Jeremy McMahan

From: Erin Knobler [eknobler@sociuslaw.com]
Sent: Tuesday, April 17, 2012 11:57 AM
To: Kurt Triplett; Eric Shields; Jeremy McMahan; Joan McBride; Penny Sweet; Doreen Marchione; Amy Walen; Dave Asher; Bob Sternoff; Toby Nixon; Jay Arnold; Byron Katsuyama; Glenn Peterson; Jon Pascal; Andrew Held; C Ray Allshouse; Mike Miller
Cc: Robin Jenkinson; Brian E. Lawler
Subject: Commercial Codes KZC Amendments FIle No. ZON11-00042, BZ Zoning District Code Amendments
Attachments: April 17, 2012 Correspondence to City of Kirkland.pdf

Dear Mayor, Deputy Mayor, City Manager, and City Council Members:

Attached please find correspondence from Brian Lawler in the above-referenced matter. Please note, an electronic copy of this letter may be the only copy you receive. If you have any difficulty opening the attachment or need anything further, do not hesitate to contact our office.

--Erin Knobler, Legal Assistant

Erin Knobler
SOCIUSLAWGROUP PLLC
Two Union Square
601 Union Street, Suite 4950
Seattle, WA 98101.3951
Direct Dial: 206.838.9134
Facsimile: 206.838.9135
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IRS rules require that certain standards be met when written tax advice is given by attorneys before a client might qualify for tax penalty protection. Any tax advice in this communication is not intended to be used, nor should you use it, for that purpose. If you wish to have an opinion that may assist you in obtaining penalty protection, please let us know. In such a case a special written engagement with our firm is required.

This electronic mail transmission may contain privileged and/or confidential information intended only for the recipient named. If you have received this message in error, please delete it from your system without copying it, and please notify the sender by reply electronic mail or by calling 206.838.9134 so that we may correct our records. Thank you.

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Brian E. Lawler
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blawler@sociuslaw.com

April 17, 2012

By Email (citycouncil@kirklandwa.gov)
and U.S. Mail

Mayor Joan McBride
Doreen Marchione, Deputy Mayor
City Manager, Kurt Triplett
City Council Members (via email only)
City of Kirkland
123 5th Avenue
Kirkland, WA 98033

Re: Commercial Codes KZC Amendments File No. ZON11-00042
BZ Zoning District Code Amendments

Dear Mayor, Deputy Mayor, City Manager, and City Council Members:

I write today again on behalf of numerous neighbors and citizens of Kirkland who have been active in their attempt to bring City zoning for the Residential Market properties into alignment with the City's Comprehensive Plan. Today, I write in response to the legal (mis)representations of counsel for Potala Village Kirkland LLC ("Potala"). One or more of my clients will write on the substantive planning issues which remain unresolved.

First, we can agree with Potala that the on-going review process should encompass the protections of common law and constitutional provisions that should be inherent in any land use review process. These protections exist both for the public and for the applicant. We can also agree with Potala that we share a goal of a future building that is a source of pride for all.

Otherwise, we differ with Potala's assessment and its assertion that the City is allowing "…egregious processes to continue." Potala misstates the relevant law and further fails to explain that, if the City processes to date have been egregious, why Potala has not exercised its lawful rights. For example, after the City (appropriately) withdrew its flawed DNS and then appropriately issued a Declaration of Significance (DS), Potala had a right to file a timely appeal under SEPA. It did not do so. When the City (appropriately) recognized the inherent flaw in planning documents and issued a moratorium in November 2011 and again in January 2012, as Potala alleges, Potala had a right to challenge an action it deemed "egregious" under existing laws of the State of Washington. It did not do so.

Potala accuses the City of potential and illegal "reverse" spot zoning and arbitrary and discriminatory treatment. This is, of course, not even close to the current situation. The City is looking at the BN/Residential Markets issue as a whole.

Potala makes a naked assertion about a violation of vested rights and due process rights. Potala does not have a vested right to develop its proposed project. It has not submitted a complete building permit application which is consistent with the City's development regulations. *Abbey Road Group, LLC v. City of Bonney Lake,* 167 Wn.2d 242, 218 P.3d 180 (Wash. 2009). Potala has no cognizable due process claim. In *Mission Springs, Inc. v. City of Spokane*, 134 Wn.2d 947, 954 P.2d 250 (1998), the developer prevailed on a due process claim where Spokane, after approving a Planned Unit Development (PUD) for a 790 unit residential project, later refused to issue a grading permit for the PUD. By comparison here, Potala has no approvals and has not completed the important threshold SEPA process.

In making its reckless and mis-aimed threats, Potala relies on the cases *of Westmark Development Corp. v. City of Burien*, 140 Wn. App. 540, 558, 166 P.3d 816 (2007) and *Pleas v. City of Seattle,* 112 Wn.2d 794, 774 P.2d 1158 (1989). While these are important cases in the jurisprudence of Washington land use law, neither case is remotely applicable here. In *Westmark,* for example, the City of Burien engaged in a multi-year pattern of misconduct including reneging on a settlement agreement and delaying SEPA approvals for five years, while allowing a state legislator to influence the City review process. None of that type of egregious conduct has occurred here. Instead, this case is more like *Abbey Road LLC v. City of Bonney Lake*, *supra*, where the City of Bonney Lake did not violate any common law or constitutional due process principles in denying approval for a 590 unit condo project on the grounds of inconsistency with a later adopted zoning ordinance. The applicant/developer had no vested rights to its pending site plan application because it had not filed a complete building permit application.

Our request here is simple. Do not be bullied by this developer. Engage in the thoughtful process that caused the City to adopt a moratorium to fix its broken regulations. Give your citizens the careful planning process they deserve. No one is opposed to development on the Potala property. However, that development must fit into the City's planning goals and objectives, which never intended unrestricted residential development in the BN zone.

Thank you.

Very truly yours,

Denise M. Kiesel

for Brian E. Lawler

cc: City Attorney, Robin Jenkinson (via email and U.S. mail)
Client

79563

Jeremy McMahan

From: Erin Knobler [eknobler@sociuslaw.com]
Sent: Monday, April 02, 2012 11:25 AM
To: Robin Jenkinson; Kurt Triplett; Eric Shields; Jeremy McMahan; Joan McBride; Penny Sweet; Doreen Marchione; Amy Walen; Dave Asher; Bob Sternoff; Toby Nixon; Jay Arnold; Byron Katsuyama; Glenn Peterson; Jon Pascal; Andrew Held; C Ray Allshouse; Mike Miller
Cc: Brian E. Lawler
Subject: BN-Residential Market Zoning
Attachments: Correspondence re City Zoning for Residential Market Properties (BN-Residentail Market Zoning).pdf

Dear City Attorney, City Manager, City Council, and Planning Commissioners:

Attached please find correspondence from Brain E. Lawler regarding City zoning for the Residential Market properties, the original of which will follow via mail to the City Attorney and City Manager only. City Council Members and the City Planning Commission will receive only the e-mailed version of the letter.

If you have any difficulty opening the attachment or need anything further, do not hesitate to contact our office.

--Erin Knobler, Legal Assistant

Erin Knobler
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Seattle, WA 98101

Brian E. Lawler
206.838.9136
blawler@sociuslaw.com

April 2, 2012

City Attorney, Robin Jenkinson (via email and U.S. mail)
City Manager, Kurt Triplett (via email and U.S. mail)
City Council Members (via email only)
City Planning Commission (via email only)
City of Kirkland
123 5th Avenue
Kirkland, WA 98033

Re: BN-Residential Market Zoning

Dear City Attorney, City Manager, City Council, and Planning Commissioners:

I write today on behalf of numerous neighbors and citizens of Kirkland who have been active in their attempt to bring City zoning for the Residential Market properties into alignment with the City's Comprehensive Plan. While perhaps the immediate driver of this citizen activity has been the scale of the proposed Potala Village project, their concerns transcend Potala Village and reflect a broader interest in having appropriate and compatible densities in this area of Kirkland and in having the planning goals of the Comprehensive Plan align with the City zoning and development regulations, as intended by the Growth Management Act (GMA). Their written comments and communications to the City have been intended to serve as an ongoing part of the public participation record before the City, to the fullest extent possible, in all City deliberations about Residential Market land use designation.

Recently, we discovered that citizen comment letters were not being included as part of the record before the Planning Commission. We believe this is an erroneous procedure of the City, which impacts the integrity of the Planning Commission process. Upon inquiry, one of my clients was told two things. First, City staff did not assemble and collect prior, older letters when the zoning review was assigned over to the Planning Commission. These are records which pertain to the current deliberation and should be in the current file. Second, City staff also stated that these letters were not forwarded for Planning Commission review, because the Planning Commission operates as a "legislative body" and could not deliberate as a "quasi-judicial" body deliberating on "project specific" concerns. These concerns are misplaced and threaten the integrity of the review process.

As to our initial comment about "prior, older letters," it is important to note that the letters received since last March should all be a part of a current file and available as such. The letters written to the City for consideration as public comment during deliberations on the Residential Markets issue primarily contain large amounts of input regarding substantive zoning and land use issues. Authors identify the incompatibility of high-density residential development in a commercially zoned area with the planning objectives of the Comprehensive Plan. They further comment on the unique land use challenges in this area of Kirkland and its neighborhood character. These comments would apply to any project irrespective of the project name or the developer or the specifics proposed. While it is not necessary for an author to instruct the City that comments should be kept for ongoing use, several of the neighbors do specifically state that their comments are to be considered at every step in the process.

The withholding of public comment letters is both problematic and arbitrary. My clients should not have to write multiple, duplicative letters to different sub-entities of the City, on essentially the same issues of concern. We believe that members of the Planning Commission are able to distinguish between policy planning comments and project specific comments. In any event, we believe that any necessary filtering or screening of comments that relate solely to a project like Potala Village and not to the larger planning issues can be done in ways which do not interfere with citizens' rights to communicate with the decision makers in their community.

With this letter I specifically ask, on behalf of my clients, that all existing and all future public comment letters and emails regarding land use and zoning (residential densities, size, scale, noise, traffic), or Residential Markets, BN zones, Comprehensive Plan, or 10th Ave S/Lake Street S/Lake Washington Blvd, be forwarded to the Planning Commissioners as part of their record. We acknowledge that the City may choose to redact the specific name of a project or to send a cover letter to the Planning Commission on the topic of their responsibility to focus their deliberations only on non-project specific land use and zoning issues. Either way the public has a right for their input to be heard.

Very truly yours,

Brian E. Lawler (dmk)

Brian E. Lawler

77085

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Brian E. Lawler
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blawler@sociuslaw.com

April 26, 2012

BY ELECTRONIC MAIL

City Council Members
City Planning Commission
City of Kirkland
123 5th Avenue
Kirkland, WA 98033

Re: 2012 Misc. Zoning Code Amendments – Study Session
Non-Conforming Density Properties – Chapter 162 Section 162.60
Regulations beyond "density" restrictions – incompatibility with adjacent BN-Residential Markets

Dear Council Members and Planning Commissioners:

On behalf of my clients, I write you today regarding proposed Kirkland zoning code changes to non-conforming density regulations. The current zoning code amendments for non-conforming densities apply to most of the property owners who have been involved in the BN-Residential Market review. On behalf of my clients, I wish to express support for some of the proposed changes, but to also draw attention to some remaining areas, which seem to unintentionally disfavor, or needlessly restrict the owners of surrounding properties and thus creating more of an inequity of treatment between the BN-Residential Market and neighbors in RM zones.

Historically, all land south of the centerline of 7th Ave. S. (approximately downtown) and north of the centerline of NE 63rd St. experienced a dramatic reduction in development potential due to specific, problematic vehicular ingress and egress along Lake St. S./Lake Washington Blvd NE. This also avoided creation of greater "cut through traffic" on neighborhood streets like 10th Ave. S. This down zone was for all of the land within the area described in Resolution 2639. A copy is available upon request. Through a legal settlement in 1979, the non-conformance created was due to density concerns only. The existing condominiums and apartments were generally built at 20-30% lot coverage even though the RM properties allow a footprint that can cover 60% of the lot.

The 1977 down zone did not address or aim to reduce the allowable lot coverage in the RM zone in contrast to the Comprehensive Plan changes that did require alterations to zoning text in order to restrict size and scale of the two areas identified as Residential Market - Commercial. We advocate restricting lot coverage in the Residential Market commercial zone as a means of managing bulk and scale. This was the work assigned to the Planning Department by Ordinance in 1995 which, to date, has not been modified to the extent that it implements the Comp Plan.

We do object to the entire current planning effort. Several areas of the proposed change to non-conforming densities are very positive. For example, we are pleased to learn that staff recommends removing financial barriers that have kept some owners from repairing, remodeling, or replacing existing structures. There are several structures along Lake St. S./ Lake Washington Boulevard that have been rotting due to inability to work within the constraints that are in place. Also, previous interpretations of what was "repair" and what was "remodeling" were inconsistent. Removing the cost barrier in the new text should be positive for both property owners and the city. Improved properties bring higher tax dollars to Kirkland.

We are also pleased that the City planners have now recognized that where condominium ownership exists, it is not practical to require future development at reduced density. An example of this being that it would be impossible to determine which owners would get to keep their units and which would be displaced. Similarly, a requirement that some of the rebuilt units must be "affordable" would leave the homeowners associations in the helpless position of determining whose units were rebuilt as market rate units and who would reconstruct theirs as affordable dwellings.

However, on the other side of the equation, are those areas of the proposed zoning code changes that limit future development size, scale, etc. These do not appear to be the reason for the historical density restriction. The property owners question why remodel, or redevelopment, would be restricted to the 20%-30% lot coverage footprint that each currently occupies. Development standards currently in place allow a maximum of 60% lot coverage. Further exacerbating this problem for properties around the BN-Residential Market is that the commercial property has not yet had a reduced lot coverage implemented and can currently be built to 80% lot coverage (a four-fold difference in footprint and an even greater difference in overall volume/size of building). It bears repeating that they have been arguing that a "Very Small Building Center" cannot be achieved with 80% lot coverage and is not compatible or integrated into a neighborhood where the lot coverage maximum is 60%. You can imagine the further disparity if buildings are held to 20%-30% coverage as currently exists.

Another consideration is the combination or property aggregation of BN-Residential Market lots, which would further separate the look and feel and compatibility with surrounding RM properties which must keep their current footprints and are precluded from lot aggregation with their own lot line adjustments. The end result should not be even greater "monster buildings" in the Residential Markets properties, adjacent to the more highly restricted, much smaller, RM buildings.

My clients have an additional concern about a newly proposed regulation which would suddenly require a minimum density for these properties alone. The proposal seems to be new to Kirkland and unique to these properties as it requires a floor of 75% of the existing number of units during any redevelopment. This restricts the choices available to property owners. For a building that was built with 24 dwelling units and now zoned for a maximum of 12 units, this would impose an artificial floor of 18 units, which is six units higher than the up to 12 units allowed under RM 3.6 zoning. It is anticipated that most would not want to reduce density, but there may be situations where 24 little rental apartments could be rebuilt as 12 or 14 nice apartments or condos. It is hard to predict the variability and seems a bit over-reaching in regulations if a rebuild has a minimum density as suggested.

My clients would encourage a more simplified non-conforming policy. It would allow for maintaining the non-conforming density no matter the repair, remodel or redevelopment. No increase in non-conforming density would be allowed except that a bonus would be allowed only if they were affordable units. Thus a non-conforming condominium of 24 units could become 27 units if the 3 additional helped the city meet its affordability targets.

In summary, there is support for provisions that would allow buildings to be remodeled/repaired with greater ease and that would protect individual condominium owners from having to "draw straws" to see who is compromised by Kirkland regulations.

There is opposition to restrictions on lot coverage and the idea of a minimum density percentage. Opposition is heightened where maintenance of current building footprint creates potential for greater size and scale difference between RM properties and whatever results in lot coverage for BN-Residential Market.

Our final inquiry and comment today relates to the sufficiency of legal notice of the proposed changes to Comp Plan and non-conforming densities. As these changes could have significant impact on some property owners, are we to assume that they have received meaningful notice that these amendments are being considered?

Thank you for your continued hard work to achieve zoning that implements the Residential Market - Commercial as approved by Ordinance in 1995 and on numerous occasions since. Additionally thank you for your careful consideration of the changes suggested for Non-conforming Densities.

Sincerely,

Brian E. Lawler

cc: L. Triplett, City Manager (Email Only)
R. Jenkinson, City Attorney (Email Only)

80589

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blawler@sociuslaw.com

May 1, 2012

City of Kirkland
City Manager, Kurt Triplett (*via email and U.S. mail*)
City Council Members (*via email*)
123 5th Avenue
Kirkland, WA 98033

Re: Extension of BN Zone Moratorium
Proposed Ordinance O-4355 - **May 1, 2012**

Dear City Manager and City Council Members:

This letter is to request that you, the City Council, extend the development moratorium in the City's BN zones, as previously established by Council Ordinances 4335A (November 15, 2012) and 4343 (January 3, 2012). The objective today remains the same as then, to provide time to bring the City development regulations into alignment with and to fully implement the adopted Comprehensive Plan for Residential Market–Commercial BN zones. The Findings of Fact that you previously made remain as true today, as when you adopted the moratorium on November 15, 2011.

The City, through its Planning Commission, has made progress on its work plan to advance the planning process on the BN zone. Failing to extend the moratorium now leaves that important work unfinished. According to Planning Director Shield's memorandum of April 19, 2012, recommended code amendments will be brought before the City Council in July. Therefore, it is necessary and appropriate to extend the moratorium as proposed by staff.

There is no justification for not extending the moratorium. The one developer who may allege to be affected has no vested legal rights impacted by an extension of the moratorium. To date, no building permit application has been filed.

Thank you for listening to the community. I intend to appear at the Council meeting tonight on this issue.

Sincerely,

Denise M. Hamel

for Brian E. Lawler

RECEIVED
MAY 02 2012
CITY OF KIRKLAND
CITY MANAGER'S OFFICE

cc: Client
City Attorney, Robin Jenkinson (*via email*)

Jeremy McMahan

From: Eric Shields
Sent: Monday, February 27, 2012 8:21 AM
To: Jeremy McMahan
Subject: FW: J Arnold & KPC - Sammamish BN Density 8 units/acre FAR 1/1
Attachments: SAMMAM~1.PDF

Eric Shields

From: LetterToKPC@aol.com [mailto:LetterToKPC@aol.com]
Sent: Saturday, February 25, 2012 6:03 PM
To: Andrew Held; Byron Katsuyama; C Ray Allshouse; Eric Shields; George Pressley; Glenn Peterson; Jay Arnold; Jon Pascal; Karen Tennyson; Mike Miller; Tennysonkk@aol.com
Subject: To: J Arnold & KPC - Sammamish BN Density 8 units/acre FAR 1/1

City of Sammamish Neighborhood Business zones maximum density 8 units/acre FAR 1/1

Sammamish Municipal Code - Windows Internet Explorer

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+ Title 10 DOMESTIC VIOLENCE
+ Title 11 ANIMAL CONTROL
+ Title 12 PUBLIC PEACE, MORALS, AND WELFARE
+ Title 13 SURFACE WATER MANAGEMENT
+ Title 14 PUBLIC WORKS AND TRANSPORTATION
+ Title 14A PUBLIC FACILITIES
+ Title 15 ENVIRONMENT
+ Title 16 BUILDINGS AND CONSTRUCTION
+ Title 17 FIRE
– Title 18 (Reserved)
– Title 19 SUBDIVISIONS
+ Title 19A LAND DIVISION
+ Title 20 ADMINISTRATIVE PROCEDURES/ENVIRONMENTAL POLICY
+ Title 21 HISTORIC PRESERVATION
+ Title 21A DEVELOPMENT CODE
+ Title 21B TOWN CENTER DEVELOPMENT CODE
+ Title 22 CRIMES AND INFRACTIONS – OTHER
+ Title 23 CIVIL CODE COMPLIANCE
+ Title 24 INTERIM COMPREHENSIVE PLAN
+ Title 25 SHORELINE MANAGEMENT
+ Title 26 RESTRAINING ORDERS AND TOBACCO
– Title 27 (Reserved)

21A.25.040 Densities and dimensions – Commercial zones.

A. Commercial Zones.

	ZONES	COMMERCIAL	
		NEIGHBORHOOD BUSINESS	COMMUNITY BUSINESS
STANDARDS		NB	CB
Maximum Density DU/Acre		8 du/ac (1)	18 du/ac (1)
Minimum Lot Area			
Maximum Lot Depth/Width Ratio			10 ft
Minimum Street Setback		10 ft (2)	10 ft (2)
Minimum Interior Setback (4)		20 ft (5)	20 ft (5)
Base Height (7)		35 ft 45 ft (3)	35 ft 60 ft (3)
Maximum Floor/Lot Ratio: Square Feet		1/1 (6)	1.5/1 (6)

Done

start

Jeremy McMahan

From: Eric Shields
Sent: Monday, February 27, 2012 8:24 AM
To: Jeremy McMahan
Subject: FW: To: J Arnold & KPC

Eric Shields

From: LetterToKPC@aol.com [mailto:LetterToKPC@aol.com]
Sent: Monday, February 27, 2012 6:39 AM
To: Andrew Held; Byron Katsuyama; C Ray Allshouse; Eric Shields; George Pressley; Glenn Peterson; Jay Arnold; Jon Pascal; Karen Tennyson; Mike Miller; Tennysonkk@aol.com
Subject: Re: To: J Arnold & KPC

How are you making sure to meet the criteria

1) Very Small Mixed Use Building/Ctr - You cannot meet that without reducing lot coverag

2) Retail and Services serving neighborhood - If you don't require 50% of retail/svc, it will become apartments

3) Density does matter.
If you allow density you get a bigger building, period... This is contrary to "Residential Market"
Also:
a) More residential units will mean more noise from TVs, Stereos, fans, Air Conditioning units, etc
b) More residential units bring more windows facing neighbor properties and more loss of privacy as it becomes harder to stagger the windows and they end up looking into the neighbor windows, backyards and porches (Visual tresspass)
c) More residential units bring more windows and light spilling into the neighbor properties, robbing of the enjoyment of the night sky and washing out any remaining public views of the water or mountains on the horizon. (Light Tresspass)

Jeremy McMahan

From: LetterToKPC@aol.com
Sent: Sunday, March 04, 2012 7:35 PM
To: Eric Shields; Jeremy McMahan
Subject: BN - Res Mkt: Pls do not change setback from LWB (see staff comments)

Follow Up Flag: Follow up
Flag Status: Flagged

From: LetterToKPC@aol.com
To: AHeld@kirklandwa.gov, BKatsuyama@kirklandwa.gov, CAllshouse@kirklandwa.gov, EShields@kirklandwa.gov, GPressley@kirklandwa.gov, GPeterson@kirklandwa.gov, JArnold@kirklandwa.gov, JPascal@kirklandwa.gov, KTennyson@kirklandwa.gov, MMiller@kirklandwa.gov, Tennysonkk@aol.com

Attn: Planning Commissioners

(Pls see excerpted note from Planning Department re: Lake St S Setbacks for all properties and uses)

Rather out of the blue, a proposal came forth at the last Planning Commission meeting. It was suggested that the BN-Residential Market parcel be allowed less of a setback from Lake St S. This would be out of character for the neighborhood as you'll see from planning department comments that the current setback and required additional setback for taller buildings is consistent along Lake Washington Blvd NE/Lake St S.

The zoning changes in front of us at this time are how to implement "Residential Market" restrictions into the BN zoning language. This is the work that has been left "undone" but has been on the "Implementation Strategies" work chart since 1995. The neighbors only seek to have the incomplete work corrected so that there are not future mis-understandings. We would be opposed to a site specific change in zoning that brings a monster building or its retail portion closer to the "gateway" Boulevard.

(See Staff response below)

It is not preferred to have one parcel be allowed closer

From: Teresa Swan
Sent: Thursday, April 07, 2011 6:00 PM

I would like to provide you with some information about the project and the City's code requirements.
The Potalla Village is currently proposed to have 143 units (not 147 units)..

... They are required to set the building back from Lake Street 2 feet for every 1 foot the building is over 25' in height so they will have a greater setback than 20' from the street. This is the same requirement for other uses along Lake St South.

Sincerely,

Jeremy McMahan

From: LetterToKPC@aol.com
Sent: Wednesday, March 07, 2012 7:12 AM
To: Jeremy McMahan
Cc: Eric Shields
Subject: Re: BN - Res Mkt: Pls do not change setback from LWB (see staff comments)

Follow Up Flag: Follow up
Flag Status: Flagged

In a message dated 3/5/2012 11:40:19 A.M. Eastern Standard Time, JMcMahan@kirklandwa.gov writes:

> Please note that your email comments are anonymous because a name has not been provided.

Thank you... Here's the info you requested
The author of the excerpt below is Teresa Swan, Planning Dept, City of Kirkland
The preceding are from the neighbors organized as S.T.O.P. "**S**upport **T**he **O**rdinances & (Comp) **P**lan"

> Jeremy McMahan
>
> Planning Supervisor
>
> City of Kirkland
>
> jmcmahan@kirklandwa.gov
>
> 425.587.3229

From: LetterToKPC@aol.com [mailto:LetterToKPC@aol.com]
Sent: Sunday, March 04, 2012 7:35 PM
To: Eric Shields; Jeremy McMahan
Subject: BN - Res Mkt: Pls do not change setback from LWB (see staff comments)

From: LetterToKPC@aol.com
To: AHeld@kirklandwa.gov, BKatsuyama@kirklandwa.gov, CAllshouse@kirklandwa.gov, EShields@kirklandwa.gov, GPressley@kirklandwa.gov, GPeterson@kirklandwa.gov, JArnold@kirklandwa.gov, JPascal@kirklandwa.gov, KTennyson@kirklandwa.gov, MMiller@kirklandwa.gov, Tennysonkk@aol.com

Attn: Planning Commissioners

(Pls see excerpted note from Planning Department re: Lake St S Setbacks for all properties and uses)

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(See Staff response below)

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Sincerely,

Teresa Swan

Jeremy McMahan

From: Uwkkg@aol.com
Sent: Tuesday, April 17, 2012 12:39 PM
To: Kurt Triplett; Robin Jenkinson; Eric Shields; Jeremy McMahan; Joan McBride; Doreen Marchione; Penny Sweet; Amy Walen; Dave Asher; Bob Sternoff; Toby Nixon; Jay Arnold; Mike Miller; Byron Katsuyama; Andrew Held; C Ray Allshouse; Jon Pascal; Glenn Peterson
Subject: K Levenson: OK with this BN rendition (pg1) - Great!!!

Good afternoon City Officials:

GREAT EXAMPLE - BN Works GREAT..(see below as soon as you read disclaimer)

Disclaimer: I am submitting the next several pages of an exciting example of BN but I'm submitting it from me personally (and not on behalf of any group). There are neighbors who hold to the belief that the zoning on the Lake St property was last approved at zero dwellings per unit and those that hold to the 12 du/acre. Some fear that if the group presents this it would weaken their position. I don't want to jeopardize their claim as the path through the city documents show me clearly that the number is zero.

HOWEVER>>> I would like to see us move forward on something like the picture below... or anything similar and I am OK with housing of a good quality that fits with the neighborhood (in addition to neighborhood serving retail). The example below is one that you'll find interesting, I hope. I found this in the city of Sonoma. It is nearly an identical site at 1.5 acres rather than Lake St's 1.2 acres. There are 30 units total built at 20 du/acre. There is neighborhood serving retail, a courtyard between multiple small-ish buildings and one level of below ground parking. It is awesome.

Jeremy McMahan

From: Uwkkg@aol.com
Sent: Tuesday, January 17, 2012 9:59 AM
To: Robin Jenkinson; Kurt Triplett; Janet Jonson; Eric Shields; Paul Stewart; Jeremy McMahan; Joan McBride; Doreen Marchione; Dave Asher; Toby Nixon; Bob Sternoff; pswtewart@kirklandwa.gov; Amy Walen; Jay Arnold; Mike Miller; C Ray Allshouse; C Ray Allshouse; Andrew Held; Byron Katsuyama; Jon Pascal; GPeterson@kirkalndwa.gov; George Pressley; Karen Tennyson
Cc: uwkkg@aol.com; neighboringproperties@gmail.com
Subject: 1.17.12 Attorney Letter STOP v. Kirkland - STOP"Support The Ordinances and Plan"
Attachments: 11712A~1.PDF

To: City Manager, City Attorney, Planning Staff, Council Members and Planning Commissioners:

Attached is an attorney letter delivered to the City of Kirkland this morning. Please take time to read it thoroughly.

I hope you will join the many of us who see it as a positive sign when parties can use their time and energy towards creating a solution rather than arm-wrestling in courts or hearings boards.

My best,
Karen Levenson

GENDLER & MANN LLP

ATTORNEYS-AT-LAW

www.gendlermann.com

Michael W. Gendler* | David S. Mann | Brendan W. Donckers
*also admitted in Oregon

Direct: (206) 621-8869
mann@gendlermann.com

January 17, 2012

Robin S. Jenkinson
City Attorney
City of Kirkland
123 Fifth Ave.
Kirkland, WA 98033

via email: RJenkinson@kirkland wa.gov

Re: *STOP v. City of Kirkland*
CPSGMHB NO. 11-3-0010

Dear Ms. Jenkinson:

My client, Support the Ordinances and Plan ("STOP") will be dismissing its appeal before the GMHB today. STOP has asked me to forward to the City Council a brief explanation. Because we are currently engaged in litigation before the GMHB, I am writing to you directly but ask that you pass this letter along to the City Council for their review.

On November 10, 2011, STOP filed a Petition for Review ("PFR") before the Growth Management Hearings Board challenging the City's failure to act to adopt zoning consistent with the Residential Market Comprehensive Plan designation. For several months prior to filing its PFR, members of STOP had been asking the City to stop review of the Potala Village project, and instead, to take action to review and finally adopt zoning that implemented the Residential Market Comprehensive Plan designation. Members of STOP informed the City that they would seek review by the GMHB if the City failed to take action. Unfortunately, after the City failed to take action to adopt implementing and consistent zoning, STOP was indeed forced to seek GMHB intervention.

Since STOP filed its PFR the City has taken several positive actions, including: (1) adopting an emergency moratorium on review and issuance of development permits within the BN zone; (2) holding a public hearing and adopting Ordinance O-4343 on January 3, 2012 imposing a 6 month moratorium on acceptance of applications or issuance of development permits in the BN zone; and (3) including within that Ordinance a schedule for review and adopting of amendments to the zoning code to make it consistent with the Comprehensive Plan. STOP and its members were also heartened by comments from several City Council Members during the hearing recognizing that there was indeed an issue that needed to be resolved so that the community develops the way the community wants it to, and recognizing that the disparity between the BN zoning and surrounding neighborhood must be addressed.

1424 Fourth Avenue, Suite 715, Seattle, WA 98101-2217 | Phone: (206) 621-8868 | Fax: (206) 621-0512 | E-mail: info@gendlermann.com

These actions are precisely the actions that STOP was seeking from the City prior to filing its PFR. STOP believes that the City's actions reflect the relief it was seeking from the GMHB and therefore it no longer needs the GMHB's intervention or involvement. STOP has therefore asked me to dismiss the pending PFR and focus my energies instead on helping it monitor and review the City's current process as it moves forward. STOP hopes that through an orderly process, the existing conflict can be resolved in a manner that is fair to the community and developer.

We are hopeful that the City will use the time it has set out in Ordinance O-4343 to focus on the immediate task of simply adopting new zoning that implements the Residential Market Comprehensive Plan designation. While we are concerned that some may want to instead attempt to amend the Comprehensive Plan, we hope that you will agree that now is not the time. While you can certainly adopt new zoning that implements the Comprehensive Plan, we do not see that there is an emergency consistent with KMC 140.35 that would allow the City amend its Comprehensive Plan outside of the regular docket process.

We want to make it very clear that we do not believe that the "failure to act" we filed before the GMHB claim was in any way improper. Indeed, there are members of the community that may consider this same course of action in the event the City decides to lift the current moratorium without taking appropriate action. STOP prefers, however, to work with the City to make sure the process is successful. STOP does, however, reserve its right to file a new PFR in the event the City takes action that is inconsistent with the GMA's requirement that zoning actually implement the comprehensive plan or inconsistent with the amendment process.

On behalf of its members, STOP thanks you for the actions you have taken to date to recognize the problem with the existing BN zoning and to move forward with review and amendments in order to fully implement the intent of the Residential Market.

Please do not hesitate to contact me if you have any questions.

Very truly yours,

GENDLER & MANN, LLP

David S. Mann

Jeremy McMahan

From: Uwkkg@aol.com
Sent: Wednesday, January 25, 2012 5:00 AM
To: Eric Shields; Mike Miller
Cc: Jeremy McMahan; uwkkg@aol.com; neighboringproperties@gmail.com
Subject: Planning Feb 9 Planning Commission Meeting

Hi Eric and Mike (Mr. Miller):

Let me inquire, or address, the comment that I've excised from Eric's email to me...(entire email is attached)

"In preparing for the February 9 Planning Commission meeting, Jeremy and I met with Mike Miller, vice chair of the Commission. He asked that we not focus our time on the history of the zoning at that meeting, but rather provide information and options for making revisions to what now exists."

If I understand Eric's comments correctly, we are not going to pay attention to the history, or what has been "planned" for these parcels?

That is concerning since it is the history of past agreements that the city attorney, Robin Jenkinson, prepared for the challenge with the Growth Management Hearings Board.

Also, several of the Council members stated things like "we need to get all the facts on the table" and "I don't believe this is what was intended"

... So we really need to know what was intended for the properties. After all, isn't that what planning for a 20 year horizon is about? Isn't that the sole purpose of planning? Isn't that what GMA requires and what the courts would review?

Also, if we move forward without knowing why decisions were made then we will undoubtedly run afowl of things like the legal agreements (that still apply) between all the property owners South of 7th Ave S and City of Kirkland. This could cause us some major problems!!!

Additionally, if we do not do things consistent with the 20 year plan, we are likely to be back in front of the Growth Management Hearings board or Superior Court.... When Robin prepared documents for the hearings board recently she provided the historical records.

We are here to correct the ways that the zoning doesn't match the Comprehensive Plan.

If we are instead trying to change the plan because we think that the documented 1993 suggestion by Staff (Eric's team) for Residential Market should now be changed for a proposed development, that would be a Private Amendment Request. There are numerous developers waiting to have their PARs reviewed.

If we want to do a City initiated Comp Plan Amendment then there are issues regarding compatibility and impact with surrounding neighborhood, benefit to community as a whole (KZC 140) ... and avoidance of spot zoning.... (NOTE: there are 2 BN properties and 2 Residential Market Properties)

Karen Levenson

In a message dated 1/24/2012 6:16:14 P.M. Eastern Standard Time, EShields@kirklandwa.gov writes:

> Karen,
>
> The information you are requesting would take a long time to research. Essentially we would have to go over files over the course of several/ many years to determine precisely when different actions happened. In preparing for the February 9 Planning Commission meeting, Jeremy and I met with Mike Miller, vice chair of the

Commission. He asked that we not focus our time on the history of the zoning at that meeting, but rather provide information and options for making revisions to what now exists. We can certainly check with the Commission on February 9 to see if they would like us to do more historical research.

However, if you would like to do some of this research yourself, you may of course submit a public information request through Kathi Anderson, and we can get going on ordering the desired files from archives.

Eric Shields

From: Uwkkg@aol.com [mailto:Uwkkg@aol.com]
Sent: Tuesday, January 24, 2012 9:33 AM
To: Eric Shields; Robin Jenkinson; Kurt Triplett
Cc: uwkkg@aol.com; neighboringproperties@gmail.com
Subject: Karen Levenson - 1 or 3 Commercial properties @ 10th & LWB

Hi Eric:

This is the 2nd request that is important for the review of BN zones that we are involved with. Again, likely good to make this fairly high in priority to help us get through all the investigation and decisions before the moratorium runs out.

As we've seen, there is a history at the corner of 10th Ave S and Lake St S

Just before 1995 the **zoning map** consistently only showed one property as BN (corner)Then the neighbors

During that time some odd things happened with the Comprehensive Plan land use map

1) Originally only the one corner property was commercial

2) Then a later land use map shows all 3 properties as commercial

3) Then an even later land use map reverts back to just one commercial property (corner lot)

NOTE: This is what the neighborhood team referred to as "flip-flopping" land use maps.

2) Again, speaking to the requirement that city's must "show their work," we need to see that the changes to the non-corner parcels were intentionally made.

a) The neighborhood team has been digging through city documents and we do not find anything.

b) I believe the city has been digging through city documents for 6 months and has not found anything.

Request: Please have your team provide one final, thorough review so we'll know for sure.

We are looking for any of the following:

- Staff memo recommending the Change in Land use category or city initiated amendment to LU
- Private amendment request by the two property owners for the non-corner parcels
- Official "Notice" mailed to property owners of the RM 3.6 parcel (10th) or the RS 8.5 Parcel (Lake St)
- Official "Notice" mailed to neighboring or surrounding property owners
- Ordinance changing the **land use** classification of the two parcels to BN
- Publication of the change in land use of these parcels in the Seattle Times (official newspaper of COK)

NOTE: To show that change in land use designation was intentional, we need to show the deliberate steps that were taken. This is particularly significant since the later change in zoning was done to match the zoning with the land use. If there was a scrivners error (or other unintentional change) in the land use maps this is significant to our review.

3) Also of note, I had heard that commercial properties were not generally allowed on side streets (neighborhood streets) so that there was not an incompatible use. It is odd that the parcel on 10th would have been allowed to change into a commercial property.

Thanks again,

Karen Levenson

Jeremy McMahan

From: Uwkkg@aol.com
Sent: Thursday, January 26, 2012 10:18 AM
To: Kurt Triplett; Robin Jenkinson; Eric Shields; Jeremy McMahan; Jay Arnold; Janet Jonson
Cc: uwkkg@aol.com; neighboringproperties@gmail.com
Subject: Planning Commission: Historical Legal re BN Residential Mkt implementing zoning
Attachments: NO1HIS~1.PDF

Note: Sending the emails in batches to avoid being seen as spam
Also sending to City Council, Staff, City Attorney and the neighbor groups and attorneys
==========

Dear Commissioners (and others):

I am sending numerous documents that have historical legal significance as it relates to BN Residential Market - Commercial and the zoning use charts that we've been awaiting for years.

While there are numerous documents that require sending the email in batches, the 30+ pages are misleading since most only have one or two highlighted areas and often a later year is just repetitive of what was shown before. So, thank you for your patience and for carefully reviewing the documents. They show numerous things, from the concerns and drastic action taken all along LWB / Lake St S due to traffic ingress and egress issues (rezone all properties severely downward), to the need for a BN zone restriction to something low intensity (suggested as "Residential Market - Commercial by staff reporting to Eric Shields in 1993), to the 3 year process wherein this concept was vetted nearly 6 times a year with public, GMA Land Use Subcommittee, Planning commission and City Council. The Residential Market commercial has experienced a few minor tweeks in wording (2004 change) as it's been reviewed along the way. Nearly every two years it has appeared in an Ordinance adopted by City Council.

Since 1995, Residential Market Commercial has been listed as an item that requires staff to design the zoning use chart that will implement this designation that was carefully and intentionally made. As you'll see in repeat Implementation charts, the items that usually got staff's time were those that generally applied to larger geography. (Res Mkt only applies to two small areas in the city). Still, the neighbors and the city await the zone use chart that will finally implement the adopted Comprehensive Plan.

Thank you for spending some time with the 7 attachments that will follow (again, most are quick to review). These are the product of nearly 9 months of research by neighbor groups and other Kirkland Citizens.

Karen Levenson

1. June 22, 1979 Resolution 2639

1977 Rezone downward to Max 12 du/acre

1979 Resolution ratifying the legal settlement between the City of Kirkland and the neighbors

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

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

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

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

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

may be developed subject to and consistent with the general

ORDER, JUDGMENT & DECREE

-11-

OSTRANDER, VAN EATON, THOMAS AND FERRELL
505 MARKET STREET, P. O. BOX O
KIRKLAND, WASHINGTON 98033
(206) 822-2288

R-2639

NOTE: This is the ratification of the legal settlement of 1979.

Subject property is in the middle of the area described here. It is not excluded from the area that was rezoned down to a maximum of 12 dwelling units per acre.
The hundreds of properties involved run from "south of the south line of Block 2, French's Homestead Villa" (aka 7th Ave S, near downtown) all the way down to the middle of NE 63rd St (almost Kidd Valley).

Resulting language in the Comp Plan is shown in these bottom screenshots

Pg XV.24 Moss Bay Chapter Comp Plan
Limits to 12 dwelling units per acre

Pg XV.23 Moss Bay Chapter Comp Plan
The subject property is specifically mentioned. The east side of LWB is identified as generally unsuitable for commercial and vehicular ingress and egress is one reason. ***Since a small residential "Market" is a convenience to the neighbors, "LIMITED commercial use of this location, therefore , should be allowed to REMAIN" [emphasis added].***

IMPORTANT NOTE:

BOTH these passages were highlighted by the city and given to the current applicant during pre-submittal meeting as you will see in later exhibits !!!!

Also, the presubmittal packet states that the neighborhood plan specifically addresses the subject property!!!

And presubmittal identifies need for:

1. Environmental Checklist (this checks for consistency with Comp Plan)

2. Substantial Development Application This also checks for consistency with Comprehensive Plan

Moss Bay Neighborhood Plan.pdf - Adobe Acrobat Standard

A density of 12 dwelling units per acre is also designated for properties along State Street, south of Planned Area 6 (Figure MB-2). This designation is consistent with densities of existing development as well as with densities permitted along State Street to the north and south. Lands on the east side of Lake Washington Boulevard, south of 7th Avenue South and west of the midblock between First and Second Streets South, are also appropriate for multifamily uses at a density of 12 dwelling units per acre. This designation is consistent with permitted densities to the north and south along Lake Washington Boulevard.

The area situated east of the midblock between First and Second Streets South, west of the midblock between State Street and Second Place South, and south of 7th Avenue South, contains a well-established enclave of single-family homes. Existing development in this area should be preserved.

hood Plan XV.D-24 Moss Bay Only LIMITED COMMERCIAL to remain.pdf - Adobe Acrobat Standard

XV.D. MOSS BAY

4. PERIMET

Land on the east side of Lake Street South is generally not suitable for commercial development.

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

(4) Development in this area is to be oriented toward Lake Washington Boulevard and away from the residential areas to the north and east. Landscaped buffers are required where non-residential development is adjacent to residential development.

(5) If restaurants are considered, then they will be a "sit-down dining" type of facility. Take-out and fast food facilities will not be permitted. AFter any restaurant proposal is approved in this area, and prior to other restaurant proposals, the city will re-evaluate the impact of restaurants on the area in order to determine if additional facilities are compatible with the Park and will not significantly affect parking and traffic conditions.

[redacted] (see Economic Acttivities Policy 1). An additional vacant commercial activity and a small antique shop exists at the corner of NE 60th Street and Lake Washington Boulevard. Neighborhood conveninece uses are not appropriate at this location due to parking problems. Commercial uses should be phased out, but the existing structure should remain.

[redacted]

This is discussing one of the two "Residential Market-Commercial" properties.

They are both on the same block. One at the north end and the other on the south end

should be located at the intersection of Lake Washington Boulevard and Lakeview Drive. East of the Blvd., more than one primary point of access may be necessary due to the divided ownership pattern. Nevertheless, the number of access points should be kept to the smallest possible number.

Public and private development opportunities in Planned Area 15 can best be achieved with a coordinated and planned approach to development. To this end, a Master Development Plan should be submitted for public review and City approval as a prerequisite to any development. The Master Plan should encompass all properties under common ownership within and adjacent to Planned Area 15, setting forth the major features of all future development. Subsequent to Master Plan adoption, development may be proposed and approved by the City as a single unit or in phases, provided that each phase is reviewed to ensure Master Plan compliance.

Planned Area 15 should be developed as a single unit. Development should be subject to approval of a Master Plan.

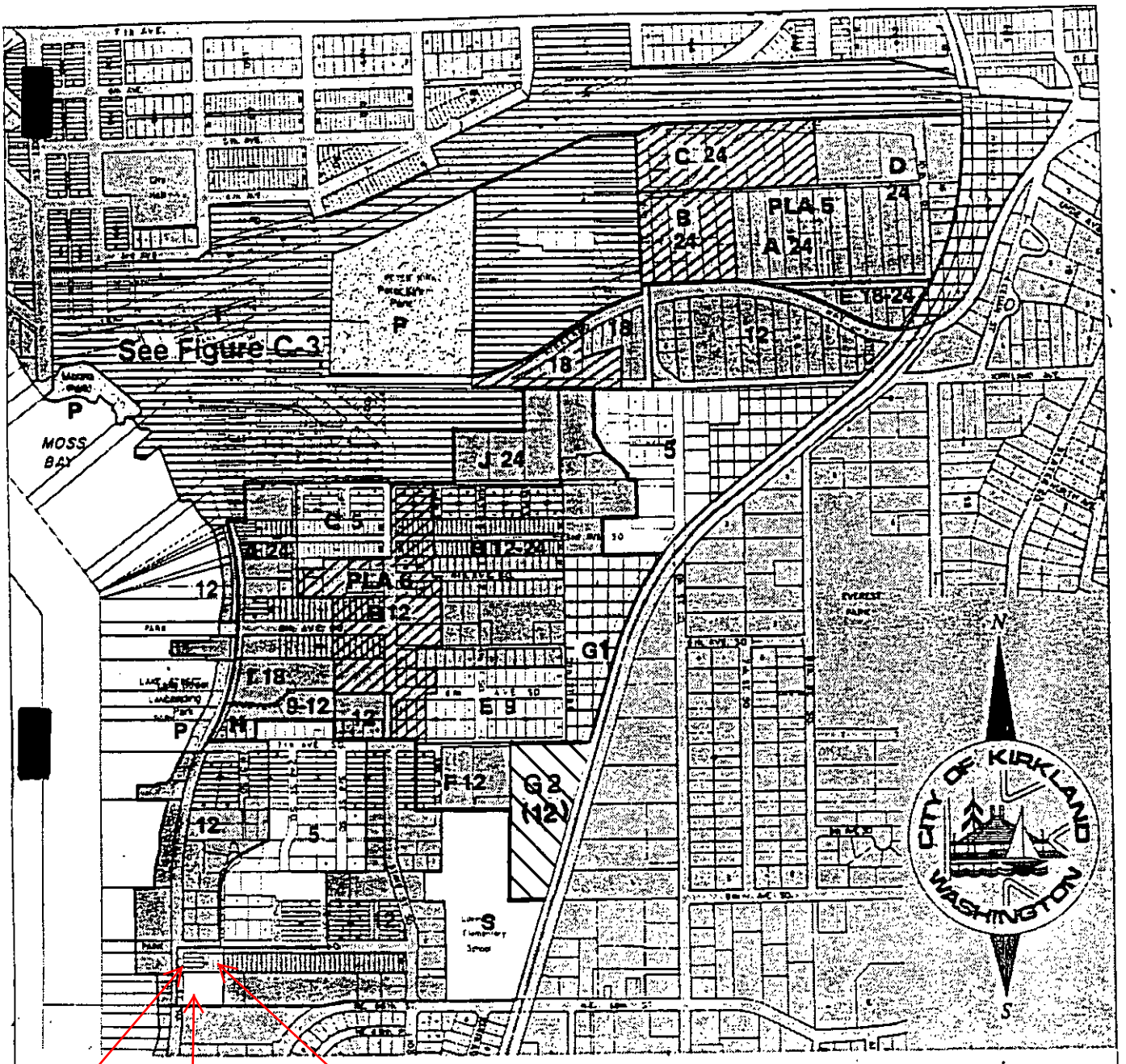
~~Residential uses are permitted in the Shoreline area.~~ Existing development elsewhere in the Shoreline Area is primarily residential. As discussed in the Shoreline Master Program, residential uses should continue to be permitted along the shoreline. ~~Except for residential uses described in~~ e [illegible] ~~eline~~ at [illegible]

This describes the ingress and egress problems of the area and the justification for rezoning the properties downward to 12-14 dwelling units per acre (from 24 previously).

This is the result of the 1977 rezone and was settled between the neighbors and the city during a 1979 lawsuit and legal agreement.

New properties now cannot be built to more than 12 dwelling units per acre. If previously built at 24 du/acre they are now non-conforming. If rebuilt they loose 1/2 the development rights... can only be 12.

3. August 20, 1991 Ordinance 3276



This is the corner property that has always been on land use and zoning map as BN commercial

This property went from RS 8.5 to RM 3.6

Residential
- Low density
- Medium and high density
- 24 Maximum allowable dwelling unit density
- Office/Multi-family
- Planned area
- Commercial
- Industrial
- S School
- P Park
- Industrial/Multi-family

This is the property that the developer would like to lease from Luella O'Connor (there is an exit clause for him). You'll see here that it is low density on Land use map. Also on the 1991 zoning map has this as Single Family RS 8.5

EXHIBIT A
FIGURE C-2
O-3016

s outside this neighborhood shown with a light gray unit.

Published in 1989 by the City of Kirkland, WA
Cartography by Rainier Mapping, Tacoma, WA

Page C-3

CENTRAL NEIGHBORHOOD
LAND USE

Figure C-2

Jeremy McMahan

From: Uwkkg@aol.com
Sent: Thursday, January 26, 2012 10:21 AM
To: Uwkkg@aol.com; Kurt Triplett; Robin Jenkinson; Eric Shields; Jeremy McMahan; Jay Arnold; Janet Jonson
Cc: neighboringproperties@gmail.com
Subject: 2 of 7: Planning Commission: Historical Legal re BN Res Mkt implementing zoning
Attachments: NO2HIS~1.PDF

Here's the 2nd of 7 attachments. I hope you are finding them quick to review.

Please call me with any questions. We've had a whole team reviewing documents for nearly 9 months, so most answers are at our fingertips.

Thanks,
Karen Levenson
415-218-4452

4a. November 25, 1992 From Planning Staff to Growth Management Land Use Subcommittee

It is important to note that the following was the recommendation of Planning Staff - Eric Shields is Director at this time

Defining the nodes requires a meshing of the broad regional definitions found in the Countywide Planning Policies and Vision 2020 with the smaller scale nodes described in the existing Comprehensive Plan. Staff proposes the following development node definitions:

Activity areas. Locations that contain a moderate concentration of commercial land uses and some adjacent higher density residential areas. Activity Areas are distinguishable from neighborhood centers by their larger size and their function as a significant focal point for the local and regional community.

The activity area definition is taken almost verbatim from the Countywide Planning Policies discussion. For consistency throughout the County, it is important that a common definition for larger scale, regionally important, commercial/industrial areas be used.

Commercial clusters. Commercial clusters are smaller scale activity areas, which contain a greater percentage of office development than either activity areas or neighborhood centers. Commercial clusters serve a subregional market, as well as the local community. Uses in a commercial cluster may include offices, limited retail, hotels, restaurants, and other small-scale service businesses.

The commercial cluster definition is modified from the activity area definition to acknowledge that, although the commercial cluster does serve more than a local market, it is smaller and more compact than an activity area. The commercial cluster definition focuses on the predominance of office use (and supporting retail and services) in these areas.

See next page for Residential Markets

Neighborhood centers. Areas of commercial activity dispensing commodities primarily for individuals within the neighborhood. A supermarket may be a major tenant; other stores may include a drug store, variety, hardware, barber, beauty shop, laundry, dry cleaning, and other local retail enterprises. These centers provide facilities to serve the everyday needs of the neighborhood rather than providing services on a community-wide base. Neighborhood centers should have a pedestrian orientation and should be connected to activity areas and/or commercial clusters by local transit.

The neighborhood center definition is taken from the existing Comprehensive Plan, but is augmented by the Countywide Planning Policies, Vision 2020, and Kirkland's draft Vision Statement. While the existing Comprehensive Plan definition acknowledges that neighborhood centers serve the surrounding community and are of a smaller scale than activity areas or commercial clusters, this definition reinforces the pedestrian and transit orientations of these centers.

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

The residential market definition is the first step towards acknowledging not only the small scale retail which presently exists, but also the smaller-scale, pedestrian-friendly nodes referenced in the draft Vision Statement. During the visioning process, "corner stores" were repeatedly referenced. Further work on this concept is necessary. The residential market discussion should continue through the Committee's consideration of mixed use.

Issue 2. Where are the development nodes in Kirkland and which of the recommended definitions would apply to those nodes?

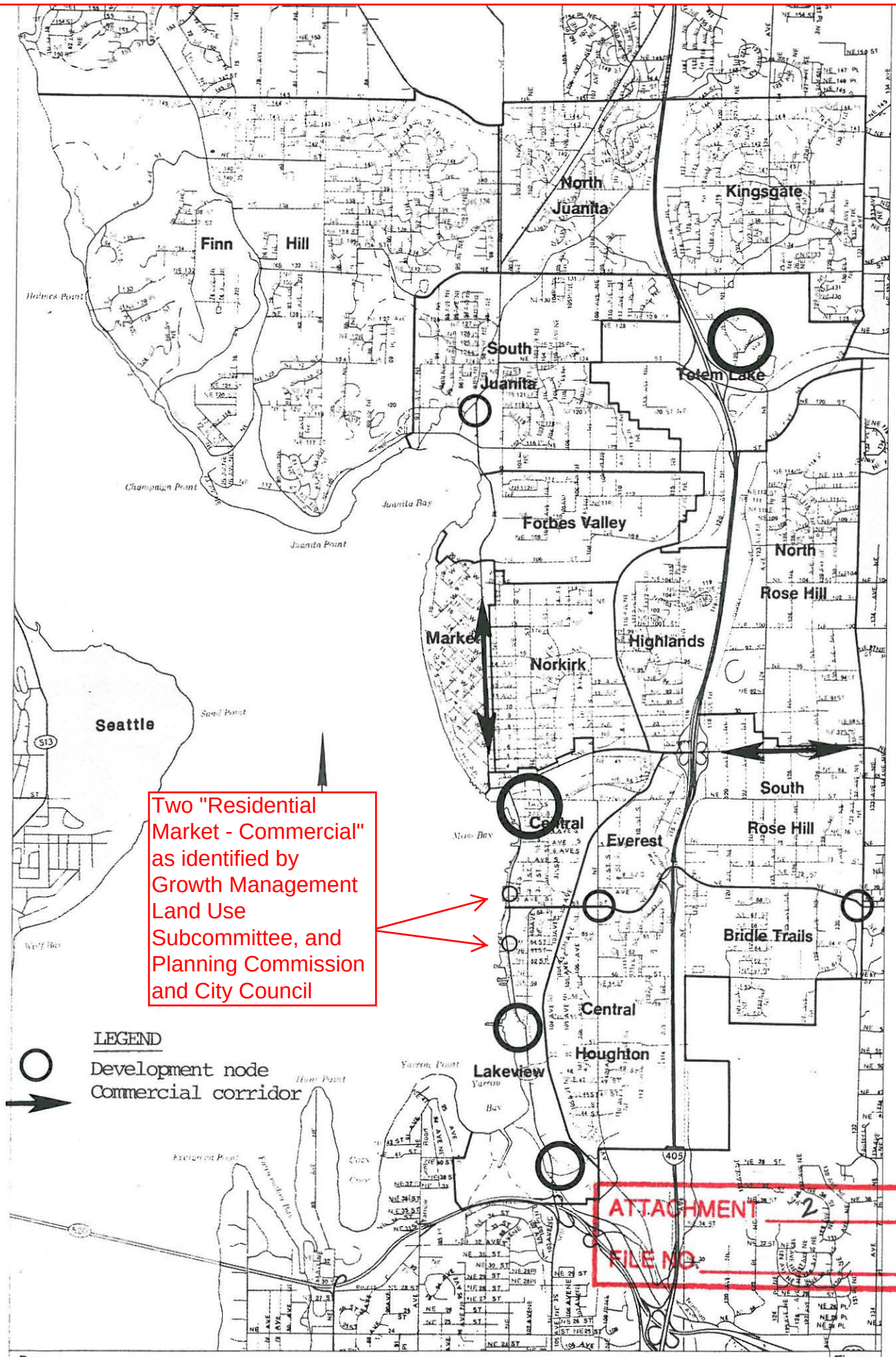
Staff has identified several development nodes in Kirkland (see map, Attachment 2). Below, each is classified according to staff's recommended development node definition:

Location	Classification
Totem Lake	Activity Area
Downtown	Activity Area
SR520/Lake Washington Blvd.	Commercial Cluster
Carillon Point	Commercial Cluster
Juanita business district	Neighborhood Center
Houghton Shopping Center	Neighborhood Center
Bridle Trails Shopping Center	Neighborhood Center
Lake Washington Blvd./NE 64th	Residential Market
Lake Washington Blvd./10th Ave. S.	Residential Market

The two activity areas are identified in existing City Council and Comprehensive Plan policies. These areas have a regional orientation, are located at the crossroads of major transportation routes, and draw business from well outside the City limits of Kirkland. Along with commercial retail and office uses, large scale industrial uses are also located in the vicinity of these activity areas.

The two commercial clusters are also identified in the existing Comprehensive Plan. Carillon Point and the SR520/Lake Washington Blvd. interchange share a number of commercial cluster characteristics: both serve more than just a local market; they have limited commercial uses (restaurants, hotel, small-scale retail), but are dominated by office uses; and they are surrounded by higher-density residential development. As commercial clusters, they are not as large or diversified as the downtown and Totem Lake activity areas. However, they are larger and more regionally-oriented than are the neighborhood centers.

4c. November 25, 1992 From Planning Staff to Growth Management Land Use Subcommittee



Page I-7

CITY NEIGHBORHOODS

Figure I-2

- all lands within the urban growth area be characterized by urban development;
- urban centers and activity areas be identified;
- planned employment capacity and targeted increases in employment be indicated; and
- existing land area zoned for business/office parks not be expanded and existing business/office parks be converted to mixed use areas.

Stop by the open house station on Totem Lake as an Urban Center to hear more about that topic.

The land uses designated on the Land Use Map must provide room for the projected housing and employment growth in Kirkland over the next 20 years. These projections are to come from King County, however they are not yet available. In the interim, we are assuming that Kirkland's 2010 residential population will be 53,082 persons (1992 population was 41,390 persons) and employment will be 29,777 jobs (1990 employment was 18,578 jobs). Most of the employment is expected in the finance/insurance/real estate/ services sector, followed by the retail sector.

KEY ISSUES

RESIDENTIAL MARKETS

Should the city allow residential markets in neighborhoods?

Kirkland's existing Comprehensive Plan includes the concept of "development nodes"--areas of commercial/industrial activity. Nodes can range greatly in scale, from the large commercial/industrial area at Totem Lake to the small neighborhood commercial center at the intersection of Lake Washington Boulevard and 10th Avenue South.

The Land Use Subcommittee has defined five types of development nodes--urban centers (Totem Lake), activity areas (downtown Kirkland), commercial clusters (Carillon Point, SR520/Lake Washington Blvd.), neighborhood centers (Juanita business district, Houghton and Bridle Trails shopping centers), and residential markets (Lake Washington Blvd. at 10th Ave. S. and at NE 64th St.).

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

Residential markets are designed to be inserted into neighborhoods to provide local services to residential areas. This would be a new concept in the Comprehensive Plan, and would allow limited commercial/office uses close to residences.

"Residential Market - Commercial" becomes a new concept in the Comprehensive Plan and is assigned to two parcels of commercial - both on Lake Washington Blvd/Lake St

Jeremy McMahan

From: Uwkkg@aol.com
Sent: Thursday, January 26, 2012 10:24 AM
To: Uwkkg@aol.com; Kurt Triplett; Robin Jenkinson; Eric Shields; Jeremy McMahan; Jay Arnold; Janet Jonson
Cc: neighboringproperties@gmail.com
Subject: 3 of 7: Planning Commission: Historical Legal re BN Res Mkt implementing zoning
Attachments: NO3HIS~1.PDF

Here's the 3rd of 7 attachments. I hope you are finding them quick to review.

Please call me with any questions. We've had a whole team reviewing documents for nearly 9 months, so most answers are at our fingertips.

Thanks,
Karen Levenson
415-218-4452

6. July 1995 Comprehensive Plan and Future Amendments

ADOPTION OF COMPREHENSIVE PLAN AND SUBSEQUENT AMENDMENTS

Following an approximately three-year review process, the City of Kirkland ("City") adopted Ordinance 3481 on July 11, 1995. The **1995 Ordinance 3481** adopted the first GMA compliant Comprehensive Plan for the City. The **2004 Ordinance 3974** adopted the first GMA required Comprehensive Plan update.

Ordinances are legislative acts or local laws. They are the most permanent and binding form of Council action.

The Residential Market – Commercial land use designation the was adopted through the 1995 Comprehensive Plan. The Land Use map in the 1995 Comprehensive Plan designated many areas throughout the City for commercial land uses. IR 31, Land Use Map, Figure LU-1, Page VI-5 (Ex. 31 - A). The Comprehensive Plan also mapped specific commercial development areas in the City and included descriptions of each of the five commercial land uses: Activity Areas, Commercial Districts, Commercial Corridors, Neighborhood Centers, and Residential Markets. IR 31, Commercial Development Areas Map, Figure LU-2, Page VI-13; Policy LU-4.4, Pages VI-11 – VI-12 (Ex. 31 - B). There are

Following the approximately two and one-half year review process, the Kirkland City Council adopted the **2004 Comprehensive Plan** update with the passage of **Ordinance 3974** on December 14, 2004. The Residential Market land use designation had minor wording changes only and

III. GENERAL

A. PLAN APPLICABILITY AND CONSISTENCY

The Comprehensive Plan serves as the guiding policy document to attain the City's vision of the future over the next 20 years or longer. This means that decisions and actions in the present are based on the adopted plan. One of the central tenets of the Growth Management Act is to require consistency in planning.

Consistency is determined in a number of ways. The following represent those areas where "consistency" must be achieved:

- The Comprehensive Plan must comply with the Growth Management Act.
- The Plan is to be consistent with the regional plan – the Multicounty Planning Policies adopted by the Puget Sound Regional Council.
- It must be consistent with the adopted Countywide Planning Policies as well as the plans of adjacent jurisdictions.
- State agencies and local governments must comply with the Comprehensive Plan.
- The various elements of the Comprehensive Plan must be internally consistent.

The City's legislative and administrative actions and decisions must be in compliance with the adopted plan. To accomplish this a number of things need to occur. The Implementation Measures noted in Chapter XIV list those steps. The City will need to revise some of its zoning and development regulations to be consistent with and implement the plan. The Zoning Map needs to be updated to reflect the land use changes identified on the Land Use Map and correct previous inconsistencies.

The City has used the Comprehensive Plan as the policy basis for decisions – particularly for determinations under the State Environmental Policy Act (SEPA). With this revised Comprehensive Plan adopted under the Growth Management Act, the City should strive to integrate SEPA into the zoning permit review process rather than having a separate environmental review process. The development regulations should provide clear and predictable guidance for issuing development permits and making SEPA determinations. However, where the regulations are not clear and/or discretion is to be exercised in making those development decisions, the Comprehensive Plan is to be used as the policy basis for those decisions.

The Comprehensive Plan will also be used to guide the City in developing its Capital Improvement Program and in the preparation or update of the various functional plans and programs.

The Neighborhood Plans will also require updating to comply with the Comprehensive Plan Elements. A number of Neighborhood Plans have recently been revised (for example, South Juanita or the downtown area) – and these may need minimum amendments. Others, such as Totem Lake, will need more substantive changes. It is the intent of the City to phase these updates over time. In the interim, if there are conflicts or inconsistencies between the Comprehensive Plan Elements and a Neighborhood Plan, the Plan Element goals and policies will apply.

The Comprehensive Plan is intended to apply, where appropriate, to the Kirkland Planning Area which is also designated as the Interim Annexation Area (see Figure I-2). The City has worked with King County on their Northshore Plan for this area and is in general agreement with that plan. However, updates to Kirkland's and King County's Comprehensive Plans, as well as the Neighborhood Plans for the Planning Area, will probably result in the need to amend the Northshore Plan. As part of its neighborhood planning process, the City will need to update the plans for Kingsgate, North Juanita, and Finn Hill.

attempts to promote commercial land use patterns that support alternative transportation modes.

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

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

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

Activity Areas

Activity Areas are locations that contain a high concentration of commercial land uses and adjacent and intermingled higher-density residential uses served by a transit center. Activity Areas are distinguishable from neighborhood centers by their larger size and function as significant focal points for the local and regional community.

Commercial Districts

Commercial Districts are smaller activity areas which contain a greater percentage of office development than either major activity areas or neighborhood centers. Commercial Districts serve a subregional market, as well as the local community. Commercial Districts include such uses as offices, limited retail, multifamily housing, hotels, restaurants, and small-scale service businesses.

Commercial Corridors

A series of detached, auto-oriented commercial establishments usually located along a major street, each with its own parking facilities and primary access on the major street.

Neighborhood Centers

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

Lowest intensity/Smallest Commercial

Residential Markets

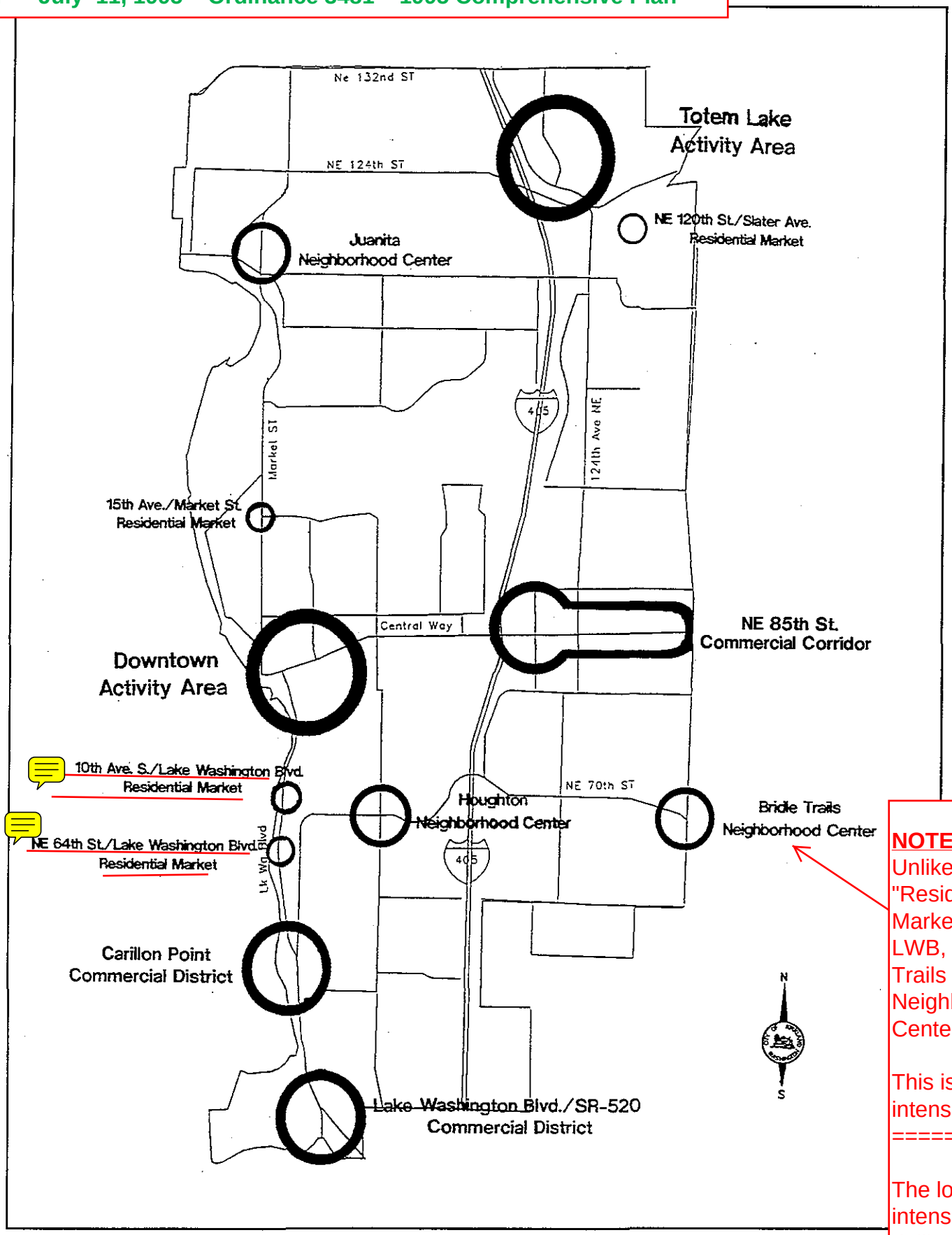
Residential Markets are individual stores or very small, mixed-use buildings/centers focused on local pedestrian traffic. Residential scale and design are critical to integrate these uses into the residential area. Uses may include corner grocery stores, small service businesses (social service outlets,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

Goal LU-5. Plan for a hierarchy of commercial development areas serving neighborhood, community, and/or regional needs.

Policy LU-5.1. Reflect the following principles in development standards and land use plans for commercial areas:

Urban Design

- ***Create lively and attractive districts with a human scale.***



NOTE:
Unlike the 2 "Residential Markets" on LWB, the Bridle Trails BN is in a Neighborhood Center.

This is a higher intensity use.
==========

The lower intensity use was deliberately chosen for the LWB parcels.

Figure LU-2: Commercial Development Areas

As discussed in the Shoreline Master Program, residential uses should continue to be permitted along the shoreline at medium densities (12 dwelling units per acre). This is consistent with the density of development along the shoreline to the south and on many properties on the east side of Lake Street South.

Development along the shoreline is discussed.

As specified in the Shoreline Master Program, new residential structures constructed waterward of the high water line are not permitted. Additional standards governing new multifamily development can be found in the Shoreline Master Program.

B. ECONOMIC ACTIVITIES

Economic Activities in the Central Neighborhood occur primarily in the Downtown area, and in Planned Areas 5 and 6. The boundaries of these three major activity areas are shown in Figure C-2.

Economic Activities in Planned Area 5 are discussed.

While Planned Area 5 has been developed largely in multifamily uses, several offices – including the United States Post Office – serving the Greater Kirkland area, are located in this planned area. Land use in Planned Area 5 is discussed in greater detail in the Living Environment section of this chapter.

Limited economic activities presently exist in State Street area.

Although the character of Planned Area 6 is predominantly residential, several economic activities are presently located in the area. Small offices and some commercial uses exist along Lake Street South and along State Street, and industrial development has occurred near the railroad. The Living Environment Section of this chapter contains a more in-depth discussion of land use in Planned Area 6.

Land on east side of Lake Street South is generally not suitable for commercial development.

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

This is the subject property... east of LWB where vehicular ingress and egress is a problem...

But the authors go on to recognize that the small market that is there serves the local neighbors... therefore they will allow such **"LIMITED commercial use"** to **"REMAIN"**

Industrial activities east of the railroad tracks described.

The strip of land located east of the railroad tracks, south of Central Way and west of Kirkland Way, contains an existing light industrial use. While the area's proximity to I-405 and NE 85th Street makes it attractive for commercial development, the area is also near residential uses, and should be subject to greater restrictions than other industrial areas. Buildings should be well screened by a landscaped buffer, and loading and outdoor storage areas should be located away from residential areas. In addition, the number and size of signs should be strictly limited, with only wall- and ground-mounted signs permitted. Pole signs, such as the one currently located in this gateway area, are inappropriate.

(4) Use of wide vegetated setbacks adjacent to residential uses.

(5) Vehicular access will not be placed across residentially zoned property.

(6) Preclusion of any commercial uses other than offices.

Land uses south of NE 59th Street and between Lakeview Drive and Lake Washington Boulevard are discussed.

The area lying south of NE 59th Street between Lakeview Drive and Lake Washington Boulevard contains a mix of uses. Within the area existing uses include a small clothing manufacturing plant. The one-story clothing manufacturing plant creates minimal visual impacts on the neighborhood and provides, informally, some parking to handle the overflow from Houghton Beach Park. South from the industrial area on lands zoned for neighborhood business and professional office/residential exists a mixture of land uses including single-family, duplex, multifamily, and office use.

The area south of NE 59th Street, between Lakeview Drive and Lake Washington Boulevard is suitable for medium-density residential uses and small professional offices.

In order to blend future activities with existing uses, medium-density residential uses with small professional offices are most appropriate south of NE 59th Street. The character of this neighborhood has changed significantly since the days when the nearby waterfront included shipbuilding activities and oil storage facilities. Many activities permitted in light industrial areas are no longer compatible with the residential activities and the new Houghton Beach Park. The existing manufacturing plant could continue. Medium-density residential uses, at a density of 12 dwelling units per acre, and small professional offices should be considered the base uses. (Standards for the medium-density residential uses are described above in the Living Environment section for the residential area between Lake Washington Boulevard and Lakeview Drive north of NE 59th Street. These standards also apply to professional office development.) No convenience or retail commercial uses should be considered.

Commercial activities east of Lake Washington Boulevard should be limited.

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

This is the other "Residential Market - Commercial" Property in Kirkland

It is currently the Super 24 market

A small antique store, a furniture store/office, and a fast food restaurant exist along the east side of Lake Washington Boulevard between NE 59th and 60th Streets. The restaurant is relatively new and meets most or all of the current zoning standards for such uses. The antique and furniture stores, on the other hand, clearly do not meet zoning standards for building setbacks and parking, and other zoning nonconformances are likely. Even so, both buildings are of a scale and design which are compatible with neighboring residential uses. The furniture store building was constructed in the early 1900s and has historic significance as an early site of the Houghton Post Office. This area is appropriate for single or multifamily residential, office, and limited commercial uses. Redevelopment for residential uses should comply with all applicable zoning standards. The continuation of existing office and commercial uses within the existing nonconforming structures should be allowed. New commercial uses and redevelopment of the existing structures also would be appropriate if they maintain or enhance compatibility with nearby residential development, are respectful of the historic character of the site, and maintain a strong pedestrian orientation. Some flexibility in applying normal zoning standards

4. PERIMETER AREAS

A. LIVING ENVIRONMENT

The Central Neighborhood contains a wide variety of housing types, including many single-family residences and multifamily units. It is the intent of the Comprehensive Plan to provide a range of housing opportunities, and a continued broad range is planned for the Central Neighborhood (Figure C-1).

Considerations for low-density residential development are discussed.

The various residential densities designated for land in the Central Neighborhood, and particularly for the areas lying south of Kirkland Avenue, will be compatible if certain concerns are addressed. For example, a low-density designation is appropriate in any area developed predominantly in single-family homes, if the likelihood exists that these structures will be maintained for the lifetime of this Plan. Similarly, an area should remain committed to low-density uses if a higher-density development in the area could not be adequately buffered from single-family houses.

Considerations for medium- and high-density residential development are discussed.

A medium-density designation is appropriate for areas where sufficient land area is available to separate such development from adjacent single-family uses. In addition, medium-density residential development should not be allowed where it would significantly increase traffic volumes on streets where single-family housing is the predominant land use. Other considerations include the overall compatibility of medium-density development with adjacent single-family uses, with respect to height, setbacks, landscaping, and parking areas. If special precautions are taken to reduce adverse impacts on existing single-family homes, higher densities may be allowed. Within the Central Neighborhood, land surrounding the Downtown is generally most appropriate for these higher-density developments.

Medium-density residential development permitted in block between Kirkland Avenue and Kirkland Way as well as south and west of Planned Area 6.

The block of land lying east of 6th Street, between Kirkland Way and Kirkland Avenue, is largely developed in a mix of single-family and multifamily uses. Medium-density residential development at a density of 12 dwelling units per acre is appropriate for this area, to serve as a transition between high-density development to the north and low- to medium-density development to the south.

Several small offices have developed near the intersection of Kirkland Avenue and Kirkland Way, west of 6th Street. Multifamily residential development is also permitted in this area at a density of 18 dwelling units per acre. This area lies both north and south of land with the potential for high-density residential development.

A density of 12 dwelling units per acre is also designated for properties along State Street, south of Planned Area 6 (Figure C-2). This designation is consistent with densities of existing development as well as with densities permitted along State Street to the north and south. Lands on the west side of Lake Washington Boulevard, south of 7th Avenue South and west of the midblock between First and Second Streets South, are also appropriate for multifamily uses at a density of 12 dwelling units per acre. This designation is consistent with permitted densities to the north and south along Lake Washington Boulevard.

This is a type-o and should say east. It is fixed at a later date ....

If you look at a map, it doesn't make sense to be west of LWB and west of 1st and 2nd Streets S

The area situated east of the midblock between First and Second Streets South, west of the mid-block between State Street and Second Place South, and south of 7th Avenue South, contains a well-established enclave of single-family homes. Existing development in this area should be preserved.

XIV. Implementation Strategies

The vision statement, goals, and policies set forth in previous elements of the Comprehensive Plan together describe the desired type and character of growth in Kirkland during the next 20 years. They do not, however, tell us precisely how to create the kind of community envisioned by the Plan. Yet unless appropriate actions are taken, the plan will remain unrealized. Consequently, a strategy for how to implement the Plan is needed. It is the intent of this Element to provide such a strategy and identify the actions necessary to make the plan a success.

A. Implementation Methods

There are a broad range of measures necessary to implement the Comprehensive Plan involving a wide variety of people and organizations. It is the responsibility of the City, however, to put in place the mechanisms that will promote the actions needed for implementation. Listed below are the methods that will be used to implement the Plan over the 20-year planning horizon.

Annual Plan Amendments. To keep the Comprehensive Plan current, it will be necessary to review and update it on a regular basis. At the very least, it will be necessary to annually consider amendments to the six-year projects list in the Capital Facilities Element. Other issues are likely to arise each year which can also be considered in the annual update.

New or Revised Plan Elements. At the time the Comprehensive Plan was prepared, several elements were left uncompleted. Those elements, Community Character, Natural Environment, Economic Development, and Parks and Recreation, are not specifically required by the Growth Management Act; and due to time limitations, were left with relatively few changes from the previous Comprehensive Plan. Even so, completion of those elements is desired to round out the Plan and assure its currency.

Neighborhood Plans. An important part of the Comprehensive Plan are the plans for Kirkland's thirteen neighborhoods. Those plans have been prepared and updated over a period of years to address in detail issues relevant to each specific neighborhood. Regular update of the neighborhood plans should continue, both to maintain their currency and to bring them into compliance with the more recently adopted Plan elements.

Functional Plans. Although not technically a part of the Comprehensive Plan, functional plans address in detail subjects more generally discussed in the Comprehensive Plan. Existing functional plans include:

- Sewer Comprehensive Plan
- Water Comprehensive Plan
- Stormwater Master Plan
- Parks and Recreation Plan
- Fire Master Plan
- Nonmotorized Transportation Plan

Functional plans are both guided by and help to guide the Comprehensive Plan. Theoretically, the Comprehensive Plan sets the broad policy framework which functional plans address in more detail. In practice, however, functional plans also raise issues and ideas which help to shape Comprehensive Plan goals and policies. Either way, general consistency between the Comprehensive Plan and functional plans is important, as is regular updating of functional plans to maintain their currency.

Special Studies. Several elements of the Comprehensive Plan indicate that for some issues additional studies are needed. The purpose of the studies is to provide additional information which will allow further refinement of the Plan and potentially provide the basis for developing

XIV. Implementation Strategies

TASK		PRIORITY
NATURAL ENVIRONMENT ELEMENT		
Projects		
NE.1.	Revise the Natural Environment Element.	*
NE.2.	Amend Zoning Code environmentally sensitive areas regulations.	**
LAND USE ELEMENT		
Projects		
LU.1	Rezone land as necessary for consistency with the Comprehensive Plan land use map.	**
LU.2.	Amend Zoning Code business district development standards to:	
	◆ Tailor regulations to the provisions of the Comprehensive Plan for each business district;	
	◆ Promote non-SOV transportation modes;	**
	◆ Consider design guidelines.	
LU.3.	Prepare detailed plans for the following business districts:	
	◆ NE 85th Street;	
	◆ Totem Lake.	
LU.4.	Refine open space network maps, identify missing links, and develop preservation techniques.	
LU.5.	Amend the Zoning Code as appropriate to establish standards for residential markets.	*
LU.6.	Review institutional uses and revise land use map as appropriate to reflect those uses.	
LU.7.	Review development regulations and administrative procedures and revise as appropriate to streamline development review procedures.	*
LU.8.	Develop a system for monitoring development capacity.	**
LU.9.	Work with other jurisdictions to develop mutually acceptable criteria for siting regional facilities.	
Ongoing		
LU.10.	Monitor and update information concerning:	
	◆ Development capacity;	
	◆ Development trends;	
	◆ Demographics.	

High Priority

Jeremy McMahan

From: Uwkkg@aol.com
Sent: Thursday, January 26, 2012 10:26 AM
To: Uwkkg@aol.com; Kurt Triplett; Robin Jenkinson; Eric Shields; Jeremy McMahan; Jay Arnold; Janet Jonson
Cc: neighboringproperties@gmail.com
Subject: 4 of 7: Planning Commission: Historical Legal re BN Res Mkt implementing zoning
Attachments: NO4HIS~1.PDF

Here's the 4th of 7 attachments. I hope you are finding them quick to review.

Please call me with any questions. We've had a whole team reviewing documents for nearly 9 months, so most answers are at our fingertips.

Thanks,
Karen Levenson
415-218-4452

XIV. IMPLEMENTATION STRATEGIES

3606

TASK	PRIORITY
NATURAL ENVIRONMENT ELEMENT	
Projects	
NE.1. Revise the Natural Environment Element.	*
NE.2. Amend Zoning Code environmentally sensitive areas regulations.	**
LAND USE ELEMENT	
Projects	
LU.1 Complete the rezoning ~~Rezone land as~~ necessary for consistency with the Comprehensive Plan land use map.	**
LU.2. Amend Zoning Code business district development standards to:	
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◆ Consider design guidelines.	
LU.3. Prepare detailed plans for the following business districts:	
◆ NE 85th Street;	* *
◆ Totem Lake.	* *
LU.4 Prepare a master plan for Downtown Kirkland public property.	
LU.~~4~~5. Refine open space network maps, identify missing links, and develop preservation techniques.	
LU.~~5~~6. Amend the Zoning Code as appropriate to establish standards for residential markets.	*
LU.~~6~~7. Review institutional uses and revise land use map as appropriate to reflect those uses.	
LU.~~7~~8. Review development regulations and administrative procedures and revise as appropriate to streamline development review procedures.	*
LU.~~8~~9. Develop a system for monitoring development capacity.	**
LU.~~9~~10. Work with other jurisdictions to develop mutually acceptable criteria for siting regional facilities.	
Ongoing	
LU.~~10~~11. Monitor and update information concerning:	
◆ Development capacity;	
◆ Development trends;	
◆ Demographics.	

Some rezoning was done since the 1995 Comp Plan's Implementation Strategies List. On 12.18.97 wording now indicates that rezoning needs to be "completed."

This item was added 12.18.97

As of 12.18.97 There have been no implementing activities for Res. Markets

O-3606

As discussed in the Shoreline Master Program, residential uses should continue to be permitted along the shoreline at medium densities (12 dwelling units per acre). This is consistent with the density of development along the shoreline to the south and on many properties on the east side of Lake Street South.

Development along the shoreline is discussed.

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NOTE: This still talks about the specific property !!

It discusses problems of vehicle ingress & egress and it mentions the "MARKET" which should be allowed to "REMAIN"

Industrial activities east of the railroad tracks described.

The strip of land located east of the railroad tracks, south of Central Way and west of Kirkland Way, contains an existing light industrial use. While the area's proximity to I-405 and NE 85th Street makes it attractive for commercial development, the area is also near residential uses, and should be subject to greater restrictions than other industrial areas. Buildings should be well screened by a landscaped buffer, and loading and outdoor storage areas should be located away from residential areas. In addition, the number and size of signs should be strictly limited, with only wall- and ground-mounted signs permitted. Pole signs, such as the one currently located in this gateway area, are inappropriate. (insert)

Finally, it is noted in the Everest Neighborhood Plan that there is a major territorial view at the intersection of NE 85th Street and Kirkland Way. This view of Lake Washington, Seattle, the Olympic Mountains and Downtown Kirkland falls over property in this area.

XIV. IMPLEMENTATION STRATEGIES

TASK	PRIORITY
Ongoing	
NE.8. Continue to monitor information concerning innovative techniques for resource management, including:	
◆ adaptive management of Sensitive Areas,	**
◆ mitigation banking,	
◆ transfer of development rights,	
◆ funding sensitive areas acquisition, restoration, and education through innovative techniques,	
◆ other non-regulatory protection measures.	
Identify for further study those techniques that have potential for successful implementation in Kirkland.	
NE.9. Continue to approach natural resource management comprehensively through interdepartmental coordination.	*
LAND USE ELEMENT	
Projects	
~~LU.1. Complete the rezoning necessary for consistency with the Comprehensive Plan land use map.~~	~~**~~
1 LU.~~2~~. Amend Zoning Code business district development standards to:	
◆ Tailor regulations to the provisi business district;	
◆ Consider design guidelines.	
2 Prepare zoning regulations consistent with the revised NE 85th Street subarea plan. ~~LU.8. Prepare detailed plans for the following business districts:~~	
~~◆ NE 85th Street;~~	**
~~◆ Totem Lake.~~ Prepare zoning regulations consistent with the revised Totem Lake Neighborhood plan.	**
3 LU.~~4~~. Prepare a master plan for Downtown Kirkland public property.	
LU.~~5~~4. Refine open space network maps, identify missing links, and develop preservation techniques.	
LU.6. Amend the Zoning Code as appropriate to establish standards for residential markets.	*
LU.7. Review institutional uses and revise land use map as appropriate to reflect those uses.	
~~LU.8. Review institutional uses and revise land use map as appropriate to reflect those uses.~~	~~*~~
~~LU.9. Review institutional uses and revise land use map as appropriate to reflect those uses.~~	~~**~~
~~LU.10. Review institutional uses and revise land use map as appropriate to reflect those uses.~~	
Ongoing	
LU.11. Monitor and update information concerning:	
◆ Development capacity;	
◆ Development trends;	
◆ Demographics.	

Now LU.1. is considered complete and it has been removed from the Implementation Strategies "to do" list

Now the NE 85th Street and Totem Lake "plans" (neighborhood plans) have been detailed. For this reason the Implementation Strategies now instruct that the development regulations are the next step to be accomplished

While other changes are given higher priority, there are still no activities taken to implement Residential Markets

High Priority

This was actually removing items LU.8, LU.9 & LU.10 when complete.
LU.8. was Reviewing/revising development regs & admin procedures
LU.9. was Developing a system to monitor development capacity
LU.10 was Working with other jurisdictions to site regional facilities

Implement the Downtown Strategic Plan

Now that a master plan for Downtown public property has been established, this has been changed to the next step which is "implementing the Strategic Plan."

Exhibit G

Jeremy McMahan

From: Uwkkg@aol.com
Sent: Thursday, January 26, 2012 10:28 AM
To: Uwkkg@aol.com; Kurt Triplett; Robin Jenkinson; Eric Shields; Jeremy McMahan; Jay Arnold; Janet Jonson
Cc: neighboringproperties@gmail.com
Subject: 5 of 7: Planning Commission: Historical Legal re BN Res Mkt implementing zoning
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Thanks,
Karen Levenson
415-218-4452

III. GENERAL

A. PLAN APPLICABILITY AND CONSISTENCY

The Comprehensive Plan serves as the guiding policy document to attain the City's vision of the future over the next 20 years or longer. This means that One of the central tenets of the Growth Management Act is to require consistency in planning.

Consistency is determined in a number of ways. The following represent those areas where "consistency" must be achieved:

- The Comprehensive Plan must comply with the Growth Management Act.
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- It must be consistent with the adopted Countywide Planning Policies as well as coordinated with the plans of adjacent jurisdictions.
- State agencies and local governments must comply with the Comprehensive Plan.
- The various elements of the Comprehensive Plan must be internally consistent.

~~ings~~ ~~The City will need to revise~~ ~~reflect the land use changes identified on the Land Use Map~~.

The City has used the Comprehensive Plan as the policy basis for decisions, particularly for determinations under the State Environmental Policy Act (SEPA). With this revised Comprehensive Plan adopted under the Growth Management Act, the City ~~should~~ has strived to integrate SEPA into the zoning permit review process rather than having a separate environmental review process. The development regulations should provide clear and predictable guidance for issuing development permits and making SEPA determinations. However, where the regulations are not clear and/or discretion is to be exercised in making those development decisions, the Comprehensive Plan is to be used as the policy basis for those decisions.

The Comprehensive Plan will also be used to guide the City in developing its Capital Improvement Program and in the preparation or update of the various functional plans and programs.

1-G

~~Similarly, a Neighborhood Plan Map could show a residential density outside the range of acceptable density described by the Comprehensive Plan Land Use Map. For example, the neighborhood map could identify six dwelling units to the acre for an area where the Comprehensive Plan Land Use Map shows medium-density residential.~~

~~In these cases, the Comprehensive Plan Land Use Map prevails over the Neighborhood Plan Map.~~

~~If a Neighborhood Plan Map does show the same category of use, and a density within the range of that described on the Comprehensive Plan Land Use Map, then the specific use and residential density on the Neighborhood Plan Map will prevail.~~

The land use categories mapped on the Comprehensive Plan Land Use Map are:

Low-Density Residential - ~~detached or attached~~ single family residential uses from one to nine ~~seven~~ dwelling units per acre for detached residential structures and one to seven dwelling units per acre for attached residential structures . Detached single-family dwelling units are physically separated by setbacks from other dwelling units. Attached single-family dwelling units, only allowed in specified areas, are physically connected by means of one or more common walls; each unit has its own exterior entrance; dwelling units are not stacked above or below one another; and density and height limitations associated with single- family zoning classifications are met.

Medium-Density Residential - detached residential uses at 10 to 14 dwelling units per acre and ~~,~~ attached~~,~~ or stacked residential uses at 8 to 14 dwelling units per acre.

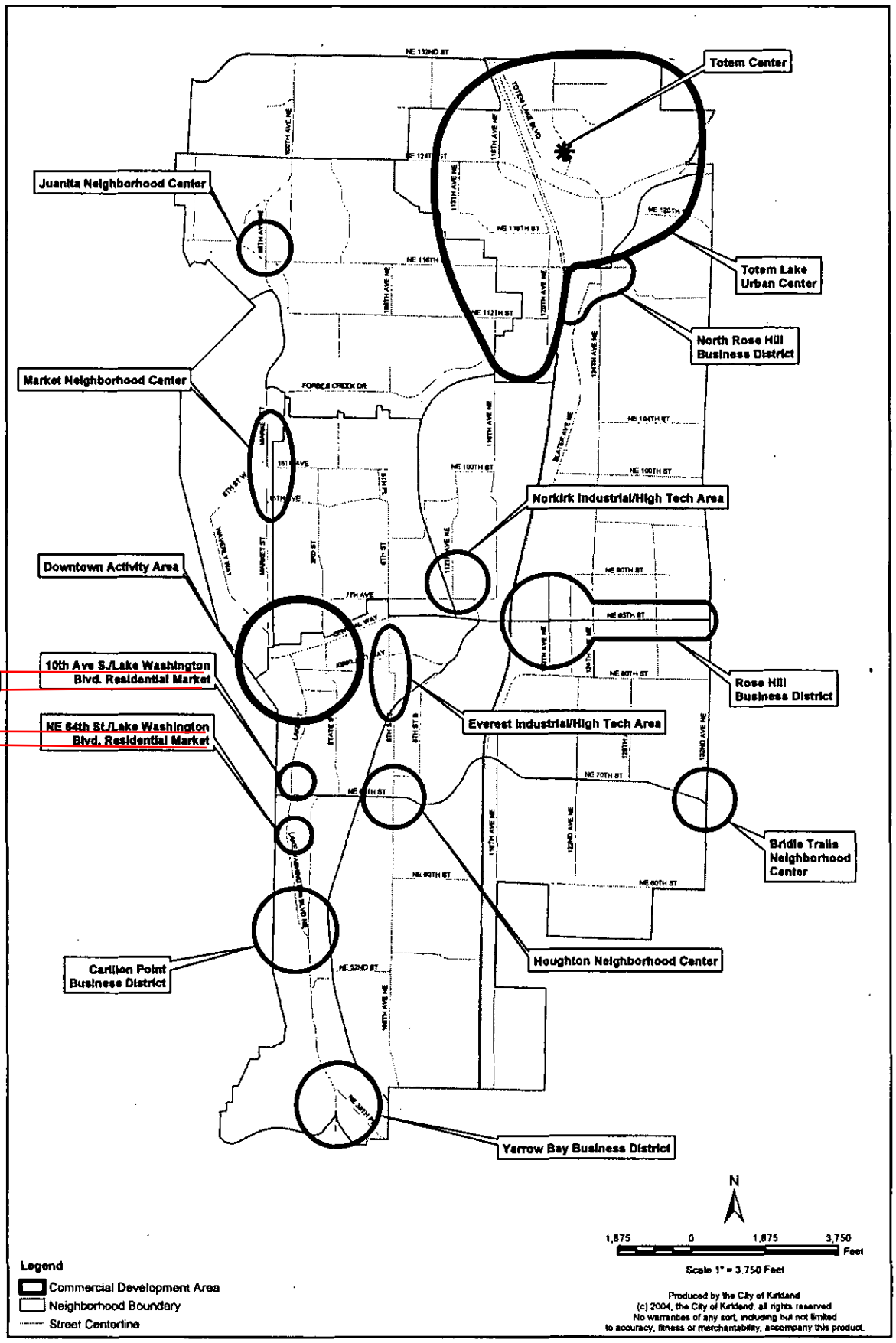
High Density Residential - detached, attached, or stacked residential uses at 15 or more dwelling units per acre.

Office - uses providing services other than production, distribution, or sale or repair of goods or commodities. Depending on the location, these uses may range from single-story, residential-scale buildings to multistory buildings and/or multibuilding complexes.

Office/Multifamily - areas where both office and medium- or high-density residential uses are allowed. Uses may be allowed individually or within the same building.

[redacted]

Industrial - uses predominantly connected with manufacturing, assembly, processing, wholesaling,



City of Kirkland Comprehensive Plan
7/2004 Draft

m dt

17a-LU

Urban Center

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

Activity Areas

An Activity Areas is an area of moderate commercial and residential concentration that functions as a focal point for the community ~~are locations that contain a high concentration of commercial land uses and adjacent and intermingled higher density residential uses~~ and is served by a transit center. ~~Activity Areas are distinguishable from neighborhood centers by their larger size and function as significant focal points for the local and regional community.~~

Business~~Commercial~~ Districts

~~Commercial Districts are smaller activity areas which contain a greater percentage of office development than either major activity areas or neighborhood centers.~~ A Business~~Commercial~~ Districts is an area that serves the subregional market, as well as the local community. ~~Commercial Districts include such uses as offices, limited retail, multifamily housing, hotels, restaurants, and small-scale service businesses.~~ These districts vary in uses and intensities and may include office, retail, restaurants, housing, hotels and service businesses.

~~Commercial Corridors~~

~~A series of detached, auto-oriented commercial establishments usually located along a major street, each with its own parking facilities and primary access on the major street.~~

Neighborhood Centers

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

laundr

NOTE:
The definitions of the two properties identified as Residential Market continue to receive review and Comprehensive Plan wording is updated in 2004

Neighborhood centers provide services to surrounding residential neighborhoods so that residents may shop close to home. They also may function as the focal point for a community. Because of these important ties to their neighborhood, neighborhood centers should develop in ways that provide goods and services needed by the local residents, enhance physical connections to the surrounding neighborhoods, foster good will and provide an opportunity for people to mingle and converse. ~~and support use by local residents.~~

~~Employment~~

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

~~A range of employment types is desirable in the community, including primary jobs or jobs in industry or high technology. These jobs are well-paying and contribute directly to the strength of the local economy.~~

Goal LU-6. Provide opportunities for a variety of employment.

Policy LU-6.1. Provide opportunities for light industrial and high technology uses. ~~Preserve areas zoned for high technology businesses, light manufacturing, and warehousing.~~

XIV. Implementation Strategies

The vision statement, goals, and policies set forth in previous elements of the Comprehensive Plan together describe the desired type and character of growth in Kirkland during the next 20 years. They do not, however, tell us precisely how to create the kind of community envisioned by the Plan. Yet unless appropriate actions are taken, the plan will remain unrealized. Consequently, a strategy for how to implement the Plan is needed. It is the intent of this Element to provide such a strategy and identify the actions necessary to make the plan a success.

There are a broad range of measures necessary to implement the Comprehensive Plan involving a wide variety of people and organizations. Listed below are the methods that will be used to implement the Plan over the 20-year planning horizon.

Annual Plan Amendments. To keep the Comprehensive Plan current, it will be necessary to review and update it on a regular basis. At the very least, it will be necessary to annually consider amendments to the six-year projects list in the Capital Facilities Element. Other issues are likely to arise each year which can also be considered in the annual update.

~~**New or Revised Plan Elements.** At the time the Comprehensive Plan was prepared, several elements were left uncompleted. Those elements, Community Character, Natural Environment, Economic Development, and Parks and Recreation, are not specifically required by the Growth Management Act; and due to time limitations, were left with relatively few changes from the previous Comprehensive Plan. Even so, completion of those elements is desired to round out the Plan and assure its currency.~~

Neighborhood Plans. An important part of the Comprehensive Plan are the plans for Kirkland's thirteen neighborhoods. Those plans have been prepared and updated over a period of years to address in detail issues relevant to each specific neighborhood. Regular update of the neighborhood plans should continue, both to maintain their currency and to bring them into compliance with the more recently adopted Plan elements.

Functional and Management Plans. Although not technically a part of the Comprehensive Plan, functional and management plans address in detail subjects more generally discussed in the Comprehensive Plan. Existing functional plans include:

- Capital Improvement Program
- Sewer Comprehensive Plan
- Water Comprehensive Plan
- Surface Water ~~Stormwater~~ Master Plan

Jeremy McMahan

From: Uwkkg@aol.com
Sent: Thursday, January 26, 2012 10:30 AM
To: Uwkkg@aol.com; Kurt Triplett; Robin Jenkinson; Eric Shields; Jeremy McMahan; Jay Arnold; Janet Jonson
Cc: neighboringproperties@gmail.com
Subject: 6 of 7: Planning Commission: Historical Legal re BN Res Mkt implementing zoning
Attachments: NO6HIS~1.PDF

Here's the 6th of 7 attachments. I hope you are finding them quick to review.

Please call me with any questions. We've had a whole team reviewing documents for nearly 9 months, so most answers are at our fingertips.

Thanks,
Karen Levenson
415-218-4452

11a. 2010 Ordinance 4279 December 7, 2010

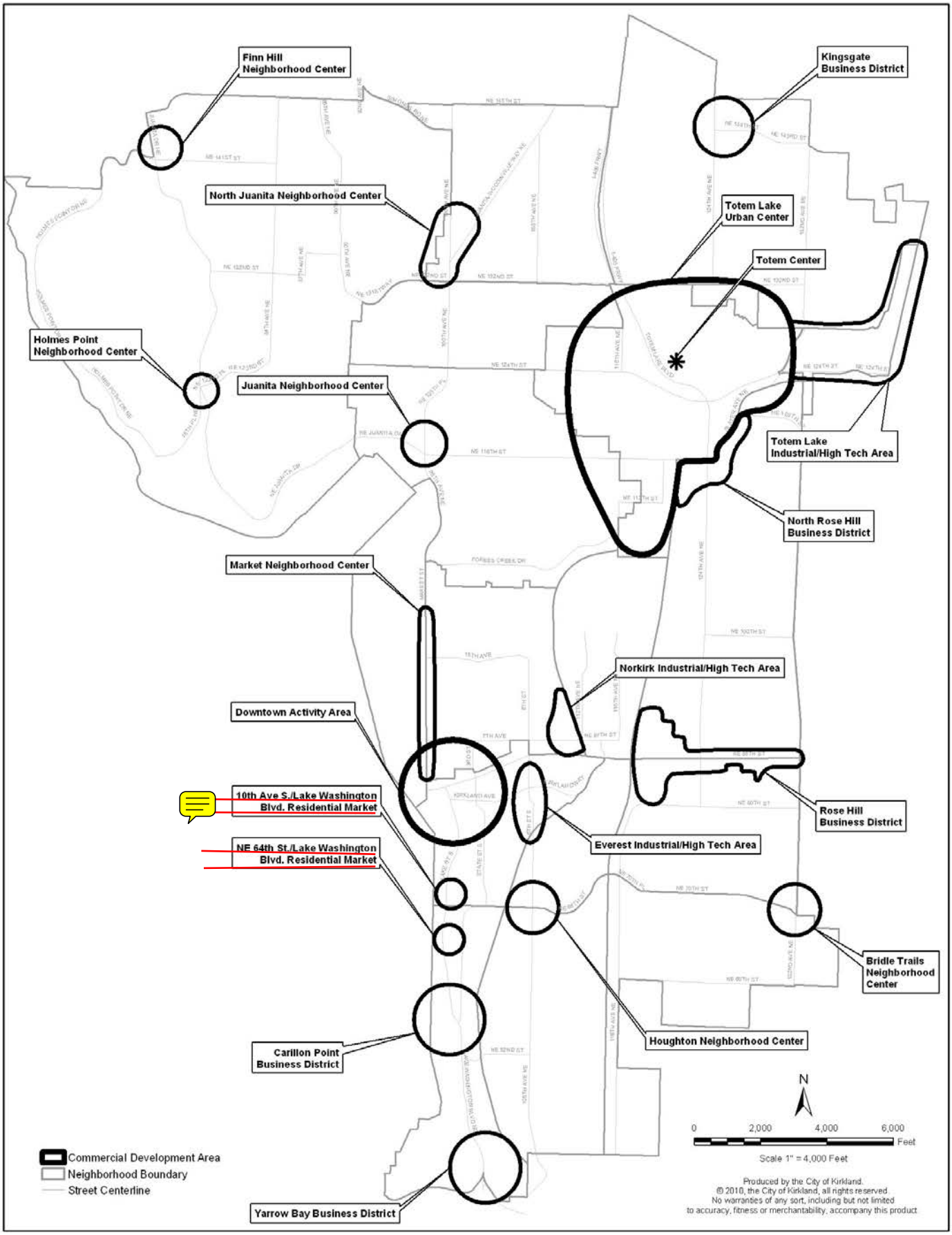


Figure LU-2: Commercial Areas

XIV. Implementation Strategies

A. Implementation Methods

Neighborhood Plans. An important part of the Comprehensive Plan are the plans for Kirkland's ~~13~~ 15 neighborhoods. Those plans have been prepared and updated over a period of years to address in detail issues relevant to each specific neighborhood. Regular update of the neighborhood plans should continue, both to maintain their currency and to bring them into compliance with the more recently adopted Plan elements.

Functional and Management Plans. Although not technically a part of the Comprehensive Plan, functional and management plans address in detail subjects more generally discussed in the Comprehensive Plan. Existing functional plans include:

- Capital Improvement Program;
- Sewer Comprehensive Plan;
- Water Comprehensive Plan;
- Surface Water Master Plan;
- Park, Open Space and Recreation Plan;
- Fire Protection Master Plan;
- ~~Nonmotorized Transportation Plan~~Active Transportation Plan;
- Natural Resource Management Plan;
- Downtown Strategic Plan;
- Housing Strategy Plan.

B. Implementation Tasks

Table IS-1
Implementation Tasks

TASK	PRIORITY
GENERAL ELEMENT	
Project	
G.2 Update the General Element to include 2010 census data and 2011 annexation.	
NATURAL ENVIRONMENT ELEMENT	
Projects	
~~NE.1. Update the City's Shoreline Master Program.~~	
LAND USE ELEMENT	
Projects	

11c. 2010 Ordinance 4279 December 7, 2010

LU.7 Update the Land Use Element to include 2010 census data and 2011 annexation.

HOUSING ELEMENT

Projects

H.3 Update the Housing Element to include 2010 census data and 2011 annexation.

ECONOMIC DEVELOPMENT ELEMENT

Projects

ED.5 Update The Economic Development Element to include 2010 census data and 2011 annexation.

TRANSPORTATION ELEMENT

Ongoing

T.3. Regularly update the ~~Nonmotorized Transportation Plan~~Active Transportation Plan.

CAPITAL FACILITIES ELEMENT

Projects

CF.2. Update Level of Service standards to include the annexation area.

CF.3. Update transportation and park impact fee rate studies to include the annexation area

NEIGHBORHOOD PLANS

Projects

NP.1. Regularly review neighborhood plans and amend as appropriate. Explore efficiencies in the neighborhood planning process to ensure a predictable and sustainable update cycle.

NP.2. Develop neighborhood plans for the 2011 annexation neighborhoods.

NP.~~2~~3.