



MEMORANDUM

DATE: February 2, 2012

To: Planning Commission

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

SUBJECT: Commercial Codes KZC Amendments, File No. ZON11-00042

RECOMMENDATION

Review the issues presented in this memo, take public comment on the issues, and provide scoping direction for the next meeting. The Commission should identify any additional background information needed to assist in making a recommendation and provide direction on the public process.

Given the City Council direction on the BN zoning and related Comprehensive Plan policies, the emphasis of this memo and the February 9th meeting will be on the BN zone issues (Section I below). However, the Council direction is to integrate the BN issue into the broader context of the commercial codes review that was previously underway. Subsequent meetings can broaden the focus back to the overall context of the commercial code amendments (Section II below).

BACKGROUND

The Planning Commission has previously scoped the following amendments to the Kirkland Zoning Code and provided initial direction to staff (See Section II below):

1. Establish standards for measuring ground floor commercial in the BN, BNA, BC, BC 1, BC 2, BCX, MSC 2 zones.
2. Review the BN, BNA, BC, BCX, MSC 2 zones and discuss if establishment of residential density limits is appropriate in any of these zones.
3. Review miscellaneous minor amendments to commercial codes recommended by staff.

On January 3, 2012, the City Council extended a moratorium on development in BN zones for a total of six months (O-4343, Attachment 1) and directed the Planning Commission to include additional review of the BN zoning and related Comprehensive Plan policies for the Lake Street South BN zone.

In the Ordinance, Council entered the following specific Findings of Fact that will provide guidance to the Commission on issues to be addressed (emphasis added):

- While mixed used 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.
- Existing Neighborhood Business (BN) zoning regulations are perceived as being inadequate to address the **scale** and **density** of development consistent with Comprehensive Plan policies.
- A planning process including significant opportunities for **participation** by property owners, residents and other stakeholders is underway and the moratorium is required to maintain current conditions while the planning process progresses.

On January 12, 2012, the Planning Commission discussed the work plan for the Council-directed amendments (Attachment 2 is the most current version) and discussed the public process. The Commission directed the Chair to meet with staff and review the process to ensure community input into the discussion. The resulting direction was as follows:

- The February 9th Planning Commission meeting should focus on the BN zoning and Comprehensive Plan issue with notice to affected parties.
- Staff should identify the key discussion topics for the Commission and community to weigh in on.
- The emphasis should be on how to move forward on the issues rather than dwelling on the history of City regulations and policies.
- The meeting should provide an informal venue for the Commission and affected parties to engage on the issues prior to upcoming formal public hearing(s).
- Interested neighbors of the Moss Bay BN zone have been asked to identify up to three key spokespersons who would be allotted more time than standard Commission rules for a more detailed presentation of interests. The owner of the Moss Bay BN zone has been offered the same. This additional time would be accompanied by the opportunity for the Commission to engage in more dialogue with the designated speakers.
- Additional commercial code amendments should be outlined for public input, but will not be the primary focus of the meeting.

I. BN ZONING AND COMPREHENSIVE PLAN - CLARIFYING QUESTIONS

Staff suggests that the Planning Commission work through a two step process to provide a framework for the discussion by reviewing first the Comprehensive Plan and then the BN zoning. The Commission should work through the steps and discussion topics set forth below, review the background materials supplied, and take public comment on these topics. Responses will then shape direction for the scope of amendments to be considered.

Public comment received through February 1, 2011 is included as Attachment 10.

Step 1. Review Existing Comprehensive Plan. Detailed excerpts are included as Attachment 3. Specific references are cited in the staff assessments below.

- a. What does the Comprehensive Plan say?

Staff Assessment: Staff recommends that the Commission focus on the direction provided in both the General Elements and applicable neighborhood plans. There are two BN zones in Kirkland, one in the Moss Bay neighborhood and one in the South Rose Hill neighborhood. Review of neighborhood plan text for each provides an interesting contrast.

There are two "Residential Markets" designated in the Plan within a hierarchy of identified "Commercial Areas". Review of the Moss Bay Neighborhood Plan text for the BN-zoned Potala Village site and the Lakeview Neighborhood Plan text for the RM-zoned Super 24 site provides another interesting contrast.

There will be some disagreement about which Plan language applies to the Potala Village site and the Commission will need to decide on any issues of applicability.

- i. What are the differences in how the Plan addresses the South Rose Hill BN area and the Moss Bay BN area?

Staff Assessment: Both of the BN zones are designated for commercial use in the Land Use Element and in their respective neighborhood plans.

The Moss Bay Neighborhood Plan (last major update in 1987) provides relatively little guidance for the BN area. In contrast, the South Rose Hill Neighborhood Plan (last major update in 1991) provides detailed guidance and the guidance is adopted in the (1) suffix zoning for the site. The (1) suffix requires development to be consistent with the Plan and processed through Process IIA Hearing Examiner review.

In addition, the Moss Bay site is designated as a Residential Market (see discussion below) while the South Rose Hill site is designated as a more intensive Neighborhood Center.

- ii. What are the implications of the "Residential Market" designation?

Staff Assessment: The Plan establishes a hierarchy of commercial districts based on intensity and other factors (see Attachment 3). The Residential Market is the least intensive designation. The definition of a Residential Market notes that, the scale, design, and neighborhood integration of these stores, mixed-use buildings or centers are critical (Attachment 3).

There are only two sites with the Residential Market designation in Kirkland, the 10th Avenue South site zoned BN (Potala Village) and the NE 64th Street site zoned RM 3.6 (Super 24). In contrast with the BN zone (see discussion below), the RM. 3.6 zone regulates the NE 64th Street Residential Market quite differently. The RM 3.6 zone allows medium density residential as the primary use and only allows very limited neighborhood-serving retail as a conditional use if approved through Process IIA. The BN zone allows a much wider variety of retail and office uses and only allows residential use above the ground floor.

With the exception of vehicle service stations and public utilities, no land use permit approvals are required for development in the BN zone. The size and zoning of the Super 24 site appears to be more consistent with the Residential Market definition. The size of the 10th Avenue south BN zone (over 53,000 s.f.) may be too large to fit the Residential Market definition.

It should be noted that all other BN, BNA, BC, and BCX zones are designated as Neighborhood Centers.

- iii. Does the Plan establish specific or implied density limits in the BN zoned areas?

Staff Assessment: The Comprehensive Plan is silent on residential density limits (a density limit of 1 unit/2,400 square feet of land was eliminated from the BN zone in 1983, see Attachment 5, page 5 for a detailed discussion). However, concerned citizens have argued that the Comprehensive Plan language discussing medium density limits along the Boulevard found in the Living Environment section of the Moss Bay Neighborhood Plan should be applied to the commercial area as well (as discussed in Attachment 5). Staff has concluded that this interpretation is not consistent with the structure of the text and maps found in the Plan. However, the fact that this has led to debate suggests that the Commission should decide if clarification is necessary.

As noted above, the NE 64th Street Residential Market site is specifically designated for medium density residential in the Plan and is limited to a maximum of 1 dwelling unit per 3,600 square feet of land by the zoning.

- iv. What does the Plan say about scale, character, and fit in BN zoned areas?

Staff Assessment: While there may not be specific density limits in the Plan, the definition of a Residential Market does emphasize the importance of small size, residential scale, and design as critical to integrate these uses into a residential neighborhood. Whether this should be interpreted to refer to the dimensional and/ or density aspects of development should be discussed by the Commission.

The Residential Market provisions obviously do not apply to the South Rose Hill BN zone, designated as a Neighborhood Center. However, as noted above, the neighborhood plan does contain language about bulk, scale, and buffering to protect the residential area and that language carries regulatory status by virtue of the (1) zoning suffix.

- v. Anything else?

Staff Assessment: The Commission should discuss if there are additional Plan provisions that should be included for consideration in this process.

- b. With an understanding of what the Plan says and does not say, are provisions of the Plan consistent with each other and does the Plan clearly and accurately represent the community vision for BN subareas?

Staff Assessment: Commission and community discussion of these questions should help determine whether the focus should be on review of the BN Zoning Code or if more fundamental amendments to the Plan are necessary. The Comprehensive Plan language for the South Rose Hill BN zone appears to be internally consistent with the commercial designation and the community vision for the form of development appears to be quite clear. The Residential Market designation for the Moss Bay BN zone and its emphasis on an individual stores or a very small mixed use building/center may not be consistent with the size of the area designated as commercial.

Step 2. Review BN Zoning

- a. Does the BN zone clearly and accurately implement the Comprehensive Plan policies for these subareas?

Staff Assessment: The BN zone is a restricted commercial zone tailored to neighborhood-serving commercial (Use Zone Charts included as Attachment 6). However, such restrictions are geared toward limiting the range and size of commercial uses allowed in order to preclude large retail operations. Issues of scale, character, neighborhood fit, and residential density are only regulated (or not regulated) to the extent established by specific dimensional limitations in the BN use zone chart discussed below.

As previously noted, the BN (1) zone in South Rose Hill is unique in that development of properties in that zone require a public review process and an overlay of neighborhood compatibility measures are required through that public review process. Arguably, the BN (1) zone already addresses issues of scale, character, and neighborhood fit by virtue of the (1) suffix. In contrast, the BN zone in Moss Bay does not require public review of development and does not have that overlay of neighborhood compatibility measures. Neither BN area has restrictions on residential density.

- b. Are different or additional development standards for the BN zone? Attachment 7 provides a summary of neighborhood business district zoning in adjoining jurisdictions for comparison.

- i. Maximum Residential Density (currently none)

Staff Assessment: As with most other commercial zones in Kirkland, there is no maximum residential density limit. The actual feasible density is a factor of the size of units proposed within the building mass allowed by development standards such as height, setbacks, and parking.

The residential zones surrounding the Moss Bay BN zone are predominantly multifamily with an allowed density of 1 unit per 3,600 s.f. of land. There is a

single family zoned area to the northeast with an 8,500 square foot minimum lot size. The South Rose Hill BN zone has a similar mix of residential zoning to the north and west.

- ii. Maximum Height (currently 30' above average building elevation)

Staff Assessment: The 30' height limit in the BN zone is consistent with the height limits for surrounding multifamily residential zones. The single family zone located to the northeast of the Moss Bay BN zone has a 25' maximum height limit.

- iii. Required Yards (currently 20' front, 10' side, and 10' rear for most uses)

Staff Assessment: These are fairly common setbacks dimensions established for many uses in many zones. The BN zone does require the front yard along Lake Washington Boulevard or Lake St S to be increased two feet for each foot that the building exceeds 25' (i.e. – a 30' building would need to increase the front yard from 20' to 30').

- iv. Lot Coverage (currently 80%)

Staff Assessment: Given the nature of commercial uses and associated parking demand, commercial zones typically have higher lot coverage allowances than residential uses. By comparison, 60% lot coverage is typical of multifamily zones and 50% is typical of single family zones.

- v. Maximum Size for Retail Uses (currently 10,000 s.f.)

Staff Assessment: The size limit of the BN zone is in place to preclude large format retailers in keeping with the intended emphasis on neighborhood rather than community or regional retail. By comparison, the Community Business (BC) zone does not have any size restrictions. It should be noted that the BN zone does not limit the allowed square footage for office uses.

In comparison, the maximum size of a retail use in the RM zone (the zoning for the NE 64th St Residential Market) is 3,000 s.f.

- vi. Minimum or Maximum Commercial Floor Area Requirements (Currently a minimum of 75% of the total gross floor area located on the ground floor of all structures must contain commercial uses oriented to the adjoining street or sidewalk. Residential use is prohibited on the ground floor, with the exception of a lobby.)

Staff Assessment: The Code is not explicit about the allowed use of the remaining 25% of the ground floor. In addition, the City has regulated commercial parking as a commercial use and residential parking as a residential use. The Planning Commission has been addressing these issues through a

related work program task and has tentatively agreed that the way ground floor commercial uses are addressed in the BN and other commercial zones should be changed (see discussion later in this memo).

The Code is also not explicit about the commercial orientation to the street or sidewalk.

- vii. Review Process (Currently none for most uses, except Vehicle Service Station and Public Utility uses require Process IIA review. The BN (1) zone requires IIA review of all new development.)

Staff Assessment: A review process is used in various zones to make uses "conditional" rather than "by right", meaning the applicant must demonstrate that they meet the conditions that would allow the use to occur. Some business districts include a design review process to review for consistency with adopted design standards. For any process, the Code needs to spell out the specific standards of review to provide a degree of certainty for developers and neighbors.

Note that a small portion of the Moss Bay BN zone is located within Shoreline Jurisdiction and thus subject to shoreline regulations and a Shoreline Substantial Development Permit (SDP). SDP's are reviewed through Process I (Planning Director decision).

Staff Summary Conclusion: *Review of the Comprehensive Plan direction and zoning illustrates a range of approaches that have been applied elsewhere and may be options for addressing the BN zone. On one end, the "no action" option would leave everything in place and allow development in the BN zone to proceed subject to existing regulations. On the other end, the RM 3.6 zoning of the City's only other Residential Market imposes significant density restrictions and significant additional restrictions on commercial allowances. In between these bookends, the BN (1) overlay illustrates how the South Rose Hill neighborhood plan allowed development tailored to specifically identified community interests.*

II. ADDITIONAL WORK PROGRAM ITEMS

Measuring Ground Floor Commercial:

As discussed at previous study sessions, a number of commercial zones in Kirkland establish minimum ground floor commercial requirements as a percentage of the total ground floor. The Planning Commission concurred that this method is flawed because:

- It is arbitrary to dictate the amount of commercial solely based on the size of the structure being built.
- It may force more commercial space than the market will bear or the neighborhood needs/desires.
- It does not adequately address other ground floor uses such as parking and residential.

At a previous study session, the Commission agreed to address these codes for the BN, BNA, BC, BC 1, BC 2, BCX, and MSC 2 as part of this round of Code amendments. Totem Lake zones are being considered in a separate package of amendments and additional zones will be reviewed in a future phase. The Commission also agreed that the percentage of ground floor method should be replaced with one or more of the following three methods, to be reviewed zone-by-zone at a subsequent meeting:

- Establish a minimum Floor Area Ratio (FAR) requirement for commercial space
- Establish maximum residential floor area as a percentage of the amount of ground floor commercial
- Establish a minimum commercial frontage requirement

Commercial Zone Density Limits:

Many of Kirkland's commercial zones allow residential uses and do not impose a residential density limit. Attachment 8 is a map showing all commercial zones without density limits. Attachment 9 is a map of BN, BC and related zones that do not have density limits and includes a land use map illustrating planned residential densities around the perimeter of those zones. Many of these commercial districts such as Totem Lake, the Downtown, Juanita Village, Rose Hill, and North Rose Hill have a clear vision that anticipates dense mixed use development of commercial cores and corridors. These previous decisions to locate housing close to shops, services, and transportation are a fundamental component of Kirkland's overall land use vision and a way to accommodate anticipated growth while preserving the City's single family neighborhoods. In many of these neighborhoods, the acceptance of density has come with the establishment of design standards and design review to ensure that projects fit into the neighborhood and that appropriate transitions to adjoining lower density land uses are made.

Other zones (with the spotlight currently on the BN zone) do not have the same high density, mixed use vision and for those zones a density limit may be appropriate.

It should be noted that the recently annexed BNA (Finn Hill), BC 1 (North Juanita), and BC 2 (Kingsgate) zones are unique in that the previous King County Code had residential density limits. When the City established zoning for the annexation area, the BNA areas were zoned to Kirkland's BN zone (no density limits). However, for the BC 1 and BC 2 areas the City adopted density limits similar to those in King County. While the County's BC densities were fairly high (48-96 units/acre), the County's BN zone density limits were more moderate (8-16 units/acre).

The regulations for the BNA zone are identical to the BN regulations with the exception that grocery stores are not subject to the 10,000 square foot limit (to avoid the Finn Hill QFC becoming nonconforming upon annexation). The BNA subareas are both designated as Neighborhood Centers (rather than Residential Markets) and there is not a neighborhood plan in place to provide any specific policy guidance.

At a previous study session, the Commission agreed to discuss whether density limit should be imposed in the BN, BNA, BC, BCX, and MSC 3 zones.

Miscellaneous Minor Amendments

The Commission reviewed and approved a list of minor Code amendments and clarifications that staff will draft and bring to the Commission for consideration at the public hearing.

Attachments

1. Ordinance 4343
2. Draft Work Plan
3. Comprehensive Plan Excerpts
4. Comprehensive Plan Land Use Map LU-2 and related Policies
5. Staff 11/1/2011 Memo to City Council
6. Neighborhood Business Use Zone Charts
7. Examples of Neighborhood Business Regulations from Adjoining Jurisdictions
8. Map of Commercial Zones without Density Limits
9. Map of Commercial Zones & Surrounding Densities
10. Correspondence

ORDINANCE O-4343

AN ORDINANCE OF THE CITY OF KIRKLAND IMPOSING A MORATORIUM WITHIN NEIGHBORHOOD BUSINESS (BN) ZONES ON THE ACCEPTANCE OF APPLICATIONS FOR THE REVIEW AND/OR ISSUANCE OF DEVELOPMENT PERMITS FOR ANY NEW DEVELOPMENT, ADDITION OR ALTERATION AS SUCH TERMS ARE DEFINED IN THIS ORDINANCE.

WHEREAS, the Neighborhood Business (BN) Zone in the Kirkland Zoning Code currently contains no residential density limit whatsoever; and

WHEREAS, the City has a compelling interest in ensuring that the goals and policies contained in the Comprehensive Plan and other policy/planning documents are fulfilled; and

WHEREAS, amendments to the Comprehensive Plan and/or Zoning Code may be necessary; and

WHEREAS, a moratorium on acceptance of development permit applications for any new development, additions or alterations to existing developments in the BN Zones is required in order to allow sufficient time to consider Comprehensive Plan and/or Zoning Code amendments; and

WHEREAS, the City will establish a work plan to study and develop Comprehensive Plan and/or Zoning Code amendments that address the concerns identified above; and

WHEREAS, the City is authorized pursuant to RCW 35A.63.220 and RCW 36.70A.390 to adopt a moratorium for the purpose of preserving the status quo while Comprehensive Plan and/or Zoning Code amendments are considered, prepared and enacted; and

WHEREAS, on November 15, 2011, the City Council passed Ordinance 4335A establishing an immediate moratorium on the acceptance of development permit applications in the BN Zones, which ordinance required a public hearing on the moratorium be held no later than January 14, 2012; and

WHEREAS, RCW 35A.63.220 and RCW 36.70A.390 allow the City to adopt a moratorium for up to six months following a public hearing and the adoption of findings of fact; and

WHEREAS, a public hearing regarding the moratorium was held on January 3, 2012;

NOW, THEREFORE, the City Council of the City of Kirkland do ordain as follows:

Section 1. Imposition of Moratorium. A moratorium is hereby imposed in the Neighborhood Business (BN) Zones on the application for, intake of, review of, or issuance of any subdivision, short subdivision, land use approval, land use permit, building permit, variance, license, and/or other approval for any new use, change in use, new development, or additions or alterations to existing development (collectively such approvals and permits are referred to herein as "Development Permits"), except as provided in Section 2.

Section 2. Scope of Moratorium. The moratorium established in Section 1 of this Ordinance shall not apply to:

- A. Development Permits that became vested on or before the effective date of this Ordinance in accordance with RCW 19.27.095 and/or RCW 58.17.033 and/or any other applicable law.
- B. Those Development Permits necessary to correct existing life/safety issues that pose a threat to property or residents or occupants of an existing structure.
- C. Building permits, including electrical, mechanical, plumbing and sign permits, for the repair, maintenance or alteration of existing structures, provided, no new floor area is created.

Section 3. Duration of Moratorium. The moratorium imposed by this Ordinance shall continue in effect for a period of six months from the effective date of Ordinance 4335A, which was November 15, 2011, unless repealed, extended or modified by the City Council after subsequent public hearings and the entry of additional findings of fact pursuant to RCW 35A.63.220 and RCW 36.70A.390.

Section 4. Definition. As used in this Ordinance "Development Permit" shall have the meaning set forth in Kirkland Zoning Code 5.10.215.

Section 5. Findings of Fact.

- A. The above recitals are hereby incorporated as findings of fact;
- B. While mixed used 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;
- C. Existing Neighborhood Business (BN) zoning regulations are perceived as being inadequate to the scale and density of development consistent with Comprehensive Plan policies;
- D. Under the Growth Management Act, Ch. 36.70A RCW, development regulations must be consistent with and implement the Comprehensive Plan;

- E. New development or the investment in existing development represented by additions or alterations to existing development, and uses within the BN Zones prior to review of the Comprehensive Plan and Zoning Code and possible amendments thereto compromises the ability to ensure consistency;
- F. New development, or the investment in existing development represented by the additions or alterations to existing development, and uses within the BN Zones prior to completion of such review would be detrimental to the health and safety of the citizens of the City of Kirkland, and would allow the establishment of vested rights potentially contrary to and inconsistent with those amendments to the Comprehensive Plan and Zoning Code that the City may adopt; and
- G. A planning process including significant opportunities for participation by property owners, residents and other stakeholders is underway and the moratorium is required to maintain current conditions while the planning process progresses.

Section 6. Work Plan. During the period of the moratorium the preliminary work plan shall be as follows:

<u>Date</u>	<u>Description</u>
January 12, 2012	Planning Commission briefing on Council direction and results of January 3, 2012, hearing
February 9, 2012	Planning Commission Study Session
February 23, 2012	Public hearing before the Planning Commission to receive public input on potential amendments
March 8, 2012	Planning Commission Study Session
March 15, 2012	Send draft text of amendments to the Department of Commerce
March 15, 2012	Issue SEPA determination
March 22, 2012	Public hearing before the Planning Commission on proposed text of amendments
April 12, 2012	Recommendation of Planning Commission to City Council on text of amendments
May 1, 2012	City Council consideration of ordinance with text of amendments
May 15, 2012	Final City Council action on ordinance with text of amendments

Section 7. Severability. Should any provision of this Ordinance or its application to any person or circumstance be held invalid, the remainder of the ordinance, or the application of the provision to any other persons or circumstances shall not be affected.

Section 8. Effective Date. This Ordinance shall be in force and effect five days from and after its passage by the Kirkland City Council and publication as required by law.

Passed by majority vote of the Kirkland City Council in open meeting this 3rd day of January, 2012.

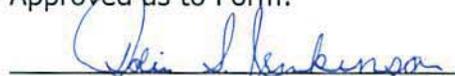
Signed in authentication thereof this 3rd day of January, 2012.


MAYOR

Attest:


City Clerk

Approved as to Form:


City Attorney

COMMERCIAL CODES AMENDMENTS WORK PLAN (FILE ZON11-00042)

Draft 2/1/2012

Scope:

1. KZC - Measuring Ground Floor Commercial:
 - BN, BNA, BC, BC 1, BC 2, BCX, MSC 2
 - Defer to later phase - MSC 3, RH 8, NRH 1A, NRH 1B, RH 1A, RH 3, RH 5A, RH 5B, RH 7
2. KZC - Commercial Zone Density Limits and Residential Market):
 - BN, BNA, BC, BCX, MSC 2
3. Comprehensive Plan:
 - Lake St. South BN zone
4. KZC - Miscellaneous Minor Amendments:
 - Make rules for residential and assisted living lobbies consistent (where residential use is limited/prohibited on the ground floor)
 - Make regulations for ground floor assisted living uses consistent with other residential use regulations
 - Codify provisions for encroachment of structural columns in parking spaces in garages
 - Use consistent terminology for gas stations and auto repair uses
 - Correct special regulations for mini-schools and mini-daycares that reference out of date statutes
 - Clarify land use buffer, required yards, and minimum lots size requirement in mixed use zones (including RM) to accommodate use changes in tenant spaces over time
 - Allow coffee shop/deli retail/restaurant uses in PR zone

Schedule:

- | | |
|-----------|--|
| 10/27/11 | Planning Commission Study #1 |
| 12/8/2011 | Planning Commission Study #2 |
| 12/12/11 | Council directs Planning Commission to review BN zoning and Lake St. S BN Comprehensive Plan |
| 1/3/12 | Council hearing on whether to extend BN moratorium |
| 1/12/12 | Brief Planning Commission on Council direction and results of 1/3/12 hearing |
| 2/9/12 | Planning Commission Study #3 |

- 2/23/12 Planning Commission Study #4
- 3/15/12 Send draft amendments to Dept. of Commerce
- 3/15/12 SEPA Issued
- 3/22/12 Planning Commission Public Hearing**
- 4/12/12 Planning Commission Study #5 (Recommendation)
- 5/1/12 City Council Review
- 5/15/12 City Council Adoption
- 5/15/12 BN Moratorium Ordinance expires (6 months post adoption)
- 5/18/12 Send Adopted Regulations to Dept. of Commerce

Neighborhood Business Zone-Related Comprehensive Plan Excerpts

GENERAL ELEMENTS:

Land Use Element

***Policy LU-3.2:** Encourage residential development within commercial areas. Residential development which is incorporated into commercial areas can provide benefits for businesses and residents alike. Housing within commercial areas provides the opportunity for people to live close to shops, services, and places of employment. Conversely, residents living within commercial areas create a localized market for nearby goods and services, provide increased security, and help to create a "sense of community" for those districts.*

Land Use Element, pg VI-12:

...Currently, a hierarchy of "commercial development areas" exists in the City, based primarily on size and relationship to the regional market and transportation system (see Figure LU-2: Commercial Areas).

Some of Kirkland's commercial areas serve primarily the surrounding neighborhood; others have a subregional or regional draw. Most of the larger commercial areas are centered around major intersections. They depend on principal arterials, the freeway, or the railroad for goods transport and for bringing in workers or customers. Smaller commercial areas, Neighborhood Centers, for example, have a more localized draw. Residents depend on their neighborhood grocery store, dry cleaners, bank, etc., for everyday needs.

The Land Use Element provides general direction for development standards in commercial areas and describes the future of specific commercial areas in Kirkland. The following terms are used in the discussion of commercial land uses:

Urban Center

An Urban Center is a regionally significant concentration of employment and housing, with direct service by high-capacity transit and a wide range of land uses, such as retail, recreational, public facilities, parks and open space. An Urban Center has a mix of uses and densities to efficiently support transit as part of the regional high-capacity transit system.

Activity Area

An Activity Area is an area of moderate commercial and residential concentration that functions as a focal point for the community and is served by a transit center.

Business District

A Business District is an area that serves the subregional market, as well as the local community. These districts vary in uses and intensities and may include office, retail, restaurants, housing, hotels and service businesses.

Neighborhood Center (((*South Rose Hill BN Zone*)))

A Neighborhood Center is an area of commercial activity dispensing commodities primarily to the neighborhood. A supermarket may be a major tenant; other stores may include a drug store, variety, hardware, barber, beauty shop, laundry, dry cleaning, and

other local retail enterprises. These centers provide facilities to serve the everyday needs of the neighborhood. Residential uses may be located on upper stories of commercial buildings in the center.

Residential Market *(((Moss Bay BN Zone and RM Zone/Super 24 store)))*

A residential market is an individual store or very small, mixed-use building/center focused on local pedestrian traffic. Residential scale and design are critical to integrate these uses into the residential area. Uses may include corner grocery stores, small service businesses (social service outlets, daycares), laundromats, and small coffee shops or community gathering places.

Policy LU-5.9: Allow residential markets, subject to the following development and design standards:

- Locate small-scale neighborhood retail and personal services where local economic demand and local citizen acceptance are demonstrated.
- Provide the minimum amount of off-street parking necessary to serve market customers.
- Ensure that building design is compatible with the neighborhood in size, scale and character.

Economic Development Element, pg VIII-8-9

Policy ED-3.1: Promote economic success within Kirkland's commercial areas.

The Land Use Element sets forth the general land use development pattern for Kirkland's commercial areas. Consistent with each Neighborhood Plan there will be opportunities to strengthen commercial areas in the types of businesses provided and redevelopment opportunities. Following is a summary of the role of each commercial area.

- Totem Lake's role is an Urban Center that serves as a community and regional center for destination retailing, health care, automobile sales, high technology, light industrial, professional offices and housing.
- Downtown's role is an Activity Area that serves as a community and regional center for professional and government services, specialty retail, tourism, arts and entertainment, neighborhood services and housing.
- The Yarrow Bay and Carillon Point Business Districts provide corporate headquarters, professional offices, professional services, restaurants and housing.
- The Rose Hill Business District along NE 85th Street provides regional and neighborhood services in general retail, automobile sales, high technology, small office parks and housing.
- The North Rose Hill Business District provides both regional and neighborhood services, retail stores and housing.
- The Market, Juanita, Houghton and Bridle Trails Neighborhood Centers provide neighborhood retail stores, professional services, recreation and housing. *(((South Rose Hill BN Zone)))*
- The Everest and Norkirk Industrial Areas provide opportunities for small businesses in light industrial, manufacturing, wholesale, office and high technology. Within the Norkirk Industrial Area, environmentally sustainable technology and clean energy commerce is encouraged.

- The Residential Markets along Lake Washington Boulevard provide convenience commercial goods and services. (((Moss Bay BN Zone and RM Zone/Super 24 store)))

Implementation Strategies:

LU.6 (page XIV-5): Amend the Zoning Code as appropriate to establish standards for residential markets.

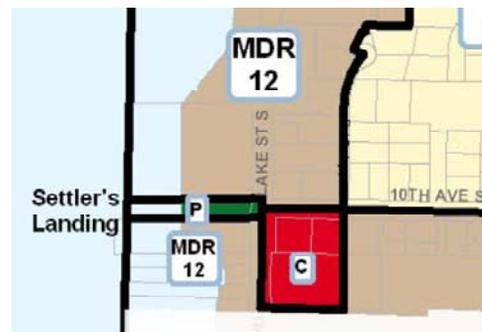
Appendix B (Glossary):

Residential Markets: Individual stores or very small, mixed-use buildings/centers focused on local pedestrian traffic. Residential scale and design are critical to integrate these uses into the residential area.

NEIGHBORHOOD PLANS

Moss Bay Neighborhood (BN Zone Potala Village Site):

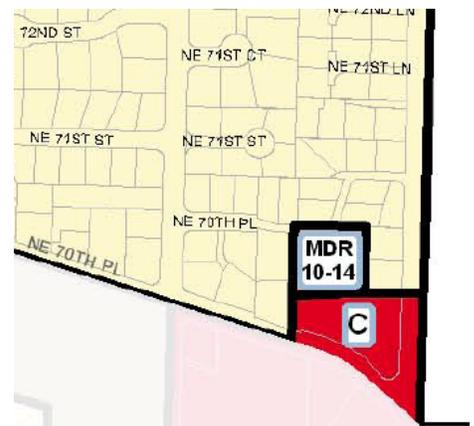
Most of the land on the east side of Lake Street South appears to be unsuitable for commercial use because of steep slope conditions, as well as problems concerning vehicular ingress and egress. The southeast quadrant of the 10th Street South and Lake Street intersection, however, is developed with a market which serves as a convenience to the surrounding residences. Limited commercial use of this location, therefore, should be allowed to remain.



South Rose Hill Neighborhood (BN Zone Atcon Plaza Site):

Commercial development is permitted on the north side of NE 70th Street, across from the Bridle Trails Shopping Center. Medium density detached single-family residential development is also appropriate in the immediate vicinity.

The northwest corner of NE 70th Street and 132nd Avenue NE contains a small-scale commercial development. Development should not extend into the surrounding low-density residential neighborhood, however. The northern boundary of the commercial area lies south of the existing single-family development along 132nd Avenue NE. The western boundary lies east of the existing single-family development along NE 70th Street. In the northwestern portion of the site, the boundary generally follows the toe of the existing slope. To mitigate impacts to the adjoining residential area, development is subject to the following standards:



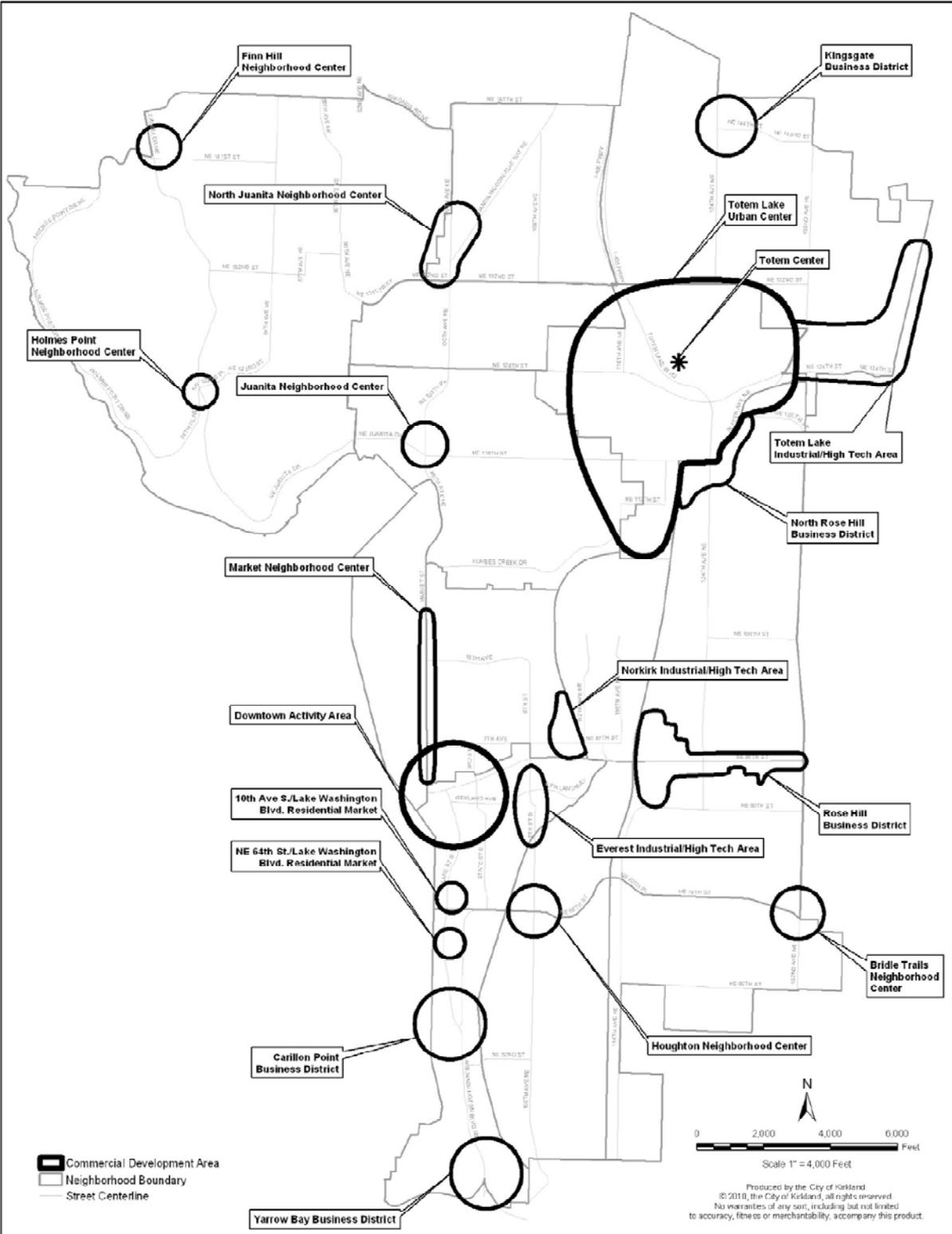
- (1) Commercial uses should be oriented to serving the neighborhood. Uses should not include vehicle service stations, drive-in businesses, auto service and sales, or storage facilities.
- (2) Building height, bulk, modulation, and roofline design should reflect the scale and character of single-family development. Blank walls should be avoided.
- (3) New structures should be substantially buffered from nearby low-density residential uses. Such buffering should consist of an earthen berm a minimum of 20 feet wide and five feet high at the center. In some places, the existing slope may replace the berm. The berm or slope should be planted with trees and shrubbery in sufficient size, number, and spacing to achieve a reasonable obstruction of views of the subject property. Alternatively, an equal or superior buffering technique may be used.

Lakeview Neighborhood (RM 3.6 Super 24 Site):

Policy L-7.4: *Limit commercial activities north of NE 64th Street east of Lake Washington Boulevard.*

A convenience commercial grocery store located on Lake Washington Boulevard and NE 64th Street serves a localized need by providing limited grocery service to the surrounding residential neighborhood. Limited neighborhood commercial uses should be allowed to remain at this site and improvements should be encouraged to enhance its compatibility with surrounding residential uses and the scenic character of Lake Washington Boulevard. No further development of retail commercial facilities in this residential area should be permitted.





Map LU-2

Pg VI-13: Commercial land uses are a critical part of the Kirkland community. They provide shopping and service opportunities for Kirkland residents, and also create employment within the City. The tax revenues generated by business help fund the capital facilities and public services that residents enjoy.

In return, the quality of life in the City's neighborhoods provides a main attraction for both businesses and their patrons. The proximity to Lake Washington, the fine system of parks, the availability of a regional medical center with good medical care, top notch educational facilities, the environmental ethic of the community, and quality infrastructure attract outsiders to Kirkland and make the City a good place to do business – for employers, employees, and customers.

Problems that the community faces – traffic congestion, particularly – create concerns for commercial land uses. Ease of transporting goods and adequate parking are especially important. An underlying premise of the Land Use Element, expressed in the Vision Statement, is that, in the future, residents of the City will not drive as much as they do presently to minimize traffic congestion and reduce parking needs. To that end, the Element attempts to promote commercial land use patterns that support alternative transportation modes and locate housing in commercial areas where appropriate.

Along with the need to provide new housing units for future residents, the City will need to designate adequate land area for commercial uses, some of which may employ Kirkland residents. If the opportunity for local employment is increased, the high proportion of residents who work outside the community may be reduced. This in turn would ease traffic congestion by shortening commute trips and making other modes of travel to work more feasible.

Currently, a hierarchy of “commercial development areas” exists in the City, based primarily on size and relationship to the regional market and transportation system (see Figure LU-2: Commercial Areas).

Some of Kirkland's commercial areas serve primarily the surrounding neighborhood; others have a subregional or regional draw. Most of the larger commercial areas are centered around major intersections. They depend on principal arterials, the freeway, or the railroad for goods transport and for bringing in workers or customers. Smaller commercial areas, Neighborhood Centers, for example, have a more localized draw. Residents depend on their neighborhood grocery store, dry cleaners, bank, etc., for everyday needs.

The Land Use Element provides general direction for development standards in commercial areas and describes the future of specific commercial areas in Kirkland. The following terms are used in the discussion of commercial land uses:

Urban Center

An Urban Center is a regionally significant concentration of employment and housing, with direct service by high-capacity transit and a wide range of land uses, such as retail, recreational, public facilities, parks and open space. An Urban Center has a mix of uses and densities to efficiently support transit as part of the regional high-capacity transit system.

Activity Area

An Activity Area is an area of moderate commercial and residential concentration that functions as a focal point for the community and is served by a transit center.

Business District

A Business District is an area that serves the subregional market, as well as the local community. These districts vary in uses and intensities and may include office, retail, restaurants, housing, hotels and service businesses.

Neighborhood Center

A Neighborhood Center is an area of commercial activity dispensing commodities primarily to the neighborhood. A supermarket may be a major tenant; other stores may include a drug store, variety, hardware, barber, beauty shop, laundry, dry cleaning, and other local retail enterprises. These centers provide facilities to serve the everyday needs of the neighborhood. Residential uses may be located on upper stories of commercial buildings in the center.

Residential Market

A residential market is an individual store or very small, mixed-use building/center focused on local pedestrian traffic. Residential scale and design are critical to integrate these uses into the residential area. Uses may include corner grocery stores, small service businesses (social service outlets, daycares), laundromats, and small coffee shops or community gathering places.



CITY OF KIRKLAND
Planning and Community Development Department
123 Fifth Avenue, Kirkland, WA 98033 425.587-3225
www.kirklandwa.gov

MEMORANDUM

To: City Council
 Kurt Triplett, City Manager

From: Eric Shields, Planning Director
 Teresa Swan, Senior Planner

Date: November 1, 2011

Subject: **Potala Village Mixed Use Development Proposal; File No. SHR11-00002 and SEP11-00004**

The purpose of this memorandum is to provide the City Council with:

- A. An update on the permit process for the Potala Village project;
- B. A history of the Comprehensive Plan and zoning provisions pertaining to the Potala Village site;
- C. A discussion of the current Comprehensive Plan for the site; and
- D. Responses to various public comments on the project.

This memorandum is not intended to address every comment that has been raised on the Potala Village project.

Staff provided an earlier memorandum on the project to the City Council dated July 29, 2011.

A. Update on the Permit Process

The application has been under review by the City for eight months. Below is a timeline and update on the permit process for Potala Village:

- December 9, 2009: 1st pre-submittal meeting on application;
- December 14, 2010: 2nd pre-submittal meeting on application;
- February 23, 2011: Shoreline Substantial Development Permit (SDP) application and State Environmental Policy Act (SEPA) documents submitted. SDP is on hold while the SEPA process is completed with preparation of an Environmental Impact Statement (EIS);
- May 11, 2011: SDP application determined to be complete and vested under Chapter 83 Kirkland Zoning Code (KZC) for the shoreline regulations effective as of that date;
- June 15, 2011: issued a SEPA Mitigated Determination of Non-Significance (MDNS);
- August 4, 2011: withdrew the SEPA MDNS and issued a Determination of Significance (DS) requiring an EIS. The EIS will take 5-6 months to prepare;

- October 4, 2011: new Notice of Road Concurrency Test Decision in conjunction with issuance of the SEPA DS;
- October 11, 2011: nine appeals were submitted by the appeal deadline on road concurrency;
- November 17, 2011: Hearing Examiner will hold the road concurrency hearing;
- As of the date of this memorandum, a building permit application has not been submitted and the project has not vested under existing zoning regulations.

B. History of Comprehensive Plan and Zoning for the Potala Village Site

The City has received several emails questioning the zoning, residential density in the Comprehensive Plan and the shoreline designation for the subject property. Summarized below are documents that set forth the history of the zoning, Comprehensive Plan and shoreline designation of the three parcels that make up the project site (see map below).



The items shown in bold font indicate the date when changes were made to the policies or regulations for the property:

- 1973 Zoning Map (Ordinance 2183, August 6, 1973): The 1973 map shows the western half of the site zoned as BN (Neighborhood Business) and eastern half as Residential (RS 8.5) with a minimum lot size of 8,500 square feet.
- 1973 Shoreline Master Program (SMP): **In 1973, the first SMP was adopted for the City with the property being designated as Urban Residential-1 (UR-1)** permitting residential uses at one dwelling unit per 1,800 square feet of land area (RM-1800), and restaurant or tavern uses. This was a continuation of the UR-1 designation for the land area to the west between Lake Washington and Lake Street South. Up to 53' of the western part of the site is located within 200 feet of the lake and that portion is subject to the SMP.
- 1977 Zoning Code (Ordinance 2437, May 16, 1977): The Neighborhood Business zoning regulations for residential units in the 1977 Zoning code read as follows: "above ground floor

Staff Update on Potala Village Development Proposal
November 1, 2011

and conform to the RM-2400 zone if the total square footage does not exceed 10% of the commercial use floor area or one dwelling unit." This is a density of one unit per 2400 square feet of land area.

- 1982 Zoning Map: The 1982 map shows the western half of the site still zoned as BN and eastern half as RS 8.5.
- 1983 Zoning Code (Ordinance 2740, February 22, 1983): In 1983 a new Zoning Code was adopted. **The new code changed the residential density for the BN zone from one unit per 2400 square feet of land area to no limit.** This was consistent with changes to other commercial zones throughout the City.
- 1987 Central Neighborhood Plan (Ordinance 3016, May 18, 1987, File IV-85-20): **In 1987 the Central Neighborhood Plan (now Moss Bay) was amended. The Central Neighborhood Map, Figure C-1, showed the entire Potala Village site, including the eastern portion, as Commercial.**
- 1995 Comprehensive Plan (Ordinance 3481, July 11, 1995): In 1995, the City substantially revised the Comprehensive Plan to comply with the Growth Management Act. The 1995 Land Use Map, Figure LU-1, shows the eastern and western half of the site designated as Commercial.

The new Comprehensive Plan added a map (Figure LU-2) to the Land Use Element which designates commercial areas throughout the City. **The subject property was designated as a "residential market." Also added to the Plan was text that provides a description of each type of commercial area, including residential markets (see discussion on page 7).**

- 1996 Zoning Map (Ordinance 3538, May 21, 1996): In 1996, the City rezoned 976 parcels to bring the zoning into conformity with the Comprehensive Plan as required by the Growth Management Act. **At that time, the zoning on the eastern half of the site was changed from RS 8.5 to BN.** File IV-95-100 contains a spreadsheet of the 976 rezoned parcels which lists Parcel #9354900240 (northeastern parcel) and Parcel #0825059233 (eastern half of south parcel) zoned from RS 8.5 to BN.

As stated in the April 10, 1996 staff memorandum to the City Council, "the legislative rezones would result in streamlining the development process by eliminating the majority of quasi-judicial rezones that would otherwise need to be processed in order to attain the maximum theoretical development potential for a parcel of land." Prior to that time, it was common practice for the City to rezone properties only when a property owner applied for a project-related rezone.

- 2010 Shoreline Master Program (Ordinance 4251, August 3, 2010, File ZON06-00016): The City was required to prepare a new SMP that meets the State's new standards in WAC 173-26-176 for shorelines. Included in the State standards are: 1) new shoreline environment designations and 2) the purpose of each designation and the criteria to determine what designation is appropriate for each area in the City. **As part of the newly adopted 2010 SMP, the property containing the Potala Village site was designated as Urban Mixed environment.**

In accordance with WAC 173-26-176 and as stated in the City's shoreline regulations in KZC 83.140, the purpose of the Urban Mixed environment is "to provide for high-intensity land uses, including residential, commercial, recreational, transportation and mixed-use developments." The criteria for the Urban Mixed environment are that the environment is located in the urban growth area and that areas "currently support high-intensity uses related to commerce, transportation or navigation; or are suitable and planned for high-intensity water-oriented uses." The purpose and criteria most closely reflect the allowed uses in the BN Zone. The only other option would have been the Medium to High Residential environment which is not appropriate because the designation only permits water-oriented commercial uses and not mixed use, general retail or office as allowed in the BN Zone. The Department of Ecology found the designation of the property consistent with WAC 173-26-176 when it approved the City's Shoreline Environment Designations Map.

Under WAC 173-26-130, an SMP may be appealed to the Shoreline Hearings Board within 60 days of the Department of Ecology's written notice that the SMP has been approved. The Department of Ecology approved the City's SMP on July 26, 2010. No timely appeal was filed.

- 2011 SMP amendments (Ordinance 4302, Attachment C, June 7, 2011, File ZON06-00016): **As part of the amendments to the SMP, the residential density for the Mixed Use Environment (KZC 83.180) was corrected to match the residential density in the use zone chart for the BN Zone (KZC 40.10.100).** In the 2010 SMP regulations, the minimum lot size for the BN shoreline area was listed at 1,800 square feet per unit. The density should have been listed as "none" (no density limit) to match the existing BN zoning regulations in KZC 40.10.100. Throughout the 2010 SMP process, the City decided and disclosed that residential densities in the shoreline regulations for each property would be the same as those in the use zone charts of the Zoning Code. The City did not consider shoreline densities different than those established in the Zoning Code.

Nonetheless, the Potala Village shoreline permit application vests with the 2010 SMP and not with the 2011 SMP as amended since the application was considered complete before the Department of Ecology approved the amendments on May 25, 2011. The plans submitted for the shoreline permit application show that on the portion of the property located within shoreline jurisdiction, the residential unit count meets the minimum lot size density of one unit per 1,800 square feet of land area consistent with the 2010 SMP. If the applicant were to reapply for the shoreline Substantial Development Permit, the project would vest with the 2011 SMP as amended.

Staff Conclusions

The existing BN zoning on the Potala Village site was legally established. The western half of the property has been zoned BN since at least 1973. There have been no residential density restrictions since a new Zoning Code was adopted in 1983. The eastern half of the property was designated commercial as part of a neighborhood plan in 1987 and was affirmed in the 1995 Comprehensive Plan update. BN zoning was extended to the eastern half of the site in 1996 along with other City-wide rezones intended to bring the zoning into conformance with the Comprehensive Plan.

C. Current Comprehensive Plan for the Potala Village Site

Several emails to the City Council have stated that the Potala Village property is designated in the Comprehensive Plan at a residential density of 12 units per acre and that the BN zoning of no density limit is inconsistent with the Plan. Comments also, maintain that the regulations for the BN Zone are not consistent with the "Residential Market" policies in the Comprehensive and that the City did not follow up with the implementation strategy found in Chapter XIV of the Plan (page XIV-5). Project opponents ask that the City have the zoning regulations revised to reflect the Comprehensive Plan.

1. Residential Density

Below is an analysis of the City's Land Use Map, Moss Bay Neighborhood Map and the text discussing the medium density residential area near the Potala Village commercial site:

- Figure LU-1, Comprehensive Plan Land Use Map designates a land use category (i.e., commercial, residential, office, industrial, institutional) and, if applicable, a maximum residential density per acre for each property. Maximum density is reflected by a number (i.e., 5, 9, 12, 24) placed on the map for a defined area enclosed by a solid black line. All residential and office/residential land categories contain maximum density numbers. Commercial, office, institutional and all but one industrial land category do not contain maximum density numbers. For example, the "medium density residential" area immediately north of the subject property is shaded light brown with a designation of "MDR 12." The subject property is shaded red with a designation of "C." See the citywide Land Use Map at <http://kirknet/mapbook/PDF/StandardMaps/2011CityLandUseMap.pdf>
- Figure MB-2, Moss Bay Neighborhood Land Use Map (see map on next page) designates a variety of land use categories. The residential and office/residential areas, and one industrial area (PLA 6G-2) contain a maximum density number labeled on the map. These residential density numbers match Figure LU-1 (see link above to map).

As with Figure LU-1, the commercial and industrial areas shown on Figure MB-2, with the exception of PLA 6G-2, do not have maximum density numbers labeled on the Figure MB-2 map.

Text on page XV.D-23 in the Moss Bay Neighborhood Plan contains a discussion about the medium density residential area along Lake Washington Blvd as designated on Figure MB-2. In the text, the area south of 7th Ave South along Lake Washington Blvd/Lake Street South is described at 12 units per acre without indicating the southern boundary. However, the text reference is made to the density designation on Figure MB-2 that shows the boundary of the medium density area along Lake Washington Blvd/Lake Street South ending at 10th Ave South. Figure MB-2 does not show a maximum residential density number on the commercial area south of 10th Ave South (site of the proposed Potala Village).

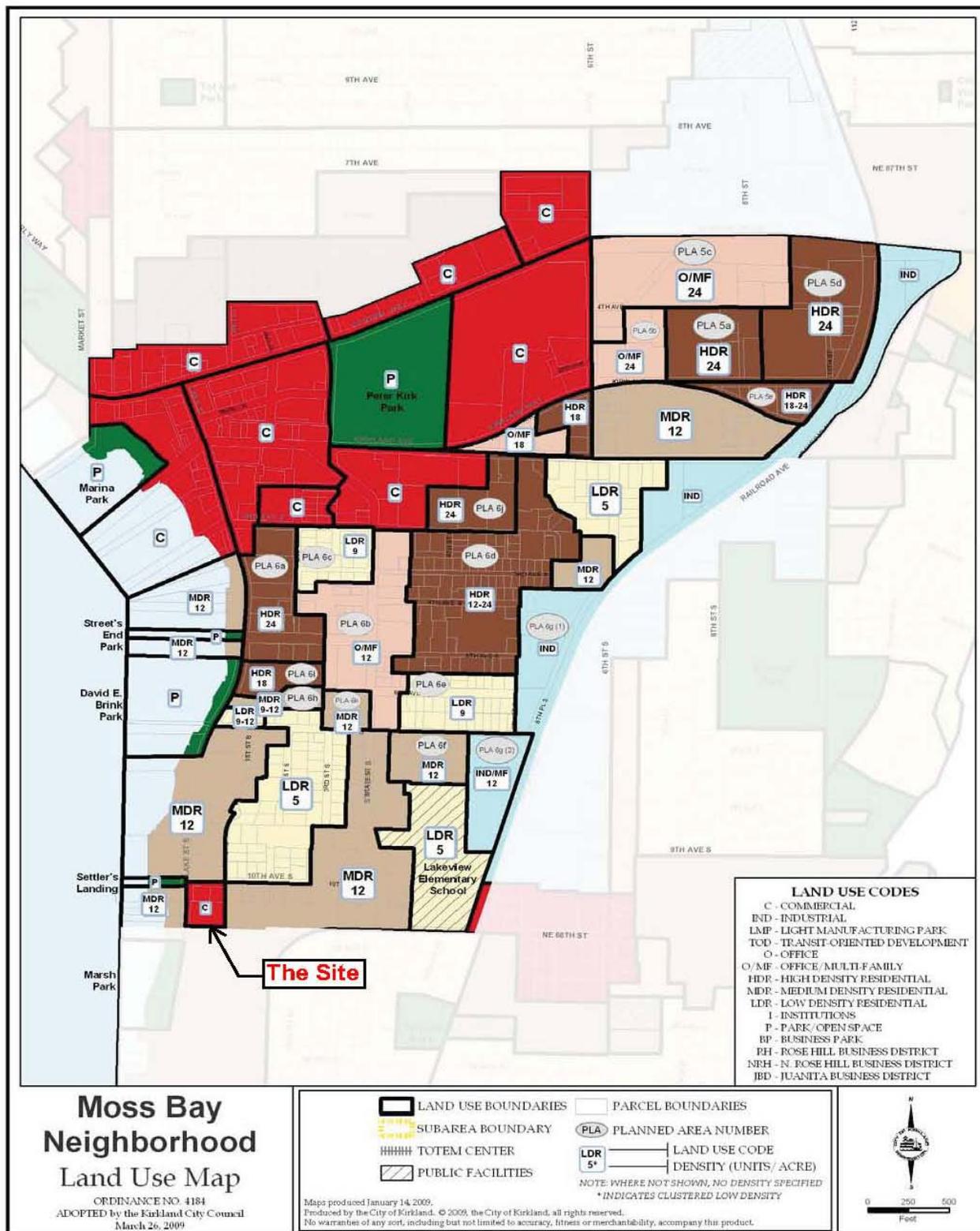


Figure MB-2: Moss Bay Area Land Use

- Text on page XV.D-24 in the Moss Bay Neighborhood Plan contains specific text on the Potala Village property. The text reads as follows:

The southeast quadrant of the 10th Street South and Lake Street intersection, however, is developed with a market which serves as a convenience to surrounding residences. Limited commercial use of this location, therefore, should be allowed to remain.

The text is silent on residential use as is the case for other commercially designated areas in the City.

- The Land Use Element contains Policy LU-3.2 (page VI-12) that states: "*Encourage residential development within commercial areas.*" The discussion for the policy says that residential development within commercial areas should be compatible with and complementary to business activity.
- The Economic Development Element contains Policy ED-3.5 (page VIII-10) that states: "*Encourage mixed-use development within commercial areas.*" The discussion for the policy says "mixed-use residential and commercial development provides the opportunity for residents to live, shop and work in commercial areas...Mixed use development, when combined with multi-story structures, promotes a more compact and sustainable land use pattern and encourages walking and transit use to reduce dependence on automobiles."

Staff Conclusions

- The Citywide and Moss Bay Neighborhood land use maps are clear in distinguishing the residential area designated for 12 dwelling units per acre from the commercial area (Potala Village site) that has no density designation. Although the text of the plan does not indicate a southern boundary for the area limited to 12 units per acre, it is clear that it is referring to the land use map.

Further evidence of how maximum density is denoted in the Comprehensive Plan is seen with the industrial area of PLA 6Gg-2 that has "MF 12" noted on Figure MB-2.

- The text specific to the Potala Village site on page XV. D-24 of the Plan describes limitations on commercial uses, but does not place a limitation on residential density. The text is consistent with the BN zoning which limits the size and types of retail uses, but does not limit the number of residential units.
- Both Policy LU-3.2 and Policy ED-3.5 described above encourage residential uses in commercial zones.

2. Residential Markets

The Comprehensive Plan describes the Potala Village site as a “Residential Market.” Below are sections of the Plan pertaining to Residential Markets:

- Figure LU 2 in the Land Use Element (page VI-15) designates commercial areas throughout the City. The Potala Village site is designated as a “Residential Market. (See the map on the following page.)
- The Land Use Element contains a section on Commercial Land Uses with a list of commercial terms (page VI-14). The term “Residential Market” is described as:

An individual store or very small mixed-use building/center focused on local pedestrian traffic. Residential scale and design are critical to integrate these uses into the residential area. Uses may include corner grocery stores, small service businesses (social service outlets, daycares), Laundromats, and small coffee shops or community gathering places.

- The Land Use Element of the Plan contains Policy LU-5.9 (page VI-19) that states:

Allow residential markets, subject to the following development and design standards:

- *Locate small-scale neighborhood retail and personal services where local economic demand and local citizen acceptance are demonstrated.*
- *Provide the minimum amount of off-street parking necessary to serve market customers.*
- *Ensure that building design is compatible with the neighborhood in size, scale and character.*

- Implementation Strategy LU.6. (page XIV-5) states:

Amend the Zoning Code as appropriate to establish standards for residential markets.

Staff Conclusions

- It is understandable that some people do not think the BN zoning reflects the description of Residential Markets in the Comprehensive Plan. However, the 1996 rezone of the eastern half of the site from RS 8.5 to BN suggests that the BN zoning was regarded at that time as an appropriate implementation of the Comprehensive Plan. The EIS for Potala Village will further analyze whether the project complies with the Residential Market description and if not how changes could be made to bring it into greater conformance.
- Amendments to the Comprehensive Plan and/or Zoning Code would help make policies and regulations more consistent with each other.

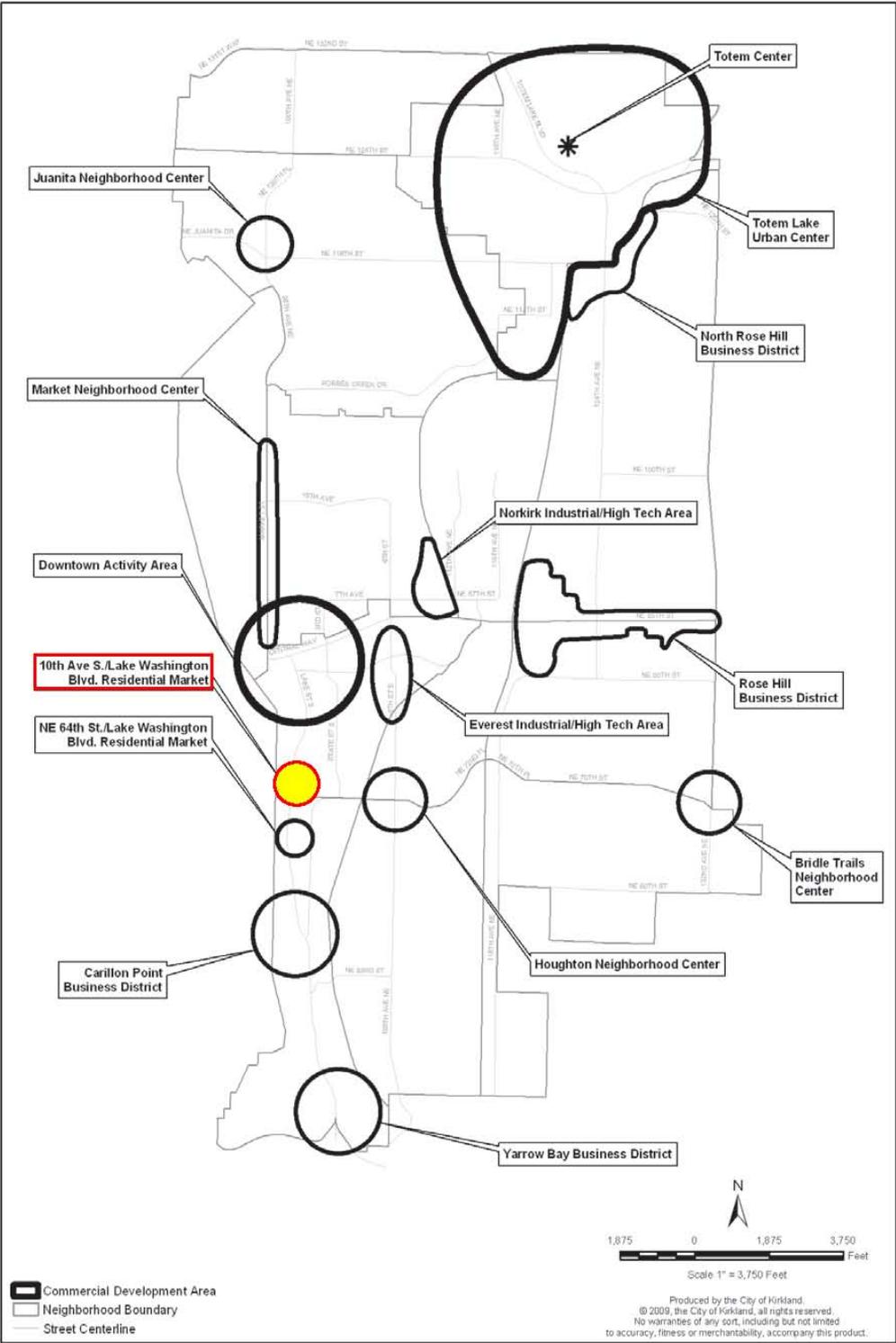


Figure LU-2: Commercial Areas

D. Staff Response to Public Comments:

The City Council has received several emails on various issues pertaining to the Potala Village proposal. Below are responses to these emails:

- One comment suggested that inadequate notice was provided for the 2010 SMP.

WAC 173-26-191(3)(b) states that RCW 90.58.130 must be met for the participation process of an SMP update. This includes making reasonable efforts to inform the people of the state about the SMP program and encouraging participation by all persons, private groups and entities showing an interest in the SMP as well as federal, state and local governments. The City was required to document its method of participation to ensure that all interested parties have a meaningful opportunity to participate. In addition, the provisions in WAC 173-26-100 applied which require at a minimum one public hearing and a published notice in the local newspaper.

Extensive public outreach was provided over the 5-year SMP process. Several notices were mailed to property owners within 200 feet of the lake, including the kick-off meeting, the property owner workshop and the public hearings. Two notices were mailed to property owners within 500 feet of the lake. Notices were provided to environmental groups, neighborhood and business associations and other interested groups. In addition, notices were updated regularly on the public notice signs installed in the City waterfront parks. An extensive SMP web page was created and maintained with links to the draft regulations and maps, and a large listserv group developed over time. A boat tour, several open houses, a property owner's workshop, and numerous public meetings provided ample opportunity to participate.

Federal, state local governments and affected Indian tribes were notified of the City's SMP process and draft regulations. A detailed public participation log was maintained over the entire SMP process and submitted to the Department of Ecology with the draft SMP. Both the City Council and the Department of Ecology approved the public outreach program in advance of preparation of the draft SMP regulations.

- One comment said the change in shoreline designation for the site from Urban Residential 1 to Urban Mixed environment was a spot zone and the Potala Village site should have been designated as Residential environment.

The shoreline designations for all of the properties within 200 feet of the shoreline and those containing associated wetlands were changed with the 2010 SMP. These changes were mandated by the Department of Ecology. Six areas along the shoreline are designated as Mixed Use, including the Potala Village site. The six areas either contained commercial uses or urban shoreline parks where a variety of future accessory park uses are contemplated. Thus, the designation change was not a spot zone.

The Medium to High Residential environment is not appropriate for the subject property because the designation only permits water-oriented commercial uses and not mixed use,

general retail or office as allowed in the BN zone. No site containing commercial uses is designated as Residential environment.

- One comment said that the correction to the residential density for the BN shoreline regulations in the SMP amendments approved on June 7, 2011 was not highlighted in the staff memorandum to the City Council.

In 2011, the City adopted amendments to the 2010 SMP to reflect the newly annexed area. In addition, the SMP amendments included several corrections to the 2010 SMP. All of the changes were underlined in the adopting ordinance. The staff memorandum of May 4, 2011 only highlighted new issues with policy implications staff thought the City Council might want to discuss. For the reasons noted above, staff considered the change to the SMP density regulation for the BN Zone to be a correction and not a change with a policy implication. All of the density standards in the shoreline regulations are supposed to match the associated density standards in the use zone charts of the Zoning Code. In the case of the BN Zone, the shoreline density standard did not match the density standard in the use zone charts for the BN Zone and the correction made them consistent.

- One email raised concerns about the staff comments in the pre-submittal meeting on December 3, 2009, (PRE09-00072). The email addressed the following issues:
 - The email stated that Planning staff had highlighted the 12 units per acre in the Moss Bay Neighborhood Plan text and thus the density applied to the site.

The pre-submittal analysis document prepared by staff included the Moss Bay Neighborhood Plan as background information with several highlighted sections, including the 12 units per acre discussion. In the Potential Issues/Code Requirement section of the pre-submittal document, staff did not state that the number of units proposed needed to be reduced to 12 units per acre. The document stated that the regulations in the BN Zone, which includes density standards, and other regulations in the Zoning Code must be met

- The email noted that Planning staff said that 2.2 parking stalls were required per residential unit (1.7 per unit plus 0.5 for guest parking), but that less was proposed.

The KZC 105.105 requires 1.7 parking stalls per residential unit and up to 0.5 stalls per unit for guest parking. The number of required guest parking stalls is determined by the City on a case by case basis depending on several factors. For this project, 43 guest residential parking stalls are proposed which is a ratio of 0.30 per unit in addition to use of the commercial parking in the evenings. Guest parking will be evaluated in the EIS and will be addressed with the building permit and not the shoreline application.

- Parking shown on the plans made up much of the 75% of the required ground floor retail in the proposal submitted for the meeting and parking should not be included in the 75% ground floor area calculation.

Parking is part of a use and is included in the gross floor area when it is located in a building. When a regulation says that 75% of the ground floor must be retail, this includes the parking area. Similar retail ground floor regulations are required for other commercial zones and the

City has consistently included parking in meeting the required ground floor area for approved development projects.

If you have any questions on the project, please contact Teresa Swan at 425-587-3258, or at tswan@kirklandwa.gov.

cc: Robin Jenkinson, City Attorney

CHAPTER 40 – NEIGHBORHOOD BUSINESS (BN) AND NEIGHBORHOOD BUSINESS A (BNA) ZONES

40.05 User Guide. The charts in KZC 40.10 contain the basic zoning regulations that apply in each of the BN and BNA 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 40.08

Zone
BN, BNA

Section 40.08 – 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 a structure abutting Lake Washington Blvd. or Lake Street South must be increased two feet for each one foot that structure exceeds 25 feet above average building elevation (does not apply to Public Park uses).
4. 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, 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. May also be regulated under the Shoreline Master Program; refer to Chapter 83 KZC.

DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS																	
Section 40.10	USE ↓ REGULATIONS →	Required Review Process	MINIMUMS			MAXIMUMS		Landscaping Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)						
			Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage					Height of Structure					
				Front	Side	Rear											
.010	Retail Establishment selling groceries and related items	None	None	BN zone: 20'	10' on each side	10'	80%	If adjoining a low density zone other than RSX or RSA, then 25' above average building elevation. Otherwise, for BN zone, 30' above average building elevation and for BNA zone, 35' above average building elevation.	B	D	1 per each 300 sq. ft. of gross floor area.	<ol style="list-style-type: none"> Except for retail establishments selling groceries and related items in the BNA zone, gross floor area for this use may not exceed 10,000 square feet. Access from drive-through facilities must be approved by the Public Works Department. Drive-through facilities must be designed so that vehicles will not block traffic in the right-of-way while waiting in line to be served. A delicatessen, bakery, or other similar use may include, as part of this use, accessory seating if: <ol style="list-style-type: none"> The seating and associated circulation area does not exceed more than 10 percent of the gross floor area of this use; and It can be demonstrated to the City that the floor plan is designed to preclude the seating area from being expanded. 					
.020	Retail Establishment selling drugs, books, flowers, liquor, hardware supplies, garden supplies or works of art			BNA zone: 10'													
.030	Retail Variety or Department Store																
.040	Retail Establishment providing banking and related financial services																<ol style="list-style-type: none"> Gross floor area for this use may not exceed 10,000 square feet. Access from drive-through facilities must be approved by the Public Works Department. Drive-through facilities must be designed so that vehicles will not block traffic in the right-of-way while waiting in line to be served. Ancillary assembly and manufactured goods on the premises of this use are permitted only if: <ol style="list-style-type: none"> The assembled or manufactured goods are directly related to and are dependent upon this use, and are available for purchase and removal from the premises. The outward appearance and impacts of this use with ancillary assembly or manufacturing activities must be no different from other retail uses.
.050	Retail Establishment providing laundry, dry cleaning, barber, beauty or shoe repair services																
.055	Retail Establishment providing entertainment, recreational or cultural activities See Spec. Reg. 5.															1 per every 4 fixed seats.	<ol style="list-style-type: none"> For restaurants with drive-in or drive-through facilities, one outdoor waste receptacle shall be provided for every eight parking stalls. Retail Establishment providing entertainment, recreational or cultural activities only allowed in BNA zone.
.060	Restaurant or Tavern															1 per each 100 sq. ft. of gross floor area.	

Section 40.10

Zone
BN, BNA

USE ZONE CHART

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

Section 40.10	USE ↓ REGULATIONS ↑	Required Review Process	MINIMUMS			MAXIMUMS		Lot Coverage	Height of Structure	Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
			Lot Size	REQUIRED YARDS (See Ch. 115)									
				Front	Side	Rear							
.070	Private Lodge or Club	None	None	BN zone: 20' BNA zone: 10'	10' on each side	10'	80%	If adjoining a low density zone other than RSX or RSA, then 25' above average building elevation.	B	B	1 per each 300 sq. ft. of gross floor area.		
.080	Vehicle Service Station	Process IIA, Chapter 150.	22,500 sq. ft.	40'	15' on each side. See Spec. Reg. 3.	15'		Otherwise, for BN zone, 30' above average building elevation and for BNA zone, 35' above average building elevation.	A	D	See KZC 105.25.	<ol style="list-style-type: none"> Hours of operation may be limited to reduce impact on residential areas. May not be more than two vehicle service stations at any intersection. Gas pump islands may extend 20 feet into the front yard. Canopies or covers over gas pump islands may not be closer than 10 feet to any property line. Outdoor parking and service areas may not be closer than 10 feet to any property line. See KZC 115.105, Outdoor Use, Activity and Storage, for further regulations. 	
.090	Office Use	None	None	BN zone: 20' BNA zone: 10'	5', but 2 side yards must equal at least 15'.	10'			C		If a medical, dental or veterinary office, then one per each 200 sq. ft. of gross floor area. Otherwise one per each 300 sq. ft. of gross floor area.	<ol style="list-style-type: none"> The following regulations apply to veterinary offices only: <ol style="list-style-type: none"> May only treat small animals on the subject property. Outside runs and other outside facilities for the animals are not permitted. Site must be designed so that noise from this use will not be audible off the subject property. A certification to this effect, signed by an Acoustical Engineer, must be submitted with the development permit application. Ancillary assembly and manufacture of goods on the premises of this use are permitted only if: <ol style="list-style-type: none"> The ancillary assembled or manufactured goods are subordinate to and dependent on this use. The outward appearance and impacts of this use with ancillary assembly or manufacturing activities must be no different from other office uses. 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. 	

Section 40.10

Zone
BN, BNA

USE ZONE CHART

DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS												
Section 40.10	USE ↓ REGULATIONS ↑	Required Review Process	MINIMUMS			MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)	
			Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage					Height of Structure
				Front	Side	Rear						
.120	School or Day-Care Center	None	None	If this use can accommodate 50 or more students or children, then: 50' 50' on 50' each side If this use can accommodate 13 to 49 students or children, then: 20' 20' on 20' each side	80	If adjoining a low density zone other than RSX or RSA, then 25' above average building elevation. Otherwise, for BN zone, 30' above average building elevation and for BNA zone, 35' above average building elevation. See Spec. Reg. 8.	D	B	See KZC 105.25.	<ol style="list-style-type: none"> A six-foot-high fence is required only along the property lines adjacent to the outside play areas. Hours of operation may be limited to reduce impacts on nearby residential uses. Structured play areas must be setback from all property lines as follows: <ol style="list-style-type: none"> 20 feet if this use can accommodate 50 or more students or children. 10 feet if this use can accommodate 13 to 49 students or children. An on-site passenger loading area must be provided. The City shall determine the appropriate size of the loading areas on a case-by-case basis, depending on the number of attendees and the extent of the abutting right-of-way improvements. Carpooling, staggered loading/unloading time, right-of-way improvements or other means may be required to reduce traffic impacts on nearby residential uses. The location of parking and passenger loading areas shall be designed to reduce impacts on nearby residential uses. May include accessory living facilities for staff persons. These uses are subject to the requirements established by the Department of Social and Health Services (WAC Title 388). For school use, structure height may be increased, up to 35 feet, if: <ol style="list-style-type: none"> The school can accommodate 200 or more students; and The required side and rear yards for the portions of the structure exceeding the basic maximum structure height are increased by one foot for each additional one foot of structure height; and The increased height is not specifically inconsistent with the applicable neighborhood plan provisions of the Comprehensive Plan. The increased height will not result in a structure that is incompatible with surrounding uses or improvements. <i>This special regulation is not effective within the disapproval jurisdiction of the Houghton Community Council.</i> 		

Section 40.10		DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
		Required Review Process	MINIMUMS			MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)	
			Lot Size	REQUIRED YARDS (See Ch. 115)		Lot Coverage	Height of Structure					
USE ↓ REGULATIONS ↓			Front	Side	Rear							
.130	Mini-School or Mini-Day-Care	None	None	BN zone: 20' BNA zone: 10'	5', but 2 side yards must equal at least 15'.	10'	80%	If adjoining a low density zone other than RSX and RSA, then 25' average building elevation. Otherwise, for BN zone, 30' above average building elevation and for BNA zone, 35' above average building elevation.	D	B	See KZC 105.25.	<ol style="list-style-type: none"> 1. A six-foot-high fence is required along the property lines adjacent to the outside play areas. 2. Hours of operation may be limited by the City to reduce impacts on nearby residential uses. 3. Structured play areas must be setback from all property lines by five feet. 4. An on-site passenger loading area may be required depending on the number of attendees and the extent of the abutting right-of-way improvements. 5. The location of parking and passenger loading areas shall be designed to reduce impacts on nearby residential uses. 6. May include accessory living facilities for staff persons. 7. These uses are subject to the requirements established by the Department of Social and Health Services (WAC Title 388).
.140	Assisted Living Facility See Spec. Reg. 3.			Same as the regulations for the ground floor use. See Spec. Reg. 3.					A	1.7 per independent unit. 1 per assisted living unit.	<ol style="list-style-type: none"> 1. A facility that provides both independent dwelling units and assisted living units shall be processed as an assisted living facility. 2. If a nursing home use is combined with an assisted living facility use in order to provide a continuum of care for residents, the required review process shall be the least intensive process between the two uses. 3. This use may not be located on the ground floor of a structure. 4. Chapter 115 KZC contains regulations regarding home occupations and other accessory uses, facilities, and activities associated with this use. 	

DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS												
Section 40.10	 	Required Review Process	MINIMUMS			MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)	
			Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage					Height of Structure
				Front	Side	Rear						
.100	Stacked Dwelling Unit. See Special Regulation 1.	None	None	Same as the regulations for the ground floor use. See Special Regulation 1.				A	1.7 per unit.	1. This use, with the exception of a lobby, may not be located on the ground floor of a structure. 2. Chapter 115 KZC contains regulations regarding home occupations and other accessory uses, facilities and activities associated with this use.		
.110	Church		BN zone: 20' BNA zone: 10'	10' on each side	10'	80%	If adjoining a low density zone other than RSX or RSA, then 25' above average building elevation. Otherwise, for BN zone, 30' above average building elevation and for BNA zone, 35' above average building elevation.	C	B	1 for every 4 people based on maximum occupancy load of any area of worship. See also Special Reg. 2.	1. May include accessory living facilities for staff persons. 2. No parking is required for day-care or school ancillary to this use.	

Section 40.10

Zone
BN, BNA

USE ZONE CHART

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

Section 40.10	USE ↓ REGULATIONS →	Required Review Process	MINIMUMS			MAXIMUMS		Lot Coverage	Height of Structure	Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
			Lot Size	REQUIRED YARDS (See Ch. 115)									
				Front	Side	Rear							
.150	Convalescent Center or Nursing Home	None	None	BN zone: 20'	10' on each side	10'	80%	If adjoining a low density zone other than RSX or RSA, then 25' average building elevation.	C	B	1 for each bed.	1. If a nursing home use is combined with an assisted living facility use in order to provide a continuum of care for residents, the required review process shall be the least intensive process between the two uses.	
.160	Public Utility	Process IIA, Chapter 150 KZC	None	BNA zone: 10'	20' each side	20'	80%	Otherwise, for BN zone, 30' above average building elevation and for BNA zone, 35' above average building elevation.	A	B	See KZC 105.25.	1. Landscape Category A or B may be required depending on the type of use on the subject property and the impacts associated with the use on the nearby uses. 2. One pedestal sign with a readerboard having electronic programming is allowed at a fire station only if: a. It is a pedestal sign (see Plate 12) having a maximum of 40 square feet of sign area per sign face; b. The electronic readerboard is no more than 50 percent of the sign area; c. Moving graphics and text or video are not part of the sign; d. The electronic readerboard does not change text and/or images at a rate less than one every seven seconds and shall be readily legible given the text size and the speed limit of the adjacent right-of-way; e. The electronic readerboard displays messages regarding public service announcements or City events only; f. The intensity of the display shall not produce glare that extends to adjacent properties and the signs shall be equipped with a device which automatically dims the intensity of the lights during hours of darkness; g. The electronic readerboard is turned off between 10:00 p.m. and 6:00 a.m. except during emergencies; h. It is located to have the least impact on surrounding residential properties. If it is determined that the electronic readerboard constitutes a traffic hazard for any reason, the Planning Director may impose additional conditions.	
.170	Government Facility Community Facility				10' on each side	10'			C See Spec. Reg. 1				
.180	Public Park	Development standards will be determined on a case-by-case basis. See Chapter 49 KZC for required review process.											

	Bellevue NB	Redmond NC-1¹	Redmond NC-2	King County	Kirkland BN & BNA
Residential density	15 units/acre	none	none	8-16 units/acre ²	none
Residential location	Second floor and above	-	-	-	Second floor and above
Floor Area Ratio	For office only	.60 ³ (.30 commercial, .30 residential)	.60 ⁴ (.30 commercial, .30 residential)	1.0-2.0 ⁵ (residential FAR maximum 50% of total FAR)	none
Allowed height	20' ⁶	35'	35'	45'	30'
Lot coverage	80% ⁷	70%	70%	85%	80%
Setbacks	none	15' front 10' side & rear	15' front 10' side & rear	10' front 20' side & rear	20' front BN 10' front BNA 10' side & rear
Commercial limits	3,000-5,000 s.f. per establishment, varies by use ⁸	Max 3,500 s.f. per establishment ⁹	Max 5,000 s.f. per establishment	none	10,000 s.f. per establishment ¹⁰
Review process	none	none	none	none	none ¹¹

Redmond 21.14.015 Neighborhood Commercial 2 (NC-1)

Purpose. The purpose of the Neighborhood Commercial 1 (NC-1) zone is to provide for attractively designed small- scale shopping areas that offer convenience goods and professional and personal services for the daily needs of nearby neighborhoods and that serve as neighborhood gathering places. The intent is to ensure compatibility with the vicinity neighborhood character and to reduce trip length and frequency by allowing only those uses that primarily serve the neighborhood and that do not have a tendency to draw traffic from outside the neighborhood. Location on transit routes and near pedestrian facilities and bike paths is intended to encourage transit use, walking, and biking and to promote convenient access within the shopping area and to and from the neighborhood. Neighborhood Commercial developments should be compatible in height, size, bulk, and design with adjacent residential uses. Mixed-use development is encouraged.

¹ There are currently no NC 1 zoned properties in Redmond. This less intensive neighborhood commercial zone provides a rezone opportunity if a neighborhood or property owner desire these small scale neighborhood services in the future.

² Bonuses available to achieve up to 16 units/acre maximum

³ Bonus commercial FAR available for open space, bonus residential FAR available for affordable housing & green building (maximum .66)

⁴ Bonus commercial FAR available for open space, bonus residential FAR available for affordable housing & green building (maximum .80)

⁵ Bonuses to 2.0 FAR available for mixed use and structured parking

⁶ May be increased up to 15' if at least 75% of ground floor is structured parking , or may be increased to 30' if office or residential provided above (but not to exceed two stories)

⁷ Maximum 35% structure footprint

⁸ Due to vacancies in struggling shopping centers, Bellevue is currently reevaluating size limits and uses in identified areas (File No 11-125521 AD)

⁹ Public amenity bonuses up to 5,000 s.f.

¹⁰ Excluding grocery stores in BNA zone

¹¹ BN (1) subarea has Process IIA review for new development

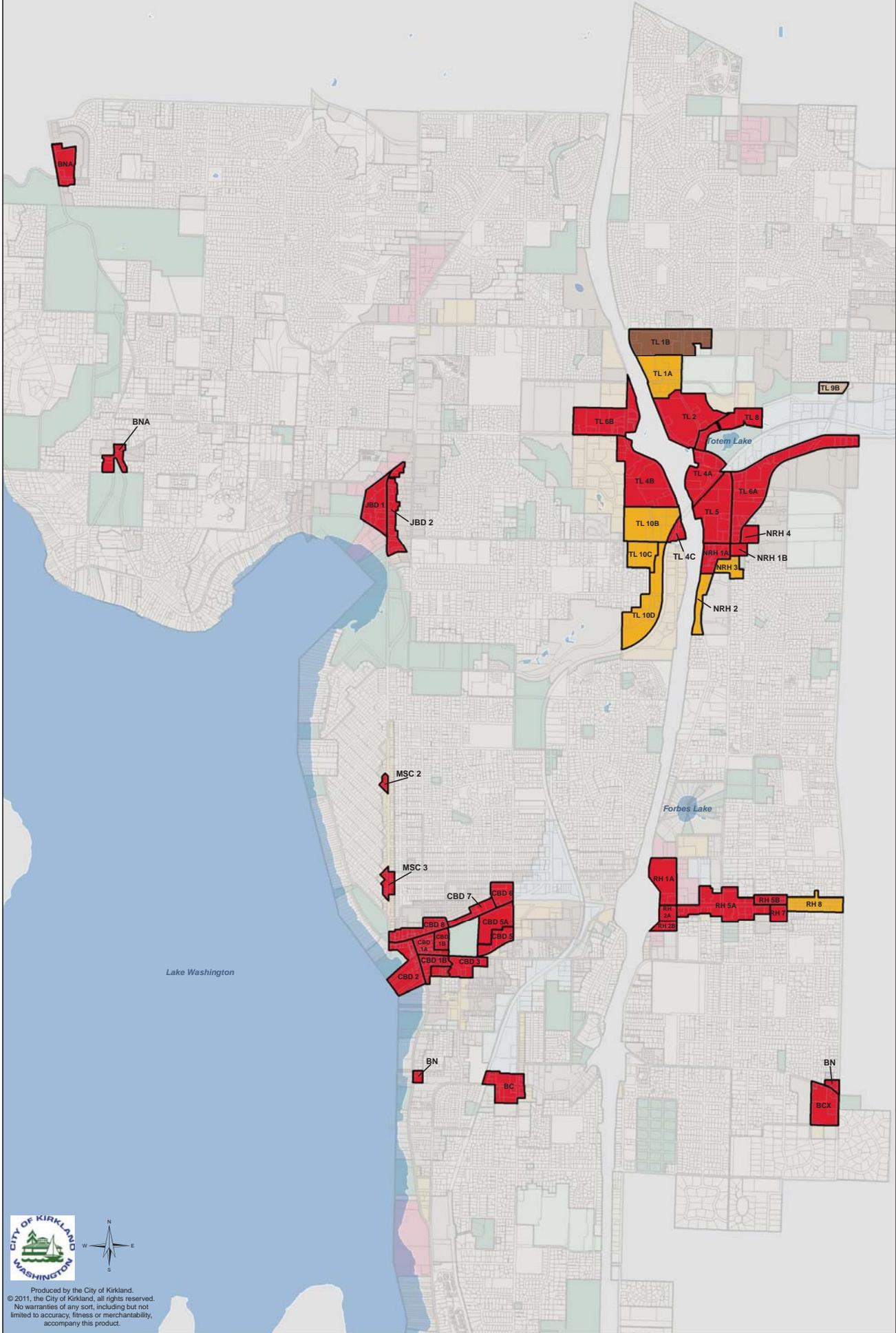
Redmond 21.14.015 Neighborhood Commercial 2 (NC-2)

Purpose. The purpose of the Neighborhood Commercial 2 (NC-2) zone is to provide for attractively designed medium-scale shopping areas that offer convenience goods, professional and business services, and personal services for the daily needs of nearby neighborhoods and that serve as neighborhood gathering places. The intent is to promote compatibility with the vicinity neighborhood character. Location on transit routes and near pedestrian facilities and bike paths is intended to encourage transit use, walking, and biking and to promote convenient access within the shopping area and to and from the neighborhood. Neighborhood Commercial developments should be compatible in height, size, bulk, and design with adjacent residential uses. Mixed-use development is encouraged.

Bellevue 20.10.340 Neighborhood Business District (NB).

Neighborhood Business Districts are small scale, mixed-use commercial areas that provide housing opportunities and retail and service businesses for the surrounding residential community. These sites may also accommodate a limited amount of administrative office space, provided that the office use does not interfere with the site's primary neighborhood-serving function. NB Districts front on designated primary or minor arterials and are generally 1,000 feet or more apart along the arterials. It is the intent of the City that any such district be located adjacent to existing or proposed residential areas. The maximum size of an NB District, composed of contiguous properties and located on one side of a street, is four and one-half acres. The maximum size is expanded to six acres for NB sites separated by a street.

Commercial Zones Without Maximum Density



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