



MEMORANDUM

DATE: April 11, 2013

To: Houghton Community Council

FROM: Jeremy McMahan, Planning Supervisor

SUBJECT: Commercial Codes KZC Amendments (Phase 2), File No. CAM13-00185

RECOMMENDATION

Review and discuss the potential code amendments within Houghton Community Council (HCC) disapproval jurisdiction. The HCC should provide direction to staff on whether a public hearing is desired. If a hearing is desired, the HCC should indicate if it is interested in a joint public hearing with the Planning Commission on May 23, 2013 (the May 27th HCC meeting will be cancelled for Memorial Day).

BACKGROUND

In 2011-2012, the Planning Commission worked through a number of amendments to the Kirkland Zoning Code related to commercial zones. Because that work program was expanded by the City Council to include other issues like density restrictions, a number of amendments were deferred to a future phase of the project. The amendments completed in 2012 had only very minor implications for codes within HCC jurisdiction. This second phase has a few more implications for the HCC, but the majority of potential amendments affect zones outside of HCC jurisdiction.

The Planning Commission has provided direction to staff to prepare draft codes for consideration at a May 23, 2013 public hearing. The Planning Commission's complete Phase 2 scope of work is included in Attachment 1. The following review highlights those potential amendment topics within HCC jurisdiction. Zones or topics within HCC jurisdiction are indicated with an asterisk*. Each topic is followed by an issue statement summarizing the Planning Commission's discussions.

1. Inconsistent office and retail buffers and setbacks.

Zones: MSC 1, MSC 3, MSC 4, RH 3, YBD 1, YBD 2*, YBD 3*, TL4A, TL 4B, TL 4C, TL5, TL 6A, TL 6B, TL 10A, TL 10C*

Issue: In mixed use zones, inconsistent regulations for office and retail can have the unintended consequence of incentivizing the use with lesser standards if redevelopment

occurs. The inconsistent regulations can also preclude changes in tenants if the building is not built to the more stringent standard.

PC Direction: Make office and retail land use buffers and required yards consistent in the mixed use zones noted above to accommodate use changes in tenant spaces over time

2. **Process IIA height increases.**

Zones: BC, BCX, LIT, PLA 6G*

Issue: The Process IIA provision (see below), although seldom used, allows unspecified height increases (driven only by the increased setbacks) subject to criteria that are not particularly stringent. The Planning Commission was not aware of the regulation and does not feel it is appropriate to allow that level of uncertainty about building heights for either developers or the neighborhood. They agreed that any additional height in these zones should be the result of deliberative neighborhood planning efforts. In terms of precedent, in 1997 the City approved an increase from 30' to 39' on the Pace Chemical site in the PLA 6G zone. That approval subsequently expired.

General Regulation: Except if adjoining a low density zone, structure height may be increased above (*(((applicable height in zone)))*) feet in height through a Process IIA, Chapter 150 KZC, if:

- It will not block local or territorial views designated in the Comprehensive Plan;
- The increased height is not specifically inconsistent with the applicable neighborhood plan provisions of the Comprehensive Plan; and
- 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).

PC Direction: Eliminate the General Regulation allowing additional height to be approved by the Hearing Examiner through Process IIA in the zones noted above.

3. **Regulatory inconsistencies for assisted living use.**

*Zones: MSC 3, RH 2A, RH 2B, RH 2C, RH 3, NRH 1A, NRH 1B, TL 2, YBD 1**

Issue: In general, the Zoning Code treats "Assisted Living" uses similar to other residential uses. In a few cases, there are inconsistencies. For example, the Assisted Living use is listed in the YBD 2 & 3 zones, but appears to have been inadvertently left out of the YBD 1 zone.

PC Direction: Make regulations for ground floor assisted living uses consistent with other residential use regulations.

4. **School and Daycare building setbacks in commercial zones.**

Zones: PR, PRA, PO, MSC 1, MSC 2, MSC 3, MSC 4, RH 4, TL 10B, PLA 5C, PLA 6B, BN, YBD 1**

Issue: As illustrated in Attachment 2, in many commercial zones schools and daycare centers have the same setbacks as other uses in the zone. However, in the commercial zones listed above and noted in the top section of the attached chart, schools and daycare centers have 20' or 50' setbacks consistent with those found in residential zones. This setback requirement has the effect of precluding otherwise desirable school/daycare uses from inclusion in mixed use buildings or areas. For example, if a daycare center wanted to move into an existing retail or office space in most zones, the change in use would not be an issue (provided the use is allowed). However, in the zones listed above, the change in use may not be allowed unless the existing building happened to have exceptionally wide setbacks. An existing Kirkland daycare operation has highlighted this problem to the City and Chamber of Commerce as they are having a difficult time finding a space to relocate in Kirkland due to these regulations.

Staff has reviewed regulations in neighboring jurisdictions confirmed that Kirkland is unique in these setbacks for commercial zones. Setbacks for daycare operations in Bellevue, Bothell, Kenmore, Woodinville, Redmond, and King County are the same as other uses in the applicable zone.

PC Direction: Make Setbacks for School and Daycare uses consistent with setbacks for other uses.

5. **School and Daycare structure play area setbacks in commercial zones.**

*Zones: All Commercial Zones**

Issue: The Planning Commission agreed that the definition of "Structured Play Area" is somewhat open to interpretation because it includes both structures (e.g. – a swing set) and non-structures (e.g. – a hard-surface playground). "Tot lots" is a grey area because the distinction between a lawn or similar area (excluded) and a tot lot (included) may not always be evident.

.917 Structured Play Area

– An area designed, constructed, and intended for active recreation and/or congregation of users and/or observers. Structured play areas include, but are not limited to: **tot lots**, climber toys, swing sets, hard-surfaced playgrounds, sport courts, swimming pools, baseball infields, viewing stands or bleachers, and similar facilities. Structured play areas do not include baseball outfields, passive recreation areas, lawns, or similar areas

The Commission agreed that since there are existing provisions in KZC 115 for what kinds of structures are allowed in setbacks and existing provisions in KZC 95 for land use buffers, the rules for daycares in commercial zones would be more consistent if all zones were subject to those same existing standards.

PC Direction: Remove the Special Regulation for “Structured Play Area” setbacks and allow existing setback and land use buffer rules to govern.

6. **Erroneous references to State statutes for schools and daycares.**

*Zones: All Commercial Zones**

Issue: Many use zone charts contain the following special regulation:

These uses are subject to the requirements established by the Department of Social and Health Services (WAC Title 388).

The State moved those WAC regulations a number of years ago, so the reference is incorrect. The special regulation is being deleted as the City amends the applicable charts because the reference is wrong and because there is no need to have a local regulation requiring compliance with a state regulation.

PC Direction: Delete special regulations for schools and daycares that reference out of date statutes.

7. **Required parking dimensions – structural columns and other encroachments.**

Code Section: 105.60

Issue: This clarification would make the City’s parking design standards more explicit to architects and developers and avoid potentially costly design errors.

PC Direction: Codify the requirement that structural columns and other obstructions are not allowed to encroach into the specified minimum dimensions for in parking spaces.

8. **Hearing Examiner criteria on DR appeals.**

*Code Section: 142.40.11.a**

Issue: The authority of the Design Review Board is specified in KZC 142.35.3 as reviewing projects for consistency with the following:

- a. Design guidelines for pedestrian-oriented business districts, as adopted in Chapter 3.30 KMC.
- b. Design Guidelines for the Rose Hill Business District (RHBD) and the Totem Lake Neighborhood (TLN) as adopted in Chapter 3.30 KMC.
- c. The Design Principles for Residential Development contained in Appendix C of the Comprehensive Plan for review of attached and stacked dwelling units located within the NE 85th Street Subarea, the PLA 5C zone, and the Market Street Corridor.

- d. The Parkplace Master Plan and Design Guidelines for CBD 5A as adopted in Chapter 3.30 KMC

The authority of the Hearing Examiner on appeal of a DRB decision needs to be clarified to correspond to the authority noted in 142.35.3.

PC Direction: Clarify Hearing Examiner appeal authority in KZC 142 to specify applicable Comprehensive Plan provisions.

Attachments

1. Work Plan
2. School/Daycare Setback Chart

**COMMERCIAL CODES AMENDMENTS PHASE II
WORK PLAN (FILE CAM13-00185)**

Draft 4/10/2013

Scope:

- Revise method of how much ground floor commercial is required. Change from 75% of ground floor to minimum commercial frontage requirements, in the following zones:
 - *Zones: MSC 3, NRH 1A, NRH 1B*
- Make office and retail land use buffers and required yards consistent in the following mixed use zones to accommodate use changes in tenant spaces over time:
 - *Zones: MSC 1, MSC 3, MSC 4, RH 3, YBD 1*, YBD 2*, YBD 3*, TL4A, TL 4B, TL 4C, TL5, TL 6A, TL 6B, TL 10A, TL 10C*
- Eliminate General Regulation allowing additional height to be approved by Hearing Examiner through Process IIA
 - *Zones: BC*, BCX, LIT, PLA 6G*
- Codify CBD 7 retail interpretation not requiring retail on non-pedestrian-oriented streets
 - *Zones: CBD 7*
- Make regulations for ground floor assisted living uses consistent with other residential use regulations:
 - *Zones: MSC 3, NRH 1A, NRH 1B, TL 2, YBD 1**
- Make Setbacks for School and Daycare uses consistent with setbacks for other uses.
 - *Zones: PR*, PRA, PO, MSC 1, MSC 2, MSC 3, MSC 4, RH 4, TL 10B, PLA 5C, PLA 6B, BN, YBD 1**
- Remove Special Regulation for "Structured Play Area" setbacks and allow existing setback and land use buffer rules to govern.
 - *Zones: All Commercial Zones* (+61)*
- Codify interpretation allowing schools in LIT zone
 - *Zones: LIT Zone*
- Correct special regulations for mini-schools and mini-daycares that reference out of date statutes*
- Codify provisions for encroachment of structural columns in parking spaces in garages*
- Clarify Hearing Examiner appeal authority in KZC 142 to specify applicable Comprehensive Plan provisions*

Schedule:

| | |
|-----------|--|
| 2/14/13 | Planning Commission Study #1 |
| 3/7/2013 | Meet with Everest and Houghton Neighborhood representatives to discuss inclusion of BC |
| 3/26/2013 | Attend Everest Neighborhood meeting for input |
| 3/28/2013 | Planning Commission Study #2 |

- 4/22/13 Houghton Community Council Review
- 4/19/13 Early Notice to affected neighborhood association chairs
- 4/19/13 Send draft amendments to Dept. of Commerce
- 4/19/13 SEPA Review
- 5/23/13 Planning Commission (Houghton Community Council) Public Hearing**
- 6/13/13 Planning Commission Study #3 (Recommendation)
- 7/2/13 City Council Review
- 7/16/13 City Council Adoption
- 7/17/13 Send Adopted Regulations to Dept. of Commerce

| | Commercial Zone | Building setback <i>(if blank, same as other uses in zone)</i> | | Structured play area setback | | | |
|-----------------------------|---|--|------------------|------------------------------|------------------|--------------|------------------|
| | | 13-49 students | 50+ students | 13-49 students | 50+ students | | |
| Zones with greater setbacks | PR*, PRA | 20' | 50' | 10' | 20' | Office Zones | |
| | PO | 20' | 50' | 10' | 20' | | |
| | MSC 1 & 4 | 20' | 50' | 10' | 20' | | |
| | RH 4 | 20' | 50' | 10' | 20' | | |
| | TL 10B | 20' | 50' | 10' | 20' | | |
| | PLA 5C | 20' | 50' | 10' | 20' | | |
| | PLA 6B | 20' | 50' | 10' | 20' | | |
| | BN | 20' | 50' | 10' | 20' | | Commercial Zones |
| | MSC 2 | 20' | 50' | 10' | 20' | | |
| | MSC 3 | 30' (front only) | 30' (front only) | 10' | 20' | | |
| YBD 1* | 20' | 50' | 10' | 20' | TOD Zone | | |
| LIT | Not allowed | | | | Industrial Zones | | |
| Zones with basic setbacks | BC*, BC 1, BC 2 | | | 10' | 20' | | |
| | BCX | | | 10' | 20' | | |
| | CBD | | | 5' | 5' | | |
| | JBD | | | 10' | 20' | | |
| | RH 1A, 1B, 2A, 2B, 2C, 3 | | | 10' | 20' | | |
| | RH 5A, 5B | | | 10' | 20' | | |
| | RH 7 | | | 10' | 20' | | |
| | RH 8 | | | 10' | 20' | | |
| | NRH 1A, 1B, 2, 3, 4, 5, 6 | | | 10' | 20' | | |
| | TL 1A, 1B, 2, 3A, 3B, 3C, 3D | | | 5' | 5' | | |
| | TL 4A, 4B, 4C, 5, 6A, 6B, 7, 8, 9A, 10A, 10C, 10D | | | 10' | 20' | | |
| | YBD* 2, 3 | | | 5' | 5' | | |
| | PLA 6G | | | 10' | 20' | | |
| | PLA 17A | | | 10' | 20' | | |

* HCC Jurisdiction