAP: The attached map has just been uncovered as we are combing through all the characteristics that led to the city, planning commission and city council decision that Neighborhood Center was too "intense" a use for the properties circled along the boulevard and the drafting of a new "lowest intensity use" Residential Market definition.

The prior study of the hierarchy of intensity of use included study of numerous variables. Attached is a map of non-signalized intersections and accident rates. This shows the corner of Lake St S and 10th Ave S hits up to the top 5% of accident sites.

Discussion at the time also stated that development here should provide limited parking spaces (aka fewer cars to ingress and egress) the sites.

The 2009 Presubmittal packet also stated that ingress and egress (driveway) SHOULD NOT be onto Lake Street S.

Former presubmittal packets for other potential developers of the sites also had strict discussion of traffic circulation and ingress and egress concerns.

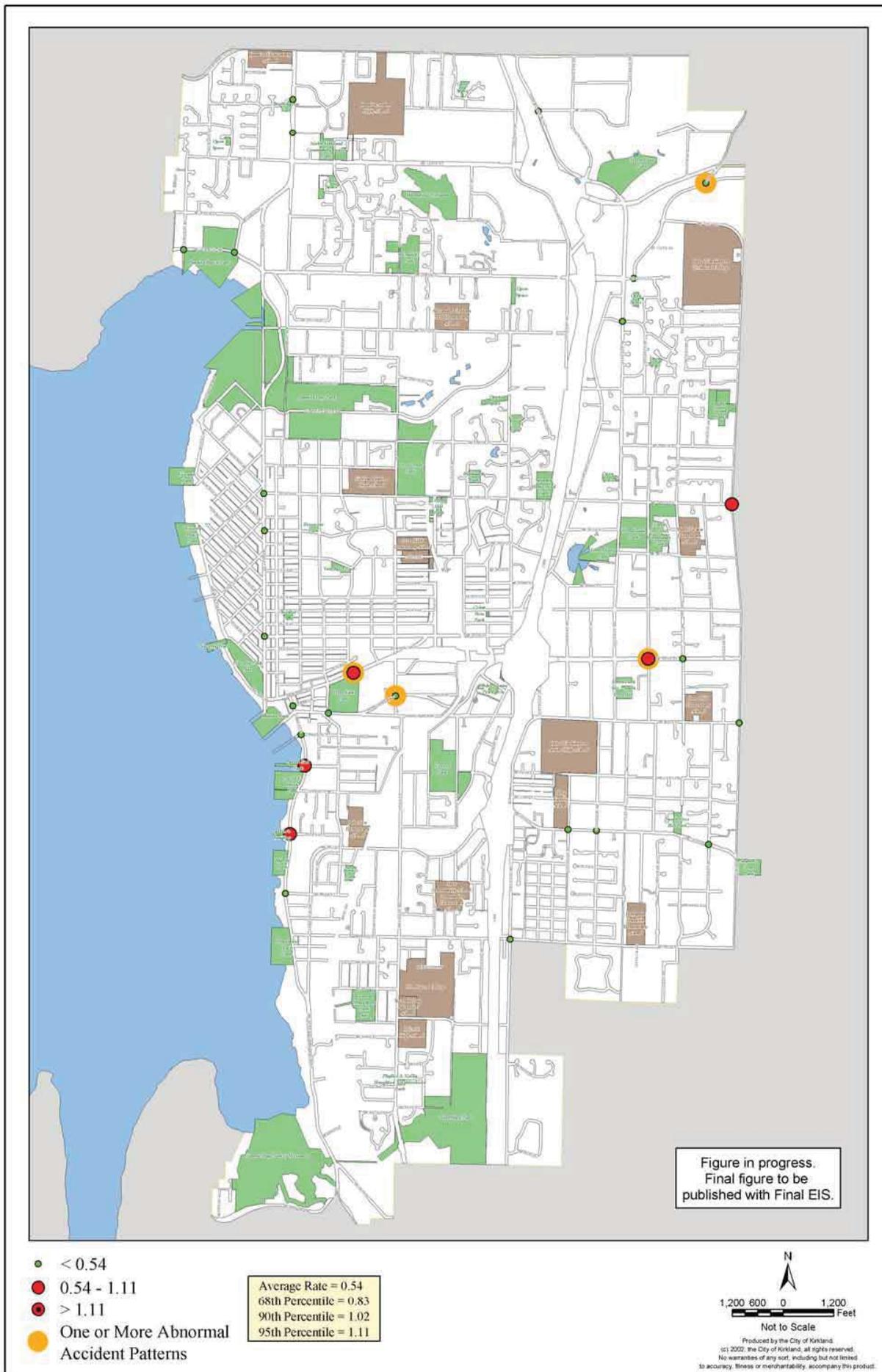
The limit of 12 dwellings per acre was calculated on prior presubmittal packets for these sites and for the current applicant was highlighted in yellow for his initial meeting with the city. That presubmittal letter also stated in the first sentence that the neighborhood plan "specifically applies to subject property." The yellow highlights in the plan also called out the traffic ingress and egress issues and the "limited" development that would therefore be allowed. It specifically identifies this location in the plan as "the southeast corner of Lake St S and 10th Ave S."

There really can be no confusion about what was intended for these sites and what restrictions have regularly been applied.

The attached map tells a significant part of the story of the ingress and egress safety concerns and why development on these parcels required city staff to come up with a whole new designation that would only allow the most limited intensity (Residential Market).

Thank you for your time and your respect for the hundreds of hours of work done when intensities of all commercial properties were very thoroughly studied.

Karen Levenson



2004 City of Kirkland Comprehensive Plan EIS
Figure 3-17: Accident Rates at Unsignalized Intersections

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To: [Mike Miller](#); [Jon Pascal](#); [Glenn Peterson](#); [Andrew Held](#); [Byron Katsuyama](#); [Jay Arnold](#); [C Ray Allhouse](#); [Joan McBride](#); [Doreen Marchione](#); [Penny Sweet](#); [Amy Walen](#); [Bob Sternoff](#); [Toby Nixon](#); [Dave Asher](#); [Robin Jenkinson](#); [Kurt Triplett](#); [Eric Shields](#); [Jeremy McMahan](#)
Cc: uwkkg@aol.com
Subject: ZON11-00042 BN-Res Mkt Zoning - Summary of 18months testimony & Review of CP, Ordinances, Kirkland Policies
Date: Wednesday, July 11, 2012 4:50:39 PM

Dear City Officials:

Re: ZON11-00042 BN-Res Market - Meeting Required Standards

To wrap up our extensive public input, I'd like to summarize the citizens' observations and the steps that we feel are essential for current decisions to be appropriate in light of city policies, zoning and comprehensive plans, zoning which provides direction where conflicts exist (with codes, plans and ordinances the most restrictive applies), and the documented restrictions applied to parcels when other developers approached the city during 1998, 2001, 2002, 2004, 2007 and 2009).

We feel you must:

- 1) Provide wording that will Implement the Comprehensive Plan definition of Residential Market and continue to apply it to the Lake St S and/or 10th Ave S parcels as was approved by ordinance on several occasions.
- 2) Put a density cap of 12-18 per acre plus neighborhood oriented commercial so that the overall "intensity" (residential intensity + non-residential intensity) fits with the neighborhood as required by numerous chapters in the Comprehensive Plan.
- 3) Require the building(s) to aesthetically fit the neighborhood in size, scale and character as required by the Comprehensive Plan.

SIZE and SCALE:

- a) Floor Plate - City has provided examples of surrounding structures and their floor plates. The floor plate of new development along Lake St S and/or 10th Ave S should be no larger than the largest of the floor plates in the neighborhood block. If it is larger, it does not meet the requirement to blend with the neighborhood.
- b) Facade Length - City has provided examples of the facade length of other buildings in the neighborhood. The facade length should be no greater than the longest facade that already exists in the neighborhood. If it is longer it does not meet the requirement to be compatible with the neighborhood.
- c) Distance between buildings - Should not be any closer than other buildings in the neighborhood.
- d) Lot Coverage - This is EXTREMELY IMPORTANT. Surrounding properties are all at 20-30% lot coverage based on the documents that planning staff has provided to the commission. It is important to note that surrounding properties (and this property) are non-conforming and therefore cannot have their floor plate enlarged beyond the 20-30%.

With neighboring properties at such low % lot coverage, it creates a huge incompatibility if you allow new development to be built higher than that. New development should be restricted to 20-30% lot coverage as that is consistent with the non-conformance policies on all the properties in the area (including subject property). If a decision is made to increase the lot coverage, it should not be above 60% lot coverage. That WAS the previously allowed percentage in the neighborhood (although no one else built beyond 30%).

e) Setback from the boulevard - Lake Washington Boulevard and Lake St S have always required a greater setback than normal. This has created gardens, and waterfalls and public art to great neighbors, citizens of Kirkland and visitors that come to locate their business or do their shopping and dining. Any new development should maintain the setback consistent with other buildings or it will detract from the lush feeling of the boulevard and be an unusual intrusion.

f) Architectural Review Board - It is important to have Architectural Review Board as we do in so many areas of the city. This should provide for the strongest review possible as this area, near our parks, needs to maintain the "look" of Kirkland that will continue to draw folks to our community to live, play, locate business and do their recreating, dining and shopping.

In closing:

Density Cap similar to the surrounding neighborhood is most important and by itself it will likely cure all the other potential issues. This tight restriction on density is also needed to meet policies and obligations in almost every chapter of the Comprehensive Plan and items within the zoning code.

Thank you,

Karen Levenson

From: uwkkg@aol.com
To: [Mike Miller](#); [Jon Pascal](#); [Jay Arnold](#); [Byron Katsuyama](#); [Glenn Peterson](#); [Andrew Held](#); [C. Ray Allshouse](#); [Eric Shields](#); [Jeremy McMahan](#); [Kurt Triplett](#); [Robin Jenkinson](#)
Cc: uwkkg@aol.com; neighboringproperties@gmail.com
Subject: BN-Res Mkt - Deadline for public comment - Objection - Pls Reconsider
Date: Monday, July 02, 2012 10:11:17 AM

Hi all:

On behalf of myself and all the HOAs and individuals and neighborhood groups (STOP, One Neighborhood Block, neighboringproperties@gmail.com, etc), I am writing a formal objection to the cut off date for written public testimony and also oral public testimony.

So that this doesn't appear to be a false objection or perhaps just to irritate, let me explain.

The cut off for written testimony was discussed and decided after those who were interested in BN Res-Mkt had left. They had been assured that no other decisions about BN-Res Mkts would be made that night. They left very disappointed that the BN Res-Mkt discussion didn't begin while their testimony was fresh in the minds of the commissioners, particularly since the next discussion would be in 21 days. This was the decision of the Chair, however, much will likely be forgotten or less impactful following this 3 week hiatus.

When folks left they decided that they would continue to share their concerns in writing, particularly as the July 19th date approached (again to put concerns into short-term, useful memory). They also planned to have 3 speakers @ 3 minutes each at the July 19th meeting. This is because oral testimony provides a more "human" impact. And this will be needed after 21 days of break.

So now the cut off date is significantly in advance of the 7/19/12 meeting. Many of those participating will have no way of knowing this.

Our neighborhood group does not have all the participants on our mailing list and neither does the city. We an "blast" all of our involved folks and the city can send out the listserv, but there were many new folks at the recent meeting. Many folks had just heard about the issue through flyers being distributed and are not on anyone's mailing list.

In addition to filing this objection so that it is formally in front of the city and the commission, I'd like to ask that the written cut-off be removed so that no one is subject to losing their right of due process based on a cut off time being announced after the BN-Res Mkt citizens were "dismissed."

I would also ask that you allow for testimony on Commercial Codes, limited to the 3 speaker rule, at the July 19th meeting. This provides citizens the opportunity to refresh your memory of their key concerns on the night that you'll be doing your deliberation.

I appreciate the work you do, as do all the citizen participants. Thank you for providing for appropriate public participation.

My best,

Karen Levenson