



MEMORANDUM

To: Planning Commission

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Date: October 28, 2010

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

I. RECOMMENDATION

Hold a public hearing on the proposed Phase II Kirkland Zoning Code (KZC) and Municipal Code (KMC) amendments. After considering the proposed amendments and public comment make a recommendation to the City Council for their consideration.

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.

The Planning Commission held a joint study session on August 12, 2010 with the Houghton Community Council (HCC) in regards to the proposed code amendments. Subsequent study sessions with the Planning Commission (September 23, 2010) and the HCC (September 27, 2010) were held to further discuss the proposed amendments. The HCC discussed only the amendments applicable within their jurisdiction.

At the study sessions, staff received direction on the proposed revisions as explained in the memorandum provided for the associated meeting. Additional rationale for each proposed amendment can be viewed here on their respective dates:

http://www.ci.kirkland.wa.us/depart/Planning/Planning_Commission.htm

Based on the Planning Commission's direction, the proposed course of action for particular topics or draft amendments are described in this memorandum or included as attachments. Due to the limited scope of the amendments, the HCC at its September 27th meeting decided not to hold a public hearing on this project. The HCC did provide some recommendations which have been included in this memo under the applicable topic.

The City Council's consideration of the Phase II code amendments is scheduled for December 7, 2010 with final action by the City Council and HCC anticipated for January 2011.

III. PHASE II AMENDMENTS - GENERAL

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. 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.

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".

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 (see Attachment 1, Amendment #1).

B. Subdivisions KMC Title 22 *

1. Fix Incorrect Code Reference in KMC Section 22.32.050

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) (see Attachment 1, Amendment #2).

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” (see Attachment 1, Amendment #3).

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 (see Attachment 1, Amendment #4).

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 (see Attachment 1, Amendment #5).

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

Staff is proposing a change to KZC 112.15.1 to clarify that affordable housing incentives are available even if not required (see Attachment 1, Amendment #6).

3. Clarify bonus density calculation.

KZC 112.25 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, the developer would need to use this section to be granted a density bonus over the 25% allowed in the basic incentives. Staff recommends language to make it clearer that this section is applicable (see Attachment 1, Amendment #7).

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. 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. Therefore, staff recommends deleting the KZC reference since it refers to a WAC section which no longer exists (see Attachment 1, Amendment #8).

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 are 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.).

In addition, the same code section has a height discrepancy among the different single-family zones (RS = 25' vs. RSX = 30' maximum height) which could result in a detached ADU being shorter than the main residence. Currently the regulation limits the height of a detached ADU to 25' even in the RSX zone. To fix the discrepancy, both the Planning Commission and HCC thought that the height of the ADU should be based on the height allowed by the underlying zoning.

Therefore, to clarify the height and size requirements for a detached ADU, staff recommends revisions to KZC Section 115.07 and 115.08 which reference the accessory structure height and size regulations in KZC Section 115.08 and fixes the height discrepancy in residential zones (see Attachment 1, Amendment #9).

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 to clarify that additional size limitations for detached accessory dwelling units apply (see Attachment 1, Amendment #9).

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. The correct references should be:

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

Because schools and daycares are listed in the majority of the use zone charts, there is considerable cost in making this update to the KZC. Staff recommends deferring these changes until such time other changes are made to the same use zone charts to save on costs. Not making the changes at this time does not preclude an applicant from complying with the State regulations for schools and day care centers.

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. 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. 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 (see Attachment 1, Amendment #10).

I. Electronic Readerboard Signs for Fire Stations in the Annexation Area *

On April 21, 2009, the City Council adopted Ordinance 4193 which approved electronic readerboard signs at Lake Washington and Juanita high schools and at fire stations in the RM (Residential Multi-Family) and P (Park) zones.

Kirkland fire stations have been replacing their pedestal signs with electronic readerboard signs since the adoption of Ordinance 4193 based on the regulations listed above. However, Station 27 in the annexation area (11210 NE 132nd Street) is not able to install an electronic readerboard sign based on current King County Zoning Code. Furthermore, the future Kirkland Zoning (RSA) doesn't allow electronic readerboard signs. The following is a list of fire stations and their associated zoning:

- Station 24 – 8411 NE 141st Street (RSA 6)
- Station 25 – 12033 76th PI NE (BNA)
- Station 27 – 11210 NE 132nd Street (RSA 6)
- Station 34 – 12703 NE 144th Street (RMA 1.8)

- Potential fire station at southwest corner of Juanita Drive and NE 138th Place (P)

The RM/RMA and P zones currently have the electronic readerboard sign standards for fire stations. Staff recommends amending the annexation area zoning districts (RSA and BNA zones) where fire stations currently exist to incorporate the changes adopted by Ordinance 4193 (see Attachment 1, Amendment #11). This will allow fire stations in the annexation area to be subject to the same electronic readerboard sign standards for fire stations within the current incorporated boundaries.

J. KZC 10.45 - Annexation Area Vesting Provisions *

This item was not discussed at the previous study sessions but should be addressed with these amendments. KZC Section 10.45 established specific vesting provisions for annexed properties. Paragraphs 2, 3, and 4 of these provisions were created by the City Council as part of the annexation zoning for Finn Hill, North Juanita, and Kingsgate:

10.45 Annexed Property

- 1. Whenever, prior to annexation, a proposed extended Comprehensive Plan and zoning regulations and/or map have been prepared and adopted by the City pursuant to RCW 35A.14.330, that plan and zone regulation and/or map will, upon the effective date of annexation, be deemed to amend this code to the extent set forth in the annexation ordinance. Any other property or area which may, because of annexation, become a part of the City, will be deemed to be zoned with a classification the same as, or as nearly comparable as possible with, the classification that the property was zoned immediately prior to annexation.*
- 2. Pending development permits for which complete applications have been filed prior to annexation shall be governed by the King County zoning regulations in effect at the time of annexation for a period of five years after the date of annexation unless the City finds that a change in conditions creates a serious threat to the public health or safety. After five years, the current zoning regulations shall apply.*
- 3. Short plats and subdivisions that have been approved by King County but not recorded prior to annexation shall be recorded within the time period provided for under King County subdivision regulations in effect at the time of the approval of the short plat or subdivision. Notwithstanding the foregoing, development of the individual lots in the short plat or subdivision shall be governed by the King County zoning regulations in effect at the time of annexation for a period of five years after the date of annexation unless the City finds that a change in conditions creates a serious threat to the public health or safety. After five years, the current zoning regulations shall apply.*
- 4. Individual lots in short plats and subdivisions that have been approved by King County and recorded prior to annexation shall be governed by the King County zoning regulations in effect at the time of annexation for a period of five years after the date of annexation unless the City finds that a change in conditions creates a serious threat to the public health or safety. After five years, the current zoning regulations shall apply.*

These provisions address significant differences between platting allowances and development regulations in the County and the City. For example, the County allows much smaller lots, taller buildings, and smaller setbacks than the City. In response to the community process preceding adoption of annexation zoning, the Council's desire was to eventually have development conform to something closer to Kirkland's standards. However, because some subdivisions had been planned in the County based on County development standards, it would be very challenging to develop those lots under City regulations. The vesting provisions allow 5 years after annexation to build those lots out.

On further review of paragraph 4, Planning staff and the City Attorney realized some limitations to the vesting had been inadvertently left out. The proposed changes to paragraph 4 clarify the following two points:

- The provision is only intended to apply to recent subdivisions (5 years prior to annexation, rather than every property ever subdivided).
- The provision is only intended to apply to initial residential development. The vesting was not intended to waive all Kirkland zoning regulations on all subdivided lots for 5 years.

Paragraph 3 is proposed for amendment to keep it consistent with paragraph 4. The proposed changes can be found in Attachment 1, Amendment #12.

K. RS and RSA Zones: Schools on Collectors and Arterials

This item was also not addressed at previous study sessions but should be addressed with these amendments. Kirkland's RS, RSA, and RSX zones contain the following special regulation requiring schools and daycare centers to be located on properties served by a collector or arterial street.

There is one school in Kirkland and one school in the annexation area that are not located on collector or arterial streets. The International Children's School/Community Elementary School (ICS) in the Central Houghton Neighborhood is located in the RS 8.5 zone and Frost Elementary School in the Kingsgate Neighborhood is located in the RSA 6 zone. Lake Washington School District is in the process of planning a school modernization project to rebuild the ICS, requiring a Process IIB Master Plan within Houghton Community Council's jurisdiction. The District recently rebuilt Frost Elementary under the County's jurisdiction (the County does not require land use permits for elementary schools and does not have a similar collector/arterial requirement).

Staff recommends eliminating the requirement for existing school sites (see Attachment 1, Amendment #13). The likely intent of the regulation was to establish a standard for anyone looking for a site to build a new school or daycare center. It is not reasonable to expect that an existing school would or could be moved to a new property on a collector or arterial.

V. MINOR POLICY CHANGES

The following items represent a variety of proposed code amendments which result in minor changes to current policy.

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'*. The landscaping regulations for these uses are not consistent between the various zoning districts. There are two KZC sections that are referenced inconsistently between the different zoning districts. They are:

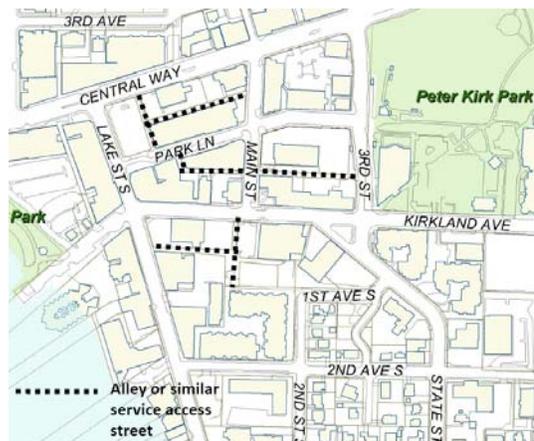
- KZC Section 95.45 - Contains requirements to buffer driving and parking areas from adjoining right-of-way and adjacent property with a 5' wide landscape strip (one row of trees planted 30' on center and associated ground cover); and
- KZC Section 115.105 - Contains requirements for outdoor use, activity, 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. The Planning Commission thought that both of the standards above should apply to these types of uses. Therefore, 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 (see Attachment 1, Amendment #14). 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 (see Attachment 1, Amendment #14).

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 (see Attachment 1, Amendment #15).

2. Parks, 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.

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.

At a previous study session, the Planning Commission suggested Public Utility uses should not be allowed in the CBD. Staff recommends that this decision be deferred to the discussion of allowed ground floor uses in the CBD which is currently on a separate review track. In the meantime, staff recommends adding back *Parks, Government, and Community Facility* uses as an allowed a street front use in CBD 1A and 1B (see Attachment 1, Amendment #15).

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 (see Attachment 1, Amendment #16).

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

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 multifamily and commercial 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 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 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 (see Attachment 1, Amendment #17).

3. Minimum lot size provisions for developments that are allowed additional density in exchange for affordable housing.

The intent of the affordable housing regulations was to allow the basic density bonus offered in exchange for the required affordable housing without imposing any additional land use permitting process. Regulatory changes need to be made to adjust the minimum lot size for those who wish to subdivide land to create individual lots where affordable housing is provided in multifamily zones.

Staff had initially thought that an amendment should be made to the subdivision regulations, similar to other lot flexibility regulations in KMC Chapter 22.28. However, it was suggested at a previous meeting that we look at the allowance for cottage homes in KZC Section 113.25 for guidance. The Minimum Lot Size provisions there state:

Beyond the density restrictions, there is no required minimum lot size for lots created through the subdivision process. (The number of allowed units on the subject property is determined by the density provision of this chart.)

The simplicity of this regulation acknowledges that there are other development standards, such as minimum open space requirements and required yards, maximum lot coverage and maximum building height that will shape the development and that prescribing a minimum lot size is not necessary. Including the regulation in the Zoning Code with the rest of the Cottage regulations makes it easy to find.

For the same reasons, staff recommends that no minimum lot size be required for subdivisions that include affordable housing in multifamily and commercial zones and that the General Regulation requiring affordable housing be adjusted to include that statement (see Attachment 1, Amendment #17).

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 and what design requirements pertain to historic structures. Standards currently required for all PWSF, including those located at historic landmark locations, are design compatibility, concealment technology, height considerations, maximum sizes, and screening criteria.

At the study session, the Planning Commission thought it is appropriate to allow antennas at designated 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”, subject to historic design requirements. 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 and memorialized in signage at each location. It is recognized that antennas would now be proposed or replaced on contemporary buildings, rather than on historic structures. 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.

The proposed code amendment clarifies that only designated historic landmark “buildings, structures, and objects” are regulated under this section. These are listed in the Comprehensive Plan on Table CC 1 List A and B located in the Historic Resources section of the Community Character Element.

Furthermore, 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 on designated historic buildings, structures, and objects.

The only exception is when towers are proposed on designated historic sites. The Commission agreed that these should be reviewed pursuant to this section. 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 the City would notify the King County Historic Preservation Office to give them the opportunity to provide their comments and a recommendation to the City. Their review would address historic design considerations if appropriate, beyond the provisions in this Chapter. The City and King County have an interlocal agreement which allows the County to provide historic property designation and protection services.

Staff recommends following the Commissions direction and replacing this section with the proposed language in Attachment 1, Amendment #18.

VI. Moderate Policy Changes

The following items represent a variety of proposed code amendments which result in moderate level changes to current policy.

A. Allow Schools in LIT Zones – KZC Chapter 48 *

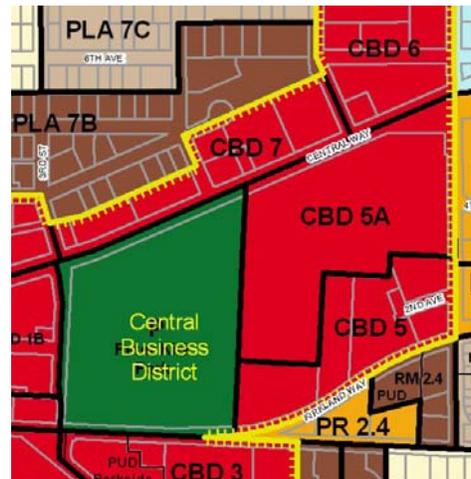
This item is being deferred to a future Comprehensive Plan update. It was determined at a previous study session that a more in-depth review of the light industrial zones is needed. This would likely occur as part of the Comprehensive Plan update in 2012-2014 and will involve revisiting the previous industrial lands study, gathering data on vacancy trends, and considering the industrial zones on an area wide basis. These tasks are beyond the scope of this KZC amendment project.

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.



Staff recommends following the Council's direction on height for the other CBD zones and establishing height in absolute number of feet in CBD 5. This results in a maximum building height of 67' (ground level retail @ 15' plus four levels of office @ 13'). See the revised CBD 5 use zone chart in Attachment 3 for the proposed change.

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). Lastly, the use zone charts already dictate design review for development in the CBD 5 zone. Staff recommends deletion of General Regulation 3 (see revised use zone chart in Attachment 3).

Also, 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 (see revised use zone chart in Attachment 3).

Also, staff compared the existing regulations and design guidelines against the comparable Design District 5 policies and recommends updating Zoning Code Plate 34H to include the pedestrian connections identified in the Downtown Master Plan map found in the Comprehensive Plan (see Attachment 4). The revised plate in Attachment 3 contains the proposed change. Otherwise, the existing regulations and design guidelines reflect the Design District policies.

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.

At a previous study session, the Planning Commission directed staff to pursue creating a category of personal service uses that allow a greater range of uses above the ground floor, but have limited impact to the adjoining low density residential zone to the north and south. These may have a limited retail component that is accessory to the personal service use. The Planning Commission also directed that restaurants continue to be prohibited above the ground floor since they typically generate more impacts such as odor, and noise. This position provides greater flexibility for redevelopment of the corridor as a business district, but strives to respect the privacy concerns of nearby residential uses. The PC also directed staff to prohibit the use of outdoor areas adjoining residential uses to address concerns about intrusion into the privacy of single family residents.

The attached matrix compares various jurisdictions' definitions for personal service uses (see Attachment 5). Staff favors the Bellevue example, which contains a fairly narrow list of personal service uses.

As directed by the Planning Commission at their previous study session, staff recommends adding personal services as an exception to the existing prohibition of "Any Retail Establishment" above the ground floor as shown in the revised use zone chart in Attachment 6.

D. Fence Heights – KZC Section 115.40

The City regulates fences in KZC Section 115.40. 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 7 contains a street classification map for reference.

A concern was raised by a Council member 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.

In previous study sessions, both the Planning Commission and the HCC were agreeable to lowering the maximum fence height along principal and minor arterials to 3.5' and that a 6' tall fence should be allowed if setback a certain distance from the property line. Landscaping would be required between the fence and the

property line. The Planning Commission discussed the possibility of a 10' setback for a 6' tall fence. The HCC, at its study session, agreed that 2' setback would be adequate.

If a fence is near a driveway or intersection, the City has separate sight distance regulations. No changes are proposed to those regulations or to the criteria allowing a modification to the fence standards:

115.40.1.c. The Planning Official may approve a modification to the fence height requirements, if:

- 1) The modification is necessary because of the size, configuration, topography or location of the subject property; and*
- 2) The modification will not have any substantial detrimental effect on abutting properties or the City as a whole.*

Staff has identified the following issues in requiring a setback for a taller fence:

- If a 10' setback is required, there is a concern that in many instances it would coincide with either the side or rear yard of the subject property. A side yard setback could be anywhere from 5' to 10' and a rear yard setback is 10'. Requiring a 10' setback for a 6' fence may not be realistic given that it could encroach into a backyard or coincide with the required side yard setback for a house leaving little to no room on the subject property. The HCC shares this same concern.
- Permits are not required for fences 6' tall or lower. Because permits are not required, there is a good chance that fences are installed without knowledge of fence regulations. As a result, fences that are in violation of the code are difficult to enforce.
- If a setback is required, there is a concern that the area between the fence and the sidewalk will not be maintained.

Attachment 1, Amendment #21 reflects the Planning Commission's idea of a 10' setback for a 6' tall fence along arterials. Staff recommends that the Planning Commission deliberate this topic further. If the Planning Commission decides to recommend a setback for a taller fence, then a recommendation on the appropriate setback distance and the requirement for landscaping needs to be finalized.

E. 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

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" (see Attachment 1, Amendment #22). 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.

F. 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 8 contains a chart which summarizes these requirements between the various zones.

1. Ground Floor Retail. Most of the zones found in the summary chart 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 and zoned TL 4B. 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.

When reviewing this issue at a previous study meeting, the Planning Commission was okay with not requiring a government facility use to have a ground floor retail component in the TL 4B zone but expressed concern in applying the same treatment to the remainder of the non-retail uses described above throughout the City. The Planning Commission felt that retention of ground floor retail restrictions in specific zones may be advisable to preclude development that is not consistent with the objectives for the area. The Commission wanted to defer such a widespread change to a future study that would involve revisiting the Comprehensive Plan policies for the applicable business districts.

Therefore staff recommends taking a narrow approach in amending the ground floor retail requirement by only exempting government facility uses from the ground floor retail requirement in the TL 4B zone (see Attachment 1, Amendment #23). The broader topic ground floor retail use requirements will be put on the list of future code amendments.

2. Ground Floor Residential Limitations. The chart in Attachment 8 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.

Based on feedback at the study sessions, the Planning Commission recommended that only residential lobbies be allowed on the ground floor and limited to 10% of the ground floor area. Staff recommends however that this topic be deferred to the future discussion of appropriate ground floor uses as discussed in the previous section.

G. 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 9).

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.

At a previous study session, the Planning Commission expressed concern about allowing public comment due to the technical nature and analysis involved with the review for parking reductions and that if public comment is received, it should be on par with the technical nature of the information provided and analyzed. The Commission felt that public comment should not be required if their comments cannot legally or technically influence the decision. Consequently, Planning Commissioners were generally opposed to inviting public comment for parking modifications.

H. 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 nature of the tenant space (high ceilings), availability and lower rents. The LIT zone is primarily reserved for industrial, office, and high technology uses

The Planning Commission recommended that this item be deferred to a future Comprehensive Plan update. It was determined that a more in-depth review of the light industrial zones is needed. This would likely occur as part of the Comprehensive Plan update in 2012-2014 and will involve revisiting the previous industrial lands study, gathering data on vacancy trends, and considering the industrial zones on an area wide basis. These tasks are beyond the scope of this KZC amendment project.

I. Window Signs

This topic was added to the miscellaneous Zoning Code project due to recent questions on how window signs should be regulated. KZC Sections 100.30 through 100.75 contains fundamental sign regulations which determine sign type, location, and size of permanent signage. Interpretation 86-11 was issued back on June 1986 to provide guidance on how to regulate window signs (see Attachment 10). The interpretation concluded that ...“all types of window signs should continue to be exempted from regulation as permanent signs under KZC 100.30 through 100.75 unless they are permanently affixed to the exterior of the building or they display the name of the business itself...”.

Staff has found that this interpretation is unclear and does not relate well with how the Zoning Code defines a ‘sign’. The KZC definitions of ‘sign’ and ‘sign area’ are listed below.

KZC 5.10.845 Sign - Any communication device, structure, or fixture which is intended to identify a building, use, business, or event, or to promote the sale of a product, goods, or service, using graphics, letters, figures, symbols, trademarks or written copy. Painted wall designs or patterns which do not represent a product, service or registered trademark, and which do not identify the user, are not considered signs. If a design or pattern is combined with a sign, only that part of the design or pattern which cannot be distinguished from the sign will be considered as part of the sign.

KZC 5.10.850 Sign Area – The entire area of a sign on which copy is to be placed. Sign structure, architectural embellishments, framework and decorative

features which contain no written or advertising copy are not included. Sign area is calculated by measuring the perimeter enclosing the extreme limits of the module or sign field containing the advertising message; provided, however, that individual letters using a wall as the background, without added decoration or change in wall color, have sign area calculated by measuring the perimeter enclosing each letter and totaling the square footage of these.

Now that many of the City's commercial zones require design review (e.g. Juanita, Totem Lake, Downtown, and NE 85th Street business districts), there are design guidelines that require pedestrian friendly building fronts. Allowing excessive signs on windows may defeat the purpose of design guidelines. These guidelines are meant to provide a visual connection between pedestrian and retail activity. There are also guidelines which require that windows be utilized to maintain pedestrian and architectural scale. Below are examples of such guidelines (Design Guidelines: Pedestrian-Oriented Business Districts KMC Section 3.30.040.).

Special Consideration for Downtown Kirkland - Storefronts should be highly transparent with windows of clear vision glass beginning no higher than 2' above grade to at least 10' above grade. Windows should extend across, at a minimum, 75% of the façade length. Continuous window walls should be avoided by providing architectural building treatments, mullions, building modulation, entry doors, and/or columns at appropriate intervals.

Special Consideration for Totem Center - Since pedestrians move slowly along the sidewalk, the street level of buildings must be interesting and varied. Since the potential exists for large tenants to locate within TL 2, efforts should be made to minimize the impacts of these uses along pedestrian-oriented streets and concourses. Along 120th Avenue NE, buildings should be designed to add vitality along the sidewalk, by providing multiple entrance points to shops, continuous weather protection, outdoor dining, transparency of windows and interactive window displays, entertainment and diverse architectural elements.

General Guideline - Varied window treatments should be encouraged. Ground floor uses should have large windows that showcase storefront displays to increase pedestrian interest. Architectural detailing at all window jambs, sills, and heads should be emphasized.

Signs are regulated to help maintain a certain aesthetic and reduce sign clutter within a community. In many instances, signs are placed in windows without a sign permit and assumed to not require a permit. Because this is the case, staff recommends that a certain amount of window signage should be allowed without review by staff.

KZC Section 100.115 contains additional regulations for a variety of "temporary/special signs" (see Attachment 11). These include real estate signs, temporary commercial signs, and private traffic directional signs. A sign permit is not required for many of these sign types unless required by the Department of Building and Fire Services in order to erect or move a sign or alter the structural components of an existing sign. At previous study sessions, staff recommended that windows signs be added to the list in KZC Section 100.115.A - Temporary/Special Signs subject to the following regulations:

Type of Sign	Maximum Number of Signs	Maximum Sign Area	Permitted Location	Permitted Duration of Display
Window Sign	No maximum	20% of window area	Subject property	No limitation

At its study session, the HCC recommended that the City not regulate window signs for the following reasons:

- The City receives minimal complaints on window signs...if it's not an issue why regulate?
- Regulating window signs would be difficult to enforce
- Window signs provide visual interest to the pedestrian

The Planning Commission was unsure on a recommendation at its study session. Some Commissioner's expressed the same concerns about regulating window signage that the HCC raised. Others argued that regulating window signs is no different from regulating a wall sign. At the public hearing, the Planning Commission should provide a recommendation on how to regulate window signs. If the Planning Commission decides that window signs should not be regulated, the following change could be made to staff's previous proposal:

Type of Sign	Maximum Number of Signs	Maximum Sign Area	Permitted Location	Permitted Duration of Display
Window Sign	No maximum	20% of window area <u>No limitation</u>	Subject property	No limitation

Staff also recommends the following definition of a window sign to KZC Section 5.10:

KZC 5.10.992: Window Sign – A sign located inside of a window and visible from the exterior of a building.

The proposed changes can also be found in Attachment 1, Amendment #24.

VII. Major Policy Changes

The following code amendment results in a substantial change to current policy.

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.

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 12). 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 exist for shops, services, and transportation options.

Also, in April and July 2006, the Public Works Department conducted parking counts for several condominium developments in the CBD (see Attachment 13). The counts were done in the early morning (began at 5 a.m.) to coincide with the multi-family peak parking time. The counts provide occupancy information on guest parking, on-site parking, and on-street parking stalls. The data shows that a one parking stall/bedroom rate does not result in a deficiency of onsite residential parking during the peak residential parking.

Based on this information, staff recommended 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. Units that have two or more bedrooms would be capped at 2 parking stalls and guest parking would be required at 0.1 stalls per bedroom with a minimum 2 guest parking stalls per development (see Attachment 1, Amendment #25). Parking modifications would still be available for developments that wish to utilize shared parking to further reduce the number of required parking stalls. In this case, additional parking information would need to be submitted for review by the City's Transportation Engineer. The Planning Commission agreed with staff's recommendation at the previous study session.

Because the City currently does not limit the number of parking stalls a developer could provide, staff would like to confirm that it is the Planning Commission's intent to create a maximum parking requirement for multi-family projects in the CBD. Otherwise, the regulation could be revised to state that no more than 2 parking stalls would be *required* per unit and therefore not put a cap on the number of parking stalls a developer could provide.

Staff met with the Parking Advisory Board (PAB) on October 7, 2010 regarding this topic and presented the Planning Commission's preliminary recommendation. The majority of the PAB supports the recommendation. There were several members that still had concerns about how parking would be managed.

There was also a concern about projects that have a large number of one bedroom or studio units and if the proposed parking requirement will be adequate for such projects. Given the proposed code language, one bedroom units would be required one parking stall per unit. A maximum of two parking stalls per unit is allowed. To address the issue, the PAB felt that it should be up to the developer to determine whether or not to build one or two parking stalls for every one bedroom unit.

Also, at the Planning Commission's previous study session, the Planning Commission agreed with staff's recommendation to defer extending this parking rate to other business districts until such time there is enough data to warrant a change in those districts. Currently there are not enough built and occupied projects in the other business districts to determine if the multi-family parking rate is similar to Downtown Kirkland.

B. Reduce Residential Noise Standards for Outdoor Mechanical Equipment

The City has adopted the State's noise standards and therefore regulates noise based on the regulations found in WAC Chapter 173-60. To summarize WAC Section 173-60-040 *Residential Noise Standards*, the maximum noise level at the property line for residential uses is 55 dBA between the hours of 7 a.m. and 10 p.m. The maximum noise level is reduced to 45 dBA between the hours of 10 p.m. and 7 a.m. In addition, WAC Section 173-60-050 lists exemptions to the noise maximum levels. For example unamplified human voices are exempt from the noise standards. The following chart is provided as reference to the various noises we hear and their relative noise level.

The Air-Conditioning & Refrigeration Institute (ARI) sets the standards for mechanical equipment which includes how sound ratings are determined and how to calculate sound levels for outdoor units (ARI Standard 275-97). Sound ratings for mechanical equipment are found in the specifications sheet accompanying the mechanical unit. Sound ratings are given in "dBA".

Outdoor residential mechanical units typically range in sound levels from 68 dBA to 80+ dBA. For purposes of discussion, a standard efficiency heating, ventilating, and air conditioning (HVAC) unit with a sound level of 78 dBA will be used as an example in calculating noise at the property line. Based on ARI Standard 275-97 a stand-alone HVAC unit will need to be 60' from the property line in order to meet the required 45 dBA nighttime noise standard at the property line. A 20' setback is required to meet the daytime 55 dBA limit. This calculation assumes that the mechanical unit is not located near a wall or that there are no barriers between the unit and the property line. Based on this information, it can be difficult to locate an HVAC unit so that noise requirements are met. Many of the mechanical unit applications are for existing homes and placement of the HVAC units are limited by existing improvements and/or floor plan of the home.

Staff previously required noise information upon submittal of an application of a mechanical permit. Noise information consisted of a report from an acoustical engineer and if needed recommendations for noise mitigation. However, based on complaints from mechanical contractors and property owners ranging from the cost of sound studies to not realizing noise information was needed at the time of application, staff stopped requiring noise information at application submittal. There was an expectation from applicants that mechanical permits were to be processed quickly and that additional noise and/or noise mitigation requirements were too costly and unnecessary. Staff decided that it was not reasonable for the average home owner to submit an acoustical report with their outdoor mechanical equipment permit application.

Currently mechanical permits are *conditioned* through the issuing permit to meet noise requirements and that all HVAC and similar types of mechanical equipment should be baffled, shielded, enclosed, or placed on the property in a manner that will

ensure compliance with the noise provisions of KZC 115.95. Planning staff does review mechanical permits to ensure that the minimum setback requirements are being met. Noise complaints are handled on a case by case basis.

Over the past several years, code enforcement has found it problematic 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.

For additional background information, staff has provided examples of how two jurisdictions address this type of noise issue.

City of Medina

The City of Medina adopts the King County Code in regards to maximum noise levels (see Attachment 19) which is similar to State code. In terms of how Medina applies the code, information regarding noise compliance is required at the time of permit application. Later a noise compliance letter/certificate, issued by an acoustical engineer, is required for the installed outdoor mechanical unit to verify compliance with the noise regulations. If a complaint is received, the complainant is required to provide evidence such as a noise study to verify the complaint. If there is a violation, the City then requires additional mitigation such as sound walls and/or screening to help resolve the issue.

City of Vancouver (WA)

The City of Vancouver's noise regulations does not regulate noise impacts between residential uses unless the noise is a result of a home occupation (see Attachment 20). This aspect of their noise regulations was part of a new noise ordinance to implement the State's Noise Control Act at a local level. Vancouver's initial proposal was to basically mimic the State's noise regulations and have a local regulation for noise between residential uses. Although the Planning Commission agreed to this approach, Vancouver's City Council felt uncomfortable with that standard. Their Council did not want to begin regulating noise between residential properties. The residential noise limits was therefore eliminated from the proposed code language before it went to a public hearing. Later, their planning staff realized that this would potentially exempt home occupations so an amendment regulating noise from home occupations was adopted.

The Planning Commission identified two options regarding this topic:

- Allow HVAC/heat pump units to be exempt from the noise and nuisance regulations if they provide a noise reducing barrier (barrier specifications still to be determined)
- Require noise information as part of the application materials to ensure compliance with noise limits

The HCC also deliberated this topic at its study session and agreed that the second bullet above should be pursued. The HCC felt that eliminating the noise regulations is unacceptable and that the current protection offered by the regulations to homeowners should be maintained. The HCC thought that providing noise

information should be part of the cost of permitting and installing HVAC/heat pump equipment.

At this time, staff recommends no changes to the noise code and will maintain its current approach of conditioning HVAC/heat pump units to comply with the noise standards. Staff also recommends that this topic be placed on the list of future code amendments in order to pursue a noise barrier standard when time and budget allows.

VIII. Process Related Changes

The following items represent a variety of process related code amendments.

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' (see Attachment 1, Amendment #26).

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 (see Attachment 1, Amendment #27).

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.

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.

To address this issue, the attorney's office has created code language that would allow for additional time for the review of Process IIB wireless co-location applications. The proposed language 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...".

Therefore, staff recommends changing KZC Section 117.50(1) to be consistent with the FCC ruling (see Attachment 1, Amendment #28).

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”.

At their previous study session, the HCC recommended allowing the “administrative variance” process within their jurisdiction. Staff recommends making a change to KZC Section 120.12 to allow this process to properties within HCC’s jurisdiction (see Attachment 1, Amendment #29).

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

At the same Council meeting, the Council agreed with the Planning Commission’s recommendation to defer the question of Process IIA appeals to this 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 (conditional use permits) are typically based on mitigating adverse impacts of a development.

The City’s design review 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

In contrast, 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 broad in nature. An example of such criteria can be found in the special regulations for a new school in the RS zone (see Attachment 14). Criteria that have an element of subjectivity 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. 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 have an element of subjectivity are variances and cottage housing projects. 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

In general, the Planning Commission felt that appeals of quasi-judicial decisions should not be heard by the City Council. The Commissioner's discussion echoed some of the same reasons for recommending that the Council be removed from hearing Design Review Board appeals. Because this topic does not directly affect the Planning Commission, the Commissioner's felt that the final decision should rest with the City Council. The code amendments to remove the City Council from hearing Process IIA appeals can be found in Attachment 1, Amendment #30.

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. Staff recommends fixing the incorrect reference (see Attachment 1, Amendment #32).

H. Reorganization of Code Enforcement Provisions

Changes are proposed to the following sections of the KZC in order to implement a new code enforcement process in the city. Amendments pertaining to the new code enforcement process and related amendments to the KMC solve some due process concerns with the existing code enforcement system; consolidate the processes for enforcing multiple codes into one process; and combine existing property maintenance provisions under one chapter. A proposed Code Enforcement chapter and a Property Maintenance Code will be presented to the City Council in December as part of a package of Kirkland Municipal Code amendments.

At this point, it is only necessary for the Planning Commission to conduct a public hearing on the KZC changes that are part of the overall project. Your recommendation on these KZC amendments will be folded into the presentation to the City Council with the KMC amendments. The proposed KMC provisions were presented to the Planning Commission and Houghton Community Council at previous study sessions. Further information on this project is available by contacting Nancy Cox in the Planning Department.

Attachment 15 includes the proposed language for each section noted below.

1. Change to Table of Contents to show a new title for Chapter 170.

Chapter 170 is the existing Code Enforcement chapter. A new chapter is proposed for the KMC 1.12 to replace the portions of Chapter 170 related to

enforcement. Chapter 170 would be renamed “Code Administration” and contain the remaining text.

2. *Revise the User Guide in KZC Chapter 1 to refer readers interested in junk issues to the new Property Maintenance Code in the KMC.*

KZC 115.70 contains junk and junkyards prohibited provisions. The User Guide refers readers to that section. Junk and junk yards are proposed to be included in the new Property Maintenance Code in the KMC. Therefore, readers should be referred to that code rather than KZC 115.70.

3. *Delete Chapter 5 definitions of Junk and Junk Yard because the definitions will be in the Property Maintenance Code.*

This issue will no longer be administered through the Zoning Code.

4. *Edits to Chapter 95 Table of Contents - Enforcement and Penalties is moving to KMC 1.12 Code Enforcement. Edit 95.21 and 95.55 to refer the reader to KMC 1.12 Code Enforcement. Delete remainder of 95.55.*

Public and private tree enforcement will be included in KMC 1.12. Therefore, portions of Chapter 95 related to public and private tree enforcement may be deleted. References to KMC 1.12 should be made in Chapter 95 where appropriate.

5. *Edit Chapter 115 Table of Contents to delete reference to junk and junk yards. Edit 115.65 Home Occupations regulation to reference KMC 1.12 Code Enforcement. Delete 115.70 Junk and Junk Yards.*

It will be necessary to delete Junk and Junk Yards Prohibited from the Table of Contents and the text in Chapter 115. Also, a reference to the KMC should be made in the Home Occupations section so the reader knows where to look for enforcement information.

6. *Edit 117.125 to reference KMC 1.12 Code Enforcement.*

This section in the Personal Wireless Facilities chapter references Chapter 170 and should be changed to reference KMC 1.12.

7. *Edit 141.80 to reference KMC 1.12 Code Enforcement.*

This section in the Shoreline Administration chapter should reference KMC 1.12

8. *Edit 162.20 to refer to KMC 1.12 Code Enforcement, and 162.25 to refer to the Property Maintenance Code in the KMC and KMC 1.12 Code Enforcement.*

Edits are needed to refer the reader to the appropriate sections in the KMC.

9. *Revise Chapter 170 to delete the code enforcement provisions. Rename the Chapter to Code Administration.*

Edits to Chapter 170 are needed to delete the portions that will be covered in the KMC and to rename the chapter as it will no longer address the code enforcement process.

IX. PUBLIC COMMENT

Notice of the public hearing was posted on the City's Planning Commission website and was distributed to the Kirkland Neighborhood E-Bulletin, Kirkland Developer's Partnership Forum, King County Historic Preservation Office, CBD 5 property owners, Parking Advisory Board, Houghton Community Council, Chamber of Commerce, and various individuals interested in this project. One letter addressed to the City Council was received regarding this project prior to the completion of this memo. The individual had concerns regarding the proposed changes to the RH 8 zone and on the topic of removing the City Council from hearing Process IIA appeals. The letter can be found in Attachment 16.

X. CRITERIA FOR AMENDMENT ZONING TEXT

KZC 135.25 establishes the criteria by which changes to the Zoning Code text must be evaluated. These criteria and the relationship of the proposal to them are as follows:

1. *The proposed amendment is consistent with the applicable provisions of the Comprehensive Plan*

The proposed amendments are consistent with the Comprehensive Plan. The proposed amendments are needed to clarify and/or improve upon existing regulations and to fix unintended changes that were made with previous amendments to the KZC. Each proposed amendment has been reviewed to ensure consistency with the Comprehensive Plan. They do not fundamentally change the policies of the City.

2. *The proposed amendment bears a substantial relation to public health, safety, or welfare*

The proposed amendments bear a substantial relation to public health, safety, and welfare. The amendments further clarify existing regulations which are based on the goals and policies of the Comprehensive Plan.

3. *The proposed amendment is in the best interest of the residents of Kirkland*

The proposed amendments are in the best interest to the residents of Kirkland. The amendments seek to clarify and/or improve upon the existing regulations and review processes which were originally created based on balancing the needs of various stakeholder groups and the policies of the Comprehensive Plan. The result of the changes should create more certainty and predictability in terms of regulations and process for both the residential and development community.

XI. ENVIRONMENTAL REVIEW

A Draft and Final Environmental Impact Statement (EIS) on the City's Comprehensive Plan 10-year Update was published in 2004. The EIS addressed the 2004 Comprehensive Plan, Zoning Code and Zoning Map updates required by the Washington State Growth Management Act (GMA). An EIS Addendum was issued on October 21, 2010 for the Miscellaneous Zoning Code Amendments – Phase II (see Attachment 17). According to SEPA rules, an EIS addendum provides additional analysis and/or information about a proposal or alternatives where their significant environmental impacts have been disclosed and identified in a previous environmental document. An

addendum is appropriate when the impacts of the new proposal are the same general types as those identified in the prior document, and when the new analysis does not substantially change the analysis of significant impacts and alternatives in the prior environmental document. The EIS Addendum fulfills the environmental requirements for the proposed changes.

XII. ATTACHMENTS

1. Proposed Code Amendments
2. Interpretation 09-1
3. Proposed Changes to CBD 5 and Plate 34h
4. Downtown Master Plan Map
5. Personal Services Matrix
6. Proposed Changes to RH 8
7. Street Classification Map
8. Ground Floor Retail Requirements – Chart
9. Parking Modification Email
10. Interpretation 86-11
11. KZC Section 100.115
12. Parking Chart
13. Parking Counts
14. RS Use Zone Chart
15. Proposed Code Enforcement Changes
16. Public Comment Letter
17. EIS Addendum

Cc: Project Mailing List File No. ZON10-00013

PROPOSED KZC/KMC AMENDMENTS

* Not subject to HCC review
Change to Kirkland Municipal Code

1. Horizontal Façade

Clarify how horizontal façade is measured by using the defined term “maximum horizontal façade” as applicable. The proposed change is to subsection (b) of various code sections.

If any portion of a structure is adjoining a low density zone, then either:

- a. *The height of that portion of the structure shall not exceed 15 feet above average building elevation, or*
- b. *The ~~Maximum Horizontal Façade horizontal length of any facade of that portion of the structure which is parallel to the boundary of the low density zone~~ shall not exceed 50 feet in width.*

Affected Kirkland Zoning Code (KZC) sections are:

KZC 20.08.3.b	KZC 55.65.2.b
KZC 25.08.3.b	KZC 55.73.2.b
KZC 27.08.2.b	KZC 55.97.3.b
KZC 30.25.050 Spec. Reg. 1.b	KZC 60.12.040 - .060 Spec. Reg. 2.b
KZC 35.27.2.b	KZC 60.12.070 Spec. Reg. 1.b
KZC 40.08.2.b	KZC 60.27.080 Spec. Reg. 1.b
KZC 45.08.2.b	KZC 60.87.130 Spec. Reg. 3.b
KZC 47.08.2.b	KZC 60.55.3.b
KZC 48.10.2.b	KZC 60.60.3.b
KZC 49.10.2.b	KZC 60.70.3.b
KZC 51.08.3.b	KZC 60.80.3.b
KZC 51.18.2.b	KZC 60.90.3.b
KZC 51.30.2.b	KZC 60.95.3.b
KZC 53.52.2.b	KZC 60.100.3.b
KZC 53.57.2.b	KZC 60.110.3.b
KZC 53.82.2.b	KZC 60.130.3.b
KZC 54.08.2.b	KZC 60.174.3.b
KZC 54.16.2.b	KZC 60.185.3.a.2.b
KZC 54.20.2.b	KZC 60.190.3.b

A similar change is shown below for code sections with slightly different language:

If any portion of a structure is adjoining a low density use within PLA 5A, then either:

- a. *The height of that portion of the structure shall not exceed 15 feet above average building elevation, or*
- b. *The ~~Maximum Horizontal Façade horizontal length of any facade of that portion of the structure which is~~ within 100 feet of the lot containing a low density use within PLA 5A shall not exceed 75 feet.*

The affected KZC sections are:

KZC 60.30.3.b	KZC 60.45.3.b
KZC 60.35.3.b	KZC 60.50.3.b
KZC 60.40.3.b	

2. Fixes Incorrect Code Reference in Kirkland Municipal Code (KMC) Section 22.32.050 *:

KMC 22.32.050 Undergrounding of transmission lines—Required.

The applicant shall comply with the utility lines and appurtenances requirements of the zoning code, Section 110.60.79.

3. Correct Typographical Error in KMC Section 22.04.30(b)(1) *:

KMC Section 22.04.30(b)(1). Eligible Developments. The following types of development are subject to the provisions of this section:

(b)(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;

4. Fix Incorrect References to Landscape Buffers – PLA 1 KZC Section 60.12

KZC Section 60.12.010 Special Regulation

d. A 30-foot-wide landscape buffer planted as follows: pursuant to the requirements of KZC 95.25(2)

1) Two rows of trees planted eight feet on center along the entire length of the buffer. No more than 50 percent of the required trees may be deciduous. At the time of planting, deciduous trees must be at least two inches in diameter as measured using the standards of the American Association of Nurserymen; and coniferous trees must be at least five feet in height.

2) Shrubs, 18 inches high, planted to attain coverage of at least 60 percent of the buffer area within two years.

3) The buffer shall be provided around the campus perimeter, except along 108th Ave. NE, 114th Ave. NE, I-405, and between on-campus duplex housing and adjacent single-family sites or I-405. The buffer shall incorporate all existing significant trees and vegetation. Where fencing is proposed, it shall be wood, unless alternative fencing is requested in writing by the adjacent neighbor and agreed to by the applicant.

e. A 15-foot-wide landscape buffer planted pursuant to the requirements of subsection d (1) and (2) above KZC 95.25(2) shall be provided between on-campus duplex housing and adjacent single-family sites. The buffer shall incorporate all existing significant trees and vegetation.

5. Clarify Application Rounding Language for Affordable Housing

Combine KZC Sections 112.15.4 and 5 to avoid confusion as to when affordable housing is required.

KZC Section 112.15

4. *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.*
- ~~5. *Alternative Compliance* – KZC 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.~~

6. Clarify that Voluntary Affordable Housing is allowed where Affordable Housing is not required.

The proposed changes clarify that affordable housing incentives can be utilized in zones that affordable housing is not required.

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.*

7. Clarify Density Bonus for Affordable Housing Units

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.

8. Delete Outdated Reference to State Watercraft Noise Standards

Washington Administrative Code 173-70 no longer exists. The proposed amendment deletes the outdated reference.

KZC Section 115.95 Noise Regulations

1. *Maximum Environmental Noise Levels*
 - a. *State Standard Adopted – The City of Kirkland adopts by reference the maximum environmental noise levels established pursuant to the Noise Control Act of 1974, RCW 70.107. See Chapter 173-60 WAC.*

- ~~b. Watercraft Noise Performance Standards — The City of Kirkland adopts by reference the Watercraft Noise Performance Standards established pursuant to the Noise Control Act of 1974, RCW 70.107. See Chapter 173-70 WAC.~~
- ~~c. Availability — These regulations are available for inspection and copying in the Planning Department during regular business hours.~~

9. Clarify Height and Size of Detached Accessory Dwelling Units (ADU's)

The following changes clarify the height and size limitations for ADU's in KZC Sections 115.07 and .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.

KZC 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 containing 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 the maximum height allowed by the underlying zone or 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.~~

10. Delete Vague Stream/Wetland Regulation in PLA 17 *

The following regulation is being deleted because it is not clear and since KZC Chapter 90 contains the City's stream and wetland regulations.

~~KZC Section 60.185.4: 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).~~

~~54. No change to text.~~

~~65. No change to text.~~

11. Electronic Readerboard Signs for Fire Stations in the Annexation Area *

Existing regulations for electronic readerboard signs for fire stations are being extended into the annexation area. The following language is being added to KZC Sections 18.10.080(4) (RSA zone) and 40.10.170(2) (BNA zone).

One pedestal sign with a readerboard having electronic programming is allowed at a fire station only if:

- a. It is a pedestal sign (see Plate 12) having a maximum of 40 square feet of sign area per sign face;
 - b. The electronic readerboard is no more than 50 percent of the sign area;
 - c. Moving graphics and text or video are not part of the sign;
 - d. The electronic readerboard does not change text and/or images at a rate less than one every seven seconds and shall be readily legible given the text size and the speed limit of the adjacent right-of-way;
 - e. The electronic readerboard displays messages regarding public service announcements or City events only;
 - f. The intensity of the display shall not produce glare that extends to adjacent properties and the signs shall be equipped with a device which automatically dims the intensity of the lights during hours of darkness;
 - g. The electronic readerboard is turned off between 10:00 p.m. and 6:00 a.m. except during emergencies;
 - h. It is located to have the least impact on surrounding residential properties.
- If it is determined that the electronic readerboard constitutes a traffic hazard for any reason, the Planning Director may impose additional conditions.

12. Annexation vesting *

These changes fixes what was unintentionally broad vesting language in paragraph 4 by being more specific about the Council's intent.

KZC 10.45 Annexed Property

3. *Short plats and subdivisions that have been approved by King County but not recorded prior to annexation shall be recorded within the time period provided for under King County subdivision regulations in effect at the time of the approval of the short plat or subdivision. Notwithstanding the foregoing, initial development of ~~the dwelling units on~~ individual lots in the short plat or subdivision shall be governed by the King County zoning regulations in effect at the time of annexation for a period of five years after the date of annexation unless the City finds that a change in conditions creates a serious threat to the public health or safety. After five years, the current zoning regulations shall apply.*
4. *Initial development of dwelling units on ~~Individual~~ lots in short plats and subdivisions that have been approved and recorded by King County ~~and recorded prior subsequent to June 1, 2006 annexation~~ shall be governed by the King County zoning regulations in effect at the time of annexation for a period of five years after the date of annexation unless the City finds that a change in conditions creates a serious threat to the public health or safety. After five years, the current zoning regulations shall apply.*

13. Change to RS and RSA Zoning in regards to Schools

15.10.030.2.c - 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 (does not apply to existing school sites).*

18.10.030.1.c - *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; or*
b. *Site and building design minimizes adverse impacts on surrounding residential neighborhoods.*
c. *The property is served by a collector or arterial street (does not apply to existing school sites).*

14. Make Outdoor Vehicle/Boat Sales, Service/Repair Buffer Standards Consistent between zones

BC, BC1, BC2 – KZC 45.10.020.1: *Outdoor vehicle or boat parking or storage areas must be buffered as required for a parking area in KZC 95.45–Chapter 105–KZC. See KZC 115.105, Outdoor Use, Activity and Storage, for further regulations.*

BCX – KZC 47.10.020.4: *Storage of used parts and tires must be conducted entirely within an enclosed structure. Outdoor vehicle parking or storage areas must be buffered as required for a parking area in KZC 95.45. See KZC 115.105, Outdoor Use, Activity and Storage, for additional regulations.*

LIT – KZC 48.15.190.1: *Outdoor vehicle or boat parking or storage areas must be buffered as required for a parking area in KZC 95.40 through 95.45, landscaping regulations. See KZC 115.105, Outdoor Use, Activity and Storage, for additional regulations.*

JBD 1 – KZC 52.12.020.4: *Storage of used parts and tires must be conducted entirely within an enclosed structure. Outdoor vehicle parking or storage areas must be buffered as required for a parking area in KZC 95.45. See KZC 115.105, Outdoor Use, Activity and Storage, for additional regulations. also the section in Chapter 115 entitled “Outdoor Use, Activity and Storage” for additional regulations.*

JBD 1 - KZC 52.12.030.3: *Outdoor boat parking and storage areas must be buffered as required for a parking area per design regulations, in KZC 95.45. See also KZC 115.105, Outdoor Use, Activity and Storage, for further additional regulations.*

JBD 2 – KZC 52.17.020.4: *Storage of used parts and tires must be conducted entirely within an enclosed structure. Outdoor vehicle parking or storage areas must be buffered as required for a parking area in KZC 95.45. See KZC 115.105, Outdoor Use, Activity and Storage, for additional regulations. also the section in Chapter 115 entitled “Outdoor Use, Activity and Storage” for additional regulations.*

JBD 2 – KZC 52.17.030.3: *Outdoor boat parking and storage areas must be buffered as required for a parking area per design regulations, in KZC 95.45. See also KZC 115.105, Outdoor Use, Activity and Storage, for further additional regulations.*

JBD 4 – KZC 52.27.010.3: *Outdoor boat parking and storage areas must be buffered as required for a parking area per design regulations, in KZC 95.45. See also KZC 115.105, Outdoor Use, Activity and Storage, for further additional regulations.*

JBD 5 – KZC 52.32.010.3: *Outdoor boat parking and storage areas must be buffered as required for a parking area ~~per design regulations~~, in KZC 95.45. See ~~also~~ KZC 115.105, Outdoor Use, Activity and Storage, for ~~further~~ additional regulations.*

RH 1A – KZC 53.06.020.3: *Outdoor vehicle parking or storage must be buffered as required for a parking area inSee KZC 95.40 through 95.45. See KZC 115.105, Outdoor Use, Activity and Storage, for additional regulations., ~~required landscaping, for further regulations.~~*

RH 2A, 2B, 2C – KZC 53.24.020.3: *Outdoor vehicle parking or storage must be buffered as required for a parking area inSee KZC 95.40 through 95.45. See KZC 115.105, Outdoor Use, Activity and Storage, for additional regulations., ~~required landscaping, for further regulations.~~*

RH 3 – KZC 53.34.030.3: *Outdoor vehicle parking or storage must be buffered as required for a parking area inSee KZC 95.40 through 95.45. See KZC 115.105, Outdoor Use, Activity and Storage, for additional regulations., ~~required landscaping, for further regulations.~~*

RH 5A, 5B – KZC 53.54.020.6: *Outdoor vehicle parking or storage must be buffered as required for a parking area inSee KZC 95.40 through 95.45. See KZC 115.105, Outdoor Use, Activity and Storage, for additional regulations., ~~required landscaping, for further regulations.~~*

NRH 1A – KZC 54.06.070.5: Storage of used parts and tires must be conducted entirely within an enclosed structure. *Outdoor vehicle parking or storage areas must be buffered as required for a parking area in KZC 95.45. See ~~also~~ KZC 115.105, Outdoor Use, Activity and Storage, for additional regulations.*

NRH 1B – KZC 54.12.050.5: Storage of used parts and tires must be conducted entirely within an enclosed structure. *Outdoor vehicle parking or storage areas must be buffered as required for a parking area in KZC 95.45. See ~~also~~ KZC 115.105, Outdoor Use, Activity and Storage, for additional regulations.*

NRH 4 – KZC 54.30.020.2: *Outdoor vehicle or boat parking or storage areas must be buffered as required for a parking area in ~~Chapter 105~~ KZC 95.45. See KZC 115.105, Outdoor Use Activity and Storage, for ~~further~~ additional regulations.*

TL 4A, 4B, 4C – KZC 55.33.030.1: *Outdoor vehicle or boat parking or storage areas must be buffered as required for a parking area in ~~Chapter 105~~ KZC 95.45. See KZC 115.105, Outdoor Use Activity and Storage, for ~~further~~ additional regulations.*

TL 5 – KZC 55.39.030: *2. Outdoor vehicle or boat parking or storage areas must be buffered as required for a parking area in KZC 95.45. See KZC 115.105, Outdoor Use Activity and Storage, for additional regulations.*

TL 6A, 6B – KZC 55.45.020.2: *Outdoor vehicle or boat parking or storage areas must be buffered as required for a parking area in ~~Chapter 105~~ KZC 95.45. See KZC 115.105, Outdoor Use Activity and Storage, for ~~further~~ additional regulations.*

TL 7 – KZC 55.51.180.1: *Outdoor vehicle or boat parking or storage areas must be buffered as required for a parking area in ~~Chapter 105~~ KZC 95.45. See KZC 115.105, Outdoor Use Activity and Storage, for ~~further~~ additional regulations.*

TL 9A – KZC 55.61.180.1: *Outdoor vehicle or boat parking or storage areas must be buffered as required for a parking area in KZC ~~95.40 through~~ 95.45. See KZC 115.105, Outdoor Use Activity and Storage, for additional, ~~landscaping~~ regulations.*

TL 10C – KZC 55.81.130.2: *Outdoor vehicle or boat parking or storage areas must be buffered as required for a parking area in ~~Chapter 105~~ KZC 95.45. See KZC 115.105, Outdoor Use, Activity and Storage, for ~~further~~additional regulations.*

TL 10E – KZC 55.93.110: *Landscape Category EA*

KZC 55.93.110.1: *Outdoor vehicle or boat parking or storage areas must be buffered as required for a parking area in ~~Chapter 105~~ KZC 95.45. See KZC 115.105, Outdoor Use, Activity and Storage, for ~~further~~additional regulations.*

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

Codifies Interpretation 09-1 and allows back *Parks, Government, and Community Facility* uses as a street front use.

KZC 50.10.3 *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, Parks, Government Facility, or Community 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.*

16. Affordable Housing – Also Require in the PLA 6G, BC 1 and 2 Zones

PLA 6G:

KZC 60.85.2 - Developments creating four or more new dwelling units shall provide at least 10 percent of the units as affordable housing units as defined in Chapter 5 KZC. Two additional units may be constructed for each affordable housing unit provided. In such cases, the minimum lot size listed in the Use Regulations shall be used to establish the base number of units allowed on the site, but shall not limit the size of individual lots. See Chapter 112 KZC for additional affordable housing incentives and requirements.

23. *No Change to Text*

34. *No Change to Text*

45. *No Change to Text*

56. *No Change to Text*

BC1 and BC 2:

KZC 45.08.4 – In BC 1 and BC 2 zones, developments creating four or more new dwelling units shall provide at least 10 percent of the units as affordable housing units as defined in Chapter 5 KZC. Two additional units may be constructed for each affordable housing unit provided. See Chapter 112 KZC for additional affordable housing incentives and requirements.

- 45. No Change to Text
- 56. No Change to Text
- 67. No Change to Text

17. Affordable Housing – Clarify Requirement for all housing types in Multi-Family and Commercial Zones & Revise Minimum Lot Size Provision

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. In such cases, the minimum lot size listed in the Use Regulations shall be used to establish the base number of units allowed on the site, but shall not limit the size of individual lots. See Chapter 112 KZC for additional affordable housing incentives and requirements.

This change will be made to KZC General Regulation #2 of the following sections:

<u>Section</u>	<u>Zone</u>
20.08	RM 1.8, 2.4, 3.6, 5.0
25.08	PR 1.8, 2.4, 3.6, 5.0
30.10	WD I
30.30	WD III
60.15	PLA 2
60.20	PLA 3A
60.25	PLA 3B
60.30	PLA 5A
60.35	PLA 5B
60.40	PLA 5C
60.45	PLA 5D
60.50	PLA 5E
60.55	PLA 6A
60.60	PLA 6B
60.70	PLA 6D
60.80	PLA 6F
60.90	PLA 6H
60.95	PLA 6I
60.100	PLA 6J
60.105	PLA 6K
60.110	PLA 7A, 7B, 7C
60.130	PLA 9
60.170	PLA 15A
60.175	PLA 15B
60.185	PLA 17

60.190	PLA 17A
52.20	JBD 3
52.25	JBD 4
52.30	JBD 5
52.39	JBD 6
51.08	MSC 1, MSC 4
54.34	NRH 5
54.40	NRH 6
55.97	TL 11
53.22	RH 2C
53.42	RH 4

18. Wireless Facilities KZC Chapter 117 – Historic

KZC 117.65.8. The proposed amendments clarify the review of PWSF at historic locations

~~*Historic or Landmark Locations—No antennas shall be permitted on property designated as a 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.*~~

~~*Designated Historic Community Landmarks—*~~

- ~~*a) Applications for PWSF 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 shall be subject to the provisions of this chapter. The City shall notify the King County Historic Preservation Office in order to provide an opportunity for comments and recommendation on the application. The recommendation will be considered when making a decision on the application.*~~
- ~~*b) Applications for PWSF towers on properties designated in Table CC-1 only as historic sites, shall be reviewed subject to the provisions of this chapter and pursuant to the notification and consideration requirements in Subsection 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 Subsection 8(a).*~~

19. CBD 5 *

Specify height in feet. Delete references to comp plan. Revise's Plate 34h to add a pedestrian connection identified in the Downtown Master Plan. See chart/plate in Attachment 3.

20. RH 8 *

Allow personal service uses as an exception to prohibiting "Any Retail Establishment" above the ground floor. See chart in Attachment 6.

21. Fence Heights

The proposed change requires a setback and landscaping for fences along arterials.

KZC 115.40.1. General

a. *Fences not over six feet in height may be anywhere on the subject property except:*

- 1) *A fence may not be within 15 feet of any street curb, or the edge of the street pavement, if no curb exists; or*
- 2) *If the applicant can show with a survey, or other reasonable means, the location of his/her property line, the fence can be placed on the property line regardless of the distance from a street curb or the edge of the pavement.*
- 3) *A fence may not violate the provisions of KZC 115.135.*
- 4) *A detached dwelling unit abutting a neighborhood access or collector street may not have a fence over 3.5 feet in height within the required front yard. On corner lots with two required front yards, this restriction shall apply only within the front yard adjacent to the front facade of the structure.*
- 5) *A detached dwelling unit may not have a fence over 3.5 feet in height within 10 feet of the property line abutting a principal or minor arterial. The area between the fence and property line shall be planted with vegetation and maintained by the property owner.*
- 56) *No fence may be placed within a 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.*

22. Wireless Antennas on Water Reservoirs *

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.

KZC Section 117.65.7.g. Antennas, including flush-mounted panel or directional antennas, may be attached to an existing conforming mechanical equipment enclosure or stair or elevator penthouse or similar rooftop appurtenance which projects above the roof of the building, but may not project any higher than the enclosure. Antennas may also be allowed on safety railings located at the roofline of a water reservoir provided that the antennas do not extend above the safety railing.

23. Government Facilities in the TL 4B Zone *

KZC Section 55.31.4. - 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 except for structures containing a government facility use in the TL 4B zone. These uses shall be oriented to a major pedestrian sidewalk, a through-block pedestrian pathway or an internal pathway (see also Chapter 105 KZC).

24. Window Signs

Add a definition for a window sign to KZC 5.10.992: Window Sign – A sign located inside a window and visible from the exterior of a building.

Codifies Interpretation 86-11 which exempts windows signs from KZC Chapter 100 by adding window signs to KZC 100.115.A.

Type of Sign	Maximum Number of Signs	Maximum Sign Area	Permitted Location	Permitted Duration of Display
Window Sign	No maximum	No limitation	Subject property	No limitation

25. Reduced Multi Family Parking Standards in the CBD *

KZC 50.60.2 (CBD 1, 2, and 8) Number of Spaces

To the extent that subsections (3) and (4) of this section require that uses in the CBD 1, 2, and 8 Zones provide parking, the following establishes the number of spaces required:

- a. *Residential uses must provide ~~1.7~~ one parking spaces for each bedroom. A minimum of one parking space and a maximum of two parking spaces shall be provided per dwelling unit. In addition, guest parking shall be provided at a rate of 0.1 stalls per bedroom including studio units with a minimum of two guest parking stalls per development. ~~and~~ One parking space is required for each assisted living unit.*

The same regulation is also being added to the following CBD use zone charts as a special regulation (except for sentence regarding assisted living units since it is under a separate use listing): CBD 3, 4, 5, 5A, 6, & 7.

26. Minor text edit to KZC 150.85 *

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.*

27. Hearing Examiner Appeal Notice *

These changes make the appeal hearing notice timing consistent between various Hearing Examiner appeal types and the standard Process I and IIA appeals.

95.55.10.e - The office of the Hearing Examiner shall give notice of the hearing to the appellants at least ~~17~~14 calendar days prior to the hearing.

170.40.5.d(1) - The office of the Hearing Examiner shall give notice of the hearing before the Hearing Examiner to the appellant ~~17~~14 calendar days before such hearing.

117.95.1 - An applicant may appeal a Planning Official decision to the Hearing Examiner. A written notice of appeal shall be filed with the Planning Department within 14 days of the date the Planning Official's decision was mailed or otherwise delivered to the applicant. The office of the Hearing Examiner shall give notice of the hearing to the applicant at least ~~17~~14 days prior to the hearing.

115.07.11.c - Appeals. An applicant may appeal to the Hearing Examiner the decision of the Planning Official in denying a request to construct an accessory dwelling unit. A written notice of appeal shall be filed with the Planning Department within 14 calendar days of the date the Planning Official's decision was mailed or otherwise delivered to the applicant. The City shall give notice of the hearing to the applicant at least ~~17~~14 calendar days prior to the hearing.

28. Review Timing for Co-Location of Wireless Facilities

Codifies FCC declaratory ruling (WT Docket No. 08-165).

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. When an application is filed for co-location of wireless facilities and the application is to be processed pursuant to Process IIB, the City shall attempt to meet the applicable 90 day processing and decision timeframe. However, in some cases it may not be possible to fully process and decide a Process IIB co-location application within 90 days. In such cases, the City and the applicant shall agree to extend the 90 day processing and decision period, but only to the extent necessary to fully process and decide the application.*

29. HCC Administrative Variances

Allows administrative variances in HCC jurisdiction.

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:

- 1. The request complies with the criteria in KZC 120.20; and*
- 2. The gross floor area of the structure is expanded by less than five percent; and*
- 3. 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.*

30. Process IIA Appeals *

Removing the City Council from hearing Process IIA appeals will result appeals going to King County Superior Court.

150.65 Hearing Examiner's Decision

7. ~~The Hearing Examiner retains jurisdiction to correct errors in and/or to clarify the decision within 14 calendar days following the date of the distribution of the Hearing Examiner's decision, until the appeal period under KZC 150.80 has expired.~~

~~150.70 Effect of the Decision~~

~~The applicant may not engage in any activity based on the decision granting the application until 21 days following the final decision of the City, the time to appeal has expired. If the decision is appealed, the applicant may not engage in any activity based on the decision granting the application until the City issues a final decision on the matter. If the decision of the Hearing Examiner is not appealed, that decision is the final decision of the City.~~

~~150.80 Appeals~~

- ~~1. Who May Appeal—The decision of the Hearing Examiner may be appealed by:
 - a. The applicant; and
 - b. Any person who submitted written or oral testimony or comments to the Hearing Examiner on the application. A party who signed a petition may not appeal unless such party also submitted independent written comments or information.~~
- ~~2. Time To Appeal/How To Appeal—The appeal, in the form of a letter of appeal, must be delivered to the Planning Department within 14 calendar days following the date of distribution of the Hearing Examiner's decision; provided, that the appeal letter must be delivered to the Planning Department within 21 calendar days of the date of distribution of the Hearing Examiner's decision if state or local rules adopted pursuant to SEPA allow for public comment on a declaration of nonsignificance issued on the proposed development activity; and provided further, that if the fourteenth or twenty-first day, as applicable, of the appeal period falls on a Saturday, Sunday, or legal holiday, the appeal period shall be extended through the next day on which the City is open for business. It must contain:
 - a. A clear reference to the matter being appealed; and
 - b. A statement of the specific factual findings and conclusions of the Hearing Examiner disputed by the person filing the appeal.~~
- ~~3. Fee—The person filing the appeal shall include with the letter of appeal the fee established by ordinance.~~
- ~~4. Jurisdiction—Appeals from the decision of the Hearing Examiner will be considered and decided upon by the City Council.~~

~~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 description of the matter being appealed;
 - b. A statement of the scope of the appeal including a summary of the specific factual findings and conclusions disputed in the letter of appeal;
 - c. The time and place of the consideration of the appeal by the City Council;
 - d. A statement of who may participate in the appeal;
 - e. A statement of how to participate in the appeal.~~
- ~~2. Distribution—At least 14 calendar days before the City Council's consideration of the appeal, the Planning Official shall distribute this notice, or a summary thereof, to each person entitled to appeal the decision under KZC 150.80(1).~~

~~150.90 Participation in the Appeal~~

~~Only those persons entitled to appeal the decision under KZC 150.80(1) who file an appeal under KZC 150.80(2) may participate in the appeal; provided, that the applicant may submit a written response to an appeal filed by an appellant;~~

~~regardless of whether the applicant filed an appeal. These persons may participate in either or both of the following ways:~~

- ~~1. By submitting written arguments to the City Council prior to the commencement of the City Council's consideration of the appeal.~~
- ~~2. By appearing in person, or through a representative, at the City Council's consideration of the appeal and providing oral or written arguments directly to the City Council. The City Council shall allow each side (proponents and opponents) to speak for a maximum of 10 minutes each.~~

~~150.95 Nature of the Appeal and Scope of the Appeal~~

~~The appeal will be a closed record appeal. The scope of the appeal is limited to the specific factual findings and conclusions disputed in the letter of appeal, and City Council may only consider arguments on these factual findings and conclusions. The appeal will be considered only on the record developed in the hearing before the Hearing Examiner. No new evidence may be presented.~~

~~150.100 Staff Report on the Appeal~~

~~1. Contents—The Planning Official shall prepare a staff report on the appeal containing the following:~~

- ~~a. The staff report prepared for the public hearing before the Hearing Examiner.~~
- ~~b. The written decision of the Hearing Examiner.~~
- ~~c. All written testimony and comments submitted to the Hearing Examiner.~~
- ~~d. A summary of the testimony, comments and discussion at the hearing of the Hearing Examiner and a statement of the availability of the electronic sound recording of the hearing.~~
- ~~e. The letter of appeal.~~
- ~~f. All written arguments received by the Planning Department from persons entitled to participate in the appeal and within the scope of the appeal.~~
- ~~g. An analysis of the specific factual findings and conclusions disputed in the letter of appeal.~~

~~2. Distribution—The Planning Official shall distribute the staff report as follows:~~

- ~~a. Prior to the City Council's consideration of the appeal, the staff report will be distributed to each member of the City Council.~~
- ~~b. At least seven calendar days before the City Council's consideration of the appeal, the staff report will be distributed to:
 - ~~1) The applicant;~~
 - ~~2) The person who filed the appeal; and~~
 - ~~3) Any person who received the Hearing Examiner's decision.~~~~

~~150.105 City Council Consideration of the Appeal~~

- ~~1. General—City Council shall hold a closed record appeal procedure on the appeal.~~
- ~~2. Consideration Declared Open—The consideration of the appeal by the City Council is open to the public.~~

~~150.110 Electronic Sound Recordings~~

~~City Council shall make a complete electronic sound recording of each consideration of an appeal.~~

~~150.115 Burden of Proof~~

~~The person filing the appeal has the responsibility of convincing the City Council that the Hearing Examiner made an incorrect decision because of erroneous findings of fact or conclusions.~~

~~150.120 Continuation of the Consideration of the Appeal~~

~~City Council may continue their consideration if, for any reason, they are unable to receive all of the comments on the appeal or if City Council determines that they need more information within the scope of the appeal. If, during their~~

~~consideration, the time and place of the next consideration of the matter is announced, no further notice of that consideration need be given.~~

~~150.125 Decision on the Appeal~~

~~Within 60 calendar days of the date the letter of appeal was filed under KZC 150.80 and after considering all arguments within the scope of the appeal submitted by persons entitled to participate in the appeal, the City Council shall, by motion approved by a majority of its total membership, take one of the following actions:~~

- ~~1. If City Council determines that disputed findings of fact and conclusions of the Hearing Examiner are the correct findings of fact and conclusions, the Council shall affirm the decision.~~
- ~~2. If City Council determines that the disputed findings of fact and conclusions of the Hearing Examiner are not correct and that correct findings of fact and conclusions do not support the decision of the Hearing Examiner, the Council shall modify or reverse the decision.~~
- ~~3. In all other cases, the Council shall direct the Hearing Examiner to hold a rehearing on the matter. The motion may limit the scope of the matters to be considered at this rehearing. The provisions of KZC 150.25 through 150.70 apply to a rehearing under this subsection. In the event the City Council orders a rehearing on the matter, this shall constitute a special circumstance under RCW 36.70B.140. The Hearing Examiner shall hold the rehearing within 28 calendar days of the date the City Council orders the rehearing, and the time limits and other pertinent requirements of this chapter shall apply to the rehearing.~~

~~4. Notice of Decision~~

- ~~a. General — Following the final decision of the City Council, the Planning Official shall prepare a notice of the City's final decision on the application.~~
- ~~b. Distribution — Within four business days after the City Council's decision is made, the Planning Official shall distribute the decision, or summary thereof, along with a summary of any threshold determination under SEPA, to the following persons:
 - ~~1) The applicant.~~
 - ~~2) The person who filed the appeal.~~
 - ~~3) Each person who submitted written or oral comments to the City Council.~~
 - ~~4) Each person who has requested notices of the decision.~~The decision shall be posted on the City's website.~~

~~5. Effect — The decision of City Council is the final decision of the City.~~

~~150.130 80 Judicial Review~~

~~The action of the City in granting or denying an application under this chapter may be reviewed pursuant to the standards set forth in RCW 36.70C.130 in the King County Superior Court. The land use petition must be filed within 21 calendar days of the issuance of the final land use decision by the City. For more information on the judicial review process for land use decision, see Chapter 36.70C RCW.~~

~~150.135 90 Lapse of Approval~~

~~The applicant must begin construction or submit to the City a complete building permit application for the development activity, use of land or other actions approved under this chapter within four years after the final approval of the City of Kirkland on the matter, or the decision becomes void; provided, however, that in the event judicial review is initiated per KZC 150.130 150.80, the running of the four years is tolled for any period of time during which a court order in said judicial review proceeding prohibits the required development activity, use of land, or other actions. The applicant must substantially complete construction for the development activity,~~

use of land, or other actions approved under this chapter and complete the applicable conditions listed on the notice of decision within six years after the final approval on the matter, or the decision becomes void. For development activity, use of land, or other actions with phased construction, lapse of approval may be extended when approved under this chapter and made a condition of the notice of decision.

150.140 100 Bonds

The Hearing Examiner and City Council may require a bond under Chapter 175 KZC to insure compliance with any aspect of a permit or approval.

150.145 110 Complete Compliance Required

1. *General – Except as specified in subsection (2) of this section, the applicant must comply with all aspects, including conditions and restrictions, of an approval granted under this chapter in order to do everything authorized by that approval.*

2. *Exception – Subsequent Modification*

If a specific use or site plan is approved through this process, or any quasijudicial process under previous zoning codes, the applicant is not required to apply for and obtain approval through this process for a subsequent change in use or site plan unless:

a. *There is a change in use and this code establishes different or more rigorous standards for the new use than for the existing use; or*

b. *The Planning Director determines that there will be substantial changes in the impacts on the neighborhood or the City as a result of the change.*

150.150 120 Time Limits

Any time limit, pursuant to Chapter 36.70B RCW, upon the City's processing and decision upon applications under this chapter may, except as specifically otherwise stated in this chapter, be modified by a written agreement between the applicant and Planning Director. In the event a permit constitutes or presents a special circumstance under the provisions of this chapter, the time limits for the City to make a final decision and issue its notice of decision under Chapter 36.70B RCW are extended by the number of days that the final decision of the City was delayed as a result of that special circumstance.

Reference change in KZC Chapter 90 shown below is required if the above changes to KZC Chapter 150 are adopted.

KZC 90.140.8.c - The lapse of approval period provided in this section is shorter than the lapse of approval period in KZC 150.135 90 generally applicable to Process IIA approvals and this shorter period shall control for reasonable use exception approvals.

31. Eliminate KZC Chapter 155

Process III is no longer an applicable process within the City. The entire chapter is being deleted.

32. Correct Code reference for variance process notification

120.10 Process for Deciding Upon a Proposed Variance

The following subsection is not effective within the disapproval jurisdiction of the Houghton Community Council:

1. *The City will use Process IIA, described in Chapter 150 KZC, to review and decide upon an application for a variance except as to property located within an RS, RSA or*

RSX Zone or for a detached dwelling unit in any zone. For variance applications as to property located within an RS, RSA or RSX Zone or for a detached dwelling unit in any zone, the City will use Process I described in Chapter 145 KZC; provided, however, that while the content of the notice shall be per KZC 145.22(1), the distribution of the notice shall be per KZC 150.~~3022~~(2).

The following subsection is effective only within the disapproval jurisdiction of the Houghton Community Council:

- 2. The City will use Process IIA, described in Chapter 150 KZC, to review and decide upon an application for a variance except as to property located within an RS, RSA or RSX Zone. For variance applications as to property located within an RS, RSA or RSX Zone, the City will use Process I described in Chapter 145 KZC; provided, however, that while the content of the notice shall be per KZC 145.22(1), the distribution of the notice shall be per KZC 150.~~3022~~(2).*



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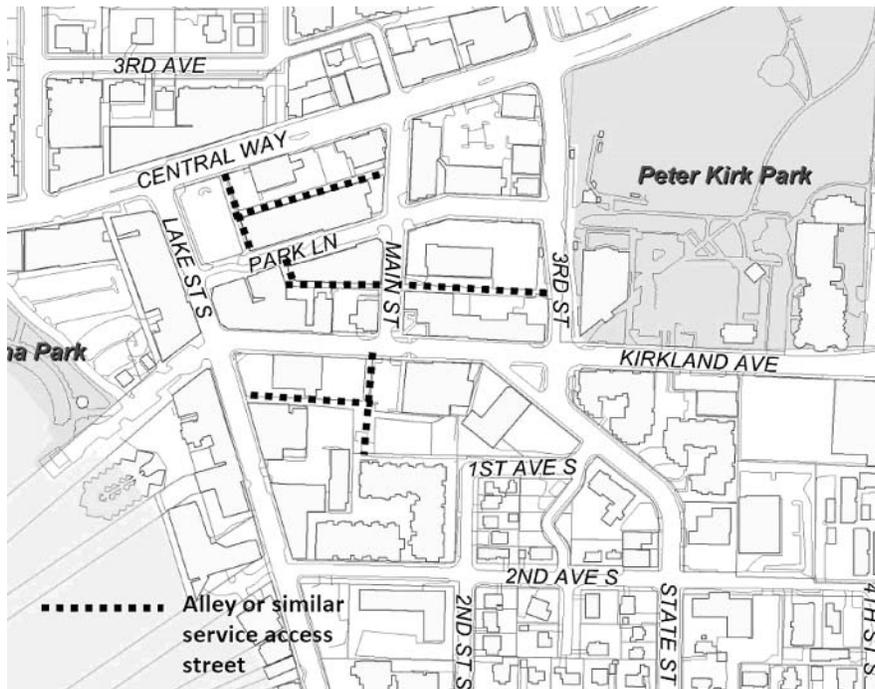
To: Interpretation No. 09-1
From: Eric R. Shields, AICP, Planning Director
Date: October 1, 2009
Subject: **GROUND FLOOR RETAIL REQUIREMENTS FOR CBD 1**

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.

50.33 User Guide.

The charts in KZC 50.35 contain the basic zoning regulations that apply in the CBD 5 zones of the City. Use these charts by reading down the left hand column entitled Use. Once you locate the use in which you are interested, read across to find the regulations that apply to that use.

Section 50.34



Zone
CBD-5

Section 50.34 – GENERAL REGULATIONS

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

1. Refer to Chapter 1 KZC to determine what other provisions of this code may apply to the subject property.
2. No portion of a structure above the elevation of Kirkland Way as measured at the midpoint of the frontage of the subject property on Kirkland Way may exceed the following:
 - a. Within 20 feet of Kirkland Way, 2 stories;
 - b. Within 40 feet of Kirkland Way, 4 stories;
 - c. Within 50 feet of Kirkland Way, 5 stories.
- ~~3. Buildings exceeding two stories above average building elevation shall demonstrate compliance with the design regulations of Chapter 02 KZC and the provisions of the Downtown Plan Chapter of the Comprehensive Plan. The City will use Design Review (D.R.) to determine compliance.~~
3. 4. The minimum required yard abutting Peter Kirk Park is 10 feet. The required front yard is 0 feet for those portions of buildings with continuous retail or restaurant uses at street level. Kirkland Way shall be considered a pedestrian-oriented street if the front yard is less than 20 feet.
4. 5. No portion of a structure within 100 feet of Peter Kirk Park shall exceed three stories above average building elevation.
5. 6. Ground floor porches and similar entry features may encroach into the required front yard, provided the total horizontal dimensions of such elements may not exceed 25 percent of the length of the facade of the structure (does not apply to Public Park uses).
- ~~7. 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).~~

67'

DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS												
Section 50.35	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						
.010	Restaurant or Tavern	D.R., Chapter 142 KZC.	None	20'	0'	0'	80%	3 to 5 stories above average building elevation.	D See Spec. Reg. 1.	E	One per each 125 sq. ft. of gross floor area.	<ol style="list-style-type: none"> Landscape Category B is required if the subject property is adjacent to 6th Street or Kirkland Avenue. For restaurants with drive-in or drive-through facilities: <ol style="list-style-type: none"> One outdoor waste receptacle shall be provided for every eight parking stalls. Access for drive-through facilities shall be approved by the Public Works Department. Drive-through facilities shall be designed so that vehicles will not block traffic in the right-of-way while waiting in line to be served. Landscape Category A shall apply if the subject property is adjacent to 6th Street or Kirkland Avenue.
.030	Entertainment, Cultural and/or Cultural Recreational Facility	D.R., Chapter 142 KZC.	None	20'	0'	0'	80%	3 to 5 stories above average building elevation.	D See Spec. Reg. 2.	E	See KZC 50.60 and 105.25.	<ol style="list-style-type: none"> The parking requirements for hotel or motel use do not include parking requirements for ancillary meetings and convention facilities. Additional parking requirements for ancillary uses shall be determined on a case-by-case basis. Landscape Category B is required if the subject property is adjacent to 6th Street or Kirkland Avenue.
.040	Hotel or Motel										One per each room. See Special Reg. 1.	
.050	Any Retail Establishment, other than those specifically listed, limited, or prohibited in the zone, selling goods, or providing services including banking and related financial services	D.R., Chapter 142 KZC.	None	20'	0'	0'	80%	3 to 5 stories above average building elevation.	D See Spec. Reg. 4.	E	One per each 350 sq. ft. of gross floor area.	<ol style="list-style-type: none"> The following uses are not permitted in this zone: <ol style="list-style-type: none"> Vehicle service stations. The sale, service and/or rental of motor vehicles, sailboats, motor boats, and recreational trailers; provided, that motorcycle sales, service, or rental is permitted if conducted indoors. Access for drive-through facilities must be approved by the Public Works Department. Ancillary assembly and manufacture of goods on the premises of this use are permitted only if: <ol style="list-style-type: none"> The assembled or manufactured goods are directly related to and dependent upon this use and are available for purchase and removal from the premises. The outward appearance and impacts of this use with ancillary assembly or manufacturing activities must be no different from other retail uses. Landscape Category B is required if subject property is adjacent to 6th Street or Kirkland Avenue.

ATTACHMENT 3
ZONING 00013

Section 50.35

Zone
CBD-5

USE ZONE CHART

67'

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

Section 50.35	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						
.060	Private Lodge or Club	D.R., Chapter 142 KZC.	None	20'	0'	0'	80%	3 to 5 stories above average building elevation.	D See Spec. Reg. 1.	B	See KZC 105.25.	1. Landscape Category C is required if subject property is adjacent to 6th Street or Kirkland Avenue.
.070	Office Use								D See Spec. Reg. 3.		One per each 350 sq. ft. of gross floor area.	1. Ancillary assembly and manufacture of goods on premises may be permitted as part of an office use if: a. The ancillary assembled or manufactured goods are subordinate to and dependent on this office use; and b. The outward appearance and impacts of this office use with ancillary assembly and manufacturing activities must be no different from other office uses. 2. The following regulations apply to veterinary office only: a. May only treat small animals on the subject property. b. Outside runs and other outside facilities for the animals are not permitted. c. Site must be designed so that noise from this use will not be audible off the subject property. A certification to this effect, signed by an Acoustical Engineer, must be submitted with the D.R. and building permit applications. d. A veterinary office is not permitted if the subject property contains dwelling units. 3. Landscape Category C is required if subject property is adjacent to 6th Street or Kirkland Avenue.
.080	Church								D See Spec. Reg. 2.		One per every four people based on maximum occupancy of any area of worship.	1. No parking is required for daycare or school ancillary to the use. 2. Landscape Category C is required if subject property is adjacent to 6th Street or Kirkland Avenue.

ATTACHMENT 3
ZON10-00013

67'

DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS												
Section 50.35	USE ↓ REGULATIONS ↓	Required Review Process	MINIMUMS				MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
			Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage	Height of Structure				
				Front	Side	Rear						
.090	School, Day-Care Center, or Mini-School or Day-Care Center	D.R., Chapter 142 KZC.	None	20'	0'	0'	80%	3 to 5 stories above average building elevation.	D	B	See KZC 105.25.	<ol style="list-style-type: none"> A six-foot-high fence is required along all property lines adjacent to outside play areas. Structured play areas must be setback from all property lines by at least five feet. Hours of operation may be limited by the City to reduce impacts on nearby residential uses. An on-site passenger loading area may be required depending on the number of attendees and the extent of the abutting right-of-way improvements. These uses are subject to the requirements established by the Department of Social and Health Services (WAC Title 388).
.100	Assisted Living Facility See Spec. Reg. 4.								D See Spec. Reg. 3.	A	1.7 per independent unit. 1 per assisted living unit.	<ol style="list-style-type: none"> A facility that provides both independent dwelling units and assisted living units shall be processed as an assisted living facility. A nursing home use may be permitted as part of an assisted living facility use in order to provide a continuum of care for residents. If a nursing home use is included, the following parking standard shall apply to the nursing home portion of the facility: <ol style="list-style-type: none"> One parking stall shall be provided for each bed. Landscape Category C is required if subject property is adjacent to 6th Street or Kirkland Avenue. This use only allowed: <ol style="list-style-type: none"> On properties with frontage on Second Avenue. Within 170 feet of Peter Kirk Park provided that the gross floor area of this use does not exceed 12.5% of the total gross floor area for the subject property.
.110	Stacked or Attached Dwelling Units								D See Special Reg. 1.		1.7 per unit.	<ol style="list-style-type: none"> Landscape Category C is required if the subject property to adjacent to 6th Street or Kirkland Avenue. This use only allowed: <ol style="list-style-type: none"> On properties with frontage on Second Avenue. Within 170 feet of Peter Kirk Park provided that the gross floor area of this use does not exceed 12.5% of the total gross floor area for the subject property.

Section 50.35

Zone
CBD-5

USE ZONE CHART

67'

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

Section 50.35	USE ↓ REGULATIONS ↓	Required Review Process	MINIMUMS			MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)	
			Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage					Height of Structure
				Front	Side	Rear						
.120	Public Utility, Government Facility, or Community Facility	D.R., Chapter 142 KZC.	None	20'	0'	0'	80%	3 to 5 stories above average building elevation.	D See Special Reg. 1.	B	See KZC 105.25.	<ol style="list-style-type: none"> Landscape Category C is required if the subject property is adjacent to 6th Street or Kirkland Avenue. Landscape Category A or B may be required depending on the type of use on the subject property and the impacts associated with the use on nearby uses. 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.
.130	Public Park	Development standards will be determined on a case-by-case basis. See Chapter 49 KZC for required review process.										



New Connection

**KZC CHAPTER 180
PLATE 34H**

Missing Pedestrian Connection in KZC Plate 34H

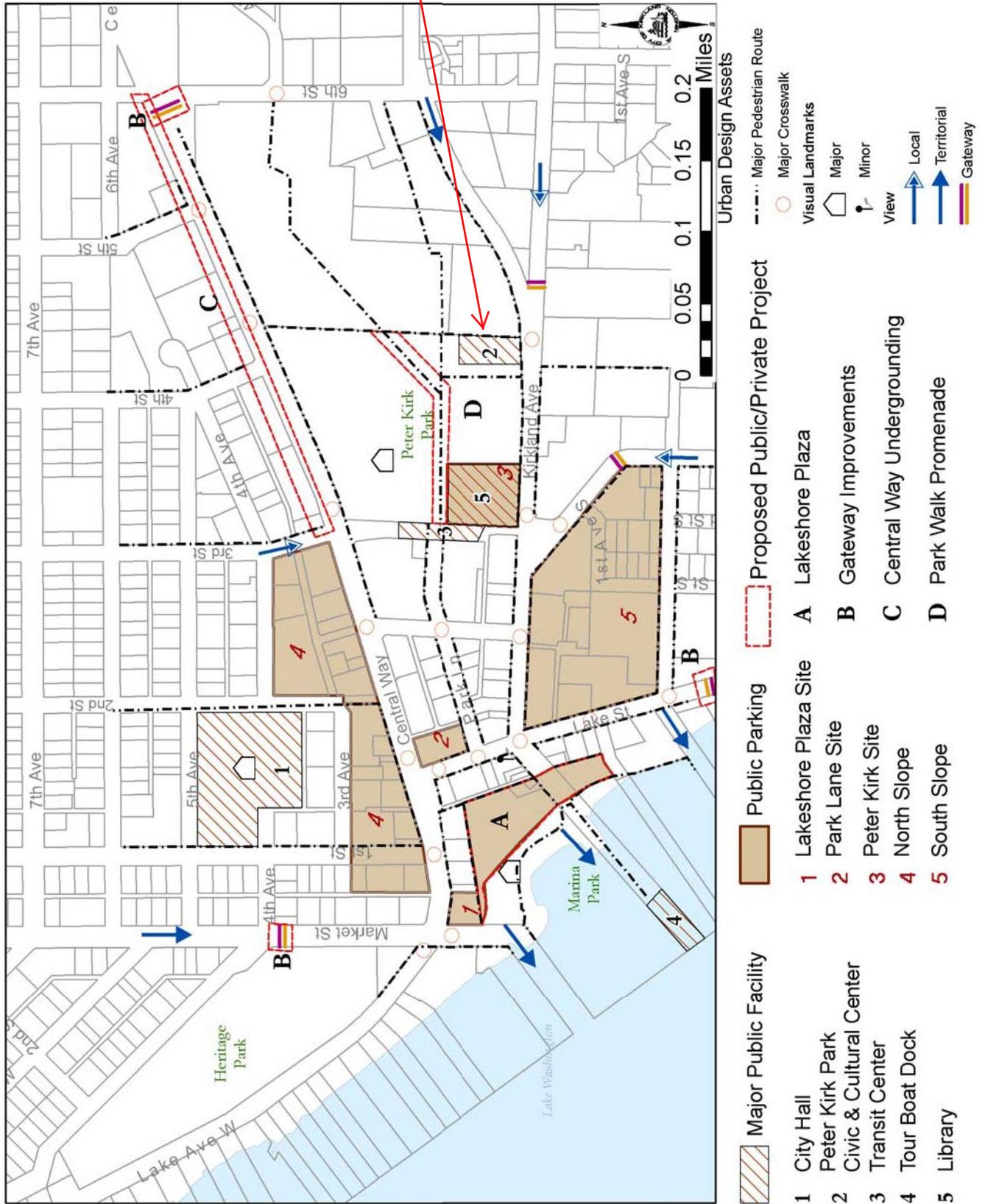


Figure MB-4: Downtown Master Plan

Personal Services		
City or County	Definitions	
<p>Kirkland Zoning Code Ch 5.795- Retail Establishment (Definition) - http://kirklandcode.ecitygov.net/CK_KZC_Search.html</p>		<p><u>Retail Establishment-</u> A commercial enterprise which provides goods and/or services directly to the consumer, whose goods are available for immediate purchase and removal from the premises by the purchaser and/or whose services are traditionally not permitted within an office use. The sale and consumption of food are included if: (a) the seating and associated circulation area does not exceed more than 10 percent of the gross floor area of the use, and (b) it can be demonstrated to the City that the floor plan is designed to preclude the seating area from being expanded</p>
<p>Bellevue Land Use Code, ch. 20.50.04 - Personal service use (Definition) - http://www.coderepublishing.com/wa/bellevue/LUC/BellevueLUC2050.html#20.50.04</p>	<p><u>Personal Services Use-</u>An establishment that provides services involving the care of a person, or of a person's apparel, such as, laundry and dry cleaning services, beauty shops, barber shops, shoe repair shops and tailors.</p>	<p><u>Mixed Retail Use-</u>Mixed Use Developments including a variety of retail and personal service uses such as those included under definitions for Retail Home Furnishings, Personal Services, Retail Major Appliances, and Retail Sales.</p>
<p>King County Code. Sec. 21A.08.050 General services land uses King County Code. Sec. 21A.08.050 General services land uses - http://your.kingcounty.gov/mkc/c/clerk/code/25_title_21A08.pdf</p>	<p><u>Personal Services-SIC</u> Codes 723- Beauty Shop 724-barber shops 725-shoe repair and shoeshine stores 7212-garment pressing and agents for laundries and drycleaners 217-carpet and upholstery cleaning</p>	<p><u>Retail Uses-</u> all other commercial enterprise that isn't wholesale.</p>
<p>Gig Harbor Municipal Code, sec. 17.04.657</p>	<p><u>Personal services-</u> "Personal services" means an establishment engaged in</p>	<p><u>Business Services-</u> "Business services" means an establishment engaged in providing services to individuals,</p>

<p>– Definition of “personal services” - http://www.codpublishing.com/wa/GigHarbor/GigHarbor17/GigHarbor1704.html#17.04.657, and sec. 17.04.201 - Definition of “business services” - http://www.codpublishing.com/wa/GigHarbor/GigHarbor17/GigHarbor1704.html#17.04.201</p>	<p>providing services involving nonmedical care of a person and/or his or her personal goods or apparel. Examples of such uses include: laundromats, drycleaners, barbers, hairstyling salons, spa services, photography studios, dance schools, karate schools, and exercise facilities.</p>	<p>business and professional office uses. Examples of such uses include: postal services, financial institutions, photocopying and reproduction services, janitorial services, graphic design services, advertising services, data processing services, employment agencies.</p>
<p>Snoqualmie Municipal Code, sec. 17.37.020(C)(5) - http://www.mrsc.org/mc/snoqualmie/Snoqualmie17/Snoqualmie1737.html</p>	<p>Included in definition of retail use</p>	<p><u>Retail Use-</u> A. For purposes of this chapter, “retail use” means a business primarily characterized by the sale of goods or merchandise to the local public and tourists for personal, household or business consumption, and rendering of services incidental to the sale of such goods, a business providing entertainment or recreation, a business engaged in the sale of food and/or beverages for on-premises consumption, or barber, beauty or nail salon, but excluding the sales, fueling, repair or storage of motor vehicles, excluding adult-oriented businesses of any nature and excluding any drive-through food or beverage service. B. The planning official shall determine whether existing uses and any proposed new use is a retail use for purposes of this chapter, and shall consider whether the proposed use has the following retail characteristics: 1. The establishment is engaged to a significant degree in business to attract the general public to sell tangible goods to consumers for their own personal or household use, or to render personal, entertainment or recreational services to customers on the premises;</p>

		<p>2. The business may process, repair, or manufacture some or all of the products it sells, such as jewelry, candy, baked goods, apparel, pottery, or consumer electronics, however, such processing, repair, or manufacturing shall be of items sold on the premises, whether or not also sold at wholesale, and shall be of a scale compatible with the retail component of the business.</p> <p>C. By way of illustration only, the following are retail uses:</p> <ol style="list-style-type: none"> 1. General merchandise, such as apparel, books, arts and crafts, furniture, and home furnishings; 2. Jewelry, records/compact discs/videos, consumer electronic equipment, hardware, sporting goods, stationery and office supplies, and toys; 3. Convenience goods such as food and grocery stores, pharmacies and drug stores; 4. Restaurants, other than drive-through food service, and taverns; 5. <u>Personal services</u>, such as barber shops and beauty salons, tailors, florists and shoe repair, which include incidental sale of related goods; 6. Movie theaters and bowling alleys; and 7. Museums and galleries.
<p>Port Townsend Municipal Code, Table 17.18.020 – Commercial service uses permitted in mixed use zones - http://www.coderepublishing.com/wa/PortTownsend/MunicipalCode/PortTownsend17/PortTownsend1718.html#17.18.020</p>	<p>Commercial Service Uses- Catering establishments Massage clinic or center Health clubs, dance studios, martial arts studios Laundromats and laundry services Personal services Printing, commercial Servicing of personal apparel and equipment Small appliance repair</p>	<p>Commercial Uses- Adult entertainment facilities Amusement devices, up to five Amusement parks or centers Antique and gift sales Apparel and accessory stores Arcade, amusement Art galleries Building materials, garden and farm supplies stores Convenience stores Confectioneries Custom, art and craft work Education and music studio Food stores and grocery stores Formula retail establishments (including formula restaurants) General merchandise stores Microbreweries Office supplies and equipment Other food services</p>

		<p>Pharmacies and medical supply stores Restaurants (excluding those with drive-in or drive through service) Specialty stores</p>
<p>Olympia Unified Development Code, sec. 18.02.180 – Personal services definition - http://www.codenpublishing.com/wa/olympia/html/Olympia18/Olympia1802.html#18.02.180</p>	<p>Personal Services- A business primarily engaged in providing services generally involving the maintenance of the human body, or other services to one’s person or household pets. Such businesses include, but are not limited to, barber and beauty shops, photographic studios, tanning parlors, massage practitioners, pet grooming, and obedience training. This does not include Medical Offices, Kennels or Veterinary Clinics. (See also Health Fitness Centers and Dance Studios.)</p>	<p>Retail Trade- The selling of goods or merchandise to the general public for personal, business, or household consumption. The retail sales establishment is usually a place of business and is engaged in activity to attract the general public to buy goods. The establishment may also buy and receive goods. Retail sales include services related to the retail goods. The establishment may process, repair, manufacture, and wholesale some of the products, such as jewelry, baked goods, beverages, apparel, pottery, or consumer electronics, but such processing, repair, or manufacturing must be associated with retail activities, be limited to rear or upper floor areas in the same building, and emit no loud noise or noxious odor. See Industry, Light.</p>
<p>Article 40 - Springfield (OR) Mixed-Use Zoning Districts (See Sec. 40.020, Business And Professional Offices And Personal Services section of table - http://www.ci.springfield.or.us/dsd/Planning/Development%20Code/SDCART40.pdf</p>	<p>Professional Offices And Personal Services- Accountants, bookkeepers and auditors Advertising/marketing agencies Architects, landscape architects and designers Art studios, fine Art restoration Attorneys Audio/video production studio Authors/composers Banks, credit unions and savings and loans Barber and beauty shops Blue printing, Photostatting, and photo developing Business schools Business, labor, scientific and professional organizations and headquarters Catering services Clinics and research/processing laboratories Collection agencies</p>	<p>Retail Sales- Antiques Apparel Art galleries and museums Art supplies Bakeries Bicycles Books Cameras and photographic supplies Candies, nuts and confectioneries China, glassware and metalware Cigars and cigarettes Computers, calculators and other office machines Convenience stores Dairy products Department stores Drapery, curtains and upholstery Dry Goods and general merchandise Electrical supplies Fabrics and accessories Film drop off and pick up (not a drive-through) Fish Floor coverings Florists Fruits and vegetables</p>

	<p>Commodity contract brokers and dealers Computer and information services Dentists Detective and protective agencies Doctors Drafting, graphic and copy services Employment agencies and services Engineers and surveyors Financial planning, investment services Graphic art services Gymnastics instruction House cleaning services Insurance carriers, agents, brokers and services Interior decorator and designers Laundry, dry cleaners, including self-service, and ironing services Loan companies, other than banks Locksmiths Lumber brokers Mailing services/mail order sales Management and planning consultants Manufactured unit as a temporary construction office, night watchperson's quarters or general office Motion picture studio/distribution Non-profit organizations Opticians Performing arts instruction Photocopying Photography studios Planners, land use Printing/publishing Psychologists and counselors Real estate sales and management</p>	<p>Furniture Furriers Groceries Hardware Hobby supplies Household appliances Jewelry Liquor outlets (State) Luggage and leather Magazines and newspapers Mail order houses Meats Medical and dental supplies Musical instruments and supplies Novelties and gifts Office equipment Paint, glass and wallpaper Pharmacies Pottery Radios, televisions and stereos Second hand and pawn shops Sewing machines Shoes Small electrical appliances Sporting goods Stationary Supermarkets Toys</p>
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	<p>Scientific and educational research Security systems services Self-defense studio Shoe repair Stenographers and secretarial services Stockbrokers Swimming pool cleaning Tailors Tanning salons Title companies Telephone answering services Travel agencies TV and radio broadcasting studios (does not include antennae) Typing services Window cleaning</p>	
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DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS													
Section 53.84	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							
.040	Any Retail Establishment other than those specifically listed, limited or prohibited in this zone, selling goods or providing services, including banking and related financial services. (continued)										REGULATIONS CONTINUED FROM PREVIOUS PAGE 2. This use may not be located above the ground floor of a structure. 3. Gross floor area for each individual use may not exceed 4,000 sq. ft. 4. A delicatessen, bakery, or other similar use may include, as part of the use, accessory seating if: a. The seating and associated circulation area does not exceed more than 10 percent of the gross floor area of the use; and b. It can be demonstrated to the City that the floor plan is designed to preclude the seating area from being expanded.		
.050	Stacked Dwelling Units See Spec. Reg. 1.	D.R., Chapter 142 KZC.	None	10' adjacent to NE 85th St., otherwise 20'.	0'	15'	70%	30' above average building elevation.	A	A	1.7 per unit.	1. This use may	
.060	Assisted Living Facility, Convalescent Center or Nursing Home See Spec. Reg. 1.											2. Chapter 115 k other accesso	1. This use may
.070	Church											2. Chapter 115 k other accesso	1. No parking is
								See Gen. Regs. 2 and 3.			Independent unit: 1.7 per unit. Assisted living facility: 1 per unit. Convalescent Center or Nursing Home: 1 per each bed.		
											1 per every 4 people based on maximum occupancy load of any area of worship. See Spec. Reg. 1.		

except personal service establishments that provide services involving the care of a person, or of a person's apparel, such as, laundry and dry cleaning services, beauty shops, barber shops, shoe repair shops and tailors may be located above the ground floor; provided that the use of exterior areas adjoining residential uses is prohibited.

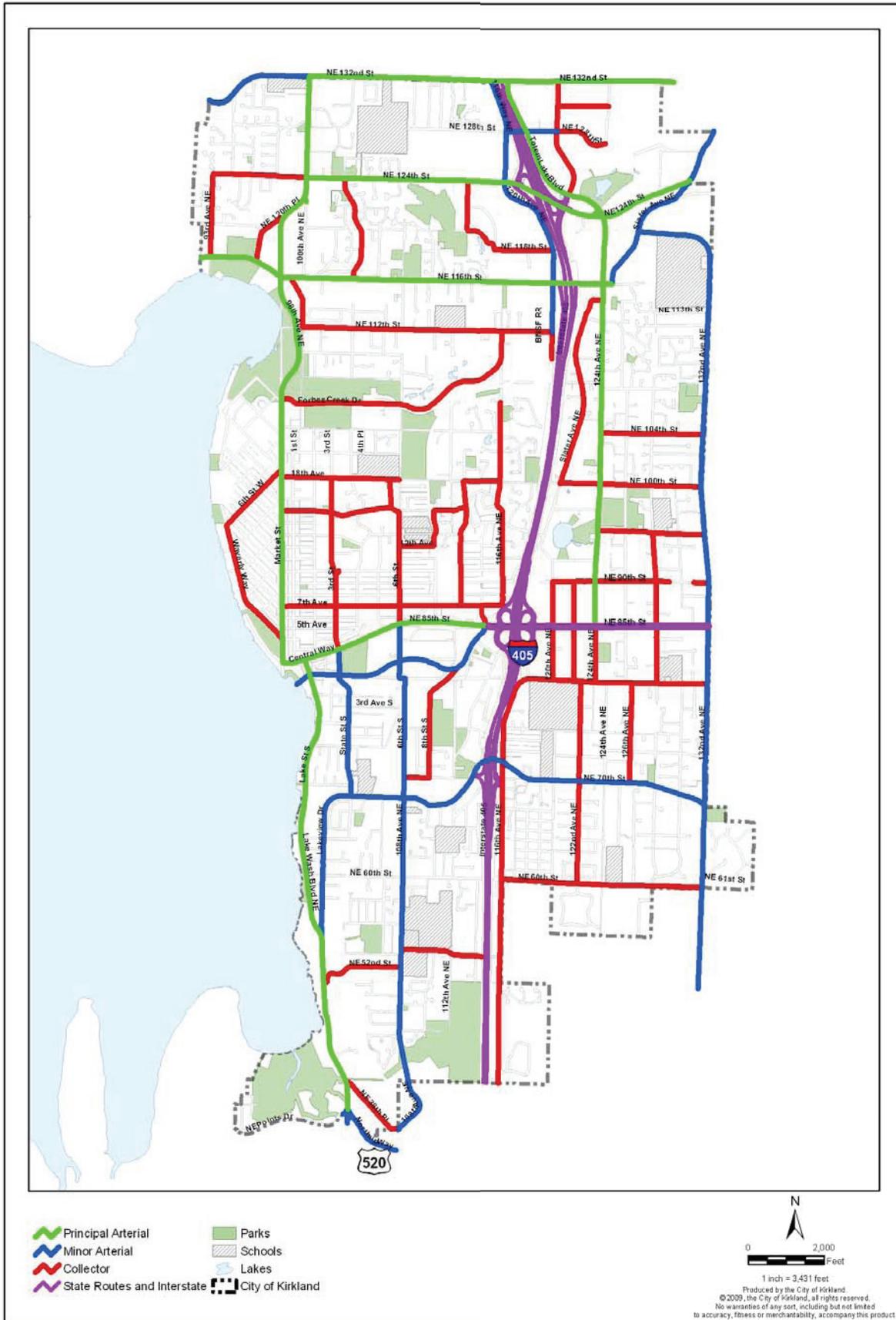


Figure T-1: Street Classifications and State Routes

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 if 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



CITY OF KIRKLAND

123 FIFTH AVENUE KIRKLAND, WASHINGTON 98033-6189 (425) 828-1257

**DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT
MEMORANDUM**

To: Interpretation File 86-11
From: Joe Tovar
Date: June 18, 1986
Subject: Window Signs

KZC 100.30 through 100.75 set forth the fundamental sign regulations which apply to permanent on-site business signs. KZC 100.115 sets forth regulations for numerous types of “special signs” which are allowed in addition to the signs permitted under KZC 100.30 through 100.75. Included in these special signs are “temporary commercial signs.” KZC 5.10.923 defines a temporary commercial sign as:

“...a sign associated with a business; painted on a window or constructed of cloth, paper or similar flexible material; readily removable; and displaying a temporary commercial message; but not including a real estate, on-site or real estate, off-site sign.”

Certain types of window signs do not meet the strict definition of a temporary sign. Neon signs displaying the name or logo of a particular product, for example, are not made of flexible materials. At the same time, these window signs customarily have not been regulated through KZC 100.30 through 100.75 as permanent business signs, although a strict reading of the code would not support this position. In most cases, however, window signs either serve a similar function as temporary commercial signs or function primarily as interior furnishings.

It is my interpretation, therefore, that all types of window signs should continue to be exempted from regulation as permanent signs under KZC 100.30 through 100.75 unless they are permanently affixed to the exterior of the building or they display the name of the business itself, in which case they are clearly assuming the form or serving the function of a permanent sign.

100.115 Temporary/Special Signs

- A. The chart below establishes regulations that apply to numerous signs of a temporary or special nature or purpose. These signs shall be permitted in addition to the signs permitted in Sign Categories A through F, and shall be subject to the requirements set forth in the following chart. Except as specifically stated in the chart, the signs in the chart are not subject to the regulations of KZC [100.30](#) through [100.75](#) and KZC [100.95](#).

No temporary or special signs shall be posted or placed upon public property; provided that, certain temporary signs may be posted or placed within certain portions of a public street right-of-way as identified by the chart below.

TYPE OF SIGN	MAXIMUM NUMBER OF SIGNS	MAXIMUM SIGN AREA	PERMITTED LOCATION	PERMITTED
				DURATION OF DISPLAY
Real Estate, On-site	For each dwelling unit, use or development: 1 per broker per abutting right-of-way.	Dwelling units: 6 sq. ft. per sign face. Other uses or developments: 32 sq. ft. per sign face – not to exceed 64 sq. ft. per property for sale or rent.	Subject property.	Must remove when property is sold or rented.
Real Estate, Off-site	1 per block per property for sale or rent.	6 sq. ft. per sign face.	Private property/public right-of-way.(3)	Must remove when property is sold or rented.
Construction	1 per abutting right-of-way.	32 sq. ft. per sign face.	Subject property.	Shall not be displayed prior to issuance of a building permit. Must be removed prior to issuance of a certificate of occupancy.
Temporary Commercial	No maximum.	No maximum.	Subject property. Must be entirely attached to a building face or fence.	Must remove at end of use, event or condition.
Integral	1 per structure.	6 sq. ft. per sign face.	Subject property.	No limitation.
Private Notice and Instructional	No maximum.	2 sq. ft. per sign face.	Subject property.	No limitation.
Private Advertising	No maximum.	16 sq. ft. per sign face.	No closer than 50 ft. from another sign advertising the same use, event or condition.	Must remove at end of use, event or condition.
Private Traffic Direction	No maximum.	4 sq. ft. per sign face.	Subject property.	No limitation.
Off-site	1.	16 sq. ft. per use,	Private property/public	Determined on case-

Directional(1)		not to exceed 64 sq. ft.	right-of-way.(3)	by-case basis.
Political	No maximum.	6 sq. ft. per sign face.	Private property/public right-of-way.(3)	No later than 7 days after the final election.
Projecting and Under Marquee	1 per pedestrian or vehicular entrance.	4 sq. ft. per sign face.	Subject property right-of-way abutting subject property. For uses subject to Sign Categories C, D, E and F only. Shall not project above roofline of structure to which sign is attached.	No limitation.
Fuel Price(2)	1 per abutting right-of-way.	20 sq. ft. per sign face.	Subject property.	No limitation.

(1) Must be approved by the Planning Director. Shall only be approved if there is a demonstrated need for an off-site sign because of poor visibility or traffic patterns. All uses in an area wanting a permanent off-site directional sign must use one sign. The applicant must show that the proposed sign can accommodate all uses in the area that may reasonably need to be listed on the sign. The decision of the Planning Director in approving or denying an off-site directional sign may be appealed using the appeal provision, as applicable, of Process I, KZC [145.60](#) through [145.110](#).

(2) Fuel price signs are also subject to KZC [100.95](#).

(3) Signs which are permitted to be placed within a public street right-of-way shall be located between the curb and the abutting private property, or where no curb exists, between the edge of the paved travel lane or paved shoulder and the abutting private property, but in no case on a sidewalk or driveway.

- B. All temporary or special signs which are in violation of any provision of this section, shall be brought into conformance upon ten day's written notice of violation to the responsible party by the Planning Official, pursuant to the notice provisions of KZC [170.35](#). If the responsible party fails to remove or correct the sign violation within seven calendar days after being served with notice of the violation, the Planning Official shall have the authority to remove the violative sign (s), and to assess the charges for such removal against the responsible party. For the purposes of this section, the "responsible party" shall be the owner or operator of the subject property upon which the sign violation occurs; provided that, in the case of off-site directional signs, the "responsible party" shall be the applicant(s) for the off-site directional sign; and provided further that, in the case of political signs, the responsible party shall be the political candidate and/or the manager of the political campaign promoted by the violative sign(s).
- C. Notwithstanding the other provisions of this section, the Planning Official may remove without notice any temporary or special sign which is in violation of any provision of this chapter and is located in the public right-of-way or on public property, and may assess the costs of removal of such signs against the responsible party.

CENTRAL BUSINESS DISTRICT - PARKING SPREADSHEET
(HIGHLIGHTED ROWS INDICATE PROJECTS WITH APPROVED PARKING REDUCTION)

Project	Year Complete	Residential Units	No. of Bedrooms	Code Required Residential Parking ⁵	Commercial Square Footage (gfa)	Base Code Requirements: Commercial (1/350 or 300 s.f. depending on zone)	TOTAL Required by Code	Parking Provided TOTAL ²	Provided - Base Required	Residential Parking Provided	Residential Parking Rate: stalls/unit ²	Guest Parking Rate/unit	Residential Parking @ 1 stall/bedroom	City Approved Rate: Stalls/Bedroom ²	Actual Residential Parking Provided: Stalls / Bedroom ⁴
Plaza on State Condominiums ³	1996	81	117	138	2,852	9	147	165	18	156	1.93	0.23	117	n/a	1.33
Watermark Apartments	1997	60	103	102	0	0	102	106	4	106	1.77	0.07	103	n/a	1.03
Park Avenue Condominiums	1997	38	76	65	0	0	65	84	19	84	2.21	0.51	76	n/a	1.11
602 5 th Street Condominiums	1997	14	28	24	0	0	24	31	7	31	2.21	0.51	28	n/a	1.11
Tiara De Lago Condominiums ³	1998	13	26	23	2,360	7	30	30	0	23	1.77	0.07	26	n/a	0.88
Chaffee Condominiums	1998	12	24	21	0	0	21	25	4	25	2.08	0.38	24	n/a	1.04
6 th Avenue Condominiums	1998	22	44	38	0	0	38	49	11	49	2.23	0.53	44	n/a	1.11
Brezza Condominiums	1999	75	124	128	0	0	128	148	20	148	1.97	0.27	124	n/a	1.19
Tera Apartments ³	1999	161	208	274	7,000	20	294	226	-68	206	1.28	?	208	?	0.99
Portsmouth Condominiums	1999	153	263	261	0	0	261	276	15	276	1.80	0.10	263	n/a	1.05
220 1 st Street Apartments ¹	2000	48	79	82	0	0	82	85	3	85	1.77	0.07	79	n/a	1.08
Soho Condominiums	2001	58	86	99	0	0	99	89	-10	89	1.53	?	86	?	1.03
West Water Apartments ^{1, 3}	2002	64	91	109	11,900	34	143	118	-25	84	1.31	?	91	?	0.92
Kirkland Central Condominiums ³	2006	110	142	187	9,168	27	214	176	-38	149	1.35	0.05	142	1.05	1.05
Boulevard Condominiums ³	2006	119	149	203	8,869	26	229	179	-50	153	1.29	0.03	149	1.03	1.03
128 State Condominiums	2007	124	158	211	0	0	211	168	-43	168	1.35	0.06	158	1.06	1.06
Bank of America/Merrill Gardens ³	2010	66	80	113	12,368	36	149	137	-12	101	1.53	0.15	80	1.15	1.26

OTHER BUSINESS DISTRICTS

Luna Sol - North Rose Hill Business District ³	2010	52	60	89	9,888	33	122	94	-28	57	1.10	0.15	60	1.15	0.95
Mastro - North Rose Hill Business District	n/a	54	56	92	64,725	216	308	302	-6	86	1.59	0.10	56	1.10	1.54
Waterbrook - Juanita Business District	n/a	84	96	143	10,688	36	179	156	-23	119	1.42	0.10	96	1.10	1.24

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) Actual rate per bedroom may be lower or higher than approved rate due to shared parking opportunities or surplus stalls were provided
- 5) Guest parking not included. See *Guest Parking Rate* column. The City may require guest parking spaces in excess of the required parking spaces, up to a maximum additional 0.5 stall per dwelling unit, if there is inadequate guest parking on the subject property.

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.	

REGULATIONS CONTINUED FROM PREVIOUS PAGE

b. If the subject property, including all contiguous property owned by the applicant and held by others for future use by the applicant, is five or more acres, a Master Plan, approved through Process IIB, Chapter 152 KZC, is required. The Master Plan must show building placement, building dimensions, roadways, utility locations, land uses within the Master Plan area, parking location, buffering, and landscaping.

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

12. For school use, structure height may be increased, up to 35 feet, if:

- The school can accommodate 200 or more students; and
- The required side and rear yards for the portions of the structure exceeding the basic maximum structure height are increased by one foot for each additional one foot of structure height; and
- The increased height is not specifically inconsistent with the applicable neighborhood plan provisions of the Comprehensive Plan.
- The increased height will not result in a structure that is incompatible with surrounding uses or improvements.

This special regulation is not effective within the disapproval jurisdiction of the Houghton Community Council.

1. Minimum lot size is as follows:

- 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:

- 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

PROPOSED KIRKLAND ZONING CODE AMENDMENTS FOR CODE ENFORCEMENT

1. Change to Table of Contents to show a new title for Chapter 170.

Title 23
ZONING

TABLE OF CONTENTS

[Click here](#) to view adopted ordinances that have not yet been inserted into the Zoning Code as well as pending regulations under consideration.

[Zoning Code Interpretations](#)

[Chapter 1](#) – User Guide

[Chapter 5](#) – Definitions

(No change until)

[Chapter 170](#) – Code Enforcement Administration

[Chapter 175](#) – Bonds

[Chapter 180](#) – Plates

[Table of Revised Pages](#)

[Ordinance History Table](#)

[Ordinance Table](#)

2. Revise the User Guide to refer readers interested in junk issues to the new Property Maintenance Code in the KMC.

Chapter 1 – USER GUIDE

14. Junk and Junk Yards – Are you interested in the City’s regulations on junk and junk yards? If so, see KZC [115.70](#), ~~Junk and Junk Yards Prohibited~~ KMC 21.41.308 Rubbish, junk and garbage.

3. Delete Chapter 5 definitions of Junk and Junk Yard because the definitions will be in the Property Maintenance Code.

Chapter 5 – DEFINITIONS

~~.447 Junk—Old or scrap copper; brass; rope; rags; batteries; paper; trash; rubber debris; wastes; machinery; scrap wood; junked, dismantled or wrecked automobiles, or parts thereof; iron; steel; and other old or scrap ferrous or nonferrous material.~~

~~.448 Junk Yard—A property or place of business which is maintained, operated, or used for storing, keeping, buying, selling, or salvaging junk.~~

4. Edits to Chapter 95 Table of Contents - Enforcement and Penalties is moving to KMC 1.12 Code Enforcement. Edit 95.21 and 95.55 to refer the reader to KMC 1.12 Code Enforcement. Delete remainder of 95.55.

Chapter 95 – TREE MANAGEMENT AND REQUIRED LANDSCAPING

Sections:

[95.05](#) Purpose and Intent

[95.10](#) Definitions

(No change until)

[95.55](#) Enforcement and Penalties

~~1. Intent~~

~~2. General Requirements~~

~~3. Authority~~

~~4. Cease and Desist~~

~~5. Stop Work Order~~

~~6. Civil Citation~~

~~7. Civil Penalty~~

~~8. Tree Restoration~~

~~9. Failure to Restore or Pay Fines~~

~~10. Appeal to Hearing Examiner~~

~~11. Hearing Examiner Decision~~

[95.57](#) City Forestry Account

95.21 Tree Pruning

1. Tree Pruning of Street Trees. It is the responsibility of the abutting property owner to maintain street trees abutting their property, which may include pruning, watering, and mulching. In order to prune, trim, modify, or alter a street tree, the abutting property owner shall apply for a permit by filing a written application with the City. Pruning shall conform to the most recent version of the American National Standards Institute (ANSI) A300 Part 1 – 2001 pruning standards or as outlined in an approved Utility Vegetation Management Plan. The City reserves the right to have City or utility crews perform routine pruning and maintenance of street trees.

2. Tree Pruning on Private Property. A permit is not required to prune trees on private property. Pruning which results in the removal of at least half of the live crown will be considered tree removal and subject to the provisions in KZC [95.23](#).

Tree topping is not allowed. If a tree required by this chapter is smaller than six inches in diameter and is topped, it must be replaced pursuant to the standards in KZC [95.55\(8\)\(b\)](#)KMC 1.12. If a tree six inches or larger in diameter is topped, the owner must have a qualified professional develop and implement a five-year restoration pruning program.

95.55 Enforcement and Penalties

- ~~1. Upon determination that there has been a violation of any provision of this section, the City may pursue code enforcement and penalties in accordance with the provisions of KMC 1.12, Code Enforcement. Intent: These enforcement and penalty provisions have several purposes. First, they are intended to discourage damage or removal of significant trees above and beyond what is permitted under this chapter. Second, these enforcement and penalty provisions are intended to provide complete and effective restoration of areas in which violations of this chapter occur. Finally, these regulations are intended to provide a clear and efficient process for addressing violations of this chapter.~~

~~The City may utilize one or more of several remedies when responding to violations of this chapter. In almost all cases where a violation has occurred, the City will issue a civil citation that describes the nature of the violation, the actions necessary to remedy the violation, and the amount of any civil penalty, among other things. If the acts that constitute a violation appear to be ongoing, the City may also issue a notice of cease and desist. Failure to adhere to a notice to cease and desist will result in imposition of additional civil penalties. If there is a pending development or building permit, the City may also issue a stop work order or withhold issuance of permit approval or a certificate of occupancy. Finally, additional fines may be imposed if a violator does not follow through in a timely manner with restoration work or other compliance issues.~~

- ~~2. General Requirements. Enforcement shall be conducted in accordance with procedures set forth in Chapter [170](#) KZC. Special enforcement provisions related to tree conservation are set forth below. To the extent there is a conflict between the provisions of this section and Chapter [170](#) KZC, this section shall control.~~

~~For code enforcement provisions regarding street trees and trees located on City property see Chapter [19.36](#) KMC.~~

- ~~3.— Authority. It shall be the duty of the Planning Official to administer the provisions of this chapter. The Planning Official shall have authority to enforce and carry out the provisions of this chapter.~~
- ~~4.— Cease and Desist. The Planning Official may issue a notice to cease and desist using the procedure set forth in KZC [170.30](#) if the Planning Official finds that a violation of this code has occurred. Continued illegal tree activity following issuance of a cease and desist from the City for the tree activity shall result in fines of \$1,000 per day of continued activity.~~
- ~~5.— Stop Work Order. If a violation of this chapter or an approved Tree Retention Plan occurs on property on which work is taking place pursuant to a City of Kirkland development or building permit, the Building Official may suspend some or all of the work as appropriate through issuance of a stop work order. The Building Official shall remove the stop work order when the City determines that the violation has been corrected or when the City has reached an agreement with the violator regarding rectification of the violation. Any stop work order issued under this section may be appealed using the procedures set forth in Chapter 21.06 KMC.~~
- ~~6.— Civil Citation. The City's Code Enforcement Officer shall notify a person who violates this chapter by issuance of a civil citation. The civil citation shall be in writing, and issued by certified mail with return receipt requested, or by personal service. The civil citation shall contain the following:
 - ~~a.— The name and address of the property owner or other person to whom the civil citation is directed;~~
 - ~~b.— The street address or description sufficient for identification of the land upon which the violation has occurred or is occurring;~~
 - ~~c.— A description of the violation and a reference to the provisions of this chapter that have been violated;~~
 - ~~d.— A statement of the restoration action required to be taken to correct the violation as determined by the Planning Official;~~
 - ~~e.— A statement of the civil penalty incurred for each violation;~~
 - ~~f.— A statement that the person to whom the civil citation is issued must correct the violation through restoration described in subsection (8) of this section and may pay the civil penalty or may appeal the civil citation as provided in this section.~~~~
- ~~7.— Civil Penalty.~~

- a. ~~A person who fails to comply with the requirements of this chapter or the terms of a permit issued hereunder, who undertakes an activity regulated by this chapter without obtaining a permit, or fails to comply with a cease and desist or stop work order issued under this chapter shall also be subject to a civil penalty as set forth in Table 95.55.1. Each unlawfully removed or damaged tree shall constitute a separate violation.~~
- b. ~~Any person who aids or abets in the violation shall be considered to have committed a violation for purposes of the civil penalty.~~
- c. ~~The amount of the penalty shall be assessed in accordance with Table 95.55.1. The Planning Official may elect not to seek penalties if the Planning Official determines that the circumstances do not warrant imposition of civil penalties in addition to restoration.~~

Table _____ 95.55.1
—Penalties

Types of Violations	Allowable Fines per Violation
1. Removal of tree(s) approved to be removed, but prior to final tree plan approval or issuance of a City tree removal permit	\$100.00 per tree
2. Removal or damage of tree(s) that are or would be shown to be retained on an approved tree plan or any other violation of approved tree protection plan	\$1,000 per tree
3. Removal of tree(s) without applying for or obtaining a required City permit	\$1,000 per tree

8. ~~Tree Restoration.~~

- a. ~~Violators of this chapter or of a permit issued thereunder shall be responsible for restoring unlawfully damaged areas in conformance with a plan, approved by the Planning Official, which provides for repair of any environmental and property damage, and restoration of the site; and which results in a site condition that, to the greatest extent practical, equals the site condition that would have existed in the absence of the violation(s). In cases where the violator intentionally or knowingly violated this chapter or has committed previous violations of this chapter, restoration costs may be based on the City appraised tree value of the subject trees in which the violation occurred, utilizing the industry standard trunk formula method in the current edition of Guide for Plant Appraisal. If diameter of removed tree is unknown,~~

~~determination of the diameter size shall be made by the Planning Official by comparing size of stump and species to similar trees in similar growing conditions. The amount of costs above the approved restoration plan will be paid into the City forestry account.~~

~~b. Restoration Plan Standards. The restoration plan shall be in accordance to the following standards:~~

~~1) The number of trees required to be planted is equal to the number of tree credits of illegally removed trees according to Table 95.33.1.~~

~~2) The minimum size for a tree planted for restoration is 12-foot tall conifer and three-inch caliper deciduous or broadleaf evergreen tree. The City may approve smaller restoration tree sizes at a higher restoration ratio, provided the site has capacity for the additional trees and the results of restoration at a higher restoration ratio is as good or better than at the normal ratio. The smallest allowable alternatives to the normal restoration requirements shall be two eight-foot conifers for one 12-foot conifer or two two-inch caliper deciduous for one three-inch caliper deciduous tree.~~

~~3) In the event the violators cannot restore the unlawfully removed or damaged trees, the violators shall make payment to the City forestry account. Unless otherwise determined to base the restoration costs on appraised value, the amount paid will be the City's unit cost for a restoration tree multiplied by the number of outstanding tree credits. The City's unit cost is based on the current market cost of purchase, installation and three-year maintenance for a minimum-sized tree for restoration.~~

~~4) The restoration plan shall include a maintenance plan and an agreement or security to ensure survival and maintenance of restoration trees for a three-year period unless the violation was on a site with an approved tree plan, in which case the maintenance period is five years.~~

~~9. Failure to Restore or Pay Fines.~~

~~a. Prohibition of Further Approvals. The City shall not approve any application for a subdivision or any other development permit or approval, or issue a certificate of occupancy for property on which a violation of this chapter has occurred until the violation is cured by restoration or other means accepted by the Planning Official and by payment of any penalty imposed for the violation.~~

~~b.— Fines. A property owner or occupant who fails to restore or otherwise cure property on which a violation of this chapter has occurred shall be assessed a fine of \$100.00 per day for each day that restoration is incomplete. Prior to assessing fines under this subsection, the City shall issue a written notice to the property owner or that restoration has not been completed. The notice shall include the following information: (1) a description of the nature of the violation; (2) a description of what actions are required to bring the property into compliance; and (3) a date by which compliance shall be required (the "compliance date"). The compliance date shall be no less than 30 days from the date the notice is served on the property owner or occupant. If the property owner or occupant does not, in the determination of the City, bring the property into compliance by the compliance date, then the City may issue an order imposing \$100.00 per day fines at any time after the compliance date. The fines shall continue to accrue until the violation has been certified to be corrected by the Planning Department. The property owner or occupant may appeal the order imposing fines to the Hearing Examiner using the procedures set forth in subsection 10 of this section.~~

~~10.— Appeal to Hearing Examiner.~~

~~a.— A person to whom a civil citation or order imposing fines is directed may appeal the civil citation, including the determination that a violation exists or the amount of any monetary penalty imposed, to the Hearing Examiner.~~

~~b.— A person may appeal the civil citation or order imposing fines by filing a written notice of appeal with the Department of Planning and Community Development within 14 calendar days of the date of service of the civil citation or order imposing fines.~~

~~c.— Fines that accrue on a daily basis shall not be imposed while an appeal is pending unless the Hearing Examiner determines that the appeal is frivolous or imposed solely for the purpose of delay.~~

~~d.— If both a civil citation and an order to cease and desist have been issued in the same case, and both the civil citation and the order to cease and desist have been appealed, the appeals shall be consolidated for hearing.~~

~~e.— The office of the Hearing Examiner shall give notice of the hearing to the appellants at least 17 calendar days prior to the hearing.~~

~~f.— The Hearing Examiner shall conduct a hearing on the appeal pursuant to the rules of procedure provided for in the Administrative Procedures~~

~~Act (Chapter 34.05 RCW) and in accordance with any rules for hearings promulgated by the Hearing Examiner. The City and the appellant may participate as parties in the hearing and each may call witnesses. The City shall have the burden of proof by a preponderance of the evidence that a violation has occurred.~~

~~11. Hearing Examiner Decision.~~

- ~~a. The Hearing Examiner shall determine whether the City has proven by a preponderance of the evidence that a violation has occurred and shall affirm, vacate, suspend, or modify the amount of any monetary penalty imposed by the civil citation, with or without written conditions.~~
- ~~b. In the event that the Hearing Examiner determines that a violation has occurred, the Hearing Examiner shall also consider the following in making his or her decision: (1) whether the appeal is frivolous or intended to delay compliance; (2) whether the appellant exercised reasonable and timely effort to comply with applicable development regulations; and (3) any other relevant factors.~~
- ~~c. The Hearing Examiner shall mail a copy of his or her decision to the appellant, by certified mail, postage prepaid, return receipt requested.~~
- ~~d. The decision of the Hearing Examiner may be reviewed in King County Superior Court using the standards set forth in RCW 36.70C.130. The land use petition must be filed within 21 calendar days of the issuance of the final land use decision by the Hearing Examiner (see Chapter 36.70C RCW for more information).~~

5. Edit Chapter 115 Table of Contents to delete reference to junk and junk yards. Edit 115.65 Home Occupations regulation to reference KMC 1.12 Code Enforcement. Delete 115.70 Junk and Junk Yards.

CHAPTER 115 – MISCELLANEOUS USE DEVELOPMENT AND PERFORMANCE STANDARDS

Sections:

- [115.05](#) User Guide
- [115.07](#) Accessory Dwelling Units
- (No change until)
- ~~[115.70](#) Junk and Junk Yards Prohibited~~
- [115.80](#) Legal Building Site
- [115.85](#) Lighting Regulations
- [115.90](#) Calculating Lot Coverage
- [115.95](#) Noise Regulations
- [115.100](#) Odor

- [115.105](#) Outdoor Use, Activity and Storage
- [115.110](#) Radiation
- [115.115](#) Required Yards
- [115.120](#) Rooftop Appurtenances
- [115.125](#) Rounding of Fractions of Dwelling Units
- [115.135](#) Sight Distance at Intersections
- [115.138](#) Temporary Storage Containers
- [115.140](#) Temporary Trailers for Construction and Real Estate Sales Offices
- [115.142](#) Transit Shelters and Centers, Public
- [115.150](#) Vehicles, Boats and Trailers – Size in Residential Zones Limited

Section 115.65 Home Occupations

6. Enforcement – Upon determination that there has been a violation of any provision of this section, the City may pursue code enforcement in accordance with the provisions of KMC Chapter ~~170~~KZC 1.12, Code Enforcement.

~~115.70 Junk and Junk Yards Prohibited~~

~~It is a violation of this code to accumulate junk or for a property owner or the person in control of property to allow junk to accumulate on the subject property. In addition, a junk yard is not permitted in the City.~~

6. Edit 117.125 to reference KMC 1.12 Code Enforcement.

Chapter 117 Personal Wireless Facilities

117.125 Violations and City Remedies

Any person who violates any of the provisions of this chapter shall be subject to the provisions of KMC Chapter ~~170~~KZC 1.12, Code Enforcement. In addition to fines, the City shall have the right to seek damages and injunctive relief for any and all violations of this chapter and all other remedies provided at law or in equity.

7. Edit 141.80 to reference KMC 1.12 Code Enforcement.

Chapter 141 – Shoreline Administration

141.80 Enforcement Authority.

1. WAC Chapter 173-27 contains enforcement regulations, including authority for the city to issue regulatory orders to enforce the Shoreline Management Act and the shoreline master program. In addition, the city shall have any and all other powers

granted to or devolving upon municipal corporations to enforce ordinances, resolutions, regulations, and other laws within its territorial limits. Upon determination that there has been a violation of any provision of the city's shoreline regulations, the City may pursue code enforcement and penalties in accordance with the provisions of KMC 1.12, Code Enforcement.

8. Edit 162.20 to refer to KMC 1.12 Code Enforcement, and 162.25 to refer to the Property Maintenance Code in the KMC and KMC 1.12 Code Enforcement.

Chapter 162 – Nonconformance

162.20 Abatement of Nonconformance That Was Illegal When Initiated

1. General – Except as specified in subsection (2) of this section, any nonconformance that was illegal when initiated must immediately be brought into conformance with this chapter. The City may, using the provisions of KMC Chapter 170 ~~KZC 1.12~~, immediately abate any nonconformance that was illegal when initiated.

162.25 Immediate Compliance with Certain Provisions Required

1. General – Regardless of any other provision of this chapter, the following nonconformances must be immediately brought into conformance with the applicable provisions of this code:

i. Nonconformance with the provisions in ~~Chapter 115 KZC~~ KMC 21.41 regarding junk in residential zones.

2. Abatement – The City may immediately abate any nonconformance listed in KZC 162.25(1) using the provisions of ~~KZC 170.25 through 170.40~~ KMC 1.12, or any other abatement process lawfully available to the City.

9. Revise Chapter 170 to delete the code enforcement provisions. Rename the Chapter to Code Administration.

Chapter 170 – ~~CODE ENFORCEMENT~~ADMINISTRATION

- 170.05 User Guide
- 170.10 Permits Issued by Building Official – Responsibility Prior to Issuance of Permit
- 170.15 Permits Issued by Building Official – Certificate of Occupancy
- 170.20 Code Enforcement Officer – ~~Duty To Investigate~~
- 170.25 – ~~Violation of This Code~~
- 170.30 – ~~Code Enforcement Officer – Order To Cease Activity~~
- 170.35 – ~~Code Enforcement Officer – Notice of Violation~~

~~[170.40](#)~~ Code Enforcement Officer—Notice of Civil Infraction
~~[170.42](#)~~ Failure To Satisfy Penalty
~~[170.4525](#)~~ Variance, Permit, Decision or Discretionary Approval – General
~~[170.5030](#)~~ Variance, Permit, Decision, or Discretionary Approval – Voiding
~~[170.5535](#)~~ No Personal Liability for Acts or Omissions
~~[170.6040](#)~~ Interpretations of This Code – General
~~[170.6545](#)~~ Interpretations of This Code – Appeal
~~[170.7050](#)~~ Conflict of Provisions
~~[170.7555](#)~~ Easement Agreements Approved by the City Attorney

170.05 User Guide

This chapter contains a variety of provisions generally pertaining to the administration and enforcement of this code. Specifically, this chapter contains provisions in the following areas:

1. Code administration.
2. Code enforcement.
- ~~3. Penalties for code violation.~~
4. Status of discretionary decision.
5. Liability of employees and others.
6. Code interpretations and appeals.
7. Conflict of provisions.
8. Recording of easements.

170.10 Permits Issued by Building Official – Responsibility Prior to Issuance of Permit

1. General – The Building Official may not issue a permit to conduct any activity or to erect or alter any structure that does not conform to this code.
2. Required Information – The Building Official shall distribute to each applicant for a permit issued by that Official a list, prepared by the Planning Official, of all of the information and renderings required by this code.
3. Responsibility of Building Official – Upon receiving an application for any permit that is not exempt under subsection (7) of this section, the Building Official shall send the application and all relevant information to the Planning Department. The Building Official may not issue the permit until the permit application has been signed by the Planning Official.

4. Responsibility of the Planning Official – Upon receiving an application for a permit routed from the Building Official, the Planning Official shall promptly review it and make any necessary field inspection to determine whether the proposed development or activity complies with this code.
5. Additional Information – The Planning Official may require the applicant to provide any information or renderings required by this code, or any other information or renderings that are reasonably necessary to determine if the proposed development or activity complies with the provisions of this code.
6. Authorization by Planning Official – The Planning Official shall sign the permit application if the proposed development or activity conforms to the provisions of this code.
7. Permits Exempted from Review by the Planning Director – The Planning Director may specifically exempt categories of permits issued by the Building Official from the Planning Department review requirements of this section. The Building Official shall review applications for exempted permits for compliance with this code.

170.15 Permits Issued by Building Official – Certificate of Occupancy

1. General – It is unlawful to occupy a building or conduct a use requiring a certificate of occupancy unless the Planning Official has approved the certificate of occupancy for that building or use.
2. Responsibility of Building Official – Upon receipt of a request to issue a certificate of occupancy, the Building Official shall promptly notify the Planning Official of the request. The Building Official may not issue a certificate of occupancy until he/she receives written approval from the Planning Official.
3. Responsibility of the Planning Official – Upon receiving notice from the Building Official of a request for a certificate of occupancy, the Planning Official shall promptly review the request, and if necessary, conduct a field inspection to determine if the structure or use conforms to this code.
4. Issuance of the Planning Official Approval – The Planning Official shall sign and forward to the Building Department the Certificate of Occupancy if the building or use conforms to this code.

170.20 Code Enforcement Officer—Duty To Investigate

- ~~1. General—The Code Enforcement Officer shall, either upon a complaint or on his/her own initiative, investigate potential violations of this code. For~~

code enforcement procedures and penalties for violations of this code see KMC 1.12.

- ~~2. Entrance on Private Property — The Code Enforcement Officer may enter upon private property to investigate potential violations of this code if he/she has a good faith belief that a violation exists or is occurring on the property. Before entering upon private property, the Code Enforcement Officer shall present his/her credentials to the owner or person in possession or charge of the property and demand entry. If entry is refused, the Code Enforcement Officer may use every lawful means and remedy to obtain entry.~~

~~170.25 Violation of This Code~~

- ~~1. General — It is a violation for any person to do or cause any of the following to be done contrary to this code, and for the property owner to permit any of the following to be done contrary to this code:
 - ~~a. Construct, in any way alter, or move any improvement.~~
 - ~~b. Engage in any activity.~~
 - ~~c. Use or occupy any structure or land.~~
 - ~~d. Conduct any use.~~
 - ~~e. Create any conditions.~~~~

~~It is also a violation for any person to fail to perform any activity or obligation required by this code. Violation of a provision of this code is a civil infraction for which a monetary penalty may be imposed under this chapter.~~

- ~~2. Monetary Penalty — The amount of the monetary penalty per day or portion thereof for each violation is as follows:
 - ~~a. First violation: \$100.00;~~
 - ~~b. Second violation: \$200.00;~~
 - ~~c. Third violation: \$300.00;~~
 - ~~d. Additional violation in excess of three: \$500.00.~~~~
- ~~3. Continued Duty To Correct — Payment of a monetary penalty pursuant to this chapter does not relieve a person of the duty to correct the violation as ordered by the applicable department director.~~

4. ~~Other Legal Remedies~~—Nothing in this chapter limits the right of the City to pursue other lawful criminal, civil, or equitable remedies to abate, discontinue, or correct unlawful acts under or in violation of this code.

170.30 ~~Code Enforcement Officer~~—~~Order To Cease Activity~~

1. ~~General~~—If the ~~Code Enforcement Officer~~ determines that any activity being conducted or any improvement being erected or altered:
 - a. ~~Does not conform to the code, and~~
 - b. ~~Such activity (i) involves use of noise emitting heavy construction equipment or land surface modification, or (ii) poses an immediate threat to the safety, repose or right of quiet enjoyment of neighboring property owners, or to the general public,~~

~~he/she may issue an order to cease activity.~~
2. ~~Posting and Notice~~—The ~~Code Enforcement Officer~~ shall prominently post this Order on the subject property and shall make reasonable attempts to send this Order on to the property owner, the person in charge of the property, or the person causing the activity to be conducted or the improvement to be erected or altered.
3. ~~Effect~~—When an order to cease activity has been posted on the subject property, it is a violation for any person with actual or constructive knowledge of the order to conduct the activity or do the work covered by the order until the ~~Code Enforcement Officer~~ has removed the posted copy of the order and issued written authorization for the activity or work to be continued. If an order to cease activity is violated, the ~~Code Enforcement Officer~~ may issue a notice of civil infraction under KZC [170.40](#) and need not first issue a notice of violation.
4. ~~Appeal~~—An order to cease activity may be appealed in like manner as a notice of civil infraction to the Hearing Examiner under the provisions of KZC [170.40](#). If a notice of civil infraction has also been issued and appealed, the appeals shall be consolidated for hearing.

170.35 ~~Code Enforcement Officer~~—~~Notice of Violation~~

1. ~~General~~—If the ~~Code Enforcement Officer~~ determines that any activity, condition, structure, or use exists that does not conform to this code, he/she may issue a notice of violation. This notice will specifically indicate:
 - a. ~~The name and address of the property owner or other person to whom the notice of violation is directed; and~~

- ~~b. The street address or description sufficient for identification of the building, structure, premises, or land upon or within which the violation has occurred or is occurring; and~~
- ~~c. A description of the violation and a reference to that provision or provisions of this code being violated; and~~
- ~~d. A statement of the action required to be taken to correct the violation as determined by the applicable department director and a date or time by which correction is to be completed, which date shall be not less than seven days after the date of issuance of the notice of violation; and~~
- ~~e. A statement that a monetary penalty in an amount per day for each violation as specified by KZC 170.25 shall be assessed against the person to whom the notice of violation is directed for each and every day, or portion of a day, on which the violation continues following the date set for correction.~~

~~2. Notice to Occupant and Owner — The Code Enforcement Officer shall:~~

- ~~a. Leave a copy of this notice with the occupant or person in charge of the property or post it in a conspicuous place on the subject property; and~~
- ~~b. Send a copy of the notice by certified mail to the owner of the subject property.~~

~~3. Extension — Upon written request received prior to the correction date or time, the Code Enforcement Officer may extend the date set for correction for good cause. The Code Enforcement Officer may consider substantial completion of the necessary correction or unforeseeable circumstances which render completion impossible by the date established as good cause.~~

~~170.40 Code Enforcement Officer — Notice of Civil Infraction~~

~~1. General — The Code Enforcement Officer may cause a notice of civil infraction to be issued in either of the following circumstances:~~

- ~~a. There is a violation of a posted order to cease activity.~~
- ~~b. If, after this time specified in the notice of violation, the activity, conditions, structure, or use cited in the notice of violation still does not conform to this code.~~

~~2. Issuance~~

- a. ~~The notice of civil infraction will be issued to the owner of the property, the occupant, or person in charge of the property and/or any other person causing or allowing the activity, conditions, structure or use to exist or occur.~~
 - b. ~~Notwithstanding the provisions of KZC [170.30](#) and [170.35](#), the Code Enforcement Officer may issue a notice of civil infraction without having issued a notice of violation or order to cease activity when a repeated violation occurs within a six-month period of time.~~
 - c. ~~A notice of civil infraction represents a determination that a civil infraction has been committed. The determination is final unless appealed as provided in this chapter.~~
3. ~~Content~~ ~~The Code Enforcement Officer shall include the following in the notice of civil infraction:~~
- a. ~~The name and address of the property owner or other persons to whom the notice of civil infraction is directed; and~~
 - b. ~~The street address or a description sufficient for identification of the building, structure, premises, or land upon or within which the violation has occurred or is occurring; and~~
 - c. ~~A description of the violation and a reference to that provision or provisions of this code which has been violated; and~~
 - d. ~~A statement that the monetary penalty in the amount per day for each violation as specified in KZC [170.25](#) is assessed against the person to whom the notice of civil infraction is directed for each and every day, or portion thereof, during which the violation continues beyond the date or time established for correction in the notice of violation; and~~
 - e. ~~A statement that the person to whom the notice of civil infraction was directed must complete correction of the violation and may pay the monetary penalty imposed to the City Clerk or may appeal the notice of civil infraction as provided in this section.~~
4. ~~Service of Notice~~ ~~The Code Enforcement Officer shall serve the notice of civil infraction upon the person to whom it is directed, either personally or by mailing a copy of the notice of civil infraction by certified mail, postage prepaid, return receipt requested, to such person at his/her last known address or by posting the notice of civil infraction conspicuously on the affected property or structure. The person who effected personal service shall make proof of service at the time of service by a written~~

~~declaration under penalty of perjury declaring the time and date and the manner in which service was made.~~

~~5. Appeal to Hearing Examiner~~

~~a. A person to whom a notice of civil infraction is directed may appeal the notice of civil infraction including the determination that a violation exists or may appeal the amount of any monetary penalty imposed to the Hearing Examiner.~~

~~b. A person may appeal the notice of civil infraction by filing a written notice of appeal with the Department of Planning and Community Development within seven calendar days from the date of service of the notice of civil infraction.~~

~~c. The monetary penalty for a continuing violation does not accrue during the pendency of the appeal; however, the Hearing Examiner may impose a daily monetary penalty from the date of service of the notice of civil infraction if he finds that the appeal is frivolous or intended solely to delay compliance.~~

~~d. The hearing before the Hearing Examiner shall be conducted as follows:~~

~~1) The office of the Hearing Examiner shall give notice of the hearing before the Hearing Examiner to the appellant 17 calendar days before such hearing.~~

~~2) The Hearing Examiner shall conduct a hearing on the appeal pursuant to the rules of procedure as provided by the Administrative Procedure Act, Chapter 34.05 RCW. The City and the appellant may participate as parties in the hearing and each may call witnesses. The City shall have the burden of proof by a preponderance of the evidence that a violation has occurred.~~

~~6. Action of Hearing Examiner~~

~~a. The Hearing Examiner shall determine whether the City has proven by a preponderance of the evidence that a violation has occurred and shall affirm, vacate, suspend, or modify the amount of any monetary penalty imposed by the notice of civil violation with or without written conditions.~~

~~b. The Hearing Examiner shall consider the following in making his/her determination:~~

- ~~1) Whether the intent of the appeal was to delay compliance, or~~
 - ~~2) Whether the appeal is frivolous, or~~
 - ~~3) Whether there was a written contract or agreement with another party which specified the securing by the other party of the applicable permit or approval from the City, or~~
 - ~~4) Whether the appellant exercised reasonable and timely effort to comply with applicable development regulations, or~~
 - ~~5) Any other relevant factors.~~
- ~~7. Notice of Decision — The Hearing Examiner shall mail a copy of his decision to the appellant by certified mail, postage prepaid, return receipt requested.~~
- ~~8. Judicial Review — The decision of the Hearing Examiner may be reviewed pursuant to the standards set forth in RCW 36.70C.130 in King County Superior Court. The land use petition must be filed within 21 calendar days of the issuance of the final land use decision by the Hearing Examiner. For more information on the judicial review process for land use decisions, see Chapter 36.70C RCW.~~
- ~~9. Collection of Monetary Penalty~~
- ~~a. The monetary penalty constitutes a personal obligation of the person to whom the notice of civil infraction is directed. Any monetary penalty assessed must be paid to the City Clerk within seven calendar days from the date of service of notice of civil infraction or, if an appeal was filed pursuant to this section, within seven calendar days of the Hearing Examiner's decision.~~
 - ~~b. The City Attorney, on behalf of the City, is authorized to collect the monetary penalty by use of appropriate legal remedies, the seeking or granting of which shall neither stay nor terminate accrual of additional per diem monetary penalties so long as the violation continues.~~
 - ~~c. In the event of failure to appear at a hearing provided in this section, the Hearing Examiner shall assess the monetary penalty prescribed and a penalty of \$25.00.~~
 - ~~d. In the event of a conflict between this chapter and any other provision of this code or City ordinance providing for a civil penalty, this chapter shall control.~~

170.42 Failure To Satisfy Penalty

~~A person who willfully fails to pay a monetary penalty as required by provisions of this chapter may be found in civil contempt of court after notice and hearing.~~

170.4525 Variance, Permit, Decision or Discretionary Approval – General

The City shall enforce the provisions, including any conditions or restrictions, of a variance, permit, decision, or discretionary approval issued under this code as if those provisions are part of this code.

170.5030 Variance, Permit, Decision, or Discretionary Approval – Voiding

1. General – Under the provisions of this section, the City may void any variance, permit, decision or discretionary approval granted or issued under this code.
2. Review Process – The City, as the applicant, shall use the same process to determine if a variance, permit, decision, or discretionary approval should be voided as it used to grant the variance, permit, decision, or discretionary approval.
3. Decisional Criteria – The City may void a variance, permit, decision, or discretionary approval only if it finds that:
 - a. There have been repeated violations of any aspect, including conditions or restrictions, of the variance, permit, decision, or discretionary approval; and
 - b. The detriment caused by the violations clearly outweighs any public benefit of the variance, permit, decision, or discretionary approval.
4. Effect – If the City voids a variance, permit, decision, or discretionary approval, the City will apply and enforce the provisions of this code on the subject property, as if the variance, permit, decision, or discretionary approval had never been granted.

170.5535 No Personal Liability for Acts or Omissions

Each person responsible for the enforcement or administration of this code and each member of a Committee, Board, Commission or Council responsible for making any decision or recommendation under this code is relieved from any personal liability whatsoever from any injury to persons or property as a result of his/her act or omission in the good faith discharge of his/her responsibilities. If the person or member is sued for acts or omissions occurring in the good faith discharge of his/her responsibilities, the City shall defend and provide legal representation to the person or member until final

disposition of the proceedings. The City shall reimburse the person or member for any costs incurred in defending against alleged liability for the acts or omissions of the person or members in the good faith discharge of his/her duties.

170.6040 Interpretations of This Code – General

1. Criteria – The Planning Director may, acting on his/her own initiative or in response to an inquiry, issue interpretations of any of the provisions of this code. The Director shall base his/her interpretations 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.
2. Effect – An interpretation of this code will be enforced as if it is part of this code.
3. Availability – All interpretations of this code, filed sequentially, are available for public inspection and copying in the Planning Department during regular business hours. The Planning Official shall also make appropriate references in this code to these interpretations.

170.6545 Interpretations of This Code – Appeal

1. Who Can Appeal – Any person who is aggrieved by an interpretation issued by the Planning Director may appeal that interpretation at any time.
2. How To Appeal – The applicant must file a letter of appeal indicating how the interpretation affects his/her property and presenting any relevant arguments or information on the correctness of the interpretation. The applicant shall include the appeals fee as established by ordinance.
3. Applicable Procedures – All appeals of interpretations of this code will be reviewed and decided upon using the appeal provisions of Process I, described in Chapter [145](#) KZC.
4. Effect – If the interpretation of the Planning Director is modified, the Planning Official shall:
 - a. Place the modifying decision in the Interpretation File; and

- b. Change or remove, as appropriate, the interpretation that was modified; and
- c. Change the reference in this code to reflect the modification.

170.7050 Conflict of Provisions

The standards, procedures, and requirements of the code are the minimum necessary to promote the health, safety, and welfare of the residents of Kirkland. The City is free to adopt more rigorous or different standards, procedures, and requirements whenever this becomes necessary. If the provisions of this code conflict one with another, or if a provision of this code conflicts with the provision of another ordinance of the City, the most restrictive provision or the provision imposing the highest standard prevails.

170.7555 Easement Agreements Approved by the City Attorney

In each case where the City requires an applicant to provide a public walkway, public use area, or other area, facility or structure that is open to the public, the applicant shall execute and record with the King County Bureau of Elections and Records an easement or similar document approved by the City Attorney.

RECEIVED
OCT 26 2010

AM _____ PM
PLANNING DEPARTMENT
BY _____

Margaret Carnegie
11259 126th Ave. N.E.
Kirkland, WA 98033

October 20, 2010

Dear Mayor McBride & Council Members,

Thank you for your work for Kirkland. It must be very difficult at times. However, in my opinion, that is what you agreed to when you took on the job.. A current example is 35.KZC 150.105, process 11A. I believe it would be outrageous to remove the city council as the hearing body for appeals. That is an important part of the council's duties. And it would also add more expense for any citizen trying to challenge anything. I do hope you will rethink this proposal and continue to hear appeals. If you are not willing to do the hard work or make the tough decisions, then city council is not the job for you.

I also believe single family residents living in the RH 8 zoning area deserve the right to have their privacy protected and shouldn't have to be subjected to the noise or visual invasion that could result with the allowance of restaurants on second floors. The nearby residents deserve to have the current rules honored. How would you feel about having that second floor restaurant on the property next to you? Citizens of North and South Rose Hill donated much time and thought in order to protect their fellow citizens' living conditions and deserve to have their work honored as well as their citizens' life styles protected.

Thank you for your consideration of these issues.

Sincerely,



Margaret Carnegie



FACT SHEET

Action Sponsor and Lead Agency

City of Kirkland Department of
Planning and Community
Development

Proposed Action

Legislative adoption of Miscellaneous
Amendments to the Kirkland Zoning
and Municipal Code pursuant to
Chapter 160 KZC (Process IV).

Responsible Official

A handwritten signature in black ink, appearing to read "E.R.A.", is written over a horizontal line.

Eric R. Shields, AICP
Planning Director

Contact Person

Jon Regala, Senior Planner
City of Kirkland (425) 587-3255.

Required Approvals

Adoption by Kirkland City Council

Location of Background Data

File ZON10-00013
City of Kirkland
Department of Planning and
Community Development
123 Fifth Avenue
Kirkland, WA 98033

Date of Issuance

October 21, 2010



City of Kirkland

Process IV – Miscellaneous Zoning Code Amendments EIS Addendum dated October 21, 2010 File No. ZON10-00013

I. Background

The City of Kirkland proposes to amend various provisions of the Kirkland Zoning and Municipal Code. 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. The amendments will be reviewed using the Chapter 160 KZC, Process IV with adoption by the City Council. Section V below contains additional information regarding the proposed changes.

This Environmental Impact Statement (EIS) Addendum is intended to fulfill the environmental requirements pursuant to the State Environmental Policy Act (SEPA) for the proposed Zoning Code amendments.

II. EIS Addendum

According to the SEPA Rules, an EIS addendum provides additional analysis and/or information about a proposal or alternatives where their significant environmental impacts have been disclosed and identified in a previous environmental document (WAC 197-11-600(2)). An addendum is appropriate when the impacts of the new proposal are the same general types as those identified in the prior document, and when the new analysis does not substantially change the analysis of significant impacts and alternatives in the prior environmental document (WAC 197-11-600(4)(c), -625 and -706).

The City published the *City of Kirkland 2004 Draft and Final Comprehensive Plan 10-year Update*. This EIS addressed the 2004 Comprehensive Plan, Zoning Code and Zoning Map updates required by the Washington State Growth Management Act (GMA). Elements of the environment addressed in this EIS include population and employment growth, earth resources, air quality, water resources, plants and animals, energy, environmental health (noise, hazardous materials), land use, socioeconomics, aesthetics, parks/recreation, transportation, and public services/utilities.

This addendum to the *City of Kirkland 2004 Draft and Final Comprehensive Plan 10-year Update* is being issued pursuant to WAC 197-11-625 to meet the City's SEPA responsibilities. The EIS evaluated plan alternatives and impacts that encompass the same general policy direction, land use pattern, and environmental impacts that are expected to be associated with the proposed amendments to Kirkland Zoning Code as

discussed herein. While the specific location, precise magnitude, or timing of some impacts may vary from those estimated in the *City of Kirkland 2004 Draft and Final Comprehensive Plan 10-year Update*, they are still within the range of what was evaluated and disclosed there. No new significant impacts have been identified.

III. Non-Project Action

Decisions on the adoption or amendment of zoning ordinances are referred to in the SEPA rules as “non-project actions” (WAC 197-11-704(2)(b)). The purpose of an EIS in analyzing a non-project action is to help the public and decision-makers identify and evaluate the environmental effects of alternative policies, implementation approaches, and similar choices related to future growth. While plans and regulations do not directly result in alteration of the physical environment, they do provide a framework within which future growth and development – and resulting environmental impacts – will occur. Both the adoption of the Comprehensive Plan evaluated in the *City of Kirkland 2004 Draft and Final Comprehensive Plan 10-year Update* and eventual action on the amendments to the Kirkland Zoning Code are “non-project actions”.

IV. Environmental Analysis

The *City of Kirkland 2004 Draft and Final Comprehensive Plan 10-year Update* evaluated the environmental impacts associated with adoption of proposed policies and land use designations. The plan's policies are intended to accomplish responsibilities mandated by the Washington State Growth Management Act (GMA), and to mitigate the impacts of future growth. In general, environmental impacts associated with the proposed Zoning Code amendment are similar in magnitude to the potential impacts disclosed in the *City of Kirkland 2004 Draft and Final Comprehensive Plan 10-year Update*. As this proposal is consistent with the policies and designations of the Comprehensive Plan and the environmental impacts disclosed in the *City of Kirkland 2004 Draft and Final Comprehensive Plan 10-year Update*, no additional or new significant impacts beyond those identified in the EIS for the Comprehensive Plan are anticipated.

V. Description of the Proposal

The proposal would modify, add, and/or delete various provisions of the Kirkland Zoning and Municipal Code. The following is a summary of the proposed changes:

1. KMC 22.32.50. Title 22 Subdivisions. Fix KMC 22.32.050 to reference KZC 110.60.7 instead of KZC 110.60.9.
2. KMC 22.4.30.b.1. Title 22 Subdivisions. Correct typographical error - change the word "non-residential" to "no residential" to be consistent with RCW 58.17.040(5).
3. KZC 60.10. Chapter 60 – PLA1. Eliminate outdated references to KZC 95.25 and replace with original buffer standard.
4. KZC 60.185.4. Chapter 60 – PLA17. Delete vague stream/wetland regulation since it is regulated by KZC Chapter 90.
5. KZC Chapter 112 – Affordable Housing Incentives – Multifamily. Clarify that voluntary use of affordable housing regulations in Chapter 112 is allowed throughout the City where affordable housing is not required.
6. KZC 112.15. Chapter 112 – Affordable Housing Incentives – Multifamily. Clarify the rounding language for affordable housing

7. KZC 115.07. Chapter 115 – Miscellaneous Use Development and Performance Standards. Reference ADU height restrictions in 115.08
8. KZC 115.08. Chapter 115 – Miscellaneous Use Development and Performance Standards. Move the last sentence to be the third sentence and add at the end "which may further limit its size."
9. KZC 115.95.1.b. Chapter 115 – Miscellaneous Use Development and Performance Standards. Delete this section since it refers to WAC 173-70 for watercraft noise standards which no longer exists. KMC already addresses this issue.
10. KZC - Multiple Zones. Use term "maximum horizontal façade" in all zones where the standard appears.
11. KZC - Multiple Zones. Amend special regulations for Mini-School/Mini-Daycare use to reference requirements of the State rather than DSHS.
12. KZC - Multiple Zones. Allow electronic readerboard signs for fire stations in the annexation area.
13. KZC 10.45.5. Chapter 10 – Legal Effect/Applicability. Revise vesting date for short plats and subdivisions in the annexation area.
14. KZC – Multiple Zones. Clarify that minimum lot size provisions in the subdivision regulations for developments do not apply to affordable housing projects that have a bonus density.
15. KZC 48.15.190 and various KZC commercial zones. Provide consistent landscape buffer standard for outdoor auto repair uses.
16. KZC Chapter 50 – CBD-1A & 1B. Allow back parks, government facilities, community facilities as ground floor use.
17. KZC 50.33. Chapter 50 – CBD 5. Specify height limit in terms of number of feet.
18. KZC 50. Chapter 50 – CBD-1A & 1B. Retail use requirement does not apply to ground floor along alleys and service access streets. Codify Interpretation 09-1.
19. KZC Chapter 112 – Affordable Housing Incentives – Multifamily. Clarify whether projects undergoing a subdivision to create detached units on individual lots in multifamily and commercial zones are required to provide affordable housing.
20. KZC 117.65.8. Chapter 117 – Personal Wireless Service Facilities. Revise to allow antennas on historic sites & clarify 'design requirements'.
21. KZC Multiple Zones. Consider adding affordable housing element requirement to three zones with density limits (PLA 6G, BC1, and BC2) that were not considered during recent amendments.
22. KZC 50.34.3. Chapter 50 – CBD-5. General Reg. 3 - Delete references to Comp Plan and Design Regulations.
23. KZC 115.8. Chapter 115 – Miscellaneous Use Development and Performance Standards. Fix height discrepancy between different single family zoning designations in regards to ADU's.
24. KZC - Multiple Zones. Clarify size of residential lobbies allowed on the ground floor where residential uses are prohibited.
25. KZC 53.84. Chapter 53 – RH 8. Eliminate the special regulation that prohibit retail & restaurant uses above the first floor.
26. KZC 100.15. Chapter 100 – Signs. Codify Intepretation 86-11 to exempt window signs from being regulated by KZC Chapter 100.
27. KZC 105.103. Chapter 105 – Parking Areas, Vehicle and Pedestrian Access, and Related Improvements. Add a public notice and comment period to modification requests to reduce the number of required parking stalls.
28. KZC 115.40. Chapter 115 – Miscellaneous Use Development and Performance Standards. Consider lowering fence heights along arterials. Taller fences may be allowed based on certain standards.
29. KZC 117.65.7.c. Chapter 117 – Personal Wireless Service Facilities. Allow antennas to be placed at railings at base of water tower roof.

30. KZC 50 Chapter 50 – Central Business District (CBD) Zones. Change CBD parking requirement for multi-family to one stall per bedroom.
31. KZC 15.10 – Allow existing schools to remain if not located on a collector or arterial.
32. KZC 18.10 – Allow existing schools to remain if not located on a collector or arterial.

Background information regarding the proposed changes is also posted on the City's webpage for the following dates: August 12th and Sept. 23rd:

http://www.ci.kirkland.wa.us/depart/Planning/Planning_Commission.htm

As a result of the upcoming public hearing, it is possible that some of the proposed amendments will not be adopted and others may change due to public input.

VI. Public Involvement

The Planning Commission will hold a hold public hearing on November 4, 2010. Public notice of the hearing is being provided in accordance with State law. The City Council will take final action on the proposal in January 2011. All dates are subject to change.

VII. Conclusion

This EIS Addendum fulfills the environmental review requirements for the proposed amendments to Kirkland Zoning Code. The impacts of the proposal are within the range of impacts disclosed and evaluated in the *City of Kirkland 2004 Draft and Final Comprehensive Plan 10-year Update*; no new significant impacts have been identified. Therefore, issuance of this EIS Addendum is the appropriate course of action.

