



MEMORANDUM

To: Planning Commission
Houghton Community Council

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Date: August 3, 2010

Subject: 2010 MISCELLANEOUS ZONING/MUNICIPAL CODE AMENDMENTS – PHASE II
STUDY SESSION
FILE ZON10-00013.

I. RECOMMENDATION

Conduct a joint study session on the proposed Kirkland Zoning Code (KZC) and Municipal Code (KMC) amendments and provide feedback to staff on whether additional information and/or staff response is needed for review at a future study session.

II. BACKGROUND DISCUSSION

Planning staff periodically forwards miscellaneous KZC/KMC amendments to the Planning Commission and the Houghton Community Council (HCC) for consideration. The amendments are selected from an on-going list of issues, code interpretations, requests from the public, requests from City Council, and needs identified by staff.

Zoning Code amendments are reviewed through either a Process IV (KZC Chapter 160) or Process IVA (KZC Chapter 161). KMC amendments require only City Council approval but have been included in this process. Process IVA is an abbreviated process intended for amendments that promote clarity, eliminate redundancy, or correct inconsistencies. Because some of the current amendments go beyond those purposes, all of the proposed amendments will be reviewed using Process IV.

This year, the code amendments are being reviewed in two phases. Phase I amendments were considered first and eventually adopted by the City Council on July 6, 2010 (Ordinance 4250). Phase II contains a more comprehensive list of code amendments and many of which are within the disapproval jurisdiction of the HCC (see Attachment 1). The next study sessions for the Phase II amendments are scheduled for Sept 23 (PC) and Sept 27 (HCC). The public hearings are tentatively scheduled for October 25, 2010 (HCC) and November 4, 2010 (Planning Commission).

III. PHASE II AMENDMENTS - GENERAL

The Planning Commission and Houghton Community Council should discuss and provide feedback regarding the proposed amendments at the August 12th study session. Staff will be available to answer questions regarding the proposed changes. Based on the

Planning Commission and Houghton Community Council's direction, staff will revise the proposals and present the updated information at a follow up study session with each group.

The sections below provide a breakdown of the proposed Phase II code amendments categorized by their policy level implications: *No Policy Changes, Minor Policy, Moderate Policy, Major Policy, and Process Related Changes*. Staff has provided a brief summary followed by the rationale for the proposed code changes. Due to the relatively minor and non-controversial changes proposed in the first two sections below, the staff plans on focusing the study session discussions on the proposed *Moderate Policy, Major Policy, and Process Related Changes*. An additional section titled *Future Amendments* is at the end of the memo which describes amendments to be studied in the near future. **Topics with an asterisk (*) denote items that are not applicable within Houghton's jurisdiction.**

IV. NO POLICY CHANGES

The following items represent a wide variety of proposed code amendments which result in no changes to current policy. The purpose of these amendments is to clarify and fix inconsistencies within the code. Staff requests that the Planning Commission and HCC review the proposed amendments and provide feedback to staff if additional information and/or changes are needed.

A. Apply Horizontal Façade Regulation Consistently in Multiple Zones

In January 2008, the City Council adopted miscellaneous Zoning Code amendments (O-4121) which included adding a definition for the term "maximum horizontal façade":

KZC Section 5.10.507 - The widest cross-section of the building(s) in the area adjoining the low density zone or within 100 feet of the adjoining lot containing the detached dwelling unit or low density use. The cross-section width is measured parallel to the zone or lot(s). (See Plate 38.)

The purpose of the definition is to clarify how to measure the horizontal façade of non-residential structures when built adjoining single-family residences. There are many instances in the use zone charts where the maximum horizontal façade regulation applies. However, with the January 2008 code amendments, the defined term was not added to all of the zones where this standard appears.

Staff recommends that the term "maximum horizontal façade" be added to all instances where maximum horizontal façade regulation applies in order to be consistent throughout the KZC.

B. Subdivisions KMC Title 22 *

1. Fix Incorrect Code Reference in KMC Section 22.32.050 *. KMC Section 22.32.050 currently states:

Undergrounding of transmission lines - Required. The applicant shall comply with the utility lines and appurtenances requirements of the zoning code, Section 110.60.9.

The reference to KZC Section 110.60(9) is incorrect because it does not refer to the undergrounding of transmission line requirements. The correct reference is KZC Section 110.60(7). Therefore, staff recommends that the regulation be changed to reference KZC Section 110.60(7).

2. Correct typographical error in KMC Section 22.04(30)(b)(1) *. KMC Section 22.04.030 contains some of the City's regulations regarding to binding site plans. Developments eligible for a binding site plan are stated in KMC Section 22.04.030(b).

On a related note, RCW Chapter 58.17 contains the State regulations regarding plats, subdivisions, and dedications. RCW Section 58.17.040 lists the types of developments that are not subject to the Chapter. Subsection (5) describes that developments with an approved binding site plan are exempt from RCW Chapter 58.17:

A division for the purpose of lease when no residential structure other than mobile homes or travel trailers are permitted to be placed upon the land when the city, town, or county has approved a binding site plan for the use of the land in accordance with local regulations;

To be consistent with RCW 58.17.040(5), staff recommends that in KMC Section 22.04.030(b)(1) the word "non-residential" be changed to "no residential":

b. Eligible Developments. The following types of development are subject to the provisions of this section:

1. *A division for the purpose of lease when ~~nonresidential~~ no residential structures other than mobile homes or travel trailers are permitted to be placed upon the land;*

C. Fix Incorrect References to Landscape Buffers - PLA 1 KZC Section 60.12

Northwest University is located in the PLA 1 zone. Special regulations (d) and (e) require that landscape buffers be planted pursuant to the standards in KZC Section 95.25(2). However, the code reference is incorrect. The PLA 1 references were not updated when the landscape standards were changed in 2006.

Staff recommends deleting the outdated KZC Section 95.25(2) references and incorporating the original landscape requirements directly into the special regulations.

D. Affordable Housing KZC Chapter 112

1. Clarify the rounding language for affordable housing.

In the recently adopted affordable housing code amendments, the threshold for requiring affordable housing in multifamily developments was set at four units, with provisions that allow alternative compliance, including a payment in lieu of construction, for portions of affordable housing units that are less than 0.66 units. A separate issue addressed within the regulations is when rounding up to the next whole number of affordable units is required. That standard is found in KZC Section 112.15.4, which states:

Rounding – In all zones, the number of affordable housing units required is determined by rounding up to the next whole number of units if the fraction of the whole number is at least 0.66.

If the reader stops reading after the rounding section, they are left with the impression that affordable housing is not required if the fraction is less than 0.66 units. The following subsection, KZC 112.15.5, refers the reader to the alternative compliance allowances later in the code and clarifies that payment in lieu is available for portions of units that are less than 0.66 units. Staff recommends that these two sections be combined to avoid confusion. The new wording would be:

Rounding and Alternative Compliance - In all zones, the number of affordable housing units required is determined by rounding up to the next whole number of units if the fraction of the whole number is at least 0.66. KZC Section 112.30 establishes methods for alternative compliance, including payment in lieu of construction for portions of required affordable housing units that are less than 0.66 units.

2. Clarify that voluntary use of affordable housing regulations is allowed throughout the City where affordable housing is not required.

Two questions that have been raised since the adoption of the affordable housing regulations are:

- Can I use the incentives even if affordable housing isn't required?
- How does the density bonus work if my base density allowed is only 2 or 3 units?

A few simple clarifications to the code language should clear up these issues. Staff recommends the following changes to address the first question:

KZC 112.15.1 ~~Minimum Requirement~~ Applicability –

- a. *Minimum Requirement. All developments creating four or more new detached, attached or stacked dwelling units in commercial, high density residential, medium density and office zones shall provide at least 10 percent of the units as affordable housing units and comply with the provisions of this chapter as established in the General Regulations for the Use Zone or the Special Regulations in the Use Zone Chart for the specific use. This subsection is not effective within the disapproval jurisdiction of the Houghton Community Council.*
- b. *Voluntary Use. All other provisions of this chapter are ~~applicable~~ available for use within the disapproval jurisdiction of the Houghton Community Council and in developments where the minimum requirement does not apply.*

The second question relates to KZC 112.25, which includes allowances for affordable housing incentives in addition to or in place of the basic incentives due to specific site conditions. When the developer of a small property that would allow 2 or 3 units as the base density wants to provide affordable housing, he would use this section to be granted a density bonus over the 25% allowed in

the basic incentives. However the language should be changed to make it clearer that this section is applicable. Staff recommends the following change:

KZC 112.25.2 Density Bonus – An applicant may propose more than two bonus units for every affordable housing unit or a density bonus exceeding 25 percent of the number of units allowed in the underlying zone of the subject property. However, in no event may a project receive a bonus that would result in a number of bonus units that exceeds 50 percent of the number of units allowed in the underlying zone of the subject property. Such a request shall be reviewed and decided upon by the Planning Director. The decision of the Planning Director in approving or denying a modification under this subsection may be appealed using the appeal provision, as applicable, of Process I, KZC 145.60 through 145.110.

E. Delete Reference to State Watercraft Noise Standards

KZC Section 115.95(1)(b) adopts the State's watercraft noise standards in Washington Administrative Code (WAC) 173-70. However, the WAC section was repealed in 1994. Therefore, staff recommends deleting the KZC reference since it refers to a WAC section which no longer exists. Boat noise is covered locally by the following Municipal Code regulation:

KMC Section 14.28.020 Mufflers - It is unlawful to use or operate any engine in or on Kirkland Harbor unless the engine is operated with and connected to a muffler or silencer of sufficient size and capacity effectually to muffle and prevent excessive or unusual noise from the exhaust of the engine. (Ord. 800 § 23, 1960)

The City of Kirkland Police Department coordinates with King County in enforcement of this noise provision.

F. KZC Chapter 115 Miscellaneous Standards

1. Clarify Height and Size of Detached Accessory Dwelling Units (ADU's). KZC Section 115.07 contains the standards for both detached and attached ADU's. However, the height standard and additional size limitations for a detached ADU is located in a different code section - KZC Section 115.08. This code section contains the provisions for all accessory structures (e.g. sheds, greenhouses, etc.). Therefore, to clarify the height and size requirements for a detached ADU, staff recommends the following text revision in KZC Section 115.07 which references the accessory structure height and size regulations in KZC Section 115.08.

KZC 115.07(4) Scale - ...Detached accessory dwelling units shall not exceed 800 square feet of gross floor area. The gross floor area shall not include area with less than five feet of ceiling height, as measured between the finished floor and the supporting members for the roof. When calculating the square footage of the ADU (see KZC [5.10.340](#), definition of "gross floor area"), covered exterior elements such as decks and porches will not be included; provided, the total size of all such covered exterior elements does not exceed 200 square feet. See KZC Section 115.08 for additional size and height limitations.

2. Clarify Size of Accessory Dwelling Units in KZC Section 115.08. Staff recommends taking the last sentence of KZC Section 115.08 and moving it up to the third sentence as follows:

115.08 Accessory Structure (Detached Dwelling Unit Uses Only)

Structures, to be used as a tool shed, greenhouse, private garage, accessory dwelling unit, barn or similar use are permitted. The total size of all such structures may not exceed the gross floor area of 1,200 square feet plus 10 percent of the lot area that exceeds 7,200 square feet. An accessory structure which contains an accessory dwelling unit must also comply with KZC 115.07 which may further limit its size.

The gross floor area shall not include area with less than five feet of ceiling height, as measured between the finished floor and the supporting members for the roof. The height (roof peak elevation) of an accessory structure may not exceed 15 feet above the existing height (roof peak elevation) of the primary residence or 25 feet above average building elevation, whichever is less. ~~An accessory structure which contains an accessory dwelling unit must also comply with KZC 115.07.~~

The proposed change makes it clearer that additional size limitations for detached accessory dwelling units apply.

G. Update School and Daycare References to State Regulations

Existing KZC regulations for schools/mini-schools and daycare/mini-daycare centers reference additional State requirements in WAC Title 388. Throughout the years, the State standards for schools and day care centers have been amended and when the standards were re-codified in July 2006, our KZC references to the State requirements became obsolete. Therefore, staff recommends the following changes to the KZC:

- Update schools/mini-schools to reference RCW Title 28A – Common School Provisions
- Update daycare/mini-daycare centers to reference WAC Title 170 – Department of Early Learning

These changes will correct the outdated KZC references to the State school/daycare requirements.

H. Delete Vague Stream/Wetland Regulation in PLA17

KZC Section 60.185(4) contains the following special regulation:

During and after construction, substantial setbacks and protective measures should be provided around streams and wetlands (does not apply to Detached Dwelling Unit and Family Day-Care Home uses).

KZC Chapter 90 – Drainage Basins, contains citywide requirements for stream and wetland buffers, buffer setbacks, and protective measure associated with development. Therefore, staff recommends that KZC Section 60.185(4) be deleted because the term “substantial” is vague and does not specify setback depth requirements from streams and wetlands. It is also not clear as to why the

regulation would not apply to detached dwelling units and family day-care home uses. No policy can be found in the North Rose Hill Neighborhood Plan of the Comprehensive Plan for keeping this regulation.

V. MINOR POLICY CHANGES

The following items represent a variety of proposed code amendments which result in minor changes to current policy. Staff requests that the Planning Commission and HCC review the proposed amendments and provide feedback to staff if additional information and/or changes are needed. Do the Planning Commission and HCC agree with the changes proposed by staff?

A. Parking Area Landscape Buffers for Vehicle/Boat Service or Repair

A variety of commercial and industrial type zones throughout the City (29 total zones) allow for *'automotive service centers'* and/or *'retail establishments that provide vehicle or boat sales or vehicle or boat service or repair'*. However, regulations for these uses are not consistent when located outdoors. There are two KZC sections that are referenced inconsistently between the different zoning districts. They are:

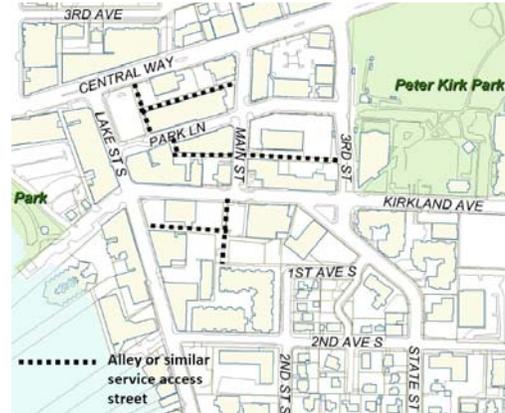
- KZC Section 95.45 - Contains requirements to buffer driving and parking areas from adjoining right-of-way and adjacent property with a 5' wide landscape strip (one row of trees planted 30' on center and associated ground cover); and
- KZC Section 115.105 - Contains requirements for outdoor use, activity, and storage areas. This section allows for the uses described in the use zone charts to be conducted outside if standards of this section are met. Such standards require for example compliance with the landscape buffers for the primary use, screening, and the potential for reduced side and rear yard setbacks.

These two KZC Sections are both referenced in some zoning districts while in other zoning districts only one or the other is referenced. Staff recommends that both sections be referenced in all of the zoning districts where *'automotive service centers'* and/or *'retail establishments that provide vehicle or boat sales or vehicle or boat service or repair'* uses are allowed. Doing so will create a consistent standard when applying a parking area landscape buffer to adjoining properties.

Also, the landscape category for these use listings is Category A. Category A requires stricter land use buffer requirements when adjoining residential development. Of the 29 zoning districts that allow vehicle and/or boat repair services, one zoning district (TL 10E) utilizes landscape category C which requires a less stringent landscape buffer. Staff has determined that this is an error due to the formatting of the use zone charts and recommends that the landscape category for the TL 10E zoning district be changed from 'C' to 'A' to be consistent with all of the other zones.

B. CBD 1A & 1B KZC Chapter 50 – Ground Floor Retail Requirements *

1. Retail on Alleys *: CBD 1A and 1B contain specific requirements for retail-oriented uses on the street level. The Planning Director adopted Interpretation 09-1 to clarify that this requirement was not intended to apply to alleys and other services access streets. Based on the rationale set forth in the Interpretation, staff recommends codifying Interpretation 09-1 (see Attachment 2) to clarify that the ground floor retail requirement does not apply to the ground floor along alleys and service access streets.



Staff recommends the following amendment to 50.10 (CBD 1A & 1B Zone), General Regulation #3:

The street level floor of all buildings shall be limited to one or more of the following uses: Retail; Restaurant or Tavern; Banking and Related Financial Services; and Entertainment, Cultural and/or Recreational Facility use. The required uses shall have a minimum depth of 20 feet and an average depth of at least 30 feet (as measured from the face of the building on the abutting right-of-way, not including alleys and similar service access streets). Buildings proposed and built after April 1, 2009, and buildings that existed prior to April 1, 2009, which are at least 10 feet below the maximum height of structure, shall have a minimum depth of 10 feet and an average depth of at least 20 feet containing the required uses listed above.

2. Parks, Public Utility, Government, and Community Facility Uses *: Previously, the CBD 1 zone allowed for *Parks, Public Utility, Government, and Community Facility* uses as a street front use. When the CBD 1A and 1B code amendments were adopted by the City Council in March 2009 (Ordinance O-4177), the types of ground floor street front uses were limited by KZC General Regulation 50.10.3 (see above), unintentionally prohibiting these uses. Existing uses (e.g. – Metro pump station, KDA office) would be considered legal non-conforming if such uses existed prior the code change. Currently, the other CBD zones do not preclude these types of uses.

The KZC defines these uses as follows:

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

Government Facility – A use consisting of services and facilities operated by any level of government, excluding those uses listed separately in this code.

Public Park – A natural, landscaped, or developed area, which may or may not contain structures, provided by a unit of government to meet the active or passive, outdoor or indoor, recreational needs of people.

Public Utility – A private business organization such as a public service corporation, including physical plant facilities, performing some public service and subject to special governmental regulations, or a governmental agency performing similar public services, the services by either of which are paid for directly by the recipients thereof. Such services shall include but are not limited to: water supply, sewer pump stations, electric power, telephone, cable television, gas and transportation for persons and freight. For the purposes of this code, public utility does not include personal wireless service facilities as defined in KZC 117.05, Definitions.

Parks, Public Utility, Government, and Community Facility uses are primarily of a noncommercial public service nature which contributes to the retail environment in the CBD. As an example, the Kirkland Chamber of Commerce is contemplating moving into and expanding the Kirkland Downtown Association (KDA) street level space at 111 Park Lane. Under the previous version of the code, this would not be an issue since the KDA and Chamber would be considered a Community Facility and such uses were allowed as a street front use. However, with the current version of the code, such an expansion is not allowed.

Staff recommends adding back *Parks, Public Utility, Government, and Community Facility* uses as an allowed a street front use in CBD 1A and 1B.

C. Affordable Housing

1. Consider adding affordable housing requirement to three additional zones with density limits (PLA 6G, BC1, and BC2).

These three zoning districts were inadvertently left off the list of zones where affordable housing would be required. PLA 6G is defined as an Industrial Zone. However, detached, attached, or stacked dwelling units are allowed with a minimum lot size of 3,600 square feet per unit in the portion of the zone that is south of 7th Avenue South.

The BC1 and BC2 zones are in the annexation area and include the North Juanita and Kingsgate commercial areas. Unlike the BC zones in the City, these zones require a minimum lot size for stacked dwelling units. It is 900 square feet per unit. (Detached and attached dwelling units are not listed because residential uses are not allowed on the ground floor in these zones.) The height limit in the BC1 zone is 35 feet, while it is 60 feet in the BC2 zone.

Staff recommends that the affordable housing requirement be added to the special regulations for the residential use listings in the PLA 6G, BC1 and BC2 zones, making the development regulations in these zones consistent with those in other zones that allow multifamily development with a density limit.

2. Clarify whether subdivisions in multifamily and commercial zones are required to provide affordable housing.

The affordable housing amendments added the following language to the General Regulations in the 36 Use Zone Charts where density for multifamily development is regulated:

Developments creating four or more new detached, attached or stacked dwelling units shall provide at least 10 percent of the units as affordable housing units as defined in Chapter 5 KZC. Two additional units may be constructed for each affordable housing unit provided. See Chapter 112 KZC for additional affordable housing incentives and requirements.

The specific use listings within each zone may include the following separately identified uses, each with their own set of site development standards:

- Detached Dwelling Units – for individual single-family homes on individual lots;
- Detached, Attached or Stacked Dwelling Units – for multiple single-family homes, townhouses or flats on one large parcel of land;
- Stacked Dwelling Units – for flats above commercial or office development where residential uses are not allowed on the ground floor;
- Development Containing Stacked or Attached Dwelling Units and Office Uses – for flats above office development or townhouses along with office development where residential uses are allowed on the ground floor.

There has been a trend toward constructing detached dwelling units in multifamily zones. Most of those developments have included multiple residences on one large parcel, using a condominium process to divide ownership. An example of this is the Nettleton Commons project on State Street (former Green's Funeral Home). That type of development would require affordable housing. In zones that also have the Detached Dwelling Unit use listing, developers may choose to pursue a subdivision to create individual lots instead of building multiple homes on one parcel. In that case, it could be argued that it is not a multifamily development and the affordable housing requirement would not apply. However, the look and feel of the development would be the same as in the condominium example and the reason for subdividing may simply be to avoid the affordable housing requirement.

Staff recommends adjusting the wording in the General Regulation as follows to make it clear that all residential development of four or more units in the identified multifamily and commercial zones is required to provide affordable housing:

Developments creating four or more new ~~detached, attached or stacked~~ dwelling units shall provide at least 10 percent of the units as affordable housing units as defined in Chapter 5 KZC. Two additional units may be constructed for each affordable housing unit provided. See Chapter 112 KZC for additional affordable housing incentives and requirements.

3. Add modification to the minimum lot size provisions in the Subdivision Regulations for developments that are allowed additional density in exchange for affordable housing.

This issue needs to be addressed regardless of the decision on the previous item. The special regulations for the Detached, Attached, or Stacked Dwelling Units use listing includes allowances to reduce the side and rear yards to zero for attached dwelling units, which allows them to be located on individually owned lots. Those lots would be created through a subdivision. The intent of the affordable housing regulations was to allow the basic density bonus allowed in exchange for the affordable housing that is required without requiring any additional land use permitting process. Therefore, the minimum lot size requirements in the Subdivision Regulations needs to include an allowance for lots to be smaller than the minimum required in order to accommodate the density bonus granted in exchange for the affordable housing that is required.

For example, in a 10 lot subdivision, one affordable housing unit would be required (10 percent of the units) and two additional market rate units would be allowed to be constructed. The development would include 12 units and, potentially, 12 lots. If the land area available for the 10 lots is 36,000 square feet (assuming each lot meets the minimum 3,600 square foot lot size in the RM 3.6 zone), then the average lot size for each lot in the 12 unit subdivision would be 3,000 square feet. However, there are many ways that a developer may choose to accommodate the extra units.

[KMC Chapter 22.28](#) includes several sections that allow for deviations in minimum lot size through the subdivision process, although none of them allow enough flexibility to accommodate the affordable housing bonus units. These include allowing subdivision to occur when a property is 10 to 15% of the minimum lot size short, allowing lot size averaging, allowing smaller lots in the Market and Norkirk neighborhoods, and allowing smaller lots to accommodate the preservation of historic residences in the Market and Norkirk neighborhoods.

Staff will seek input and prepare a proposed amendment to Chapter 22.28 for review at the September study sessions. Staff is seeking your input and guidance as we go into that process.

D. Wireless Facilities KZC Chapter 117

KZC Chapter 117 regulates Personal Wireless Service Facilities (PWSF). Section 117.65(8) Historic or Landmark Locations, states:

“No antennas shall be permitted on property designated as historic resource or community landmark as identified in the Comprehensive Plan, unless such antennas have been approved in accordance with design requirements pertaining to historic structures.”

Clarification is needed to establish the intent of this regulation. This was an issue on a request to locate an antenna on an existing building at Carillon Point, which was the location of the Lake Washington Shipyards until the late 1940's. It is designated as a historic resource, community or historic landmark “site” in the Comprehensive Plan due to its historic significance. The site has since been redeveloped as Carillon Point.

Recognizing that the antenna was not being placed on a historic structure but rather on a contemporary office building, the project was approved subject only to the standard design requirements of this chapter, rather than design requirements pertaining to historic structures. Standards required for all PWSF, including those located at historic landmark locations, are design compatibility, concealment technology, height considerations, maximum sizes, and screening criteria.

Staff suggests that it is appropriate to allow antennas at historic “sites” without special review, and that the intent of this section is instead meant only to regulate antennas on historic “buildings, structures, and objects”. The rationale is that while being designated as an historic site on Table CC-1 in the Comprehensive Plan, all three of these sites have already been altered with redevelopment. The three sites are Lake Washington Shipyards, Lake House, and the Shumway site, now developed with Carillon Pt, Lake Washington Office, and Shumway Condos, respectively. Their historic significance has been memorialized in signage at each location. The proposed code amendment clarifies that only designated historic landmark “buildings, structures, and objects” are regulated under this section.

This change would clarify that KZC section 117.65(8) only pertains to those buildings, structures, and objects listed in the Comprehensive Plan on Table CC 1 List A and B located in the Historic Resources section of the Community Character Element.

In addition, since personal wireless service facilities (PWSF) include not only antennas but their support structures and equipment structures, the recommended amendment would replace antennas with PWSF to recognize that all PWSF related structures are subject to these requirements.

The only exception where staff recommends that PWSF’s on **sites** are reviewed through this section is when towers are proposed. The rationale is that towers are the most visually impacting PWSF, and therefore require scrutiny if they’re proposed on sites identified on Table CC-1.

For all PWSF proposals staff proposes that the City notifies the King County Historic Preservation Office to give them the opportunity to provide their comments and a recommendation to the City. The City and King County have an interlocal agreement which allows the County to provide historic property designation and protection services.

Staff proposes the following code amendment replaces the existing regulation. It is supported by Julie Koler with the King County Historic Preservation Office:

8. Designated Historic Community Landmarks –

- a) PWSF applications will be reviewed on buildings, structures, or objects designated in Table CC-1 List A and B located in the Historic Resources section of the Community Character Element in the Comprehensive Plan subject to the provisions of this chapter. In addition, the City shall notify the King County Historic Preservation Office in order to provide an opportunity for their comments and recommendation on the application. Their recommendation will be considered when making a decision on the application.

- b) Applications for PWSF towers will be reviewed on site-only properties designated in Table CC-1, subject to the provisions of this chapter and pursuant to the notification and consideration requirements in Section 8 a). Other PWSF applications on designated site-only properties are subject to the provisions of this chapter but do not require the notification and consideration requirements in Section 8 a).

VI. Moderate Policy Changes

The following items represent a variety of proposed code amendments which result in moderate level changes to current policy. Staff requests that the Planning Commission and HCC review the proposed amendments and provide feedback to staff if additional information and/or changes are needed. Do the Planning Commission and HCC agree with the changes proposed by staff?

A. Schools in LIT Zones – KZC Chapter 48 *

In April 2009, the property owner of property located in an LIT zone was looking to locate a Montessori school on the property. Schools are not listed as a permitted use in the Light Industrial Technology (LIT) zone. Staff researched this issue further to see if schools could be allowed based on other permitted uses in the LIT zoning district.

Many of the permitted uses in the LIT zone are light industrial in nature. Examples of light industrial uses include warehousing, wholesale trade, and contracting services however, in recent years, more emphasis has been on office and high technology uses which are also allowed uses in the LIT zone. Day care centers are allowed if they are accessory to other permitted uses, occupying no more than 20% of the floor area of a building. A few other uses such as accessory restaurant use are also permitted.

Schools are allowed in nearly all zones in the City except for the LIT zone. Community facilities uses are also allowed in all or nearly all zones, including the LIT zones. The KZC defines a Community Facility as:

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

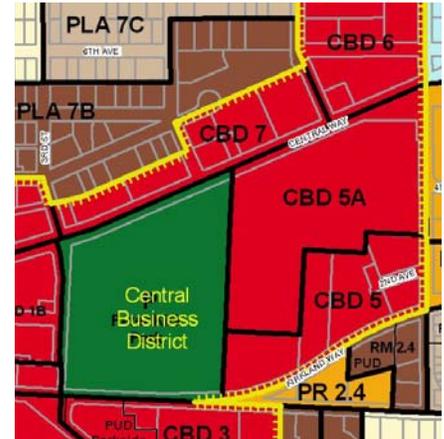
Staff asked the City Council if schools could be considered as a Community Facility use. The City Council reviewed this issue at their May 5, 2009 meeting and determined that a school use should be considered within the scope of a Community Facility in the LIT zone. A school use serves the public and is of a noncommercial in nature. Subsequently, staff created Interpretation 09-2 to allow schools under the Community Facility use listing in the LIT zone (see Attachment 3). Staff recommends codifying Interpretation 09-2 by adding the use listing for mini-schools/school and mini-daycares/daycares (as found in the other zoning districts) to the LIT use zone chart. The proposed change will create consistent application of school/daycare development standards throughout the City.

B. CBD 5 KZC Chapter 50 *

1. CBD 5- KZC 50.33 *. Restore building height measurement and consider clarification consistent with other CBD zones.

The CBD 5 zone establishes maximum building height in stories (3-5 stories) rather than feet. However, the code section that contained the allowed height of each story was deleted in 2009. From a regulatory standpoint, this inadvertently left CBD 5 without a codified conversion from stories to feet.

In 2009 (O-4177), the City changed the method of measuring building heights in most CBD zones from stories to feet and eliminated regulations that specified a range of height (e.g. - CBD 1 was 2-4 stories with a possible bonus story, now CBD 1A is 45' and CBD 1B is 55'). The City Council's desire was to establish predictability in the regulations and remove discretion over building heights from DRB purview so that the DRB could focus on design issues. CBD 5 was not included at the time because the area was under consideration for Touchstone's Private Amendment Request.



There are two options to re-establish the height measurement for CBD 5. Staff recommends Option b, but points out a related policy issue discussed in paragraph 2 below.

- a. Retain the 3-5 story range and re-adopt the previous code provisions (retail=15', office=13', residential=10') as a general regulation.
 - b. Follow the direction of the remainder of the CBD zones and establish height in absolute feet. Following the Council's direction for the remainder of the CBD, the maximum building height would be 67' (ground level retail @ 15' plus four levels of office @ 13').
2. CBD 5 - KZC Section 50.34(3) *. Delete references to the Comprehensive Plan and Design Regulations.

The Comprehensive Plan is a policy document and, post-GMA, the City has moved away from using it as a regulatory document. Legally, courts have held that where there is a conflict between a zoning code and a comprehensive plan, the zoning code governs. Following an appeal of a DRB decision in 2005 (Almond Condominiums), the City eliminated consistency with the Comprehensive Plan as a criterion for design review as established in KZC 142.

General Regulation 3 for the CBD 5 zone states:

Buildings exceeding two stories above average building elevation shall demonstrate compliance with the design regulations of Chapter 92 KZC and the provisions of the Downtown Plan Chapter of the Comprehensive Plan. The City will use Design Review (D.R.) to determine compliance.

This regulation has three flaws. First, the DRB authority under KZC 142 only extends to the Design Guidelines. Under 142, the Design Regulations are more of a checklist nondiscretionary format intended for use in the Administrative Design Review (ADR) process. Secondly, the Comprehensive Plan is not an appropriate regulatory document and policies contained therein have been codified in the Zoning Code and Design Guidelines (note specific setbacks from Kirkland Way prescribed in General Regulation 2). The Planning Commission may wish to review the policies for Design District 5 in the Downtown Plan (see Attachment 4) to decide if any additional policies need to be codified. Lastly, the use zone charts already dictate design review for development in the CBD 5 zone. Staff recommends deletion of General Regulation 3.

General Regulation 7 states:

The entire zone must be physically integrated both in site and building design. Also, site design must include installation of pedestrian linkages consistent with the major pedestrian routes in the Downtown Plan chapter of the Comprehensive Plan, between public sidewalks and building entrances, and between walkways on the subject property and existing or planned walkways on abutting properties (does not apply to Public Utility, Government Facility or Community Facility and Public Park uses).

The first sentence lacks clarity. The second sentence should be deleted because the referenced pedestrian connections are already regulated by KZC 105.18 and Plate 34H. KZC 105 does not exempt the list of uses contained in General Regulation 7 from pedestrian access requirements. Staff recommends deletion of General Regulation 7.

C. Limitation on Retail/Restaurant Uses above the Ground Floor – KZC Chapter 53 Rose Hill Business District *

The Comprehensive Plan land use map and the Zoning Code define the NE 85th Street Subarea, (also known as Rose Hill Business District 8 (RH-8) zone) as an office zone. Located on the eastern end of the business district, RH-8 is considered a transition zone between residential uses in North and South Rose Hill Neighborhoods. The NE 85th Street Subarea Plan, adopted in 2001, was tailored to address area specific issues in the corridor. The subarea plan identifies uses that have limited noise, light and glare, odor, and traffic impacts as appropriate in the RH-8 zone. The result is a mix of office, neighborhood service and retail uses.

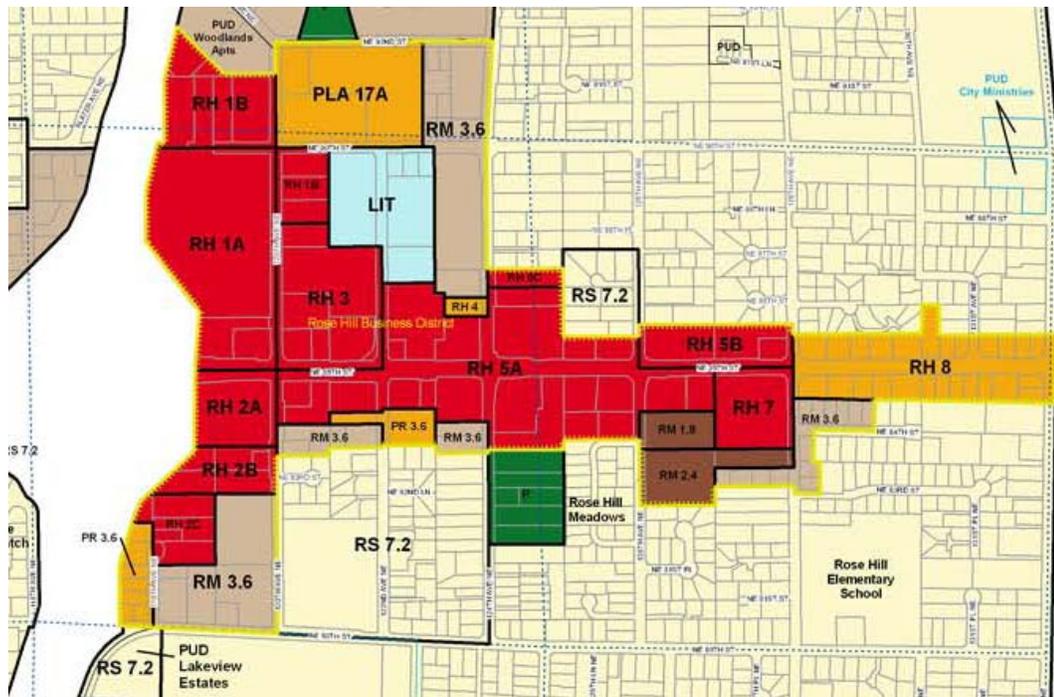
KZC Section 53.84 (RH 8 Zone) allows the following uses; office, multifamily, institutional uses (i.e. schools, public utilities, parks, churches, and government/community facilities). Additionally, retail and restaurant uses are allowed but are limited to the ground floor. Finally, the zone allows entertainment, recreational or cultural retail uses, but does not restrict them to the ground floor. All uses are required to be reviewed through the Administrative Design Review process.

A question arose as to why there is a limitation on retail and restaurant uses above the ground floor in the RH 8 zone, as a result of a telephone inquiry. In this case, a hair salon, considered a retail use, could not be located on the 2nd floor of an existing two story building under the existing zoning regulation.

The question is: should retail uses and restaurants be limited to the ground floor in this zone? Staff believes the answer lies in how this zone operates as a transition to

residential uses. Typically, the closer the use is to residential zoning and or development; the more low intensity uses are encouraged.

Commercial zones in the Rose Hill Business District and elsewhere in the City allow retail uses above the ground floor. Typically, if there are restrictions they address types of retail uses permitted, rather than their location within a building. Within the Rose Hill Business District, commercial zones also abut residential zones in North and South Rose Hill, as does the RH-8 zone. These commercial zones are indicated on the map below.



The other office zones bordering on residential uses in the Rose Hill Business District are RH 4 and two PR 3.6 zones. These zones are even more restrictive than RH 8. They do not allow any retail uses. These zones also operate as a transition between the predominantly commercial uses in the Rose Hill Business District and residential zoning to the north and south. The reason for the even greater restriction on retail uses in these office zones is likely that they are located away from a major arterial, reducing their viability because of limited access and visibility. Conversely, RH-8's adjacency to NE 85th Street is conducive to retail development.

The existing regulations for RH 8 also recognize the unique constraints of this area. The limited lot depth of RH 8 presents challenges to development in this zone. Allowing a broader range of use options provides a greater incentive for redevelopment of the corridor into a business district. Balancing this fact with the need to respect nearby residential uses, a compromise of sorts was struck. If retail uses are allowed both above and on the ground floor in RH 8, it is conceivable that a building would be entirely occupied with retail uses.

One could argue however, that a reason to allow restaurant and retail uses above the ground floor in RH8, would be that all office and retail uses adjoining residential uses require mitigation to reduce potential impacts, regardless of whether they are located above or on the ground floor.

Performance standards include a minimum 15 foot wide landscape buffer with solid screen fence or wall, placed either on the outside or inside of the buffer, parking lot buffer, and horizontal design limits.

Parking impacts are the same regardless of whether retail /restaurant uses are permitted above the ground floor or not. The same minimum number of stalls is required. Further, a retail establishment providing entertainment, recreational, or cultural activities, currently allowed above the ground floor in the RH 8 zone, generates about the same average daily trips as other retail uses not permitted above the ground floor, according to the City's traffic engineer. An exception is restaurant use, which generates significantly more average daily trips than the others. Traffic generated is not dependent upon whether the use is on the ground floor.

Staff recommends that the Planning Commission consider eliminating the existing special regulation in KZC Section 53.84.020 and .040 that prohibits retail and restaurant uses to be located above the first floor in the RH 8 zone.

D. HVAC Unit Setback Requirement– KZC Section 115.115

Staff is considering allowing HVAC units and similar types of equipment to be placed in the front yard setback if certain standards are met. A reason for allowing this is to provide additional separation from neighboring property in order to meet noise regulations. KZC Section 115.115(3) (p) contains the current setback regulation for outdoor mechanical units:

HVAC and similar types of mechanical equipment may be placed no closer than five feet to a side or rear property line, and shall not be located within a required front yard; provided, that such equipment may be located in a storage shed approved pursuant to subsection (3)(m) of this section or a garage approved pursuant to subsection (3)(o)(2) of this section. All HVAC and similar types of mechanical equipment shall be baffled, shielded, enclosed, or placed on the property in a manner that will ensure compliance with the noise provisions of KZC 115.95.

Criteria for allowing mechanical units within the front yard setback should include landscape buffering and screening standards, maximum size allowances, a limitation on encroachment into the front yard setback, and a priority of locations.

E. Fence Heights – KZC Section 115.40

The City regulates fences in KZC Section 115.40 (see Attachment 5). In general, fences cannot be taller than 3.5' within the front yard abutting a neighborhood access or collector street. Elsewhere on the property, fences no taller than 6' are allowed. Also, with the current regulations, fences may be 6' tall within the front yard if the property abuts principal and minor arterials. Attachment 6 contains a street classification map for reference.

A concern was raised by a Council member at a recent Council meeting and also in discussions during the Central Houghton neighborhood plan update that allowing a 6' tall fence along the front property line negatively affects the streetscape. The purpose of regulating fences, especially in the front yard is to promote an aesthetically pleasing streetscape while still allowing privacy and security of property. Solid sight obscuring fences can reduce views, light, air, and vehicular and pedestrian vision and the connection to the public realm.

Therefore, staff is exploring lowering the maximum fence height along collector and arterials to 3.5'. This will make the fence height regulations consistent with the requirements for neighborhood access or collector streets. If a fence is near a driveway or intersection, the City has separate sight distance regulations. No changes are proposed to those regulations.

Jurisdictions vary in regards to maximum fence heights within the front yard as shown in the following chart:

FENCE HEIGHT WITHIN FRONT YARD SETBACK

MAX. FENCE HEIGHT	JURISDICTION
3.5'	Renton, Mercer Island, Shoreline
4'	Yakima, Vancouver
4.5'	Bellingham
6'	Redmond, Bellevue, Seattle, Bothell, Woodinville, Kenmore

Criteria could be included in any new regulation which could allow for a 6' tall fence within the front yard setback if certain standards are met. Such standards could be based on orientation of the residence, topography, distance of the fence from the sidewalk, and landscaping to help reduce impacts of a taller fence. The City of Lynnwood has the following regulation to help mitigate long expanses of fencing:

Continuous Fencing Along Streets. Where continuous fencing along a street between intersections is allowed due to the length and/or number of side and/or rear lot lines abutting that street, landscaping shall be required between the fence and the property line in order to mitigate the adverse aesthetic impacts of such fencing. Where such landscaping is required, the fence may be built along the property line except for offset sections to contain the landscaping.

Do the Planning Commission and Houghton Community Council want staff to pursue this topic further? If so, what addition information is needed?

F. Wireless Antennas on Water Reservoirs – KZC Section 115.65 *

The City has two water reservoirs. One is located at Mark Twain Park at approximately NE 107th Street and 132nd Avenue NE. The other is located south of the Bridle Trails shopping center at approximately NE 65th Street and 130th Avenue NE. Wireless carriers have utilized these water reservoirs due to their location and

height to help fill their cellular phone network. The KZC does not allow wireless antennas to extend above the “roof line” of a water reservoir as follows:

KZC Section 117.65.7.c. Omni-directional antennas may be roof-mounted, but may not be mounted on top of rooftop appurtenances. No panel or directional antennas may be mounted on roofs or project above the roofline, except as provided in subsection (7)(g) of this section. The “roofline” of a water reservoir that incorporates a curved roof shall be the point at which the vertical wall of the water reservoir ends and the curvature of the roof begins.

Staff recommends that the code should be changed to allow wireless antennas to be placed on the safety railings that are located at the water reservoir “roofline”. This will allow for the additional height that wireless carriers need to maintain a line of sight with their antennas. Fastening the antennas to the safety railing will also reduce impacts to the water tank because fastening the antennas directly onto the side of the tanks will eventually deteriorate the integrity of the steel.

The antennas could be attached to the water reservoir by glue or epoxy but this method requires that the exterior paint be ground down so that the antennas can adhere to the steel surface. When this method is used, it is difficult to match the existing paint which looks unsightly, and the epoxy, over time, loses its strength. This results in the process being repeated and if not maintained, can lead to corrosion of the steel tank and blistering and peeling of the existing paint. Fastening the antennas to the safety railing makes for a more secure application because the rail itself is more structurally sound and is fastened to the tank itself. There is no grinding, gluing or matching of paint involved.

G. Ground Floor Non-Retail Uses – Multiple KZC Zones

The majority of the City’s commercial/retail zoning districts requires that the ground floor contain a certain percentage of retail uses. In these same zones, the code also limits the amount of residential uses that can be on the ground floor. Attachment 7 contains a chart which summarizes these requirements between the various zones.

- 1. Ground Floor Retail.** Most of the zones found in the summary chart (see Attachment 7) are located in business districts that are focused on preserving, enhancing, and expanding the retail environment. These business districts have supporting policies found in the Comprehensive Plan and include the Totem Lake Urban Center, the Rose Hill Business District, and the North Rose Hill Business District. Over the years, the KZC has been amended to include specific requirements for ground floor retail based on the policies in the Comprehensive Plan as part of individual neighborhood plan updates. Design guidelines were also adopted to help create active and vibrant retail pedestrian oriented areas to complement our regulations.

The policies in the Comprehensive Plan do not preclude schools, churches, public utilities, government facilities, community facilities, and public parks. These types of uses are fundamental to the community and are allowed in the vast majority of the zoning districts. It was not the intent of the code to require retail along with a school, government facility, church, etc.

As an example, the City has recently purchased the former Costco Home building located at 11831 NE 118th Street which is within the Totem Lake Urban Center. The City is proposing to locate a new public safety building within the existing

structure. Based on a reading of the current code language, 50% of the ground floor is required to contain some form of retail use. However requiring retail as part of a government facility was not the intent of the policies. Other examples would be if a new private school, church, or public utility were to purchase property and locate in one of these business districts. It also would not make sense to require that at least half of the ground floor area contain retail uses for these types of uses.

Staff recommends amending the ground floor retail requirement in the zones listed in Attachment 7. Uses that could be considered as exempt from providing ground floor retail are schools, churches, public utilities, government facilities, community facilities, and public parks. These uses are typically not associated with retail uses nor does it make sense to require that they provide retail.

One exception to consider might be zones within the Totem Lake Urban Center, where the long-term vision for the area aims to preserve land for commercial development. The retention of ground floor retail restrictions in specific Totem Lake zones may be advisable to preclude development that is not consistent with the objectives for the area. The Commission may wish to discuss deferring a change to the Totem Lake Urban Center for additional study.

2. Ground Floor Residential Limitations. The chart in Attachment 7 also contains the restrictions for ground floor residential uses for the majority of the listed zoning districts. There are three ways that this is being regulated:

- Outright disallow any ground floor residential uses
- Only allow residential lobbies on the ground floor
- Limit ground floor residential uses to 10% of the ground floor area

Several of the zones do not limit residential uses on the ground floor. Instead, they depend on the requirement for ground floor retail to dictate the potential area for ground floor residential uses. For example, in the RH 1A zone, at least 50% of the ground floor is required to contain retail uses. Since the code does not specify a ground floor residential limit like the other zones do, there is the potential that the remaining 50% of the ground floor may contain residential uses.

Staff recommends that the limitation for ground floor residential uses be made consistent between all applicable zoning districts. Staff recommends using the following code language: *This use, with the exception of a lobby, may not be located on the ground floor of a structure.* This language provides flexibility in designing a ground floor residential lobby.

H. Parking Modifications Public Comment – KZC Section 105.103

During Phase I of the Miscellaneous KZC Amendment project, the City Council adopted changes which removed the DRB as the decision maker modifying the number of required parking stalls based on KZC Section 105.103(3)(c). In doing so, this type of parking modification was removed from a public review process. At the July 6, 2010 Council meeting, the City Council asked staff to explore adding a public notice and comment period to the process for parking modifications as part of the Phase II code amendment review. The direction provided by the City Council was

based on an email to Council that explains the need for a public process for this type of parking modification request (see Attachment 8).

Below is the KZC section that describes the requirements for a request to reduce the number of parking stalls:

KZC 105.103(3)(c) - For a modification to KZC [105.20](#) and [105.45](#), a decrease in the required number of spaces may be granted if the number of spaces proposed is documented by an adequate and thorough parking demand and utilization study to be sufficient to fully serve the use. The study shall be prepared by a licensed transportation engineer or other qualified professional, and shall analyze the operational characteristics of the proposed use which justify a parking reduction. The scope of the study shall be proposed by the transportation engineer and approved by the City traffic engineer. The study shall provide at least two days of data for morning, afternoon and evening hours, or as otherwise approved or required by the City traffic engineer. Approval of a parking reduction shall be solely at the discretion of the City. A decrease in the minimum required number of spaces may be based in whole or part on the provision of nationally accepted TDM (transportation demand management) measures. Data supporting the effectiveness of the TDM measures shall be provided as part of the parking demand and utilization study and approved by the City traffic engineer.

Staff is concerned about allowing public comment due to the technical nature and analysis involved with the review for parking reductions. Staff issues a decision based on the recommendation of the City's traffic engineer. If public comment is received, it should be on par with the technical nature of the information provided and analyzed. Staff would recommend avoiding public comment for public comments sake or inviting the public to weigh in if their comments cannot legally or technically influence the decision. Another issue that has been identified is the need to establish a parking requirement early in the development process prior to significant investment on the part of the developer. If a requirement for public noticing and commenting is pursued, it should be noted that such a standard should be applicable city-wide and not just in the Downtown were the issue first originated.

As far as a model for public notice and commenting, there is a KZC section that may be used as an example. This KZC section is regarding modifications to rooftop appurtenance standards and is provided below:

KZC Section 115.120(4)(c) - The Planning Official shall not approve or deny a modification pursuant to subsection (4)(b) of this section without first providing notice of the modification request to the owners and residents of each adjoining property and providing opportunity for comment. The Planning Official shall use mailing labels provided by the applicant, or, at the discretion of the Planning Official, by the City. Said comment period shall not be less than seven calendar days. The fee for processing a modification request shall be as established by City ordinance.

When providing notice for parking modification requests, staff recommends noticing owners and residents within 300 feet of the subject property to be consistent with the requirements for zoning permits. This is different from the code section cited above. It should also be noted that there are no appeal provisions in the example provided above.

I. Dance, Music, and Martial Arts Schools in LIT Zones *

Dance, music, martial art schools/studios, and similar types of uses (yoga, aerobics, etc.) have been classified as “retail establishments providing entertainment, recreational, or cultural activities”. This use listing is found in primarily commercial zones and is not allowed in the Light Industrial Technology (LIT) zone.

Staff periodically receives inquiries about locating these types of uses in the LIT zone because of tenant space availability and lower rents. The LIT zone is primarily reserved for industrial, office, and high technology uses. However, these uses have been allowed in the LIT zone if classified as a community facility. An example of this is the Studio East performing arts school which was previously located at 410 6th Street South. A community facility is defined as:

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

Staff would like direction from the Planning Commission whether these the City should begin allowing these types of uses in the LIT zone. What type of information does the Planning Commission need in order to provide direction on this topic? Depending on the direction from the Planning Commission and HCC, staff recommends that the definition of “community facility” be revised to be consistent with the policy on allowing these types of schools.

VII. Major Policy Changes

The following code amendment results in a substantial change to current policy. Staff requests that the Planning Commission and HCC review the proposed amendment and provide feedback to staff if additional information and/or changes are needed. Do the Planning Commission and HCC agree with the change proposed by staff?

A. Reduce Multi-Family Parking Standard in the CBD *

The KZC requires a minimum 1.7 parking stalls per residential unit. The City also requires up to an additional 0.5 parking stalls per unit for guest parking depending on availability of guest parking onsite. These standards may be reduced by an applicant if it can be shown by a parking study that the proposed number of spaces is sufficient to fully serve the use. The parking study is required to be prepared by a licensed transportation engineer or other qualified professional and may be based on nationally accepted Transportation Demand Management (TDM) measures. Staff's decision is based on the recommendation of the City traffic engineer's review of the applicant's parking study. The requirements are more fully described in KZC Section 105.130(3)(c) and can be found in Section VI.H above.

In the CBD, seven multi-family residential projects have applied for and received approval to reduce the number of required parking stalls since 1994. A chart has been prepared to provide background parking information regarding these projects (see Attachment 9). The City has granted similar modifications in other mixed use zones (e.g. – Juanita Business District, Market Street Corridor and North Rose Hill Business District) where similar provisions exists for shops, services, and transportation options. Based on this information, staff recommends reducing the multi-family parking standard in certain zones from 1.7 stalls per unit to 1 stall per bedroom since the City has been consistently approving this reduced rate.

Also, in April and July 2006, the Public Works Department conducted parking counts for several condominium developments in the CBD (see Attachment 10). The counts provide occupancy information on guest parking, on-site parking, and on-street parking stalls and shows that a one parking stall/bedroom rate does not result in a deficiency of onsite residential parking during the peak residential parking times of 10:00 p.m. to 6:00 a.m.

Staff met with the Parking Advisory Board (PAB) on July 8, 2010 regarding this topic. In general, the PAB supports the proposal but had concerns about how parking would be managed. The PAB requested that staff draft a two tiered approach, where the current parking rate is the standard requirement and that the reduced parking rate can be used if there are restrictions on allocating parking stalls to residential units. The PAB believes that a reduced parking rate is supported by the sharing of parking stalls. Parking is most efficient when stalls are not assigned to particular residential units since it allows for all parking stalls to be utilized at all times. Once stalls are assigned or additional stalls sold to particular units, these parking stalls have the potential to remain vacant and underutilized. Realistically speaking, there is an expectation from condominium owners that stalls should be reserved. Therefore, the PAB suggests that at the most, only one parking stall should be assigned per unit and that the remainder of the parking stalls should be available to other residential tenants and/or guests. Staff will work with the PAB before the public hearing to explore options.

Staff has the following questions for the Planning Commission:

- What other information does the Planning Commission need to provide a recommendation on this topic?
- Are there any changes or data that needs to be incorporated into the parking charts provided? Staff has identified that guest parking requirements/data should be provided.
- Should the multi-family parking rate also be reduced in other business districts where there is a similar concentration of services and access to transit? An example where a reduced multi-family parking rate has been approved elsewhere is the Luna Sol mixed use project in the North Rose Hill Business District (11415 Slater Avenue NE).

VIII. Process Related Changes

The following items represent a variety of process related code amendments. Staff requests that the Planning Commission and HCC review the proposed amendments and provide feedback to staff if additional information and/or changes are needed. Do the Planning Commission and HCC agree with the changes proposed by staff?

A. Minor Text Edit to KZC 150.85 *

A wording error was found in KZC Section 150.85(1)(a) in regards to the Process IIA noticing requirements. Staff recommends deleting the word 'verbal' and replacing it with the word 'written' as follows:

KZC 150.85 Notice of Consideration of the Appeal

1. *Contents – The Planning Official shall prepare a notice of the appeal containing the following:*

- a. *The file number and a brief ~~verbal~~ written description of the matter being appealed.*

B. Hearing Examiner Appeal Hearing Notice – Various KZC Sections *

For several types of Planning Official decisions in the KZC, the appeal hearing notice with the Hearing Examiner is required to be sent out at least 17 days prior to the hearing. This is different with the noticing distribution requirement for Process I and Process IIA zoning permits which requires at least 14 days. Staff recommends that the distribution noticing requirements for all appeal hearing notices with the Hearing Examiner be consistent in with the Process I and Process IIA appeal hearing notice period of 14 days

C. Review Timing for Co-Location of Wireless Facilities

On November 18, 2009, the Federal Communications Commission (FCC) issued a declaratory ruling (WT Docket No. 08-165) that required City ordinances be revised to clarify the decision timeline for wireless applications. The ruling requires that the City decide on a co-location wireless facility application within 90 days and 150 days for all other wireless facility applications. Therefore, staff recommends the following change to KZC Section 117.50(1):

117.50 Application Requirements

1. *The City shall act within 90 days for co-location of wireless facilities and 150 days for all other wireless facilities applications ~~a reasonable period of time on a~~ which are complete applications submitted pursuant to this chapter, ~~taking into account the nature and scope of the request.~~ Any decision to deny such a request shall be in writing and supported by substantial evidence contained in a written record.*

The KZC requires that co-location of wireless facilities be reviewed by the Planning Official, the Planning Director, or Process IIB depending on the type and location of the facility. Meeting the 90 day decision timeline should not be an issue for the Planning Official and Planning Director decisions due to the administrative nature of the process. However, the Process IIB review process which includes a hearing examiner public hearing with final action by the City Council cannot realistically meet the 90 day review deadline. This is particularly true for projects that involve an environmental review and are located within the HCC's jurisdiction.

Staff will need to work with the attorney's office in creating code language that would allow for additional time for the review of Process IIB wireless co-location applications. This is supported by the FCC ruling where it states "...that a 'reasonable period of time' may be extended beyond 90 or 150 days by mutual consent of the personal wireless service provider and the State or local government...".

D. Ask HCC to Allow Administrative Variances in Houghton

Prior to 2001, the City adopted changes to the variance provisions in KZC Chapter 120. The changes introduced a new streamlined review process for variances if the scope of the remodel was minor in nature and the standard variance criteria are met. This process is referred to as an “administrative variance”. The applicable code section can be found below.

KZC Section 120.12 Expansion or Modification of an Existing Structure:

The following section is not effective within the disapproval jurisdiction of the Houghton Community Council.

If the expansion or modification of an existing structure requires a variance under this chapter, the Planning Director may approve such expansion or modification without requiring the variance process if all of the following criteria are met:

- a) The request complies with the criteria in [120.20](#) (the normal variance criteria); and*
- b) The gross floor area of the structure is expanded by less than five percent; and*
- c) The Planning Director determines that the change or alteration will not have significantly more or different impact on the surrounding area than does the present development.*

An approval granted pursuant to this subsection shall be valid for a period of four years following the date of approval, during which time a complete building permit application for the expansion or modification shall be submitted to the City. Within six years following the date of approval granted pursuant to this subsection, the applicant shall substantially complete construction of the expansion or modification and any permit conditions applicable thereto, or the approval becomes null and void.

In Houghton, administrative variances are not permitted. Instead, minor expansions and modifications to an existing structure require a variance; either through Process I, if the request is for a variance in RS, RSA, or RSX single family residential zones, or through Process IIA in all other zones. Although the variance decision criteria are the same under both the variance and the administrative variance processes, the review procedure is more onerous in Houghton due to the time and higher fees associated with the more formal zoning review process. The variance decision criteria (KZC 120.20) previously referred to are:

- 1. The variance will not be materially detrimental to the property or improvements in the area of the subject property or to the City in part or as a whole; and*
- 2. The variance is necessary because of special circumstances regarding the size, shape, topography, or location of the subject property, or the location of a preexisting improvement on the subject property that conformed to the Zoning Code in effect when the improvement was constructed; and*

3. *The variance will not constitute a grant of special privilege to the subject property which is inconsistent with the general rights that this code allows to other property in the same area and zone as the subject property.*

Over the years, planners have had conversations with potential applicants seeking a minor expansion or modification that required a Process I or IIA variance permit review, rather than a variance exception, solely because the property was located in Houghton.

An example of an issued administrative variance outside of the Houghton disapproval jurisdiction was MIS09-00003, variance exception # 2. This was an administrative variance request to allow a remodel and structural alteration to a single family residence in the RSX 7.2 zone in South Rose Hill. The owner wanted to convert the existing garage into two bedrooms and one bathroom. The interior remodel required exterior alterations to occur in order to meet building code. The home is non-conforming as it encroaches into the required 5 foot side yard setback. The proposed installation of two windows altered the structural members of the existing wall located within the required side yard. The application was found to meet all administrative variance decisional criteria as noted in KZC Section 120.12 and variance criteria in KZC Section 120.20.

If the applicant had been required to go through a Process I variance, a permit fee of \$4,141.00 would have been charged rather than the reduced fee of \$1,049.00 for the administrative variance, decided upon by the Planning Director.

Staff believes that the decisional criteria for an administrative variance are sufficient to review an application of this magnitude in either jurisdiction. The thresholds for an administrative variance are clear and the decisional criteria are the same with either the variance or administrative variance processes.

Staff recommends that those administrative variance requests that meet the decisional criteria of Section 120.12 also be processed as a Planning Director Decision within the disapproval jurisdiction of the Houghton Community Council.

E. Remove the City Council as the Appeal Hearing Body for Process IIA Appeals *

At the July 6, 2010 City Council meeting, the Council adopted a change to the KZC which removed them from hearing Design Review Board (DRB) appeals (Ord. 4250). The Council agreed that utilizing a hearing examiner for the DRB appeal hearing will result in:

- More professional and timely decisions insuring fairness and consistency
- Separation of policy-making or advisory functions from quasi-judicial functions
- Improved compliance with legal requirements, including due process, appearance of fairness, and record preparation
- Removal of quasi-judicial decision-making from the political arena

Also at the Council's July 6th meeting, the Council agreed with the Planning Commission's recommendation to defer the question of Process IIA appeals to Phase II of the Miscellaneous Code Amendment project. The question to be explored further is whether the City Council should continue to hear Process IIA zoning permit

appeals. If the Council is removed from the appeal process, Process IIA appeals would be heard in King County Superior Court.

In comparing the nature of DRB decisions and Process IIA zoning permit decisions, DRB decisions are based on project consistency with design guidelines while Process IIA zoning permits are typically based on mitigating adverse impacts of a development.

The City's design guidelines address the following topics:

- Pedestrian orientation
- Public improvements and site features
- Parking lot location and design
- Building scale
- Building materials, color, and detail
- Landscaping

The zoning review process for a conditional use permit depends on the size and scale of a development project relative to impacts on residential uses. The City has three zoning permit review processes under which a conditional use permit can be reviewed. These are summarized in the chart below.

ZONING PROCESS	DECISION MAKER	APPEAL HEARING BODY
I	Planning Director	Hearing Examiner
IIA	Hearing Examiner	City Council
IIB	City Council	Superior Court

Generally, the smaller the project, the less of a process is required (Process I) while larger projects more review process is involved (Process IIB). The review process also depends on the underlying zoning. For example a school located in a residential zone is required a Process IIA review while a school located in a commercial zone does not require any zoning permit review. When dealing with environmentally sensitive areas, the more valuable or higher quality the sensitive area is, the higher the review process. Process IIA zoning permits fall somewhere in the middle and is the only review process in which the appeal hearing body is the City Council.

Conditional use permits are typically required for uses that are not outright allowed within a particular zone but are usually found within communities. The following uses, depending on the zoning district, require a Process IIA zoning permit:

- Two or Three Unit Homes
- Wetland Modifications (Type 2 wetland fill request)
- Wetland Buffer Modifications (Reduce buffer of a Type 1 or Type 2 wetland)

- Stream Buffer Modifications (Reduce buffer of a Class A Stream)
- Reasonable Use Permits (A mechanism to approve limited use and disturbance of a sensitive area and sensitive area buffer when strict application wetland/stream regulations would deny all economically viable use of the property. Does not apply to single family home within site disturbance parameters.)
- Shoreline Conditional Use Permits – Examples depending on zoning (based on new shoreline regulations):
 - *Float plane landing and mooring*
 - *Various retail uses*
 - *Water related recreation uses*
 - *Marina*
 - *Residential projects*
 - *Churches*
 - *Schools*
 - *Utilities*
 - *Fill/grading*
 - *Breakwaters*
- Shoreline Variances
- Preliminary Subdivisions
- Plat Alterations
- Variances (when not located in single-family residential zones)
- Personal Wireless Service Facilities
 - *New towers in nonresidential zones, exceeding 40 feet in height.*
 - *Attachment of antennas to replacement utility poles in any zone, where the diameter of the replacement pole will exceed the diameter of the existing pole by more than 100 percent, or 24 inches, whichever is less.*
 - *Attachment of antennas to multifamily residential buildings in residential zones.*
- Land Use Approvals – Examples depending on zoning and/or size of property:
 - *Churches*
 - *Schools*
 - *Multi-family projects*
 - *Increases to building height where specified in KZC*
 - *General moorage facilities*
 - *Gas stations*
 - *Government facilities*
 - *Public utilities*
 - *Replace a legal non-conforming use with another non-conforming use*
 - *Hospital Facilities*

With a conditional use permit, the applicant is required to show compliance with established criteria at a public hearing. The criteria usually revolve around neighborhood compatibility and address solutions to potential adverse impacts and can be very subjective. An example of such criteria can be found for a school

proposed to be located in the RS zone (see Attachment 11). The more subjective criteria are listed below:

- It will not be materially detrimental to the character of the neighborhood in which it is located.
- Site and building design minimizes adverse impacts on surrounding residential neighborhoods.

Additional criteria can be found associated with any of the zoning processes and have an element of subjectivity. Requests must be:

- Consistent with all applicable development regulations and, to the extent there is no applicable development regulation, the Comprehensive Plan; and
- Consistent with the public health, safety and welfare.

Additional types of Process IIA zoning permits that can be subjective are variances and cottage housing. On the other hand, other types of Process IIA zoning permits can be very prescriptive such as sensitive area decisions and wireless facility which are based on technical decisional criteria. The City often relies on professional consultants for recommendations on these types of permits.

Below is a chart that lists Kirkland along with neighboring jurisdictions and the appeal hearing body for conditional use permits.

CITY	CONDITIONAL USE DECISION MAKER	APPEAL HEARING BODY
Kirkland	Hearing Examiner	City Council
Redmond	Hearing Examiner recommendation to City Council	Superior Court
Edmonds	Hearing Examiner	Superior Court
Issaquah	Planning Director or Development Commission	Hearing Examiner
Mercer Island	Planning Commission	Hearing Examiner
Mill Creek	Planning Director or Planning Commission	City Council
Seattle	Planning Director	Hearing Examiner
Bellevue	Hearing Examiner	City Council
Kenmore	Planning Director	Hearing Examiner

Does the Planning Commission recommend staff pursue this amendment further? If so, one option is to change the appeal body for all Process IIA permits from the City Council to King County Superior Court. Another option would be to review the list of uses that now require a Process IIA review and change those that are more technically based to a Process I review, which results in the Hearing Examiner deciding appeals.

F. Eliminate KZC Chapter 155 – Process III

KZC Chapter 155 – Process III, contains the provisions for a quasi-judicial review process where the Planning Commission conducts a public hearing on a zoning permit application and makes a recommendation to the City Council. For applications that are located within the Houghton Community Council's (HCC) jurisdiction, the HCC would have the final action on the application.

Various KZC sections used to indicate when certain developments, activities or uses are permitted if approved using Process III. In the past, this process was used for the review of large master planning projects like the Kirkland I-405 Corporate Center in Totem Lake and Carillon Point along Lake Washington Boulevard. In the 1990's, the City Council adopted an interim ordinance which removed the Planning Commission as the hearing body and replaced them with the Hearing Examiner public hearing system for the review of master plans (Process IIB). The rationale for this interim ordinance was to free up the Planning Commission's time to do more long range planning and policy work.

In August 2002, the City Council eventually adopted amendments to the KZC to reflect the process change (Ordinance O-3852). Therefore, there are currently no actions requiring a Process III review. Because KZC Chapter 155 is no longer being used, staff recommends that the chapter be deleted.

G. Correct Code Reference for Variance Process Notification

KZC 120.10 establishes the required review process for variances. Variances in the RS, RSA or RSX zones and variances for detached dwelling units in other zones are decided on using a Process I, but notification is provided more broadly using the distribution requirements for Process IIA. Currently, both subsections 120.10.1 and 120.10.2 refer to notice distribution per KZC 150.30(2), which establishes the requirements for a Notice of Hearing. The reference should be corrected to KZC 150.22(2), which establishes the requirements for a Notice of Application. That is the actual notice given for a Process I permit, since there is no public hearing. Ordinance 4193 changed KZC 150.30(2) and deleted the requirement that the Notice of Hearing be posted on the public notice signs on the subject property in favor of posting on the City web site, which, when taken literally for a Process I variance would indicate that a public notice sign is not required. All other Process I permits require posting a public notice sign on the subject property.

IX. FUTURE CODE AMENDMENTS

Listed below are code amendments identified by staff to be studied at a future study session. The proposed amendments need additional research and information prior to being presented to the Planning Commission and the HCC.

A. Electronic Vehicle Infrastructure - KZC Chapter 115

The state law, Senate Second Substitute House Bill 1481, (SSRB 1481) adopted in 2009 and codified at RCW 43.31.970, requires Cities planning under the GMA to adopt policies to support development regulations to allow electric vehicle infrastructure by July 1, 2010. The purpose of this law is “to encourage the transition to electric vehicle use (EVI) and expedite the establishment of a convenient, cost effective, electric vehicle infrastructure” to support the transition. EVI is required to be allowed as a use in all zones except residential and critical areas. As defined by the state law EVI includes battery changing stations, rapid changing stations, and battery exchange stations.

As noted in the background information prepared by the Puget Sound Regional Council (PSRC) to help municipalities with their development regulations, several car manufacturers are preparing to commercialize electric-drive vehicle models. The PSRC will have their final model ordinance available in August. In the meantime, staff is undertaking research with other jurisdictions to see how they’ve handled the implementation of this law. We are also coordinating with Public Works Facilities Services. Satisfying the substantive requirements of the law will require amendments to the definitions and use zone charts, specifically the general regulations, to add electric vehicle infrastructure as an allowed use.

B. Residential Noise Standards – KZC Section 115.95

The City has adopted the State’s noise standards and therefore regulates noise based on the regulations found in WAC Chapter 173-60. The City also has a general public nuisance regulation as it relates to noise. Over the past several years, code enforcement has found it difficult to enforce on noise complaints for outdoor mechanical equipment. It is difficult to determine the exact noise levels due to the many factors that can affect noise levels such as ambient noise and reflectivity of noise. Staff currently does not have the expertise or resources to effectively enforce on these types of complaints and is considering changes to the noise requirements for outdoor mechanical units.

C. Review and Relax Certain CBD Ground Floor Retail Requirements *

The adopted 2010 Planning Work Program includes a task to consider minor adjustments to the Code to add flexibility on retail use requirements for “end-of-block” retail spaces. However, some downtown property owners have made a request to the City Council to expand that work program task to allow additional use flexibility due the difficulty in attracting retail tenants under current economic conditions. On May 18, 2010 the City Council directed staff and the Planning Commission to broaden the work program to consider minor additional adjustments to allowed uses. One example provided by staff was to review/expand the list of service uses that would fit in a retail environment. The Council acknowledged that major changes would erode the fundamental vision established in the Comprehensive Plan and that a Comprehensive Plan amendment is not desired at this time. The Council directed caution and asked staff to report back following initial scoping and research and prior to a public hearing.

D. New Multi-Tenant/Shopping Center Parking Standard

Multi-tenant developments are usually built without complete knowledge of the tenant makeup. At that early development stage, it is sometimes difficult to anticipate the mix of uses and the number of parking stalls required. Most multi-tenant developments are built with the least amount of parking stalls with the “shell”

or vacant space assigned the retail and/or office parking stall rate. This is fine until a restaurant or medical office would like to move into the space. Because these types of uses require a higher parking rate, these business are either not allowed to locate into such spaces because additional parking stalls cannot be built onsite, or must request a parking modification to reduce the number of parking. Staff is considering changes to the KZC which could address the following questions:

- Should higher parking intensive uses such as restaurants and/or medical/dental offices be allowed to locate in existing buildings without having to provide for additional parking?
- For new development, should there be a single parking rate which would accommodate any mix of uses?
- Should reduced parking standards be looked at on a case-by-case basis as is currently the practice?

X. ATTACHMENTS

1. Code Amendment List
2. Interpretation 09-1
3. Interpretation 09-2
4. Design District 5 Policies
5. Fence Regulations
6. Street Classification Map
7. Ground Floor Uses Chart
8. Email RE: Parking Modifications
9. Parking Modification Chart
10. Condo Parking Counts
11. RS Zoning Chart

Cc: Project Mailing List File No. ZON10-00013
Julie Koler, King County Historic Preservation Office julie.koler@kingcounty.gov
Lynette Weber, Kirkland Heritage Society lynetterose@verizon.net

2010 MISCELLANEOUS ZONING/MUNICIPAL CODE AMENDMENTS PHASE II – LIST OF PROPOSED AMENDMENTS

(* Denotes Code Changes Not Applicable within Houghton Jurisdiction)

I. NO POLICY CHANGES

- A. Apply Horizontal Façade Regulation Consistently in Multiple Zones
- B. Subdivisions KMC Title 22*
 - 1. *Fix incorrect code reference in KMC Section 22.32.050. **
 - 2. *Correct typographical error in KMC Section 22.04(30)(b)(1). **
- C. Affordable Housing KZC Chapter 112
 - 1. *Clarify the rounding language for affordable housing.*
 - 2. *Clarify that voluntary use of affordable housing regulations is allowed throughout the City were affordable housing is not required.*
- D. Delete Reference to State Watercraft Noise Standards
- E. KZC Chapter 115 Miscellaneous Standards
 - 1. *Clarify height and size of detached Accessory Dwelling Units (ADU's).*
 - 2. *Clarify size of ADU's in KZC Section 115.08.*
- F. Update School and Daycare References to State Regulations
- G. Delete Vague Stream/Wetland Regulation in PLA17

II. MINOR POLICY CHANGES

- A. Clarify Parking Area Landscape Buffers for Vehicle/Boat Service or Repair
- B. CBD 1A & 1B KZC Chapter 50 – Ground Floor Retail Requirements *
 - 1. *Clarify that retail on alleys is not required **
 - 2. *Allow Parks, Public Utility, Government, and Community Facility Uses as a Street Front Use **
- C. Affordable Housing
 - 1. *Consider adding affordable housing requirement to three additional zones with density limits (PLA 6G, BC1, and BC2).*
 - 2. *Clarify whether subdivisions in multifamily and commercial zones are required to provide affordable housing.*
 - 3. *Add modification to the minimum lot size provisions in the Subdivision Regulations for developments that are allowed additional density in exchange for affordable housing.*
- D. Clarify Wireless Facilities KZC Chapter 117 as it relates to Historic or Landmark Locations

III. Moderate Policy Changes

- A. Allow Schools in LIT Zones – KZC Chapter 48 *
- B. CBD 5 KZC Chapter 50 *
 - 1. *CBD 5- KZC 50.33. Restore building height measurement and consider clarification consistent with other CBD zones. **
 - 2. *CBD 5 - KZC Section 50.34(3). Delete references to the Comprehensive Plan and Design Regulations. **
- C. Delete Limitation on Retail/Restaurant Uses above the Ground Floor – KZC Chapter 53 Rose Hill Business District. *
- D. Allow HVAC Units in Front Yard Setback – KZC Section 115.115
- E. Decrease Fence Heights in Front Yard– KZC Section 115.40
- F. Allow Wireless Antennas on Water Reservoirs Railings– KZC Section 115.65 *
- G. Clarify Limitations of Ground Floor Non-Retail Uses – Multiple KZC Zones

- H. Parking Modifications and New Public Comment Process – KZC Section 105.103
- I. Allow Dance, Music, and Martial Arts Schools in LIT Zones? *

IV. Major Policy Changes

- A. Reduce Multi-Family Parking Standard in the CBD *

V. Process Related Changes

- A. Minor Text Edit to KZC 150.85 *
- B. Make Consistent Hearing Examiner Appeal Hearing Notice – Various KZC Sections *
- C. Update Review Timing for Co-Location of Wireless Facilities
- D. Ask HCC to Allow Variances Exceptions in Houghton
- E. Remove the City Council as the Appeal Hearing Body for Process IIA Appeals *
- F. Eliminate KZC Chapter 155 – Process III
- G. Correct Code Reference for Variance Process Notification

VI. FUTURE CODE AMENDMENTS

- A. New Electronic Vehicle Infrastructure Regulations - KZC Chapter 115
- B. Revise Residential Noise Standards – KZC Section 115.95
- C. Review and Relax Certain CBD Ground Floor Retail Requirements *
- D. Explore New Multi-Tenant/Shopping Center Parking Standard



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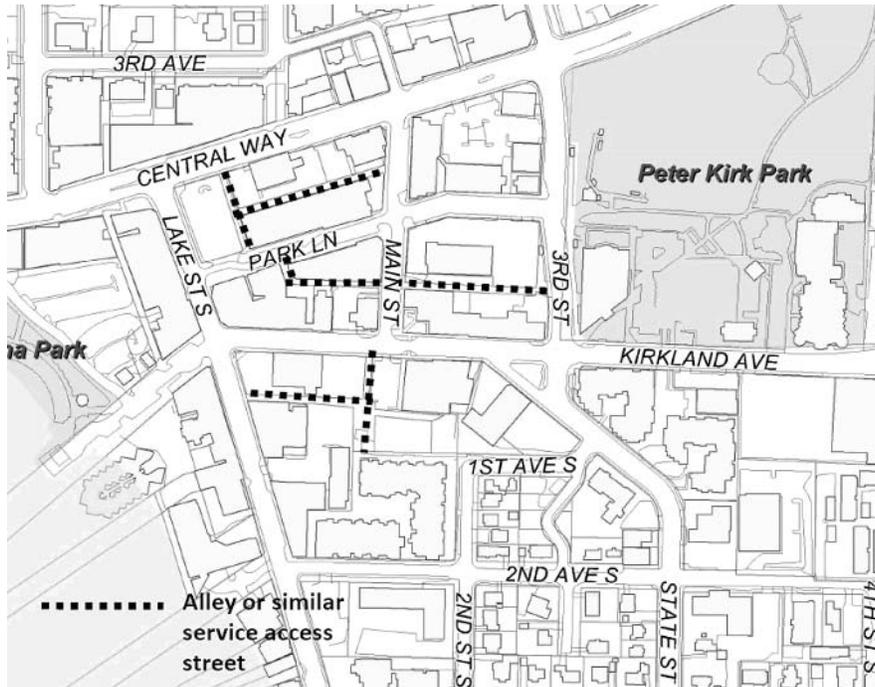
To: Interpretation No. 09-1
From: Eric R. Shields, AICP, Planning Director
Date: October 1, 2009
Subject: **GROUND FLOOR RETAIL REQUIREMENTS FOR CBD 1**

ISSUE

In the CBD 1A and 1B zones, are street level retail and other retail related uses (as established by KZC 50.10, General Regulation 3) required along alleys or similar service access streets.

INTERPRETATION

General Regulation 3 in the CBD 1A and 1B zones, which requires a minimum depth of Retail, Restaurant or Tavern, Banking and Related Financial Services, and Entertainment, Cultural and/or Recreational Facility uses on the street level floor, does not apply along alleys or similar service access streets as mapped below. However, retail depth regulations still require retail uses to extend the requisite depth at the entrance to the alley from the street.



APPLICABLE CODE SECTIONS

Alley – A narrow street or passageway between or behind city buildings (Webster’s)

5.900 Street – A public right-of-way.

5.902 Street Level Floor – The floor of a building which is closest in elevation to the elevation of the centerline of each abutting right-of-way measured at the midpoint of the frontage of the subject property on each abutting right-of-way.

50.10 (CBD 1A & 1B Zone), General Regulation #3

The street level floor of all buildings shall be limited to one or more of the following uses: Retail; Restaurant or Tavern; Banking and Related Financial Services; and Entertainment, Cultural and/or Recreational Facility use. The required uses shall have a minimum depth of 20 feet and an average depth of at least 30 feet (as measured from the face of the building on the abutting right-of-way). Buildings proposed and built after April 1, 2009, and buildings that existed prior to April 1, 2009, which are at least 10 feet below the maximum height of structure, shall have a minimum depth of 10 feet and an average depth of at least 20 feet containing the required uses listed above.

ANALYSIS

Zoning Code Section 170.60 states that the Planning Director may issue an interpretation of any of the provisions of the Code and interpretations shall be based on:

- a) The defined or common meaning of the words of the provision; and
- b) The general purpose of the provision as expressed in the provision; and
- c) The logical or likely meaning of the provision viewed in relation to the Comprehensive Plan.

Defined or Common Meaning of the Words

General Regulation 3 requires retail or similar uses at the street level floor of all projects within the CBD 1A and CBD 1B zones. “Street Level Floor” is not specifically defined but could be construed by General Regulation 3 to apply to alleys and other service access streets. As noted below, that is clearly not the intent of the regulation. Not only would these uses not succeed due to low visibility and pedestrian activity, but they would displace the utility of these streets in providing for service and access.

General Purpose of the Provision

The general purpose of this provision is to encourage active retail streetscapes in the core area of the Central Business District. This is accomplished in part by requiring pedestrian-oriented uses on the

street level. For those properties in CBD 1A and 1B fronting Pedestrian-Oriented Streets and Major Pedestrian Sidewalks, the retail requirement is appropriate to create a cohesive retail district and streetscape. The subject of this interpretation is whether the requirement was intended for retail uses to be required along alleys.

The purpose of the regulation is clearly not served by requiring retail and other pedestrian-oriented uses on alleys. The Comprehensive Plan provisions noted below indicate that the function of alleys is to provide a location for access and service uses that are not desirable on downtown's pedestrian-oriented frontages.

The Logical or Likely Meaning of the Provision Viewed in Relation to the Comprehensive Plan

The Downtown Master Plan (Figure C-4) within the Moss Bay Neighborhood chapter of the Comprehensive Plan identifies Major Pedestrian Routes on many of the key retail streets and notes that "land uses should be oriented to the pedestrian, both in terms of design and activity type". The Zoning Code follows this policy direction by designating Pedestrian-Oriented Streets (Plate 34H), establishing street improvement requirements for each type of street, establishing street level use requirements, and establishing building design regulations for storefronts on these streets. None of these regulations suggests that alleys were intended to be pedestrian-oriented.

The Downtown Plan for the core area further distinguishes pedestrian streets from service streets, stating that "Building design at the street wall should contribute to a lively, attractive and safe pedestrian streetscape" while noting that "Service areas, surface parking, and blank facades should be located away from the street frontage." It should be noted that because alleys and other service streets are not designated as "pedestrian-oriented," the design standards that make retail attractive and functional would not apply if retail were required on these streets.



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To: Interpretation No. 09-2
From: Eric R. Shields, AICP, Planning Director
Date: October 5, 2009
Subject: **School Uses in LIT Zones**

ISSUE

In the Light Industrial Technology (LIT) Zone, a school is not listed as a permitted use, but Community Facility is. The question here is whether a school is within the scope of a Community Facility use in the LIT zone.

INTERPRETATION

School uses are within the scope of a Community Facility use in the (LIT) Zone.

APPLICABLE CODE SECTIONS

The Zoning Code defines Community Facility as:

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

ANALYSIS

Zoning Code Section 170.60 states that the Planning Director may issue an interpretation of any of the provisions of the Code. The interpretation shall be based on the following three criteria:

1. Defined or Common Meaning of the Words of the Provision
A school meets the above definition of Community Facility because it serves the public and is noncommercial in nature. In this respect, schools are similar to other community facility uses such as food banks and social service agencies.
2. General Purpose of the Provision as Expressed in the Provision
The purpose of not listing schools in the LIT zone is not stated in the Zoning Code.
3. The Logical or Likely Meaning of the Provision Viewed in Relation to the Comprehensive Plan
The Comprehensive Plan does not explicitly address this issue. Schools are allowed in most

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October 15, 2009
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zones in the City – both residential and commercial zones. The intent appears to liberally allow such uses, presumably because of their broad community benefit.

In May, 2009, the City Council reviewed this issue, determined that a school meets the definition of a community facility use and directed that his interpretation be drafted.

XV.D. MOSS BAY NEIGHBORHOOD

3. DOWNTOWN PLAN

opportunity to take advantage of substantial grade changes with terraced building forms also exists in the western half of District 4.

Vehicular circulation will be an important consideration in project design in this area. The restriction of access points to nonresidential streets in order to prevent a negative impact of development in this area on the single-family enclave which exists to the south may be necessary.

Design District 5

Building heights of two to five stories are appropriate in Design District 5.

This district lies at the east side of Downtown between Design District 5A and Kirkland Way. Maximum building height should be between three and five stories. The existing mix of building heights and arrangement of structures within the district preserves a sense of openness within the district and around the perimeter. Placement, size, and orientation of new structures in this district should be carefully considered to preserve this sense of openness. Buildings over two stories in height should be reviewed by the Design Review Board for consistency with applicable policies and criteria. Within the district, massing should generally be lower toward the perimeter and step up toward the center. Portions of buildings facing Kirkland Way and Peter Kirk Park should be limited to between two and three stories, with taller portions of the building stepped back significantly. Buildings over three stories in height should generally reduce building mass above the third story.

Buildings fronting Peter Kirk Park and the Performance Center should be well modulated, both vertically and horizontally, to ease the transition to this important public space. Buildings should not turn their backs onto the park with service access or blank walls. Landscaping and pedestrian linkages should be used to create an effective transition.

Design considerations related to vehicular and pedestrian access, landscaping, and open space are particularly important in this area. Within the district, a north-south vehicular access between Central Way and Kirkland Way should be preserved and enhanced with pedestrian improvements.

Design District 5A

Building heights of three to eight stories are appropriate in Design District 5A.

This district lies at the east side of Downtown between Central Way and Design District 5 and is commonly known as Parkplace. This property is distinguished from the remainder of Design District 5 by the following factors: it is a large parcel under common ownership; it is topographically distinct based on previous excavation to a level that is generally lower than Central Way and abutting properties to the south and east; it has frontage on Central Way; and it contains a mix of uses not found on other office or residential only properties in District 5. Design considerations related to vehicular and pedestrian access, landscaping, and open space are particularly important in this area. Within the district a north-south vehicular access between Central Way and Kirkland Way should be preserved and enhanced with pedestrian improvements.

Redevelopment of this area should be governed by the Kirkland Parkplace Master Plan and Design Guidelines as set forth in the Kirkland Municipal Code. Heights of up to eight stories are appropriate as an incentive to create a network of public open spaces around which is organized a dynamic retail destination. Development under the Master Plan and Design Guidelines should guide the transformation of this district from an auto-oriented center surrounded by surface parking into a pedestrian-oriented center integrated into the community by placing parking underground; activating the streets with retail uses; and creating generous pedestrian paths, public spaces and gathering places. Pedestrian connections to adjoining streets, Peter Kirk Park, and adjoining developments should be incorporated to facilitate the integration of the district into the neighborhood.


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DEVELOPMENT SERVICES**
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FENCE REQUIREMENTS

Special Note: Construction of any fence over 6 feet in height requires a building permit.

FENCES ON PRIVATE PROPERTY

The regulations below are a summary, if there are special circumstances on your property please check with the Planning Department to determine if a modification may be available to your particular circumstance.

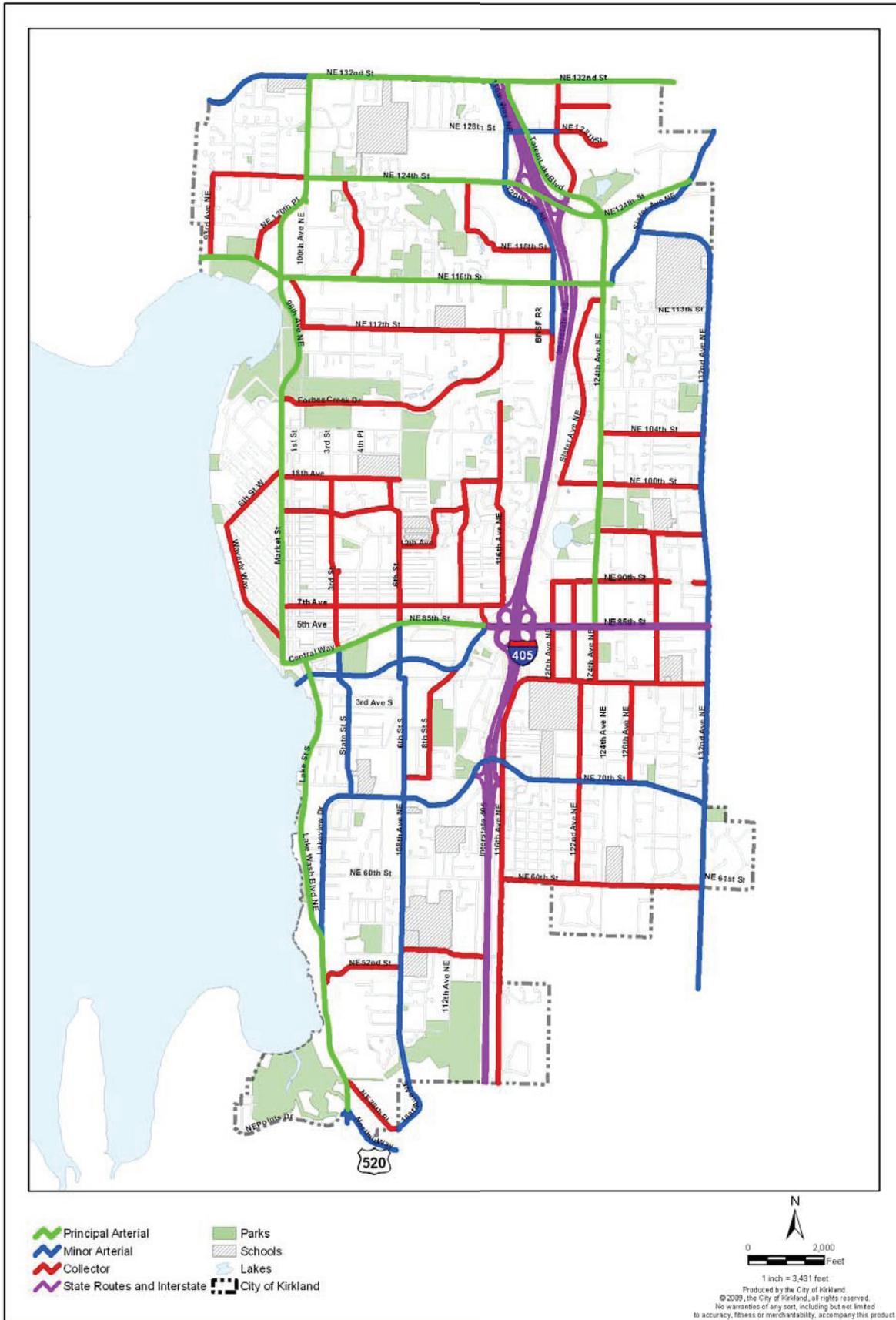
- a. Fences are allowed to be located anywhere on private property, subject to the following limitations:
- b. Fences located outside of required setback yards may not exceed the maximum structure height established in the Zoning Code for the zone in which the fence is located.
- c. Properties abutting a neighborhood access or collector street may not have a fence over 3½ feet in height within the front yard. On corner lots with two required front yards, this restriction shall apply only within the front yard adjacent to the front façade of the structure.
- d. Fences along rear and side property lines and within required rear and side setback yards may be no higher than 6 feet.
- e. The combined height of a fence and retaining wall within 5 feet of each other in a required yard may be a maximum of 6 feet in height. A modification may be available if the Building Code requires a guard rail, this modification must be approved by the Planning Department prior to installation (Zoning Code Section 115.115.3.g.2).
- f. A fence may not be placed closer than 15 feet to any street curb, or the edge of the street pavement if no curb exists, unless the location of the property line can be shown with a survey or other reasonable means to the satisfaction of the Planning and Public Works Departments, in which case the fence may be located on the property line or within the boundaries of the private property.
- g. Fences over 3-feet in height may not be located within the areas on each side of streets and driveways at intersections (sight triangle); for more specific information about sight distance triangles, see Public Works Pre-approved Plans Policy R-13 – Intersection Sight Distance*.
- h. For properties located along the Lake Washington shoreline, fences may not be located within a required high waterline setback yard or within any portion of a north or south property line yard which is coincident with the high waterline setback yard.
- i. Fences may not be located in a stream, wetland or their associated buffers or a Native Growth Protection Easement (NGPE).

FENCES WITHIN RIGHTS-OF-WAY

Construction of any fence in the public right-of-way requires a Right-of-way Permit and a City Hold Harmless Agreement (recording fee required). The City may require fences built within rights-of-way to be removed at any time that the right-of-way is needed for public use. The City will not be held responsible for any damages resulting from the construction of a fence within a right-of-way. Except for those installed by the City, fences may not be placed within public rights-of-way unless:

- a. They are set back at least 15 feet from any street curb, or if no curb exists, the edge of the street pavement and a written determination is made by the Public Works Department that the location of the fence will not obstruct future or existing right-of-way or utility improvements;
- b. They are no higher than 6-feet and do not exceed 3.5-feet if located within the right-of-way adjacent to the front yard setback abutting a neighborhood access or collector street as outlined in C above;
- c. They are 3-feet or less in height if located within the areas on each side of streets and driveways at intersections (sight triangle); for more specific information about sight distance triangles, see Public Works Pre-approved Plans Policy R-13 – Intersection Sight Distance*; and
- d. Fences located behind the sidewalk shall not be higher than 3½-feet and shall not exceed 3-feet in height if located within the sight triangle as determined in the Public Works Pre-approved Plans and Policies Notebook.

*** For further information about the sight distance at intersection requirements, please consult the Public Works Department at 425-587-3800**



ZONE	GROUND FLOOR COMMERCIAL REQUIREMENTS	GROUND FLOOR ATTACHED OR STACKED DWELLING UNITS REQUIREMENTS
BC, BC 1, BC 2, BCX	At least 75 percent of 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.	This use, with the exception of a lobby, may not be located on the ground floor of a structure.
BN, BNA	At least 75 percent of 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.	This use, with the exception of a lobby, may not be located on the ground floor of a structure.
MSC 2, 3	At least 75 percent of the total gross floor area located on the ground floor of all structures on the subject property must contain retail establishments, restaurants, taverns, or offices. These uses shall be oriented to an adjacent arterial, a major pedestrian sidewalk, a through-block pedestrian pathway or an internal pathway.	This use, with the exception of a lobby, may not be located on the ground floor of a structure.
JBD 1	Mixed use SR #9 – Restaurants, taverns, fast food restaurants, and retail establishments selling goods and services should be the predominant use on the ground floor of structures. Other permitted uses, including dwelling units, may be allowed on the ground floor of structures is this does not compromise the desired mixed use character of the development	This use may not be located on the ground floor of a structure within 120 feet of 98th Avenue NE, NE 120th Place, or Juanita Drive NE

JBD 2	None	For properties abutting 98th Avenue NE, this use may be located on the street level floor of a building only if there is an intervening retail storefront or office between this use and the abutting 98th Avenue NE right-of-way.
RH 1A, RH 3, RH 5A, RH 5B, RH 7	At least 50 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. These uses shall be oriented to NE 85th Street, a major pedestrian sidewalk, a through-block pedestrian pathway or an internal pathway (see also Chapter 92 KZC).	None
RH 2A	At least 50 percent of the total gross floor area located on the ground floor of all structures in RH 2A shall contain retail establishments, restaurants, taverns, hotels or motels. These uses shall be oriented to NE 85th Street, a major pedestrian sidewalk, a through-block pedestrian pathway or an internal pathway (see also Chapter 92 KZC).	This use may not be located on the ground floor of a structure in RH 2A
RH 8		This use may not be located on the ground floor of a structure.
TL 2		This use may not be located on the ground floor of a structure
TL 4A, 4B, 4C	At least 50 percent of the total gross floor area located on the ground floor area of all structures on the subject property must contain retail establishments, restaurants, taverns, hotels or motels. These uses shall be oriented to a major pedestrian sidewalk, a through-block pedestrian pathway or an internal pathway (see also Chapter 105 KZC).	No more than 10 percent of the ground floor of a structure may contain residential use

TL 5	At least 30 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. Ground floor spaces in structures with frontage on a pedestrian or vehicular route, or adjacent to a pedestrian-oriented space, must contain retail establishments, restaurants or taverns.	No more than 10 percent of the ground floor of a structure may contain residential use.
TL 6A, TL 6B	Within TL 6B, at least 50 percent of the gross floor area located on the ground floor of all structures with frontage on a pedestrian or vehicular route, or adjacent to a pedestrian-oriented space, must contain retail establishments, restaurants, taverns, hotels or motels. These uses shall be oriented to a major pedestrian sidewalk, a through-block pedestrian pathway or an internal pathway (see also Chapter 105 KZC). This regulation does not apply to parcels located more than 500 feet north of NE 124th Street, east of 116th Avenue NE (see Plate 34G).	On parcels abutting NE 124th Street or 124th Avenue, no more than 10 percent of the ground floor of a structure may be in residential use within 250 feet of these streets; provided, however, there shall be no such restriction on ground floor residential use in TL 6A where over 80 percent of the total units in the development are affordable to households earning no more than 60 percent of King County median income, adjusted for household size.
TL 8	Ground floor uses on the two westernmost parcels in this zone with frontage on 120th Avenue NE must contain retail, restaurants, and/or taverns.	None
NRH 1A, NRH 1B	None	This use may not be located on the ground floor of a structure.

Jon Regala

From: Janet Jonson
Sent: Tuesday, July 06, 2010 1:19 PM
To: City Council
Cc: Kurt Triplett; Marilynne Beard; Eric Shields; Jeremy McMahan; Jon Regala; Kathi Anderson; Cheri Aldred; Robin Jenkinson
Subject: FW: July 6 2010 - Agenda Item 12d - Parking modifications

Council: Ms. Nahon is aware that her correspondence has been forwarded to Council and staff. JJ

Janet Jonson

City Manager's Office
City of Kirkland
123 5th Avenue
Kirkland, WA 98033
425-587-3007
425-587-3019 fax
jjonson@ci.kirkland.wa.us

From: Bea L. Nahon CPA [mailto:Bea.Nahon@nahoncpa.com]
Posted At: Tuesday, July 06, 2010 11:13 AM
Posted To: Kirkland Council
Conversation: July 6 2010 - Agenda Item 12d - Parking modifications
Subject: July 6 2010 - Agenda Item 12d - Parking modifications

To the members of the Kirkland City Council, with copy to planning staff Eric Shields, Jeremy McMahan and Jon Regala,

Tonight the City Council will consider agenda item 12d, proposed Ordinance 4250 which includes various proposed changes to the Kirkland Zoning Code.

There are several proposed Zoning Code changes in the Ordinance – there is just one that I would like to address, and that is public process for parking modifications.

Up until 2007, parking modifications were decided entirely by the Planning Official. Due to a drafting error in 2007, the role became assigned to the Design Review Board (DRB). In many ways this was a good thing, because it took a process that was associated with skepticism from neighboring residents who were directly affected by parking modifications and allowed public process and an opportunity for citizens to be informed in advance and provide input. However, it was not an entirely good thing because the DRB was very surprised at having this added to their role.

At my request, the DRB agreed to discuss whether or not they would be able to continue in this role. They had a good discussion and decided against continuing in this role. I have expressed my appreciation to the DRB and to the staff for taking the time to thoughtfully consider this question.

Given that feedback from the DRB, last week I asked the planning staff (Eric, Jeremy and Jon) if they could propose a method that would still allow for 1) public comment and 2) notice to affected parties as part of the parking modification process. As of this writing, I have not heard back from them, but I am hopeful that by the time you meet this evening, they will have some possible alternative that would allow for these two important elements. If not, then I hope that you will take action to maintain this as a public process.

It should be noted that while parking modifications include certain technical requirements (engineering reports and the like) the Kirkland Zoning Code does not provide for automatic approval. Section 105.103.3.c provides that a decrease in the required number of spaces may be granted if the engineering reports support it. In other

words, the City has discretion. Moreover, the City could approve a parking modification for a lesser reduction than what has been requested.

It is that discretion, along with the public interest in and impact of parking modifications, that has compelled me to ask for the Council's consideration for revision of this proposed change. If the Ordinance is passed as drafted, the authority will go entirely to the Planning Official without public notice or opportunity to contribute their input.

I strongly encourage the Council to consider either revising this portion of the Ordinance, or pulling just this one portion of the Ordinance and asking the staff to bring it back. Please consider the following:

1. Parking modifications are a matter of significant interest to the public and to the City
2. Public comment can provide proposed solutions
3. Neighboring property owners who are potentially impacted should first and foremost, have the right to know what is proposed and second, should have some opportunity to provide comments. This occurs with other proposed departures from the Zoning Code and this should be no different.
4. Public process increases understanding and reduces skepticism of the results
5. Public process is a deterrent to potential fraud
6. Public process increases the public record and therefore the documentation of the decision-making process

It has been suggested that because a request for a modification includes technical requirements, therefore public comments would not help, would not contribute to the decision and the public would comment other items that they were concerned about, possibly even unrelated to the matter at hand. My response to that is simply: when and if government tries to pre-determine whether or not citizens are capable of making rational and relevant contributions to the process, then that is where open government goes backward. I sincerely hope that the Council would not accept this (i.e. would it even be helpful to have citizens advised and provide comments?) as a reason for moving this process back to an internal-only decision process.

It's been said that our parking codes are in need of updating and I tend to agree with that. However, that is not a reason for taking proposed modifications out of public process. I do hope that at some point in the near future, we have the parking codes updated in such a way that modifications become the exception (or don't happen at all) instead of the rule (as they seem to be now). Until that happens though, there is good reason for keeping this process open for public notice and comment.

This can be accomplished without adding to the burden of the applicant or the staff. We simply need to add provisions for public notice and public comment. It would be helpful to also allow the option for reconsideration by the Planning Official.

I respectfully request that the Council either modify or remove the proposed changes to KZC 105.103.2 with respect to parking modifications from tonight's Ordinance vote. There are no projects currently in the pipeline that would be impacted by a brief delay if this code section stays in place temporarily until the staff is able to bring back a proposed solution that includes public notice and public comment.

Thank you for your time and consideration. If you have questions or would like to discuss this, please feel free to contact me via e-mail or by phone at 425-828-4747

Respectfully submitted,

Bea Nahon
PO Box 3209
Kirkland, WA 98083-3209
(425) 828-4747



CBD MULTI-FAMILY PARKING INFORMATION

Project	Year Complete	Residential Units	No. of Bedrooms	Commercial Square Footage (gfa)	Base Code Requirements: Residential (@ 1.7/unit)	Base Code Requirements: Commercial (@1/350 s.f.)	Base Code Requirements TOTAL	Parking Provided TOTAL ²	Parking Provided - Required Parking	Residential Parking/Unit Rate	Residential Parking/Bedroom Rate
Plaza on State Condominiums ³	1996	81	117	2,852	138	8	146	165	19	1.94	1.34
Watermark Apartments	1997	60	103	0	102	0	102	106	4	1.77	1.03
Park Avenue Condominiums	1997	38	76	0	65	0	65	84	19	2.21	1.11
602 5 th Street Condominiums	1997	14	28	0	24	0	24	31	7	2.21	1.11
Tiara De Lago Condominiums ³	1998	13	26	2,360	23	7	30	30	0	1.77	0.88
Chaffee Condominiums	1998	12	24	0	21	0	21	25	4	2.08	1.04
6 th Avenue Condominiums	1998	22	44	0	38	0	38	49	11	2.23	1.11
Brezza Condominiums	1999	75	124	0	128	0	128	148	20	1.97	1.19
Tera Apartments ^{3, 5}	1999	161	208	7,000	274	20	294	226	-68	1.28	0.99
Portsmouth Condominiums	1999	153	263	0	261	0	261	276	15	1.80	1.05
220 1 st Street Apartments ¹	2000	48	79	0	82	0	82	85	3	1.77	1.08
Soho Condominiums ⁵	2001	58	86	0	99	0	99	89	-10	1.53	1.03
West Water Apartments ^{1, 3, 5}	2002	64	91	11,900	109	34	143	118	-25	1.31	0.92
Kirkland Central Condominiums ^{3, 5}	2006	110	142	9,168	187	26	213	176	-37	1.36	1.06
Boulevard Condominiums ^{3, 5}	2006	119	149	8,839	202	26	228	179	-49	1.29	1.03
128 State Condominiums ⁵	2007	124	158	0	213	0	213	168	-45	1.35	1.06
Merrill Gardens Assisted Living ^{3, 4, 5}	2008	115	N/A	6,613	115	19	134	137	3	N/A	N/A
Bank of America/Merrill Gardens ^{3, 5}	2010	66	80	12,368	112	35	147	132	-15	1.47	1.21

Notes:

- 1) 220 1st Street and West Water Apartments have a shared parking agreement for approximately 6 stalls
- 2) Totals include guest parking. Actual # of designated stalls and management of those stalls should be determined through site surveys
- 3) Residential projects with commercial use have shared parking opportunities, particularly for guest parking. Actual utilization/management should be determined through site surveys.
- 4) The residential portion of Merrill Gardens is assisted living with a base req. of 1 stall/unit
- 5) Highlighted rows depict projects which received approval of a parking modification

CONDO PARKING COUNT - APRIL 27, 2006 - APPROXIMATELY 5:00 A.M. START AND OVER A PERIOD OF SEVERAL HOURS

LOCATION	Guest Parking			Tenant Parking			ALL	On-Street	
	# Spaces	# OCCUP.	Occupancy	# Spaces	# OCCUP.	Occupancy	Occupancy	# OCCUP.	Occupancy
TIARA DE LAGO	0			29				0	
WATERVIEW	6	0	0	82	57	69.5%	64.8%	3	
								3	
								7	
BREZZA	20	5	25.0%	127	88	69.3%	63.3%	7	
PORTSMITH	13	5	38.5%	260	181	69.6%	68.1%	8	
PLAZA	11	3	27.3%	146	108	74.0%	70.7%	1	
								2	
TOTAL	50	13	26.0%	615	434	70.6%	67.2%	31	

CONDO PARKING COUNT - JULY 27, 2006 - APPROXIMATELY 5:00 A.M. START AND OVER A PERIOD OF SEVERAL HOURS

LOCATION	Guest Parking			Tenant Parking			ALL	On-Street	
	# Spaces	# OCCUP.	Occupancy	# Spaces	# OCCUP.	Occupancy	Occupancy	# OCCUP.	Occupancy
TIARA DE LAGO	0			28	22	78.6%		3	
WATERVIEW	6	0	0	82	51	62.2%	58.0%		
								5	
BREZZA	20	3	15.0%	127	92	72.4%	64.6%	3	
PORTSMITH	13	11	84.6%	260	163	62.7%	63.7%	7	
PLAZA	11	7	63.6%	146	90	61.6%	61.8%		
TOTAL	50		0.0%	643	418	65.0%	60.3%	15	

DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS											
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						
.030 School or Day-Care Center	See Spec. Reg. 10.	As established on the Zoning Map. See Spec. Reg. 1.	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			70%	25' above average building elevation. See Spec. Reg. 12.	D	B See Spec. Reg. 8.	See KZC 105.25.	1. Minimum lot size is as follows: a. In RS 35 zones, the minimum lot size is 35,000 square feet. b. In RS 12.5 zones, the minimum lot size is 12,500 square feet. c. In RS 8.5 zones, the minimum lot size is 8,500 square feet. d. In RS 7.2 zones, the minimum lot size is 7,200 square feet. e. In RS 6.3 zones, the minimum lot size is 6,300 square feet. f. In RS 5.0 zones, the minimum lot size is 5,000 square feet. 2. May locate on the subject property only if: a. It will not be materially detrimental to the character of the neighborhood in which it is located. b. Site and building design minimizes adverse impacts on surrounding residential neighborhoods. c. The property is served by a collector or arterial street. 3. A six-foot-high fence along the side and rear property lines is required only along the property lines adjacent to the outside play areas. 4. Hours of operation and maximum number of attendees at one time may be limited to reduce impacts on nearby residential uses. 5. Structured play areas must be setback from all property lines as follows: a. 20 feet if this use can accommodate 50 or more students or children. b. 10 feet if this use can accommodate 13 to 49 students or children. 6. An on-site passenger loading area must be provided. The City shall determine the appropriate size of the loading area on a case-by-case basis, depending on the number of attendees and the extent of the abutting right-of-way improvements. Car-pooling, staggered loading/unloading time, right-of-way improvements or other means may be required to reduce traffic impacts on nearby residential uses. 7. The location of parking and passenger loading areas shall be designed to reduce impacts on nearby residential uses. 8. Electrical signs shall not be permitted. 9. May include accessory living facilities for staff persons. 10. The required review process is as follows: a. If the subject property, including all contiguous property owned by the applicant and held by others for future use by the applicant, is less than five acres, the required review process is Process IIA, Chapter 150 KZC; provided, however, that within the jurisdiction of the Houghton Municipal Corporation, the required review process is Process IIB, Chapter 152 KZC.

REGULATIONS CONTINUED ON NEXT PAGE

Section 15.10



USE ZONE CHART

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

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						
.030 School or Day-Care Center (continued)									REGULATIONS CONTINUED FROM PREVIOUS PAGE		
.040 Mini-School or Mini-Day-Care Center	Process I, Chapter 145 KZC.	As established on the Zoning Map. See Special Regulation 1.	20'	5' but 2 side yards must equal at least 15'.	10'	50%	25' above average building elevation.	E	B See Spec. Reg. 8.	See KZC 105.25.	1. Minimum lot size is as follows: <ol style="list-style-type: none"> In RS 35 zones, the minimum lot size is 35,000 square feet. In RS 12.5 zones, the minimum lot size is 12,500 square feet. In RS 8.5 zones, the minimum lot size is 8,500 square feet. In RS 7.2 zones, the minimum lot size is 7,200 square feet. In RS 6.3 zones, the minimum lot size is 6,300 square feet. In RS 5.0 zones, the minimum lot size is 5,000 square feet. 2. May locate on the subject property if: <ol style="list-style-type: none"> It will not be materially detrimental to the character of the neighborhood in which it is located. Site design must minimize adverse impacts on surrounding residential neighborhoods. 3. A six-foot-high fence is required along the property lines adjacent to the outside play areas.

REGULATIONS CONTINUED ON NEXT PAGE