

## Jeremy McMahan

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**From:** Uwkgg@aol.com  
**Sent:** Tuesday, April 17, 2012 12:47 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: Yes this BN fits the bill(pg 2) Photos  
**Attachments:** multiuse1.jpg; multiuse2.jpg

Good afternoon City Officials:

Here's a professional listing, picture and important details of a BN Mixed use that works great.

<http://www.loopnet.com/Listing/14696711/649-First-Street-West-Unit-6-Sonoma-CA/>

Now... here's some pictures with my camera... of the BN that works great!!! Again built on expensive wine country property in city of Sonoma... built at 20 units per acre with businesses that don't pull in lots of cars (neighborhood businesses) and 1 floor of subgrade parking (see attached)... note 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.





## Jeremy McMahan

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**From:** Uwkg@aol.com  
**Sent:** Tuesday, April 17, 2012 12:51 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: Yes Great BN (layout of buildings) pg 3  
**Attachments:** SonomaAssessorsMap.pdf

Good afternoon City Officials:

Attached you will see how the use of multiple buildings has created a very nice courtyard and a wonderful addition to the city of Sonoma. It is just a couple blocks from their downtown (similar location) and is on 1.5 acres rather than our Lake St combo of parcels at 1.2 acres. It also sits on a corner lot.

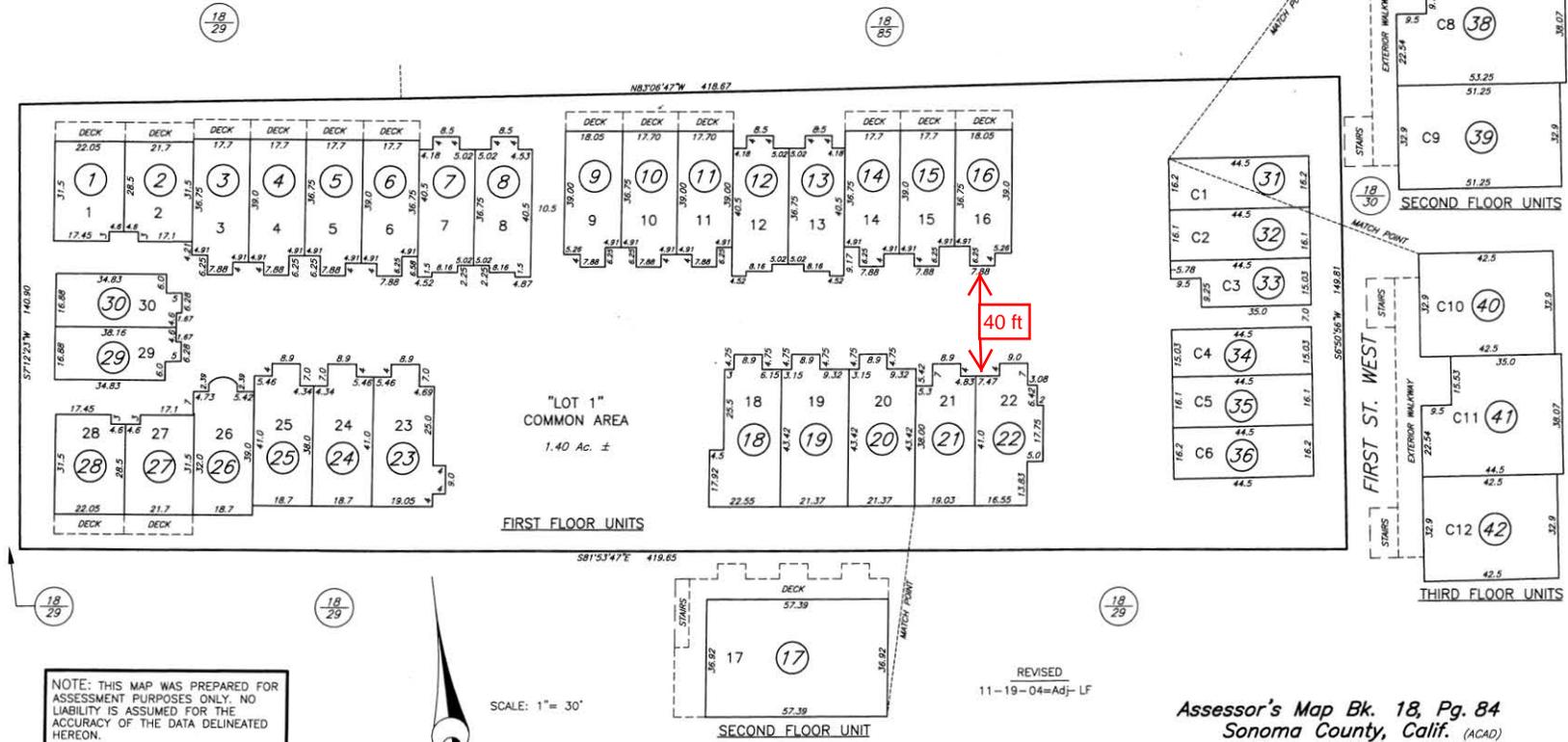
GREAT EXAMPLE - BN Works GREAT..(see attached as soon as you read disclaimer)

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.

# COUNTY ASSESSOR'S PARCEL MAP

TAX RATE AREA **18-84**  
6-012

**CARNEROS PARK LOFTS**  
A CONDOMINIUM O.R.# PENDING  
REC. 08-21-03 IN BK. 652, MAPS, PG. 34-40



NOTE: THIS MAP WAS PREPARED FOR ASSESSMENT PURPOSES ONLY. NO LIABILITY IS ASSUMED FOR THE ACCURACY OF THE DATA DELINEATED HEREON.

SCALE: 1" = 30'

REVISED  
11-19-04=Adj-LF

Assessor's Map Bk. 18, Pg. 84  
Sonoma County, Calif. (ACAD)  
KEY 1-5-04=42 RPM

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**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- Great BN (zoning criteria) pg 4  
**Attachments:** FORPLA~1.PDF

(My disclaimer on bottom in blue - This is from me, as an individual so as not to discredit the beliefs of others)

Here's the standards that guide the development in Sonoma for this type of mixed use... I've attached the respective portions of Sonoma's land use charts.

60% Lot Coverage for building

80% FAR

20 dwelling units per acre = 30 units in the 1.5 acre parcel

20' setback provides room for the courtyard due to 40' combined between the two setbacks

300 Sq ft of common open space required per unit

(we require this of multifamily bldgs and should therefore also require this of mixed use buildings that have a high concentration of residential units.

----- VERY IMPORTANT THAT WHAT I'M SHARING IS FROM ME, AS AN INDIVIDUAL -----

So why am I submitting as an individual?

There are those that believe with 100% certainty that two of the three properties were never correctly or truthfully changed to BN and still are RM 3.6 and RS 8.5 since the process was fatally flawed. In truth after going through the documents, I tend to believe with this group. ....Personally, however, I believe that you can have the facts on your side and still loose. While I'm able to say I like the Carneros Villages that I saw, I am not interested in jeopardizing the position of some others who have been involved in this process for a year. They have a right to hold to their conviction without it being jeopardized by me.

The other position that is held by many is that the density cap was never removed and remains at 18 per acre if the residential is only 10% of the project. This was done in 1977 with the downzone and then in 1995 the comprehensive plan seemed to possibly change this to 12/acre. What I got from the city did not appear to be any proper removal of a density cap through the process of changing zoning text that was laid out by ordinance. Again, while I can see something like Carneros Village being a nice addition to the Boulevard, I do not want to discount those who think this parcel is limited to 12 per acre (with no % restrictions) or 18 per acre if 10%.

acre. The R-P zoning district is consistent with the Mobile Home Park land use designation of the General Plan.

**B. Commercial zoning districts.**

1. **C (Commercial) District.** The C zoning district is applied to areas appropriate for a range of commercial land uses including retail, tourist, office, and mixed-uses. The maximum residential density is 20 dwelling units per acre. The C zoning district is consistent with the Commercial land use designation of the General Plan.
2. **C-G (Commercial—Gateway) District.** The C-G zoning district is applied to the Four Corners and Verano Triangle areas, prominent commercial entrances into the City that require sensitive site design. The maximum residential density is 20 dwelling units per acre. The C-G zoning district is consistent with the Gateway Commercial land use designation of the General Plan.
3. **Residential Component.** In applications for new development on properties of one-half acre in size or larger for which a discretionary permit is required, a residential component is required, unless waived by the Planning Commission. A residential component should normally comprise at least 50% of the total proposed building area. Circumstances in which the residential component may be reduced or waived include, but are not limited to, the following:
  - a. The replacement of a commercial use within an existing tenant space with another commercial use.
  - b. The presence of uses or conditions incompatible with residential development on or adjacent to the property for which a new development is proposed.
  - c. Property characteristics, including size limitations and environmental characteristics, that constrain opportunities for residential development or make it infeasible.
  - d. Limitations imposed by other regulatory requirements, such as the Growth Management Ordinance.

**C. Mixed-Use zoning district.**

1. **MX (Mixed Use) District.** The MX zoning district is intended to allow for higher density housing types, such as apartments and condominiums, in conjunction with commercial and office development, in order to increase housing opportunities, reduce dependence on the automobile, and provide a pedestrian presence in commercial areas. Under this designation, long-standing commercial and industrial uses in otherwise residential areas may be preserved and, subject to use permit review, modified or intensified.

The MX zoning district is consistent

**SONOMA DEVELOPMENT CODE**

# Zoning Map

- R-HS Hillside Residential (1 D.U./10 acres, maximum)
- R-R Rural Residential (2 D.U./acre, maximum)
- R-L Low Density Residential (2-5 D.U./acre)
- R-S Sonoma Residential (3-8 D.U./acre)
- R-M Medium Density Residential (7-11 D.U./acre)
- R-H High Density (11-15 D.U./acre)
- R-O Housing Opportunity (15-25 D.U./acre)
- R-P Mobile Home Park (7 D.U./acre, maximum)

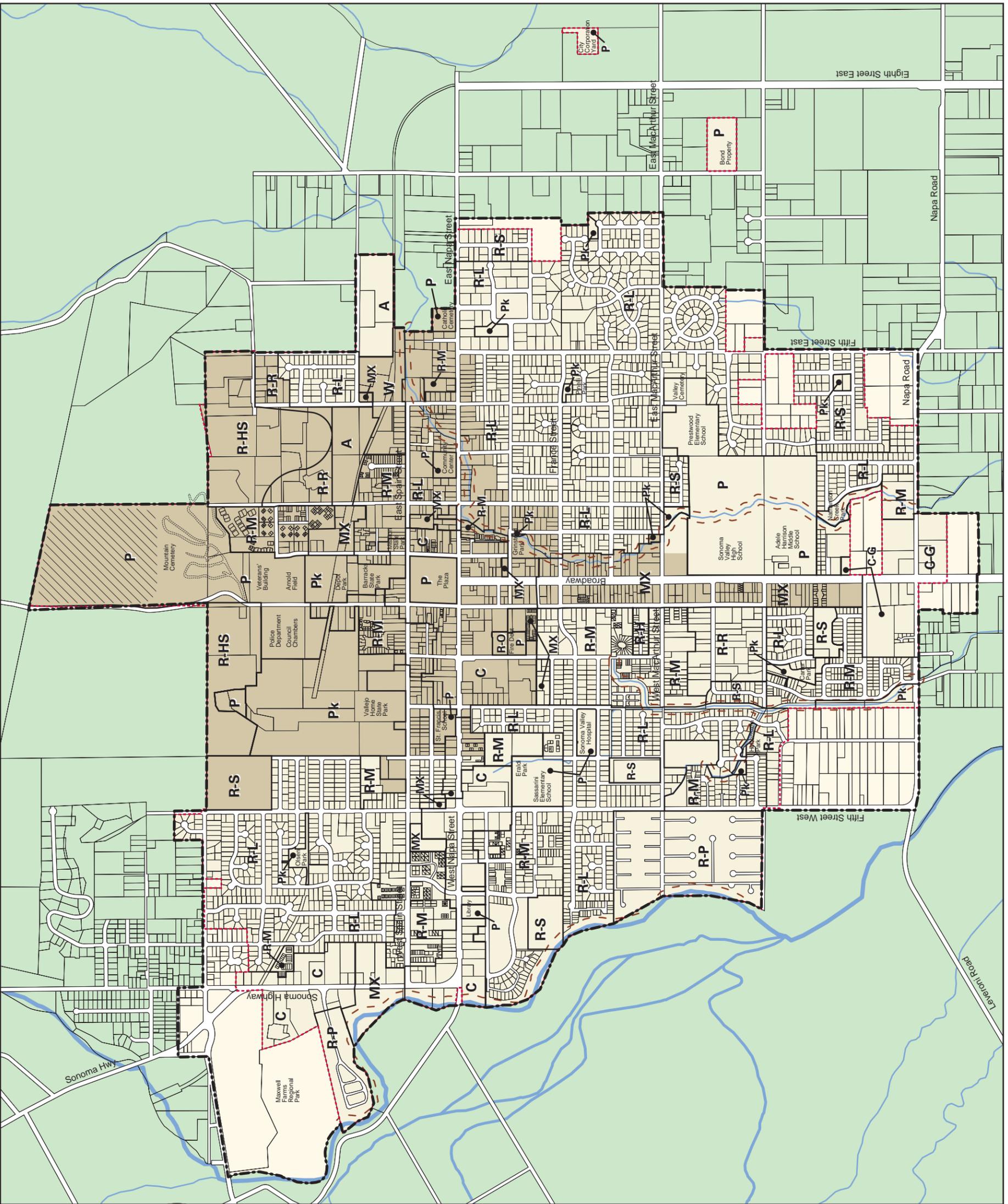
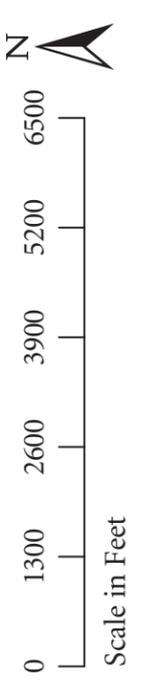
- Commercial (20 D.U./acre, maximum)
- C-G Commercial-Gateway (20 D.U./acre, maximum)

- W Wine Production
- Pk Park
- P Public Facility
- A Agriculture

- Protected Open Space
- Creek Setback Overlay
- Historic Overlay
- City Limit
- Sphere of Influence

*Note: Pursuant to State law, residential density bonuses of up to 25% of maximum base density are possible in all commercial and residential land use designations for certain types of affordable housing development.*

## City of Sonoma Planning, Building, and Public Works



## 19.26—CENTRAL-WEST PLANNING AREA

### Sections

19.26.010—Existing Conditions, Desired Future, Potential Changes

19.26.020—Project Planning and Design

### 19.26.010—Existing Conditions, Desired Future, Potential Changes

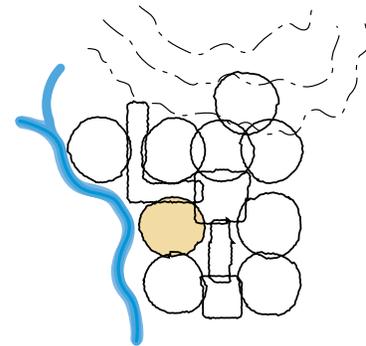
A. *Existing conditions.* The Central-West planning area is large, at 297 acres, and contains a variety of housing types, including low density single-family, mobile home parks, duplexes and fourplexes, as well as large-scale multi-family developments. Sonoma Creek, on the west, represents the area’s most distinct boundary. The West Napa/Sonoma Highway commercial corridor lies to the north, the Downtown district and Broadway to the east, and rural development within the Southwest planning area to the south. The development of this area is recent in terms of the city’s overall history, with the oldest tracts dating back to the 1950’s. Within single-family areas, front setbacks tend to be quite consistent (20 ft, usually), less so in the multi-family sections. Most of the streets are developed with monolithic sidewalks rather than planter strips. The major streets within the Central-West area form a grid, continued by some local streets and ignored by others.

Existing land uses include:

- Low density single-family homes;
- Two mobile home parks;
- Multi-family development, including duplexes, triplexes and fourplexes, condominiums, and apartments;
- Two congregate care facilities.
- A neighborhood park (Hertenstein Park);
- Sassarini Elementary School;
- A hospital; and,
- A small shopping center.

B. [REDACTED] Single-family areas should remain single-family with regular setbacks and development in [REDACTED]

[REDACTED] Otherwise, the mini-neighborhoods within the planning area risk losing their distinctiveness. In the development or redevelopment of properties on the edge of the planning area, particularly adjacent to the West Napa Street corridor, uses should be laid out to minimize potential conflicts with adjacent commercial development, while maximizing appropriate connections. In order to preserve the city’s largest stock of afford-



able senior housing, the regular maintenance of the mobile home parks' grounds and of the individual coaches should be encouraged.

- C. **Potential changes.** The need for street improvements within the area is limited mainly to traffic calming and pedestrian safety improvements, such as safety improvements to the bike path crossing on West MacArthur Street. Hayes Street, between Bettencourt Street and West MacArthur Street will ultimately be improved to a full width as adjoining properties develop. In the long term, intersection improvements may be needed at Fifth Street West/Andrieux Street and Fifth Street West/West MacArthur Street. Although a significant environmental feature, Sonoma Creek is largely inaccessible within the planning area, but a bike/pedestrian connection has been developed along it between Oregon Street and Napa Road. The Fryer Creek bike/walking path should be extended, if possible, to connect with Second Street West. Throughout the planning area, gaps in the sidewalks and in street tree plantings need to be filled.

**19.26.020—Project Planning and Design**

**A. Site planning standards.**

- 1. **Residential density.** The following residential densities and minimum lot sizes apply to new subdivisions within different zoning districts in the Central-West planning area.

**Table 3-14  
Lot Size and Residential Density Requirements**

Zoning District	Number of Dwellings Per Parcel <sup>1</sup>	Minimum Lot Size
R-L (Residential—Low Density)	2 per acre minimum; 5 per acre maximum	7,500 sq. ft.
R-S (Residential—Sonoma)	3 per acre minimum; 8 per acre maximum	5,000 sq. ft.
R-P (Residential—Mobile Home Park)	7 per acre maximum	10 acres
R-M (Residential—Medium Density)	7 per acre minimum; 11 per acre maximum	4,500 sq. ft.
R-H (Residential—High Density)	15 per acre maximum	3,500 sq. ft.

**Notes:**

- 1. Densities do not include density bonus. See [Chapter 19.44](#).

**Table 3-15**  
**Central-West Area: Infill and Additions**

Development Feature	Requirements by Zoning District					
	<i>Setbacks, Site Coverage, Open Space and Height</i>					
	R-P	R-L	R-S	R-M	R-H	C
<b>Setbacks</b>	<i>Minimum setbacks required for primary structures. See Section 19.40.110 for setback measurement, allowed projections into setbacks, exceptions, and design guidelines for setbacks.</i>					
Front/ Streetside <sup>1</sup>	20 ft.	20 ft.	20 ft.	One-story: 15 ft. Two-story: 20 ft.	15 ft.	One-story: 15 ft. [REDACTED]
Side: One-story	10 ft.	5 ft minimum, 15 feet combined.		5 ft minimum, 12 feet combined.		None required, [REDACTED]
Side: Two-story	20 ft.	2 feet for every 5 feet (or fraction thereof) of height above 15 feet, <sup>2</sup> in addition to the normal requirement for one story structures.		2 feet for every 5 feet (or fraction thereof) of height above 15 feet, <sup>2</sup> in addition to the normal requirement for one story structures.		[REDACTED]
Rear	20 ft	20 ft	20 ft.	One-story: 15 ft. Two-story: 20 ft.	One-story: 12 ft. Two-story: 15 ft.	[REDACTED]
Garage: Front	N.A.	5 ft from the front of the primary structure.	20 ft from the front of the primary structure.	20 ft from the front of the primary structure.	20 ft from the front of the primary structure.	N.A.
<b>F.A.R./ Coverage</b>	<i>Floor Area Ratio: Maximum building area as a ratio of site area, excluding porches, cellars, attics, detached garages, and underground parking. Coverage: Maximum site coverage as a percentage of site area, excluding porches and detached garages.</i>					
F.A.R.	0.30	0.35	0.35	0.45	0.70	[REDACTED]
Coverage	35%	40%	40%	50%	60%	[REDACTED]
[REDACTED]	<i>See Section 19.40.070 for design requirements.</i>					
Commercial	N.A.	N.A.	N.A.	N.A.	N.A.	7%-11%% of site
Residential: Common	N.A.	N.A.	N.A.	300 square feet per unit.	300 square feet per unit.	[REDACTED]
Residential: Private	N.A.	N.A.	N.A.	75-225 sq. ft.per unit.	75-225 sq. ft.per unit.	[REDACTED]
<b>Height</b>	<i>Ridge height measured from finished grade. See Section 19.40.040 for applicability and exceptions.</i>					
Primary Structure	[REDACTED]					

**Notes:**

1. Front porches may extend up to 10 feet into front setback (or street-side setback for wrap-around porches).
2. Measured at building wall, not ridge.

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**Cc:** uwkgg@aol.com; neighboringproperties@gmail.com  
**Subject:** BN Res Mkt: From Team working w/Attorney Brian Lawler  
**Attachments:** 10A\_UN~1.PDF

Good Afternoon Council Members, Planning Commissioners, City Attorney, City Manager and staff:

I am sorry to be running so late on this. I agreed to process the group comments that the attorney Brian Lawler referenced in his letter. Unfortunately it has been a hectic morning and they are just getting sent to you now.

We are attempting to add some of the history that might help provide greater clarity.

Karen Levenson (on behalf of numerous neighbors and other Kirkland citizens)



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

## MEMORANDUM

To: City Council  
 Kurt Triplett, City Manager

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

Date: November 1, 2011

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

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

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

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

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

### A. Update on the Permit Process

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

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

Not understanding 5-6 months for EIS. Land use attorney's have indicated these take longer and are more extensive/expensive than that which

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

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

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



The items shown in bold font indicate the date when changes were made to the policies or regulations for the property: Please note: additional changes and notes have been made are added in red

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

This is 24 units per acre and was consistent prior to the downzone all along the Boulevard was 24/acre for commercial & residential

- **1977 Zoning Code** (Ordinance 2437, May 16, 1977): The Neighborhood Business zoning regulations for residential units in the 1977 Zoning code read as follows: "above ground floor

Staff Update on Potala Village Development Proposal  
November 1, 2011

This shows that, in 1977 the BN commercial property is reduced from 24 per acre to 18 per acre... and 18 can only be built if the residential makes up less than 10% of the project. Surrounding residential properties could still be built at 24/acre so they had greater density potential. This was done to make sure that the neighborhood business zone focused on the neighborhood retail and conform to the RM-2400 zone if the total square footage does not exceed 10% of the commercial use floor area or one dwelling unit." This is a density of one unit per 2400 square feet of land area.

1979 was when the 1977 downzone of the properties along the Boulevard took effect (with a legal settlement) All land from 7th Ave S (nearly downtown) to NE 63rd (nearly Kidd Valley) now had a maximum development of 12/acre

- 1982 Zoning Map: The 1982 map shows the western half of the site still zoned as BN and eastern half as RS 8.5.

In 1982 an Ordinance was passed which required specific steps for zoning map changes and text changes

- 1983 Zoning Code (Ordinance 2740, February 22, 1983): In 1983 a new Zoning Code was adopted. The new code changed the residential density for the BN zone from one unit per 2400 square feet of land **area to no limit.** This was consistent with changes to other commercial zones throughout the City. This is unsubstantiated. Staff has been asked to provide proof of

THIS IS NONSENSE.. The area was consistently being downzoned the steps required as of 1982 and no proof has surfaced

- 1987 Central Neighborhood Plan (Ordinance 3016, May 18, 1987, File IV-85-20): In 1987 the Central Neighborhood Plan (now Moss Bay) was amended. The Central Neighborhood Map, Figure C-1, showed the entire Potala Village site, including the eastern portion, as Commercial.

Several later land use maps show it as 3 different zonings RS 8.5 and RM 3.6 as well as BN - some maps were difficult to read

- 1995 Comprehensive Plan (Ordinance 3481, July 11, 1995): In 1995, the City substantially revised the Comprehensive Plan to comply with the Growth Management Act. The 1995 Land Use Map, Figure LU-1, shows the eastern and western half of the site designated as Commercial.

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

In 1993 the last sentence in Res Mkt definition was allowing apartments. After discussion "apartments" was removed intentionally and no housing was allowed in Res Mkts. Also changed in the Economic Development chapter The word "housing" was removed from Res Mkts.

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

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

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

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

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

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

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

#### Staff Conclusions

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

Following the full paper trail, the last density action on the BN property at Lake St S/10th was removing apartments and removing housing - no longer an allowed use within a mixed use building

### C. Current Comprehensive Plan for the Potala Village Site

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

These are not project opponents they are neighbors objecting to the fact that staff has not produced the zoning for Res Mkt that will fully implement the plan

#### 1. Residential Density

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

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

Even when there was a density cap of 24 or 18, Commercial zones have never displayed their numerical cap

- Figure MB-2, Moss Bay Neighborhood Land Use Map (see map on next page) designates a variety of land use categories. The residential and office/residential areas, and one industrial area (PLA 6G-2) contain a maximum density number labeled on the map. These residential density numbers match Figure LU-1 (see link above to map).

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

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

The southern boundary of 12 un/acre was established in 1977 with the city downzone which included all properties from 7th Ave S (nearly CBD) to NE 63rd St (nearly Kidd Valley)

The Res Mkt property does not show a residential density as it now allowed for NO residential units

It omits the early part of the comment. The first part of the paragraph specifically talks about the traffic ingress and egress problems at this site which are causing the use of the site to be "LIMITED commercial"

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

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

The comment that the text of commercial properties are silent as to residential use is quite false. Note the Land Use chapter where every other commercial description uses the word "residential" or "housing" as an allowed use. Res Mkt is the only one silent!!!! The text is silent on residential use as is the case for other commercially designated areas in the City. In the Economic Developmt Chapter each of the 8 districts use the word "housing" as the last word. Only Res Mkt and Industrial are silent. Rules of statutory construction - Legally interpreted as INTENTIONAL

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

#### Staff Conclusions

- The Citywide and Moss Bay Neighborhood land use maps are clear in distinguishing the residential area designated for 12 dwelling units per acre from the commercial area (Potala Village site) that has no density designation. Although the text of the plan does not indicate a southern boundary for the area limited to 12 units per acre, it is clear that it is referring to the land use map. The lower boundary is very clear. It was established with the downzone. It is a few blocks south of 10th Ave S - It ends at NE 63rd St. This can be found in the legal documents on file

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

- The text specific to the Potala Village site on page XV. D-24 of the Plan describes limitations on commercial uses, but does not place a limitation on residential density. The text is consistent with the BN zoning which limits the size and types of retail uses, but does not limit the number of residential units. **Res uses removed in 1995**
- Both Policy LU-3.2 and Policy ED-3.5 described above encourage residential uses in commercial zones.

**But they do not encourage them in Residential Market - Commercial**

Note: the Mixed use building is restricted to approved uses otherwise a toxic waste site could be thrown in. Mixed use is only made up of a combination of approved uses

## 2. Residential Markets

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

- Figure LU 2 in the Land Use Element (page VI-15) designates commercial areas throughout the City. The Potala Village site is designated as a "Residential Market. (See the map on the following page.)

- The Land Use Element contains a section on Commercial Land Uses with a list of commercial terms (page VI-14). The term "Residential Market" is described as:

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

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

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

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

Obviously local citizen acceptance is not achieved for a residential market of a large scale or inclusive of a large amount of apartments. NOTE also size scale and design MUST BE COMPATIBLE with neighborhood

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

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

## Staff Conclusions

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

## Jeremy McMahan

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**From:** Uwkgg@aol.com  
**Sent:** Tuesday, April 17, 2012 2:39 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; Glenn Peterson; Andrew Held; Jon Pascal; C Ray Allshouse  
**Cc:** uwkgg@aol.com; neighboringproperties@gmail.com  
**Subject:** BN-Res Mkt-Attny B Lawler Group of Neighbors - Final submission  
**Attachments:** .Additional issues with updated staff memo of Nov 1 2011.pdf

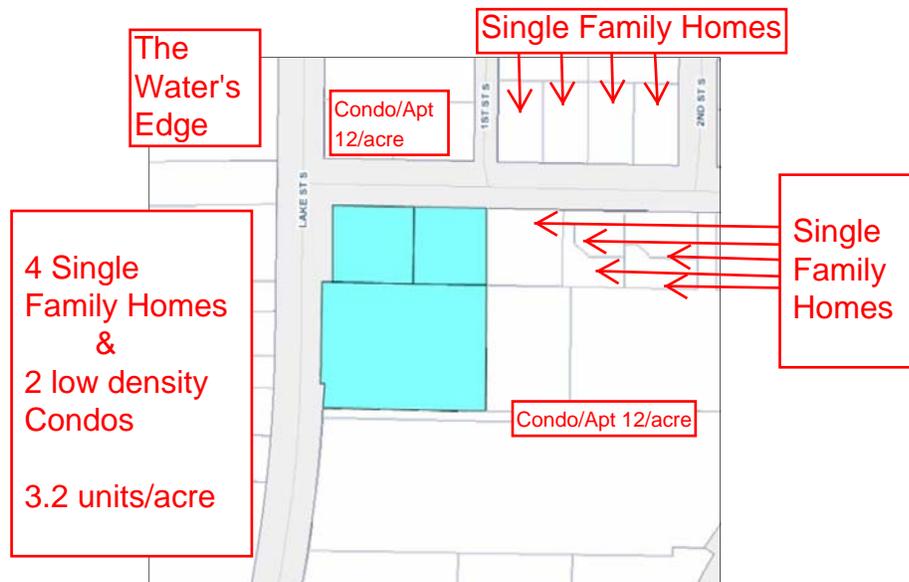
... and one final submission from the neighbors & other citizens team working with Attorney Brian Lawler..

Karen Levenson

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

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

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



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

- 1973 Zoning Map (Ordinance 2183, August 6, 1973): The 1973 map shows the western half of the site zoned as BN (Neighborhood Business) and eastern half as Residential (RS 8.5) with a minimum lot size of 8,500 square feet.
- 1973 Shoreline Master Program (SMP): **In 1973, the first SMP was adopted for the City with the property being designated as Urban Residential-1 (UR-1)** permitting residential uses at one dwelling unit per 1,800 square feet of land area (RM-1800), and restaurant or tavern uses. This was a continuation of the UR-1 designation for the land area to the west between Lake Washington and Lake Street South. Up to 53' of the western part of the site is located within 200 feet of the lake and that portion is subject to the SMP. **No Office use permitted**
- 1977 Zoning Code (Ordinance 2437, May 16, 1977): The Neighborhood Business zoning regulations for residential units in the 1977 Zoning code read as follows: "above ground floor  
Staff Update on Potala Village Development Proposal  
November 1, 2011

## Jeremy McMahan

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**From:** Uwkkkg@aol.com  
**Sent:** Tuesday, April 17, 2012 8:57 PM  
**To:** Kurt Triplett; Robin Jenkinson; Eric Shields; Jeremy McMahan; Janet Jonson; Joan McBride; Doreen Marchione; Penny Sweet; Amy Walen; Bob Sternoff; Dave Asher; Toby Nixon; Jay Arnold; Mike Miller; Byron Katsuyama; Glenn Peterson; Jon Pascal; Andrew Held; C Ray Allshouse  
**Cc:** uwkkkg@aol.com; neighboringproperties@gmail.com  
**Subject:** Potala Pictures ..don't be fooled. Potala pictures show 12-24 du/acre... not 116

Hello all:

A new lawyer for Potala mentioned the BN zone and the fact that the BN zoning had been around a long time. As she is new, she may not know that the historical BN zoning was in place way before the 1995 Comprehensive Plan that then stated that some BN zones were to have new zoning text in order to create a Residential Market. At this point the task at hand became the "priority" task of the Planning Department. It is the responsibility of developers to know what is "planned" for their property ... especially since the SEPA application, the Substantial Development Application... and every other application asks an applicant to provide information ... as fully as possible re: the Comprehensive Plan AND compatibility with surrounding properties.

Justin Stewart presented some pictures tonight that showed buildings that he stated were comparable to what they propose for Potala..... What he didn't tell you was that these were built with a density cap.... sometimes that density cap was 12, sometimes 18 and sometimes 24... But the project he was representing is 118 units per acre..... 10 times the density of the buildings he showed you!!!

The other buildings have room for common open space... wonderful large fountains, benches etc. They have balconies rather than false balconies. They don't dump hundreds of cars onto Lake Street S or Lake Washington Blvd. They might dump approximately 25 cars onto the Boulevard. These properties were restricted in their densities due to the ingress and egress problems that downzoned all the properties... even after they were purchased and planned for development by their property owners.

Look to the lawsuit and settlement. The downzoned area SPECIFICALLY included ALL LAND S of 7th Ave S all the way down to NE 63rd St (Kidd Valley area).

Do not single one property out and give 10 times the density back. This parcel never had more density than the surrounding properties. It always had the same or less. Don't spot zone in favor of a developer.

Thank you,  
Karen Levenson,  
On behalf of numerous residents and property owners near Lake St S & 10th Ave S & other Kirkland Citizens

## Jeremy McMahan

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**From:** uwkkg@aol.com  
**Sent:** Tuesday, April 17, 2012 9:34 PM  
**To:** Uwkkg@aol.com; Kurt Triplett; Robin Jenkinson; Eric Shields; Jeremy McMahan; Janet Jonson; Joan McBride; Doreen Marchione; Penny Sweet; Amy Walen; Bob Sternoff; Dave Asher; Toby Nixon; Jay Arnold; Mike Miller; Byron Katsuyama; Glenn Peterson; Jon Pascal; Andrew Held; C Ray Allshouse  
**Cc:** neighboringproperties@gmail.com; uwkkg@aol.com  
**Subject:** Potala - Developer asked about photo... he supplied it to city

Good evening...

Justin Stewart presented a picture of a 3rd rendition of Potala which shows a courtyard etc, HOWEVER this has NEVER been submitted to the city. What is still before the city is the original application....

143 units with no open space and courtyard. The planning staff have emailed that they have asked if the picture that Justin showed is the new proposed project and they have not returned the calls... if I've read the emails right.

The developer's representatives ask why the Everett project pictures were put up on the overhead. These are the pictures on the city's website as they were PROVIDED BY THE DEVELOPER!!!

Thanks for reading,

Karen Leveson

## Jeremy McMahan

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**From:** Uwkg@aol.com  
**Sent:** Monday, April 02, 2012 11:32 AM  
**To:** Robin Jenkinson; Kurt Triplett; Eric Shields; Jeremy McMahan; Joan McBride; Doreen Marchione; pswtewart@kirklandwa.gov; Amy Walen; Dave Asher; Bob Sternoff; Toby Nixon; Jay Arnold; Mike Miller; C Ray Allshouse; Glenn Peterson; Andrew Held; Byron Katsuyama; Jon Pascal  
**Cc:** uwkg@aol.com  
**Subject:** BN "Reverse Spot Zone" Where's that bizarre Interpretation?? !!!

Hi Robin:

Admittedly I am not an attorney, but it doesn't take much with the internet to see that there doesn't seem to be ANY such thing as "Reverse Spot Zoning" ... it just doesn't seem to exist and seems to be a manufactured title to perhaps, feel threatening??

The concept of Spot Zoning seems to be clearly defined as follows:

"Spot zoning" is a zoning action by which a smaller area is singled out of a larger area or district (\*) and specially zoned for a use classification totally different from and inconsistent with the classification of surrounding land(\*\*), and not in accordance with the comprehensive plan(\*\*\*), the vice of which is its inevitable effect of granting a discriminatory benefit (\*\*\*\*) to one or a group of owners and to the detriment of their neighbors or the community without adequate public advantage or justification."

On the other hand, I this sounds consistent with the thoughts that the 10th Ave S/Lake St S parcel is being singled out of the larger, downzoned area (\*) and specifically zoned for density inconsistent with the surrounding area (\*\*\*) and allowing a giant building that is not in accordance with the "very small building/center" of the comprehensive plan(\*\*\*) would seem to grant a discriminatory benefit(\*\*\*\*) to one developer without adequate public advantage or justification.

Again, I am not an attorney and you and the attorneys for the Insurance Pool likely have better insights. I just read Kristine Wilson's comments with a bit of disbelief, it sounded very contorted and contrived to the "common" layperson....

Karen Levenson

## Jeremy McMahan

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**From:** Uwkgg@aol.com  
**Sent:** Tuesday, April 03, 2012 9:56 AM  
**To:** Robin Jenkinson; Kurt Triplett; Eric Shields; Jeremy McMahan; Joan McBride; Doreen Marchione; Penny Sweet; Dave Asher; Bob Sternoff; Toby Nixon; Jay Arnold; Mike Miller; Glenn Peterson; C Ray Allshouse; Andrew Held; Jon Pascal; Byron Katsuyama  
**Cc:** uwkgg@aol.com; neighboringproperties@gmail.com  
**Subject:** Potala Attny: Really? Westmark seems very different...& Peas case...???

Hi Robin:

Again, I am not an attorney, and it does take time to find this stuff on the internet, but reading about the Westmark case it would seem that Mr Dargey's attorney is taking liberties with a case that starts off similarly but where the cause of the action is MUCH DIFFERENT. That's my read... I'll explain the "lay" version as I see it...

- 1) Burien did not want an apartment building  
- NOTE: Kirkland Neighbors want an apartment building, just not one with incompatible density & size
- 2) I could not find whether the Westmark project was in line with their Comprehensive Plan  
- NOTE: Potala as proposed is a huge building in conflict with Comp Plan "Very small mixed use building"
- 3) When Westmark received the Determination of Significance they resubmitted a new project & Checklist  
- NOTE: After Potala received DS they have not resubmitted a new project & Checklist
- 4) Burien was accused of causing a delay by not issuing a DS or DNS for over 3 years  
- NOTE: In Kirkland the developer has been given the DS, the city did not delay their response. At this point the developer can either proceed with the EIS or submit a new project and checklist to which I'm sure the city would promptly respond.

Also re: Peas It seems to me that it gives city councils judicial immunity from tort liability when making this type of zoning change. Afterall, isn't that what happened in 1977 when the city down zoned the whole Boulevard?

Maybe I'm missing something as a non-attorney. Again, this is the kind of thing that you and the other attorneys involved know more ... As a layperson, I keep finding stuff that seems presented in odd, convoluted ways.

Best,  
Karen Levenson

## Jeremy McMahan

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**From:** uwkkg@aol.com  
**Sent:** Tuesday, April 03, 2012 2:38 PM  
**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; Kathi Anderson; Janet Jonson  
**Subject:** Letter #2 to KCC, KPC and Letter to Editor

Hi all: This is my letter to you as posted in the Kirkland Views. JJ and Kathi, please make sure and keep this as part of the permanent and ongoing record for all the BN-Residential Market discussions and for any discussion of any development on/near the corner of Lake St S and 10th Ave S.

Thanks, Karen Levenson 6620 Lake Washington Blvd NE, Kirkland, WA 98033

LETTER | BN Zoning Mess - A Second Path Forward

by Karen Levenson on APRIL 2, 2012 in OPINION Dear Editor:

As surprising as it might seem, the developer's attorney for the BN property on Lake St S and the neighbors concerned about application of the Comprehensive plan seem to agree on one thing. Spot zoning is bad.

It is obviously fine to adopt uniform zoning that applies to all sites designated the same by the Comprehensive Plan. This is what the developer's attorney is asking for and also this is what the neighbors are requesting.

That being said, here's a second path forward:

1) Neighborhood Business lot coverage at 60%

- Both within the state of WA and in other states this low intensity use is generally 40-60% lot coverage
- BN(1) lot coverage is lower than 60% so this would work at both BN sites
- The other Residential Market has lot coverage maximum of 60% so they'd be the same
- The surrounding properties in both BN and Res Mkt zones are 50-60% so they fit with neighborhood
- This action ensures that uniform zoning applies to all BN and all Residential markets !!!!

2) Reasonable Density Cap

- Both within the state of WA and in other states this low intensity use generally carries a cap of 8-18 un
- This could be applied to both BN Lake St S and BN(1) South Rose Hill
- The other Residential Market has a density cap of 12 dwellings per acre
- The surrounding residences have density caps of 12 dwellings per acre
- The Lake St S BN is also part of a large contiguous area that was down-zoned so it must continue to honor that reduced zoning - to remove this restriction on just one developer's property would be spot-zoning
- This action ensures that uniform zoning applies to all BN and all Res Mkts as well as all down-zoned properties along the Boulevard

3) Common Open Space

- Both within the state of WA and in other states multifamily housing must provide 200-300 sq ft / unit
- This is required in Kirkland for multifamily

- There is no reason this cannot be applied to both the S Rose Hill and Lake St S BN properties
- The other Residential Market property is required to provide 200 sq ft of open space per unit
- The properties surrounding both BN zones and both Res Mkt zones also all require 200 sq ft / unit
- It is unthinkable to create hundreds of tiny apartments with no where to go but hang out on city streets
- This action ensures that uniform zoning applies to all BN and all Res Mkts
- This action makes development fit better within existing neighborhoods.

So there are three steps moving towards the requirement that the city design and adopt zoning that "will fully implement the Comprehensive Plan for Residential Markets." The planning department has been instructed to make this change through laws (Ordinances) passed on several occasions by several different City Councils. The fact that the work was never completed has landed us in this huge mess.

Hopefully we can get the city to take clearly consistent steps to finally get their work done.

Karen Levenson

## Jeremy McMahan

---

**From:** uwkkg@aol.com  
**Sent:** Tuesday, April 03, 2012 2:45 PM  
**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; Kathi Anderson; Janet Jonson  
**Subject:** #1 solution Letter to KPC, KCC and Letter to Editor

Hi all: This is my letter to you as posted in the Kirkland Views.  
I was asked to send the text instead of just the link like I did before.

JJ and Kathi, please make sure and keep this as part of the permanent and ongoing record for all the BN-Residential Market discussions and for any discussion of any development on/near the corner of Lake St S and 10th Ave S.

Thanks, Karen Levenson 6620 Lake Washington Blvd NE, Kirkland, WA 98033

=====

LETTER | BN Zoning Mess - Simply Add a (1) Suffix and it's corrected

by Karen Levenson on APRIL 1, 2012 in DEVELOPMENT, OPINION

Dear Editor:

This is a very simple answer to a very complex problem. What is useful is that it fulfills the request of the developer's attorney (see below).

In the past when it was determined that zoning did not fully implement the Comprehensive Plan the city chose a very simple and straightforward method of ensuring that there would be no misunderstanding. For the South Rose Hill BN zone the City Council added a (1) suffix. BN(1) then required that any development must meet all of the goals and policies of the neighborhood plans and be reviewed under process IIA as to whether that goal was met. Here's a link to Ordinance # 3538 that prevented any future misunderstanding  
<http://docs.cityofkirkland.net/webdrawer/webdrawer.dll/webdrawer/rec/5392/view/Adopting%20new%20zoning%20map.PDF>

A few years later there were other areas discovered where zoning text had not yet caught up with the Comprehensive Plan. Again there were suffixes added and a thorough review process was required. Ordinance # 3747 did that.  
<http://docs.cityofkirkland.net/webdrawer/webdrawer.dll/webdrawer/rec/5604/view/Amending%20City%20Map%20to%20Conform%20to%20Comprehensive%20Plan.%20%20Lake%20Washington%20Blvd..PDF>

Even without a suffix, the BN property on Lake St S was always held to both zoning and plan standards and allowed no more than 12 dwellings per acre. City records show that as recently as a couple years ago a proposal was denied because a small building with few units surpassed that limit. City records also show the current developer was given presubmittal materials stating that the neighborhood plan "specifically applies to subject property" then highlighting the 12 units per acre in yellow so as not to be missed.

If the city's work highlighting the applicable plan in yellow is not enough to catch the attention of developers, perhaps the addition of a (1) suffix would work.

The applicant's attorney is asking that the Lake Street BN property not be treated differently than the South Rose Hill BN property. If you make both BN properties BN(1) that would affirmatively meet her request.

Sincerely,  
Karen Levenson

=====

Posted as M Kelly 1 day ago

Regarding the BN Zone on Lake Washington Blvd & 10th Ave:

The "reasonable solution" would be to build something that fits in with and enhances the neighborhood rather than squashing the rest of the neighbors and further burdening roads that cannot handle the existing traffic. Simple.

The problem is, the sale records indicate that the developer grossly overpaid for 2 of the parcels and thinks he must build 120-143 tiny units to compensate - hogwash! The developer applicant is proposing one massive building to cover 3 parcels (2 owned by Potala and 1 large vacant parcel supposedly leased from an elderly land owner).

If the City made mistakes they need to man-up and respect their neighborhood citizens, if in no other way than to provide proper notice of proposed zoning changes (to allow unlimited density). If the developer paid two times market value for two of the three parcels, that's his problem - not the City's.

=====

reply posted by Lakeview\_CentralHoughton 2 days ago

To be treated similarly, the new BN(1) would also need to meet the following criteria as laid out for BN(1):

"To mitigate impacts to the adjoining residential area, development is subject to the following standards:(1) Commercial uses should be oriented to serving the neighborhood. Uses should not include vehicle service stations, drive-in businesses, auto service and sales, or storage facilities.

(2) Building height, modulation, and roofline design should reflect the scale and character of the residential development.

(3) New structures should be substantially buffered from nearby lower density residential uses.

(4) Noise impacts to surrounding residential development should be minimized.

(5) Hours of operation of businesses on the site should be limited to no more than 16 hours per day, ending at 10pm."

**From:** Uwkkkg@aol.com [mailto:Uwkkkg@aol.com]

**Sent:** Tuesday, May 15, 2012 5:29 PM

**To:** Jeremy McMahan; Doreen Marchione; Penny Sweet; Amy Walen; Dave Asher; Bob Sternoff; Toby Nixon; Kurt Triplett; Eric Shields; Robin Jenkinson

**Subject:** GREAT NEWS re: Neighborhood Business zone

Hi all ... Here's something wonderful and positive. BN zone in the wonderful and desirable area of Sonoma. **Voted "Best Live/Work Residential Project" by North Bay Business Journal**

Property size is similar to the combined 3 parcels on the corner of Lake St S and 10th Ave S. It is a very profitable venture and fits very well within it's neighborhood a couple blocks from downtown Sonoma and while it is slightly larger than the surrounding single family homes and small condos, it seems to work out pretty well. This could be a "home run" for a Kirkland developer and could make the local neighbors feel that it fits in.... Just imagine the possibilities!!! Kirkland should develop (in the words of Mr Asher) in the way that "we want it to develop" (We meaning not just the neighbors, but likely how the community at large wants it to develop... that was how I interpreted it).

Please scroll down to read descriptions and see pictures of how exciting this type of addition was to the City of Sonoma. It could be similarly exciting for Kirkland.... We'd love to get excited about what is to come!!!... and a density cap would bring with it some affordable units (possibly some housing for seniors)... both of which we strive to provide.

**Voted "Best Live/Work Residential Project" by North Bay Business Journal**

**CARNEROS VILLAGE**

**NEROS VILLAGE LOFTS - LIVE/WORK LOFT STYLE TOWNHOMES**

**649 FIRST STREET WEST, SONOMA**, Surrounded by lush vineyards and oak-covered hillsides, Sonoma has long been a world class destination. And perhaps most welcoming is Sonoma Plaza, an 8-acre historic state park situated in the heart of downtown. It's here you'll discover Carneros Village Lofts, live/work loft style townhomes and commercial condominiums, and quaint shops, fine restaurants and relaxing spas that make living and working here so easy. **CA 94576**

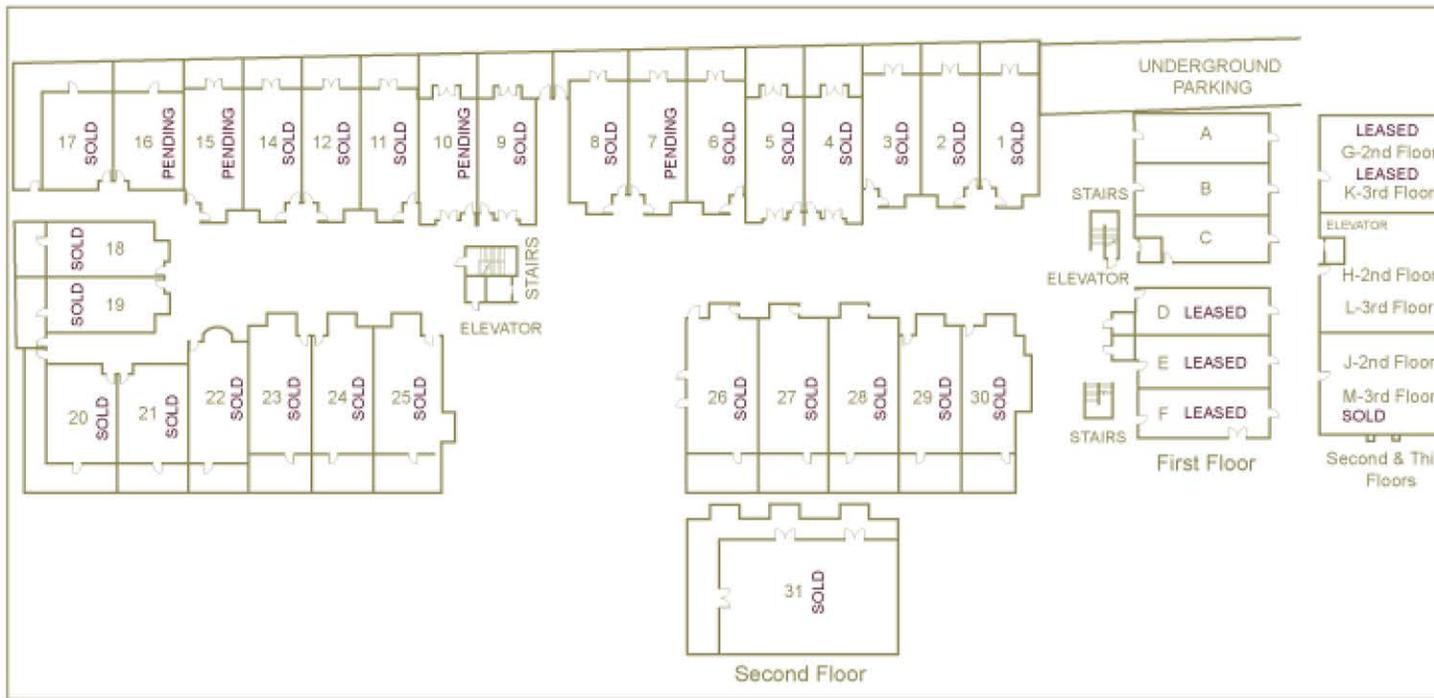


Sonoma has long been a world class destination. And most welcoming is Sonoma Plaza the heart of downtown. It's here you'll discover Carneros Village residential units, commercial condominiums, quaint shops, and relaxing spas that make living and working here so easy.

Spanning over 1.5 acres, Carneros Village features 12 luxury **commercial condominiums at the street frontage** and 30 residential units surrounding a central courtyard with trees, plants, fountain, Heritage lighting, trellis' and sitting

areas. Each 2 and 3 story townhome offers state-of-the-art architecture. Carneros Village Lofts marks a dramatic expansion between the downtown and the surrounding neighborhood offering a wide range of possibilities including: commercial uses (office/retail/medical), home with small business, and residential units. The lower level parking garage includes reserved and visitor parking with elevators to the central courtyard

(SEE THE LAYOUT OF THE MULTIPLE BUILDINGS AT THE BOTTOM OF PAGE)





## Jeremy McMahan

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**From:** Laura Loomis [lauraloomis@charlesloomis.com]  
**Sent:** Thursday, March 29, 2012 12:36 PM  
**To:** Robin Jenkinson; Kurt Triplett; Eric Shields; Jeremy McMahan; 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  
**Subject:** BN ZONE MODIFICATIONS

Dear hard working City Officials;

After attending your meetings, we realize how hard you work to make Kirkland a great place in which to live and work. I appreciate the fact that you try to consider opposing views on issues and provide solutions you feel are best for everyone.

A big issue currently on your agenda is zoning codes. If they are too flexible or vague - something get's built you didn't want or expect. If they're too strict - developers hands are tied. This is the dilemma with the BN zones - specifically the BN zone with the Residential Market designation on Lake Washington Blvd. The zoning doesn't match the Comprehensive plan and allows for unlimited density in a residential area on a street that is a major gateway to Kirkland.

If it helps - Here is how we would like the site on 10th Ave. South & Lake Wash. Blvd. developed:

- We want multiple buildings on the site that reflect the size, scale and density of the adjacent developments with common areas for people living there or visiting businesses to sit outside & attract more people to the businesses.
- We want the Land Use Chart changed to only allow businesses that serve neighborhoods and foot traffic along the boulevard such as deli's, coffee shops, bakeries, boutiques, restaurants, hair salons/ Barbers etc. There are ingress and egress issues with this property that make businesses that generate lots of auto traffic inappropriate for the Residential Market designation.

This is a very desirable property located on a signature entrance into Kirkland. You have an opportunity to ensure that its zoning meets the intent of the Comprehensive Plan and gives developers a clear understanding of what you and the community want built on this unique site.

We are pleased you are tackling zoning issues now to hopefully prevent unforeseen results in the future. It is fair to residents and developers if they know the guidelines in advance.

Thank you for caring about Kirkland, its residents, and its future!

Best regards

Charles & Laura Loomis  
100 10th Avenue South  
Kirkland, WA 98033

## Jeremy McMahan

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**From:** Laura Loomis [lauraloomis@charlesloomis.com]  
**Sent:** Tuesday, April 10, 2012 10:20 AM  
**To:** Amy Walen; Andrew Held; Bob Sternoff; Byron Katsuyama; Dave Asher; Doreen Marchione; Eric Shields; Kurt Triplett; Nancy Cox; Penny Sweet; Robin Jenkinson; Toby Nixon; C Ray Allshouse; Glenn Peterson; Jon Pascal; Jay Arnold; Jeremy McMahan  
**Subject:** THOUGHTS ON POTALA VILLAGE - & I WON'T BOTHER YOU AGAIN!

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Hello Everyone,

Our group wants the Potala property developed! It's the last undeveloped property along Lake Washington Boulevard and as such it's very valuable for residents of Kirkland and the developer. Whatever is built there will be profitable because it's a desirable place to live.

Our bone of contention all along is that Potala's size and scale doesn't make sense in this location. Because it's situated on a main arterial into Kirkland that already has traffic ingress and egress issues and a small residential side street - it's not a great location for maximum housing density. Putting one massive building on the site with no outside common areas for retail business customers or residences to use also doesn't make sense.

The Planning Commission's idea to build multiple buildings on the site and to require a design review does make sense. I realize from comments made by residents living in condos along the boulevard that perhaps their density limits are too stringent. There is a happy medium between 116 units per acre as proposed versus 12 - 24 units per acre of neighboring condos. Hopefully, multiple buildings will result in a reasonable density and will give businesses common outdoor space to attract clients and thrive.

I am concerned with long term consequences of decisions made now to fulfill a "we want development and we want to maximize density" mindset. What are the costs to Kirkland, its businesses, and residents associated with making project specific decisions based on these criteria? As some Planning Commissioners and Council members stated - shouldn't individual projects be evaluated in a "big picture" mode? In rainy Washington, who frequents businesses if there's nowhere close to park? Potential huge costs to the city for individual PAR decisions are litigation, excessive use of the city's time and resources to address complaints from business owners and/or residents, as well as traffic, infrastructure, and parking issues.

If you want Kirkland to be a small charming beachfront destination city, you need to "walk the walk" with a cohesive overall plan for where you want large scale & density residential buildings, commercial buildings, and single family residential neighborhoods - then present your plan to the community and rezone property accordingly. As you've heard loud and clear - huge unlimited density buildings in single family areas don't sit well with residents. If you want maximum density in neighborhoods - rezone entire neighborhoods so homeowners can benefit instead of losing value in their property.

If you need a volunteer to help with planning projects - let me know. My time is limited because I work full time, but I will be happy to do something positive for Kirkland.

**LAURA L. LOOMIS**  
CHARLES LOOMIS, INC.  
11828 N.E. 112th  
Kirkland, WA 98033  
P: 800.755.0471/425.823.4560  
Email: [lauraloomis@charlesloomis.com](mailto:lauraloomis@charlesloomis.com)  
[www.charlesloomis.com](http://www.charlesloomis.com)

## Jeremy McMahan

---

**From:** One Neighborhood [one.neighborhood.block@gmail.com]  
**Sent:** Tuesday, April 17, 2012 11:06 AM  
**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; Andrew Held; Glenn Peterson; Byron Katsuyama; Jon Pascal; C Ray Allshouse  
**Cc:** lauraloomis@charlesloomis.com  
**Subject:** from Laura Loomis re: BN-Res Mkt - On behalf of "One Neighborhood Block"

Dear Kirkland Officials:

Thank you for taking the time to read the letter below that was submitted by Cynthia Glaser on behalf of the group of us that share this precious neighborhood and are working together as a group called "One Neighborhood Block." We wish to preserve the neighborhood character of our residential area.

I have attached current zoning materials that even today still show that the 3 BN properties at Lake St S and 10th Ave S carry the restriction to 12 dwelling units per acre.

Thank you,  
Laura Loomis

On Tue, Apr 17, 2012 at 11:15 AM, One Neighborhood <[one.neighborhood.block@gmail.com](mailto:one.neighborhood.block@gmail.com)> wrote:  
Dear Kirkland Officials:

I am writing on behalf of a newly forming neighborhood group. We are calling ourselves "One Neighborhood Block." We are neighbors living within the one block in Kirkland that is bounded by 10th St S on the North and NE 64th St to the South. Both are identified as neighborhood streets in the Comprehensive Plan and they truly exemplify this with nice low to medium density single family homes with a few small condos. It is the Comprehensive Plan's protection against cut through traffic spilling over into these neighborhood streets that keeps our kids safe and also retains our neighborhood character.

"One Neighborhood Block" is also home to the city's only two Residential Market - Commercial properties. One happens to be at the north end of our block and the other is at the south end. The Comprehensive Plan is very clear on the size, and scale of buildings in our neighborhood block, including listing the size of any commercial development as "VERY SMALL BUILDING."

VERY IMPORTANT PARAGRAPHS in the comprehensive plan provide specific direction on development of apartments and the density for any multifamily development in our block.

I direct your attention to Kirkland's Comprehensive Plan which we intend to defend rigorously in order to protect our "One Neighborhood Block."

*"Although there is some multifamily housing, almost half of the area is developed as single-family residential. Most structures are older but many are well maintained. **Apartment encroachment in single-family areas usually leads to a decay of the existing structures...**In order to minimize this encroachment and forestall a premature decay of the single-family areas, standards should be adopted to allow a transition from low density to higher densities.*

**Medium-density residential developments should be permitted ONLY** if sufficient land areas available to separate such development from adjacent single-family uses.

***Medium-density residential development should not significantly increase traffic volumes on streets or portions of streets where predominantly single-family homes exist.***

***Setbacks should be sufficiently large to allow landscaping which would visually separate medium-density residential developments from adjacent single-family homes.***

Sincerely,  
Cynthia Glaser, On Behalf of "One Neighborhood Block"

## Jeremy McMahan

---

**From:** One Neighborhood [one.neighborhood.block@gmail.com]  
**Sent:** Tuesday, April 17, 2012 11:19 AM  
**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; Andrew Held; Glenn Peterson; Byron Katsuyama; Jon Pascal; C Ray Allshouse  
**Cc:** lauraloomis@charlesloomis.com  
**Subject:** From L Loomis - attachment showing RM 3.6 zoning  
**Attachments:** BN Residential Market zone also carries RM 3.6 zoning.pdf

On Tue, Apr 17, 2012 at 2:06 PM, One Neighborhood <[one.neighborhood.block@gmail.com](mailto:one.neighborhood.block@gmail.com)> wrote:

Dear Kirkland Officials:

Thank you for taking the time to read the letter below that was submitted by Cynthia Glaser on behalf of the group of us that share this precious neighborhood and are working together as a group called "One Neighborhood Block." We wish to preserve the neighborhood character of our residential area.

I have attached current zoning materials that even today still show that the 3 BN properties at Lake St S and 10th Ave S carry the restriction to 12 dwelling units per acre.

Thank you,  
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*premature decay of the single-family areas, standards should be adopted to allow a transition from low density to higher densities.*

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**Setbacks should be sufficiently large** *to allow landscaping which would visually separate medium-density residential developments from adjacent single-family homes.*

Sincerely,  
Cynthia Glaser, On Behalf of "One Neighborhood Block"

## Find information for Your Property, Business and Community

NW Maps gives you access to map-based information quickly and visually. Find information about where you live, might open a business, or just spend some time. The NW Maps service area currently covers Bellevue, Bothell, Issaquah, Kenmore, Kirkland, Mercer Island, Renton, Sammamish, Shoreline, Snoqualmie, Tukwila and Woodinville.

eCityGov Site nwmaps.net currently covers Bellevue, Bothell, Issaquah, Kenmore, **Kirkland**, Mercer Island, Renton, Sammamish, Shoreline, Snoqualmie, Tukwila and Woodinville

feedback

Enter an Address, a Parcel Number or Place of Interest:

Search

Skip this and go to the map >

### Quick Search



**Get Zoning & Property Information**

Find site specifics such as zoning designation, utility service and school district information.



**Locate Permits & Construction Activity**

See active permits including building, neighborhood and road work projects.



**Find Parks & Trails**

Discover playgrounds, hike and bike routes and get links to park details.

This is the property along Lake St S.

Owned by Luella O'Connor, an eighty something aged woman who lives in Portland Oregon

Notice that the zoning is shown as BN and also as RM3.6

RM 3.6 (12 units/acre) is consistent with the entire area downzoned in 1977. The downzone included all land south of 7th Ave S (nearly downtown) and north of NE 63rd St (nearly Kidd Valley)

Enter an Address, a Parcel Number or Place of Interest:

1020 Lake St S, Kirkland

Search

Search Results For: 1020 Lake St S, Kirkland 98033

Map View PDF Share

Property Overview

Address: 1020 Lake St S, Kirkland 98033

Taxpayer: Luella O'connor

Parcel Number: 0825059233

Neighborhood: Moss Bay

City: Kirkland

School District: Lake Washington School District

Detailed Property Report: [More Info for 0825059233](#)

Map Snapshot

Demographics

Zoning

2 results

Zoning Code: [BN](#)

Zoning Description: Commercial

Zoning Code: [RM 3.6](#)

Zoning Description: Medium Density Residential

Enter an Address, a Parcel Number or Place of Interest:

Search Results For: 21 10th Ave S, Kirkland 98033

Map View PDF Share

Property Overview

Address:	21 10th Ave S, Kirkland 98033	Taxpayer:	* POTALA VILLAGE KIRKLAND LLC
Parcel Number:	9354900240	Neighborhood:	Moss Bay
City:	Kirkland	School District:	Lake Washington School District
Detailed Property Report:	<a href="#">More Info for 9354900240</a>		

Map Snapshot

Demographics

Zoning

2 results

Zoning Code:	<a href="#">BN</a>
Zoning Description:	Commercial
Zoning Code:	<a href="#">RM 3.6</a>
Zoning Description:	Medium Density Residential

This is the property along 10th Ave S  
Owned by Potalla Village Kirkland LLC  
Notice that the zoning is shown as BN and also as RM3.6  
RM 3.6 (12 units/acre) is consistent with the entire area downzoned in 1977. The downzone included all land south of 7th Ave S (nearly downtown) and north of NE 63rd St (nearly Kidd Valley). The downzone was of all properties along Lake St S and LWB and also included this parcel.

Enter an Address, a Parcel Number or Place of Interest:

Search Results For: 1002 Lake St S, Kirkland, WA 98033

Map View PDF Share

### Property Overview

Address: 1002 Lake St S, Kirkland, WA 98033  
Parcel Number: 9354900220  
City: Kirkland  
Detailed Property Report: [More info for 9354900220](#)

Taxpayer: \*POTALA VILLAGE KIRKLAND LLC  
Neighborhood: Moss Bay  
School District: Lake Washington School District

### Map Snapshot

### Demographics

### Zoning

4 results

Zoning Code: [P](#)  
Zoning Description: Park/Open Space  
Zoning Code: [WD.1](#)  
Zoning Description: Medium Density Residential  
Zoning Code: [BN](#)  
Zoning Description: Commercial  
Zoning Code: [RM 3.6](#)  
Zoning Description: Medium Density Residential

This is the corner property along 10th Ave S & Lake St S

Owned by Potalla Village Kirkland LLC

Notice that the zoning is shown as BN and also as RM3.6

This is also zoned for Medium density residential in the Shoreline area (and Park)

RM 3.6 (12 units/acre) is consistent with the entire area downzoned in 1977. The downzone included all land south of 7th Ave S (nearly downtown) and north of NE 63rd St (nearly Kidd Valley). The downzone was of all properties along Lake St S and LWB and also included this parcel.

May 30, 2012

To: Jeremy McMahon

RE: Residential Market Information

Hi,

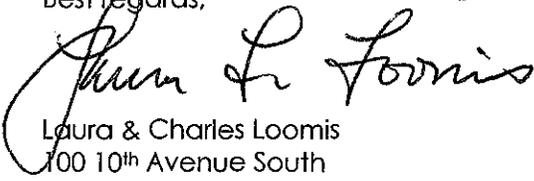
Our neighborhood groups thought this information may be useful to you in making an informed decision on changes to BN zoning & Residential Market designations as they concern the property on Lk. Washington Blvd. and 10<sup>th</sup> Avenue South.

We truly appreciate your attention to our concerns and thank you for taking the time to explore options to resolve unforeseen inconsistencies regarding this property.

We've made lots of noise about this because we care about this signature entrance to Kirkland. We would like to see this valuable property developed in a manner that fits the scale and density of other developments along the boulevard.

Thanks for your efforts to make Kirkland a unique destination city for its residents and businesses – we appreciate it!

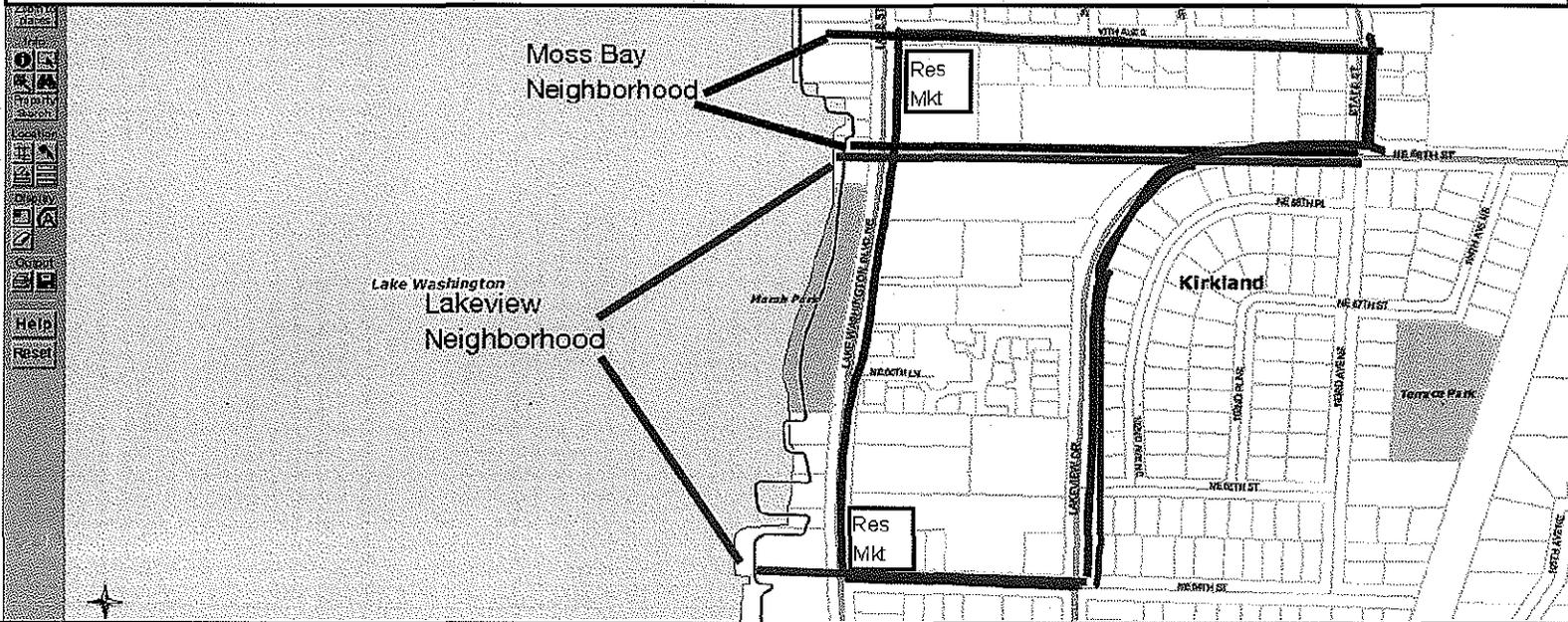
Best regards,



Laura & Charles Loomis  
100 10<sup>th</sup> Avenue South  
Kirkland, WA 98033

**Below is highlighted one neighborhood block.**

It is 25% in Moss Bay Neighborhood and 75% in Lakeview Neighborhood. It contains a "Residential Market" at the north end and the south end. Ingress/Egress issues are a major identified issue in the Comp Plan which restricts commercial development to "limited commercial."



**Moss Bay Neighborhood (Comp Plan)**

**A. Living Environment**

Lands on the east side of Lake Washington Blvd, south of 7th Avenue South and west of the midblock between First and Second Streets South, are 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

**B. Economic Activities**

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 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.

**Lakeview Neighborhood (Comp Plan)**

**A. Living Environment**

*Medium residential densities are most appropriate between Lakeview Drive and Lake Washington Blvd. Standards for new multifamily development are discussed.*

Lying between Lake Washington Boulevard and Lakeview Dr is an area of mixed residential densities. Although there is some multifamily housing, almost half of the area is developed as single family residential. Most structures are older but many are well maintained.

**Apartment encroachment in single-family areas usually leads to a decay of the existing structures.** In order to minimize this encroachment and forestall a premature decay of the single-family areas, standards should be adopted to allow a transition from low densities to higher densities.

*(NOTE: Medium Density is 10-14 dwellings per acre)*

**B. Economic Activities**

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 as 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 commercial facilities in this area should be permitted.**

**From:** [Barbara Canterbury](#)  
**To:** [Amy Walen](#); [Byron Katsuyama](#); [Doreen Marchione](#); [Dave Asher](#); [Eric Shields](#); [Glenn Peterson](#); [Jeremy McMahan](#); [Jay Arnold](#); [Jon Pascal](#); [Kurt Triplett](#); [Mike Miller](#); [Penny Sweet](#); [Toby Nixon](#); [Teresa Swan](#); [Joan McBride](#); [Bob Sternoff](#); [C. Ray Allshouse](#); [Andrew Held](#)  
**Date:** Monday, April 30, 2012 9:15:19 AM

---

I live a few blocks away from the proposed Potala Village. This is not the kind of building we want in our neighborhood. You should be ashamed that you would even consider ruining the character of our city. This looks like a tenement building. Studios and 300+ parking is ridiculous! Have you looked at the size of the building plot?? Do you know how busy traffic is on Lake Washington Blvd? Sometimes it takes 10 minutes to go 6 blocks to my home. Please make the right decision and stop this from happening!

Regards,

Barbara Canterbury  
**Canterbury Associates**  
**Computer Training and Consulting**  
**MOS Certified Word Expert**  
206 621-7012  
[bjcanterbury@yahoo.com](mailto:bjcanterbury@yahoo.com)  
[www.canterburyassociates.com](http://www.canterburyassociates.com)

**From:** [Barbara Canterbury](#)  
**To:** [Amy Walen](#); [Byron Katsuyama](#); [Doreen Marchione](#); [Dave Asher](#); [Eric Shields](#); [Glenn Peterson](#); [Jeremy McMahan](#); [Jay Arnold](#); [Jon Pascal](#); [Kurt Triplett](#); [Mike Miller](#); [Penny Sweet](#); [Toby Nixon](#); [Teresa Swan](#); [Joan McBride](#); [Bob Sternoff](#); [C. Ray Allshouse](#); [Andrew Held](#)  
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Regards,

Barbara Canterbury  
**Canterbury Associates**  
**Computer Training and Consulting**  
**MOS Certified Word Expert**  
206 621-7012  
[bjcanterbury@yahoo.com](mailto:bjcanterbury@yahoo.com)  
[www.canterburyassociates.com](http://www.canterburyassociates.com)

## Jeremy McMahan

---

**From:** Eric Shields  
**Sent:** Thursday, February 23, 2012 1:43 PM  
**To:** Jeremy McMahan  
**Subject:** FW: Zoning for Residential Market CP designation  
**Attachments:** 20120223 Letter to Planning Commission.pdf

Not sure you got this.

Eric Shields

---

**From:** David S. Mann [<mailto:mann@gendlermann.com>]  
**Sent:** Thursday, February 23, 2012 11:42 AM  
**To:** Planning Commissioners  
**Subject:** Zoning for Residential Market CP designation

**From:** David S. Mann  
**Sent:** Thursday, February 23, 2012 11:34 AM  
**To:** 'planningcommissioners@kirkland.gov'  
**Subject:** Zoning for Residential Market CP designation

Please review the attached Letter concerning your efforts to adopt zoning consistent with the Residential Market Comprehensive Plan designation. Thank you for your consideration.

*David S. Mann*

**GENDLER & MANN, LLP**

1424 Fourth Ave., Suite 715

Seattle, WA 98101

206.621.8869 direct

206.621.8868 main

206.356.0470 cell

206.621-0512 fax

[www.gendlermann.com](http://www.gendlermann.com)

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P Please think before printing this e-mail.

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

February 23, 2012

Jay Arnold, Chair  
Planning Commissioners  
City of Kirkland  
123 Fifth Ave.  
Kirkland, WA 98033

*via email: [PlanningCommissioners@kirklandwa.gov](mailto:PlanningCommissioners@kirklandwa.gov)*

Re: *Zoning to Implement the Residential Market Designation:*

Dear Chairman Arnold and Members of the Planning Commission:

I write on behalf of Support the Ordinances and Plan ("STOP") regarding your current efforts to adopt zoning consistent with the City's Residential Market Comprehensive Plan designation.

As you probably know, on November 10, 2011, STOP filed a Petition for Review before the Growth Management Hearings Board challenging the City's failure to act to adopt zoning consistent with the Residential Market Comprehensive Plan designation. But because the City acted promptly to adopt a moratorium on review and issuance of development permits within the BN zone while it reviewed new zoning, STOP withdrew its appeal in order to continue to work with the City on this important task.

The GMA requires that development regulations be consistent with and fully implement the comprehensive Plan (RCW 36.70A.070 (preamble) and RCW 36.70A.040). In this case, the Residential Market designation is very narrow:

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

Comprehensive Plan VI-14.

While STOP's withdrawal of its failure to act challenge does not preclude other citizens from seeking relief if the City fails to adopt consistent zoning, and certainly does not prevent any citizen from challenging new zoning if the new zoning remains inconsistent with the Residential

Jay Arnold  
Kirkland Planning Commissioners  
February 23, 2012  
Page 2

Market designation, it is STOP's strong hope that the Planning Commission and City will take this opportunity to finally adopt zoning consistent with the narrow definition of a "Residential Market." We look forward to continuing to work with you as you move forward.

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

Very truly yours,

GENDLER & MANN, LLP



David S. Mann

cc: STOP

## Jeremy McMahan

---

**From:** David S. Mann [mann@gendlermann.com]  
**Sent:** Monday, April 16, 2012 5:05 PM  
**To:** 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; Kurt Triplett; Eric Shields  
**Subject:** Residential Market  
**Attachments:** 20120416 Letter To Kirkland.pdf

Please see the attached letter.

*David S. Mann*

**GENDLER & MANN, LLP**

1424 Fourth Ave., Suite 715

Seattle, WA 98101

206.621.8869 direct

206.621.8868 main

206.356.0470 cell

206.621-0512 fax

[www.gendlermann.com](http://www.gendlermann.com)

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**P Please think before printing this e-mail.**

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

April 16, 2012

Kirkland City Council  
Kirkland Planning Commission  
City of Kirkland  
123 Fifth Ave.  
Kirkland, WA 98033

Re: *BN and Zoning to Implement the Comprehensive Plan Designation "Residential Market"*

Dear Honorable City Council and Planning Commission Members:

I write on behalf of Support the Ordinances and Plan ("STOP") regarding you the City's ongoing efforts to finally adopt zoning that implements and is consistent with the City's Residential Market Comprehensive Plan designation.

We understand that Potola Village Kirkland ("Potola") complains that the City is considering zoning that diverges from other commercially zoned districts and that the City is, in effect, singling out Potola's property. This is simply not the case. While we agree that there are only two properties affected by the zone change, this is not the result of Potola's proposal. To the contrary, this is the effect of the City's Comprehensive Plan that created the Residential Market commercial designation in 1995 – a designation that has never been challenged and is therefore presumed valid.

On November 10, 2011, STOP filed a Petition for Review before the Growth Management Hearings Board challenging the City's failure to act to adopt zoning consistent with the Residential Market Comprehensive Plan designation. But because the City acted promptly to adopt a moratorium while it reviewed new zoning, STOP withdrew its appeal. It is our strong desire that the City continue to move forward as expeditiously as possible to adopt zoning that finally implements the Comprehensive Plan so that further appeals or land use litigation are not necessary.

The GMA requires that development regulations be consistent with and fully implement the comprehensive Plan (RCW 36.70A.070 (preamble) and RCW 36.70A.040). In this case, the Residential Market designation is very narrow:

"A residential market is an individual store or very small, mixed use building/center focused on local pedestrian traffic. Residential scale and design

are critical to integrate these uses into the residential area. Uses may include corner grocery stores, small service businesses (social service outlets, daycares), laundromats, and small coffee shops or community gathering places.”

Comprehensive Plan VI-14. While we agree that this is a commercial designation, it remains significantly different than other commercial areas.<sup>1</sup> Thus, it is not surprising, and indeed it is necessary, that the zoning the City adopt will be more limited than other commercial areas. While we agree with Potola that the City should strive for consistent zoning designations, if the City is going to adopt zoning that applies across a range of Comprehensive Plan designations, that zoning must still be consistent with the very limited nature of the Residential Market designation. We offer the following suggestions:

1. *Density Cap.* It is helpful to note that the other property that holds the Residential Market classification has a density cap of 12 dwellings per acre. This could be consistently applied to both Residential Market properties. This would also help with alignment with the CP wherein it states that neighborhood size, scale and character must be achieved. The achievement here would be that the density cap would be the same as surrounding properties thus arguably also neighborhood size. Further, it should be noted that in several areas of the Comp Plan (including the Land Use chapter and the Economic Development chapter 4 of 6, and 6 of 8 categories specifically list housing as an allowed use, however, Residential Market is always left without housing allowed. A cap of 12 units per acre is therefore a generous interpretation.<sup>2</sup>

2. *Size, scale and character.* The historical 80% maximum lot coverage is insufficient to achieve a "VERY SMALL" or even a small or moderate sized building. This is particularly problematic if any development were to combine parcels in a manner not done

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<sup>1</sup> I have attached page VI-14 out of the Comprehensive Plan setting out the different types of Commercial areas. You'll note for example, that the Residential Market designation is the only designation that does not expressly include housing as an allowed type of use. Indeed, while a 1995 draft included apartments, that language was removed before final adoption. Additionally, both Residential Market properties exist on the same block, an area wherein there exists some specific language discouraging apartments "Lying between Lake Washington Boulevard and Lakeview Drive, north of NE 59th Street, is an area of mixed residential densities. Although there is some multifamily housing, almost half of the area is developed as single-family residential...Apartment encroachment in single-family areas usually leads to a decay of the existing structures, demolition, and reconversion to more intense use. In order to minimize this encroachment and forestall a premature decay of the single-family areas, standards should be adopted to allow a transition from low density to higher densities." This Comp Plan discussion then permits medium density development and not high density development.

<sup>2</sup> My clients request that this property, which was down zoned with all the other properties along the east side of "the Boulevard," not be given special treatment and restored density while they are held to the reduced densities. The densities were reduced in response to traffic ingress and egress issues. If the city no longer feels that the traffic ingress and egress issues are applicable, the neighbors would like densities similarly reinstated for them and they would like it done consistently with allowance for the same numerical cap. (My clients do acknowledge that there may be a provision for a first time development to be built as non-conforming at 24/acre). This would again be consistent with the rules that were applied to all properties along Lake St S and Lake Washington Blvd.

elsewhere in the neighborhood. Again a look at the other Residential Market property may be useful. That property has a maximum lot coverage of 60%. The surrounding properties have a maximum lot coverage of 60%. This creates both consistency with the other Residential market and more of a neighborhood size and scale since it would then share similar lot coverage restriction as the other neighborhood properties.

3. *Common Open Space.* It is fairly common in Washington urban areas as with other states, to require 200-300 square feet of open space per unit in multi-family housing. Indeed, Kirkland itself requires 200 square feet in its multi-family zoning. The other Residential Market area also requires 200 square feet of open space per unit. There is no reason that this same requirement shouldn't be applied to all Residential Market zones as well as the S. Rose Hill BN property. Because the areas surrounding the BN zones and both Residential Market designations already require 200 square feet of opens space per unit, adding this requirement to the BN zone and to the zoning for Residential Market would assist in the requirement to "integrate" the Residential Market into the surrounding residential area.

To a large degree, much of what has been discussed above can be achieved by adding the "(1)" designation, including additional development regulations, to the existing BN zoning making it consistent with the BN(1) zoning found in South Rose Hill neighborhood. In addition to having a (1) that refers to full implementation of the Comprehensive Plan for the property, the other development regulations found at the S Rose Hill site<sup>3</sup> would be steps toward achieving a Residential Market. (e.g. hours of operation, no drive-thru business, compatibility with the neighborhood properties). Certainly the BN residential site should be at least as restrictive as the S Rose Hill site since the latter has a more intense Neighborhood Center - Commercial designation.

In closing, STOP once again thanks you for your continued efforts to carefully adopt zoning that finally implements the Residential Market designation. Please do not hesitate to contact me if you have any questions.

Very truly yours,

GENDLER & MANN, LLP



David S. Mann

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<sup>3</sup> I have attached pages XV.G-6,7,8 out of the Comprehensive Plan which list the development regulations in the BN(1) zone. As described by the "Commercial Hierarchy" in VI-14, the Residential Market Commercial found along Lake Street and Lake Washington Boulevard is a lower intensity designation than the Neighborhood Center located in many locations around the city. This includes the BN(1) zone. Thus, in order to fully implement the Comprehensive Plan, the zoning of Residential Markets would need to be meet and exceed the restrictive zoning controls outlined in items 1-9

City of Kirkland  
April 16, 2012  
Page 4

cc: Kurt Triplett  
Robin Jenkinson  
Eric Shields  
STOP

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## VI. LAND USE

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identified. In the Land Use Element, the general notion of protection of community character is promoted. However, this Element also acknowledges that the community will be growing and that a balance must be struck between providing more housing units and preserving the neighborhoods as they are today.

Several of the most important housing issues – affordability, special needs housing, and accessory units – are not addressed in this Element. They are discussed, instead, in the Housing Element.

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***Goal LU-4: Protect and enhance the character, quality, and function of existing residential neighborhoods while accommodating the City's growth targets.***

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***Policy LU-4.1: Maintain and enhance Kirkland's single-family residential character.***

The community vision, as described in the Vision Statement of this Plan, is that Kirkland's residential areas are diverse with a variety of housing choices including single-family detached, attached, stacked, cottage, carriage styles and accessory dwelling units.

***Policy LU-4.2: Locate the most dense residential areas close to shops and services and transportation hubs.***

Denser residential areas such as apartments and condominiums should continue to be sited close to or within commercial areas and transportation hubs to increase the viability of the multimodal transportation system.

***Policy LU-4.3: Continue to allow for new residential growth throughout the community, consistent with the basic pattern of land use in the City.***

Although the Land Use Element states that opportunities for new housing units should be dispersed throughout the community, significantly greater densities are not targeted for low-density neighborhoods. Instead, infill development is expected in these areas based on availability of developable land, while higher densities are clustered near existing commercial areas.

***Policy LU-4.4: Consider neighborhood character and integrity when determining the extent and type of land use changes.***

Protection of community character is a theme woven throughout the Land Use Element. Community character is most clearly expressed through the Neighborhood Plans. It is the intent of this policy to direct specific consideration of the unique characteristics of neighborhoods, as described in the Neighborhood Plans, before committing to major area-wide residential land use changes.

### COMMERCIAL LAND USES

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

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

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

Along with the need to provide new housing units for future residents, the City will need to designate adequate land area for commercial uses, some of which

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## VI. LAND USE

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may employ Kirkland residents. If the opportunity for local employment is increased, the high proportion of residents who work outside the community may be reduced. This in turn would ease traffic congestion by shortening commute trips and making other modes of travel to work more feasible.

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

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

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

### **Urban Center**

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

### **Activity Area**

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

### **Business District**

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

### **Neighborhood Center**

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

### **Residential Market**

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

### **Light Industrial/High Technology Area**

A Light Industrial/High Technology area serves both the local and regional markets and may include office, light manufacturing, high technology, wholesale trade, storage facilities and limited retail.

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## XV.G. SOUTH ROSE HILL NEIGHBORHOOD

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- (8) Vegetative buffering (preferably with native, drought-tolerant plants) should be provided next to single-family areas.

---

*Existing multifamily areas south of NE 80th Street and east of 116th Avenue NE should remain zoned as low-density development due to impacts. Redevelopment should focus on vegetation preservation and access.*

---

Existing multifamily housing located south of NE 80th Street and east of 116th Avenue NE is impacted by existing Planned Area 13 office and multifamily uses to the north, the freeway, and Lake Washington High School. Its designation of low-density development to a maximum of seven dwelling units per acre should continue. If redevelopment occurs, the existing vegetative buffer along the southern border should be preserved. Access should be located so as to maximize sight distances along 116th Avenue NE and NE 80th Street by keeping the access away from the curve formed by their junction. Therefore, the access should be aligned with 118th Avenue NE.

### 4. ECONOMIC ACTIVITIES

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*NE 85th Street is a regional transportation and commercial corridor, featuring retail, office, and business park uses. Some medium- and high-density multifamily development is also present.*

---

The only area of economic activity in South Rose Hill is within the commercial district along NE 85th Street (see Figure SRH-3). It is recognized as both a regional transportation and commercial corridor. This area includes retail, office, and business park uses, and, to a lesser degree, some medium- and high-density multifamily development. From I-405 east to the Kirkland city limits, the commercial corridor generally tapers from a depth of over 1,100 feet to about 150 feet at 132nd Avenue NE on both sides of NE 85th Street. See the NE 85th Street Subarea Plan for more information about the commercial corridor.

---

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

---

The northwest corner of NE 70th Street and 132nd Avenue NE contains a small-scale commercial development. Development should not extend into the surrounding low-density residential neighborhood, however.

The northern boundary of the commercial area lies south of the existing single-family development along 132nd Avenue NE. The western boundary lies east of the existing single-family development along NE 70th Street. In the northwestern portion of the site, the boundary generally follows the toe of the existing slope.

To mitigate impacts to the adjoining residential area, development is subject to the following standards:

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

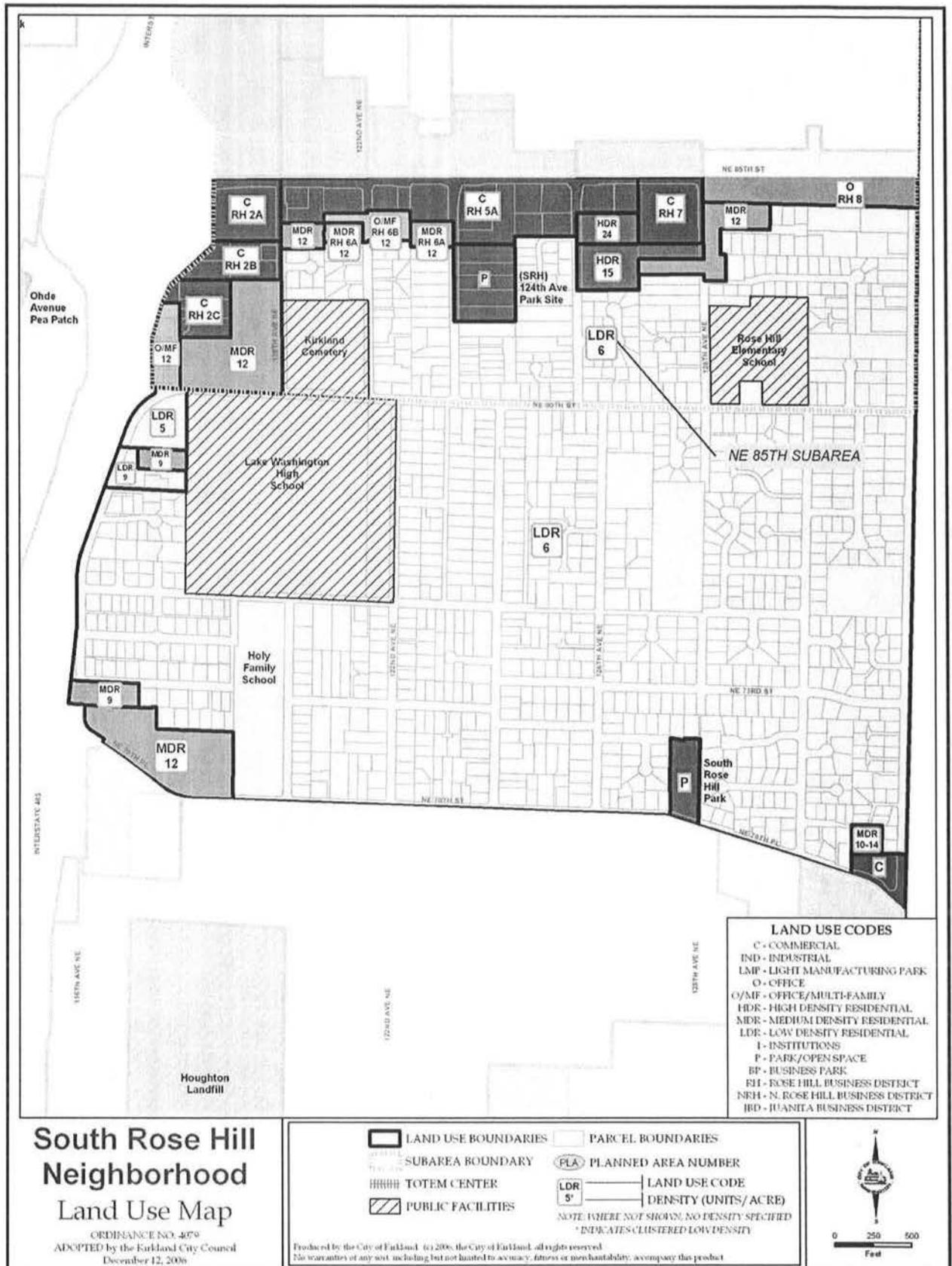


Figure SRH-3: South Rose Hill Land Use

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## XV.G. SOUTH ROSE HILL NEIGHBORHOOD

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- (4) Businesses must be oriented to NE 70th Street or 132nd Avenue NE and must be directly connected, with on-site sidewalks, to sidewalks in adjacent rights-of-way.
- (5) Commercial access must be taken only from NE 70th Street and/or 132nd Avenue NE. Turning movements may be restricted to promote public safety.
- (6) Parking areas should be landscaped and visually screened from adjoining residential development.
- (7) The number and size of signs should be minimized to avoid a cluttered, intensive, commercial appearance. A master sign plan should be implemented. Back-lit or internally-lit translucent awnings should be prohibited. Only wall- or ground-mounted signs should be permitted.
- (8) Noise impacts to surrounding residential development should be minimized.
- (9) Hours of operation of businesses on the site should be limited to no more than 16 hours per day, ending at 10 p.m.

Immediately to the north of the commercial area, medium-density residential development is appropriate. Units should be small-lot detached single-family residences, however.

### 5. OPEN SPACE/PARKS

South Rose Hill has a number of publicly owned areas that currently provide park and open space opportunities for neighborhood residents. They are briefly described below.

**South Rose Hill Neighborhood Park** is a 2.5-acre site that was purchased as a result of a successful Park Bond in 1989. This park is located on NE 70th Street, at approximately 128th Avenue NE (see Figure SRH-4). Improvements in this park are typical of a neighborhood park facility, including pedestrian access.

**Lake Washington High School** is a 38.31-acre site located at NE 80th Street and 122nd Avenue NE. Improvements to this site include school buildings, a playfield, tennis courts, and track.

**Rose Hill Elementary School** is a 9.75-acre site located at NE 80th Street and 128th Avenue NE. Improvements to this site include school buildings and a playground.

**Kirkland Cemetery** is a 5.75-acre site located at NE 80th Street and 122nd Avenue NE. The cemetery is an important public historic landmark and open space feature in the neighborhood. Future funded improvements include irrigation, planting, relocation and improvement of cemetery entry, additional parking, new cemetery services, improved pedestrian and vehicular circulation, and expansion to the southeast corner of the property.

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*Efforts should be made to acquire additional parkland for this neighborhood, including smaller parcels.*

---

Despite these parks and open space facilities, the neighborhood is deficient in parkland based on the standard of 15 acres per 1,000 population, because much of this land is owned by the Lake Washington School District. As a result, every effort should be made to acquire additional parkland for this neighborhood, including smaller parcels for use as "pocket parks." These parks serve limited park needs where neighborhood park opportunities are lacking. Pocket parks are typically less than one acre in size

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

May 14, 2012

Kirkland City Council  
City of Kirkland  
123 Fifth Ave.  
Kirkland, WA 98033

Re: *Zoning to Implement the Residential Market Designation:*

Dear Honorable City Council Members:

I write again on behalf of Support the Ordinances and Plan ("STOP") regarding your continuing effort to adopt zoning that implements, and is consistent with, the City's Residential Market Comprehensive Plan designation.

On January 17, 2012 STOP withdrew its "Failure to Act" challenge from before the Growth Management Hearings Board after the City acknowledged, through imposition of a moratorium, that time was needed to review the disconnect between zoning language for BN zones and the 1995 Comprehensive Plan assignment of two geographic areas to the lowest intensity "Residential Market - Commercial" designation. Since that time, members of STOP have been working with other neighbors and citizens in Kirkland to assist the city in development regulations that would fully implement the Comprehensive Plan as directed by the "Implementation Strategies" Chapter in the 1995, 2004, 2007 and 2010 amendments and revisions to the Plan. All stakeholders are hopeful that you will give proper guidance to the Planning Commission and then take the correct, necessary, action yourselves. Of course, there remain cautious citizens, outside of STOP, that we understand are to re-challenge if the City's efforts fall short of fully carrying out this GMA requirement.

During the last several months, citizens and members of STOP have shared many aspects of the Comprehensive Plan that they've identified as lacking proper implementation. One of these topics – traffic ingress and egress – is of particular concern. Traffic ingress and egress problems to the two sites identified as "Residential Market" are discussed in the Comprehensive Plan and cited as the reason that commercial use is not appropriate for these sites, yet the exception is made for the very low intensity commercial businesses, much like what is there currently. This is since these are the types of businesses that serve local neighbors, as stated. This brings very few additional cars to the area and reduces car trips needed when neighbors walk for their burger or laundry or other local service needs.

While the Planning Commission has tried several different ways to limit traffic volume including smaller building plate size, smaller lot coverage and building setbacks, none of those choices

provide the certainty needed that the number of cars will be restrained to the level articulated in the Comprehensive Plan. A density cap and restrictions on the types of businesses are the only methods contemplated that will provide for the end result required by the historical decisions documented in the City's Plan.

Additionally, density was clearly reduced for all lands identified by the 1979 down zone wherein contiguous land along the Boulevard from south of the Central Business District to the center line of NE 63rd St was all reduced in density without any properties being called out for exclusion. The purpose of the down zone was management of traffic ingress and egress. This down zone has historically been documented in other attempts to develop the BN-Residential Market properties wherein city documented rejection of proposals that were greater than 12 dwellings per acre. Furthermore, the down zone is reflected in the deliberations and agreements made after 5 years of study and preparation of the 1995 Comprehensive Plan. The residential market designation is specifically discussed during numerous meetings of the Growth Management Subcommittee, Planning Commission and City Council. It was not a casual decision or one that was made without extensive thought. It is now time to honor the work done by previous subcommittees, commissions and councils, as required by GMA.

Please remember that GMA planning should be a one-way, progressive, process. It would be unsatisfactory to work backwards by taking a proposed development and modifying the Comprehensive Plan in order to accommodate a project. Instead the direction flows from the study and development of a Comp Plan to the work of drafting development regulations to fully implement the plan. It is only when these have both been accomplished that a project can be evaluated as to whether it is aligned.

There are five areas in the Comprehensive Plan that address the Residential Market-Commercial Properties:

1) The Neighborhood Plan text directing residential densities on the east side of the boulevard to 12 dwelling units per acre and consistent with properties to the north and south along Lake St S / Lake Washington Boulevard.

2) The Neighborhood Plan text directing that commercial use shall be LIMITED in that the small market/service business that serves the local neighbors should be allowed to remain. This includes the wording of traffic ingress and egress being the constraining factor.

3) The Land Use Chapter map that identifies the two "Residential Market" properties and text which directs Residential Market to be a single business or a "very small mixed use building/center" "services for the neighbors" "community gathering area" and places specific limits on approved uses. The approved uses had text including housing in 1993 but then that use was specifically removed in 1995 through the CP process. Residential Market and Industrial Commercial zones were the two where residential was no longer listed as approved.

4) The Economic Development Chapter that calls out 8 different areas for economic development and within 6 of 8 the final use identified is "housing." Again this chapter makes

clear that for two of the 8 areas housing is not an identified use. Statutory rules of construction would therefore indicate that this omission was deliberate.

5) The Implementation Strategies Chapter that specifically directs staff to craft zoning text that will fully implement the new Residential Market- Commercial" designation.

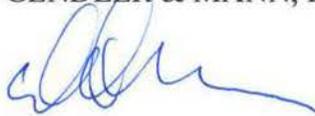
STOP is not anti-growth. It also recognizes that the 1979 agreement allowed for an exception to density wherein a first time development could be built to a density of 22 units per acre. For a development that might encompass the entire corner of BN-Residential Market properties, this would be a development that could be built with 30 units plus neighborhood serving businesses. There are many examples of successful developments of this magnitude built on properties in very desirable areas. STOP requests your positive actions directing the Planning Commission to implement a zoning ceiling.

STOP also notes that the other consideration before you, that of changing the Residential Market designation to a higher intensity "Neighborhood Center" designation would be an "off-cycle" action and would be ill advised as it has not been studied thoroughly and would greatly aggravate land use challenges and traffic challenges that have long been the focus of Comprehensive Plan actions and planning decisions.

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

Very truly yours,

GENDLER & MANN, LLP



David S. Mann

cc: STOP

## Jeremy McMahan

---

**From:** Manuchehri, Mohammad [mohammad.manuchehri@boeing.com]  
**Sent:** Monday, April 02, 2012 9:18 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:** uwkg@aol.com

Dear City Officials:

I am writing with respect to the Residential Market / lowest intensity commercial designation as I hope you will thoroughly consider the ingress and egress issues clearly identified as limiting factors in the Comprehensive Plan.

First of all, it is very important to note that in the entire city (new and annexed) there are only two areas identified for this very low intensity use called residential market. Reading the comprehensive plan, and every neighborhood plan, these are specifically identified for this very "limited commercial" due to ingress and egress issues. No other property in the whole city mentions ingress and egress trouble. Just these two sites which are on the same block and both along the Boulevard bounded by the Lake to the west and a mostly residential side street.

The ingress and egress limit to development can only be achieved if both of the following are met.

1) The Land Use Chart needs to be changed regarding allowed businesses for BN. This is just for BN that have been identified as residential market and thus very low intensity. Vehicle-intensive businesses should be specifically noted as not allowed in the BN-Res Mkt for this reason. This is currently accomplished in the Comprehensive Plan, however the Land Use Chart allows things like drive thru businesses (auto intensive) and large churches or schools (also auto intensive).

So that there does not continue to be a conflict between the CP and the zoning, the chart must be better aligned with the plan for this subset of BN properties.

2) The residential density MUST be capped to a reasonable level. You cannot provide for only "limited commercial" or "low intensity" or protect the issues around ingress and egress without a residential density cap. You just cannot hold the line on limited ingress and egress without this cap. This is exactly why all properties along the boulevard had their caps reduced in 1977.

Thank you for taking these two essential steps to address ingress and egress. These are unique challenges to having any commercial development at the two very unique properties reclassified by Ordinance as Residential Market Use."

Mo Manuchehri  
Lead Design Engineer  
747-8, Section 44 Structures  
(425) 266-1112



## Jeremy McMahan

---

**From:** alison barnes martin [alisonbarnesmartin@mac.com]  
**Sent:** Thursday, March 29, 2012 9:30 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  
**Subject:** Density for Project

Dear Ciy Officials,

As you consider the Residential Market/lowest intensity commercial designation, I hope that you will factor the ingress and egress issues clearly identified as limiting factors in the COMPREHENSIVE PLAN. I'm not going to re-invent the wheel by noting the obvious, but want you to know, as property owner, how I feel about any proposed development as you factor your decisions based on the COMPREHENSIVE PLAN.

First of all, it is very important to note that in the entire city (new and annexed) there are only two areas identified for this very low intensity use called residential market. Reading the comprehensive plan, and every neighborhood plan, these are specifically identified for this very "limited commercial" due to ingress and egress issues. No other property in the whole city mentions ingress and egress trouble. Just these two sites which are on the same block and both along the Boulevard bounded by the Lake to the west and a mostly residential side street.

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2) The residential density MUST be capped to a reasonable level. You cannot provide for only "limited commercial" or "low intensity" or protect the issues around ingress and egress without a residential density cap. You just cannot hold the line on limited ingress and egress without this cap. This is exactly why all properties along the boulevard had their caps reduced in 1977.

Thank you for taking these two essential steps to address ingress and egress s these are unique challenges to having any commercial development at the two very unique properties reclassified by Ordinance

as Residential Market Use.

Respectfully,

Alison Barnes Martin

**Jeremy McMahan**

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**From:** Teresa Swan  
**Sent:** Monday, February 13, 2012 11:04 AM  
**To:** Jeremy McMahan  
**Subject:** FW: Potala Village Project

Hi Jeremy:

Here is a comment letter on Potala Village. Please forward to the Planning Commission.

Teresa

---

**From:** Daniel Martinec [<mailto:danimar@microsoft.com>]  
**Sent:** Friday, February 10, 2012 9:52 PM  
**To:** Teresa Swan; Eric Shields; Kurt Triplett  
**Subject:** Potala Village Project

Dear city officials,

I was quite disturbed when I found out about the possibility of building such an unbecoming project as the Potala Village in my neighborhood. If this project is approved, downtown Kirkland will lose much of its beauty and uniqueness. The quality of living will go down for all of us living here or just visiting. No matter how nature friendly the project is presented on its website, the massive rise of the density in the area will have many consequences. There will be more traffic which will make it less attractive to be around and do activities such as running, walking, and biking. I am afraid that it is worse than just having this inappropriate building in my neighborhood. Allowing such a construction might open door for shifting the character of the downtown Kirkland from a scenic little town to a business center. Of all the people I talked about this none would want that. There is many business centers around such as in Bellevue, Redmond and Seattle.

I hope you will use your senses and power to protect the beauty and uniqueness of Kirkland which could never be retrieved if lost by allowing here an unfitting project as the Potala Village.

Sincerely,

--Daniel Martinec

5535 Lk Wa Blvd NE #205, 98033 Kirkland, cell phone # (425)533-5911

## Jeremy McMahan

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**From:** Eric Shields  
**Sent:** Tuesday, March 06, 2012 9:06 PM  
**To:** Jeremy McMahan  
**Subject:** FW: ABOLISH unlimited density Residential dwelling units in all Commercial zoned property in the city, including BN !

**Importance:** High

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Eric Shields

---

**From:** John and Beth McCaslin [<mailto:mccaslins@mail.com>]  
**Sent:** Tuesday, March 06, 2012 9:01 PM  
**To:** Planning Commissioners  
**Cc:** Cathy Whiteside  
**Subject:** ABOLISH unlimited density Residential dwelling units in all Commercial zoned property in the city, including BN !  
**Importance:** High

Continuing this EXISTING zoning regulation would be an ABSOLUTE TRAVESTY, and would RUIN the image, culture, and ultimately, economic health of Kirkland!

KIRKLAND IS THE "SAUSALITO" OF THE NORTHWEST: a vibrant and energetic, upscale ARTS, DINING, AND RETAIL-BOUTIQUE nucleus on the Eastside, WITH BY FAR ITS BEST PUBLIC BEACH ACCESS!

Overcrowding Kirkland's compact downtown/beachfront area to the point of GRIDLOCK, which Potala PLUS any of the proposed high-density developments would surely EXACERBATE, would DESTROY the aforementioned advantages Kirkland enjoys.

"Go to the beach? - I can't get within half a mile!" will become the norm!

**PLEASE** ABOLISH THIS ZONING REGULATION!!!

John and Beth McCaslin

**From:** [Cynthia Glaser](#)  
**Cc:** [Eric Shields](#); [Amy Walen](#); [Byron Katsuyama](#); [Doreen Marchione](#); [Dave Asher](#); [Glenn Peterson](#); [Jeremy McMahan](#); [Jay Arnold](#); [Jon Pascal](#); [Kurt Triplett](#); [Mike Miller](#); [Penny Sweet](#); [Toby Nixon](#); [Teresa Swan](#); [Joan McBride](#); [Bob Sternoff](#); [C. Ray Allshouse](#); [Andrew Held](#)  
**Subject:** Moratorium Extension  
**Date:** Wednesday, May 02, 2012 7:40:14 PM

---

I just posted this as a response to the Kirkland Reporter article on Extending the Moratorium

Thank you City Council for the extended moratorium of the Proposed Potala Project (corner of Lake Street and 10th Avenue South)!

The concept of 143 small apartment units on 1.2 acres is an absurd number of units to place on Lake Street/Lake Washington Blvd. at the center of the main thoroughfare from 520 to downtown Kirkland. As residents of this community, we all want downtown Kirkland businesses to be successful and thrive. Adding to the existing traffic on this thoroughfare would deter visitors from coming to Kirkland.

Reducing the number of units to be consistent with the surrounding comprehensive and zoning plans of 12 to 24 units per acre is an absolute must in preserving the community of Kirkland's waterfront by maintaining its "visitor and community friendly" accessibility.

It is incomprehensible something of this density and magnitude is even being considered. I spoke with the proposed developer and one of his managers at the end of the last City Council Meeting. They both indicated they were working on reducing the number of individual dwellings in this structure and making them condominiums. It would be nice if we understood clearly what structure and number of units are being proposed, as many Kirkland residents have seen several different drawings and heard many varying verbal renditions of what will be built. Please can we get clarification? No one is opposed to this property being developed. It is the sheer density of residents that is inappropriate.

Please continue to do what is right for this lovely community and preserving its ambiance. This is not Redmond or Ballard. Kirkland's waterfront is what draws people to our community. Kirkland is the little Sausalito of the North West. Please treat and respect it as such.

There have been many difficult decisions due to budgetary needs made in our country during this really tough recessional time. I would like for all residents of Kirkland to be very proud of the legacy we leave for future generations who will reside in or visit Kirkland, Washington.  
Thank you

Cynthia Glaser  
206-979-7090  
[cynthiaglaser7@gmail.com](mailto:cynthiaglaser7@gmail.com)

On May 2, 2012, at 4:03 PM, Chuck Pilcher wrote:

> Eric,

>

> For a year now we have been debating Kirkland Zoning Code Section 40 (BN Zones). During that time, I have never heard anyone explain the planning rationale that would intentionally place unlimited residential density in BN zones.

>

> If unlimited residential density were a planning goal for our BN zones, it seems to me that more than one word in the Zoning Code would have addressed the issue. (The one word is "None" under the

column "Minimum Lot Size" in Zoning table 40.10.100.)

>

> You've been here throughout the period in question for any Zoning Code changes. Would you please explain to me the rationale used by the Planning Commission if it intentionally included unlimited residential density in a BN Zone? Those zones are clearly defined as a place for "Neighborhood Business," so why would the PC put ultra-high density "stacked dwelling units" right in the middle of single-family and medium-density residential neighborhoods?

>

> Chuck Pilcher

> chuck@bourlandweb.com

> 206-915-8593

>

>

>

>

**From:** [Heather Bradford](#)  
**To:** [Andrew Held](#); [Amy Walen](#); [Doreen Marchione](#); [Dave Asher](#); [Eric Shields](#); [Glenn Peterson](#); [Jeremy McMahan](#); [Jay Arnold](#); [Jon Pascal](#); [Kurt Triplett](#); [Mike Miller](#); [Penny Sweet](#); [Toby Nixon](#); [Teresa Swan](#); [Joan McBride](#); [Bob Sternoff](#); [C Ray Allshouse](#)  
**Subject:** moratorium on BN zones  
**Date:** Sunday, April 29, 2012 1:55:49 PM

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Hi there – I a writing to share my opinion that I believe unlimited density is inappropriate for the Michael's vacant parking lot space from both a traffic and neighborhood aesthetic standpoint, and I would like to request an extension of the moratorium on BN zones

Thanks so much,

Heather Bradford  
Moss Bay citizen  
527 Kirkland Avenue  
Kirkland, WA 98033

**From:** [Betty Bonnett](#)  
**To:** [Amy Walen](#); [Byron Katsuyama](#); [Doreen Marchione](#); [Dave Asher](#); [Eric Shields](#); [Glenn Peterson](#); [Jeremy McMahan](#); [Jay Arnold](#); [Jon Pascal](#); [Kurt Triplett](#); [Mike Miller](#); [Penny Sweet](#); [Toby Nixon](#); [Teresa Swan](#); [Joan McBride](#); [Bob Sternoff](#); [C. Ray Allshouse](#); [Andrew Held](#)  
**Cc:** [lw77@comcast.net](mailto:lw77@comcast.net)  
**Subject:** Moratorium on BN Zones  
**Date:** Sunday, April 29, 2012 2:03:38 PM

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TO: Kirkland City Council  
FROM: Betty and Bill Bonnett  
DATE: April 29, 2012

As original owners/residents of our unit at Marina Pointe, we ask you to extend the moratorium on BN zones.

Our concern specific to our neighborhood is the unlimited density project proposed for the site of Michaels Dry Cleaners, Café, and Vacant Lot. We believe that unlimited density is inappropriate for this location from both a traffic and neighborhood aesthetic standpoint. Our roads cannot support this increase in traffic. The character and charm of the waterfront boulevard and Kirkland's downtown area will be greatly compromised and possibly changed forever.

More work needs to be done, and we are asking for and relying on your leadership to accomplish this.

Respectfully,  
Betty and Bill Bonnett  
303 2<sup>nd</sup> St. S. Apt. B4  
Kirkland, WA 98033

**From:** [Bruce Heckenberg](#)  
**To:** [Amy Walen](#); [Byron Katsuyama](#); [Doreen Marchione](#); [Dave Asher](#); [Eric Shields](#); [Glenn Peterson](#); [Jeremy McMahan](#); [Jay Arnold](#); [Jon Pascal](#); [Kurt Triplett](#); [Mike Miller](#); [Penny Sweet](#); [Toby Nixon](#); [Teresa Swan](#); [Joan McBride](#); [Bob Sternoff](#); [C. Ray Allshouse](#); [Andrew Held](#)  
**Subject:** Moratorium on high density building in Kirkland  
**Date:** Sunday, April 29, 2012 4:32:57 PM

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I would like to appeal to the City Council to extend the moratorium on building high density projects in downtown Kirkland.

Downtown Kirkland is already loosing it's "charm" which brought my wife and I to live in downtown 12 years ago. If the objective is to try to replicate Bellevue on a smaller scale, this is a formula for disaster in my opinion. We have already overextended ourselves with the annexation of Totem Lake, and with this proposed monstrosity project, downtown will be impossible to navigate.

I hope the Council votes to extend this moratorium for the BN zones until a later time.

Sincerely,

Bruce Heckenberg

129 Third Ave., Apt 404

Kirkland, Wa

## Jeremy McMahan

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**From:** Eric Shields  
**Sent:** Monday, March 05, 2012 9:22 AM  
**To:** Jeremy McMahan; Teresa Swan  
**Subject:** FW: From: A & D Mosa To: J Arnold & KPC

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

[Eric Shields](#)

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**From:** [lettertokpc@aol.com](mailto:lettertokpc@aol.com) [mailto:[lettertokpc@aol.com](mailto:lettertokpc@aol.com)]

**Sent:** Sunday, March 04, 2012 7:03 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:** From: A & D Mosa To: J Arnold & KPC

June 27, 2011

### BN - Residential Market

Adensity of 116 units per acre (10 times that of anything in the immediate vicinity) is irresponsible; Safety issues in residential neighborhood: Aesthetic Mis-Fit into neighborhood

We have lived in the Moss Bay neighborhood for 10 years now and currently own a single family home on 10<sup>th</sup> Ave S. We wish to be added as a "party of record" for permit requests SHR11-00002 and SEP11-00004. We are concerned about the environmental, commercial, and practical impacts of the Potala Development on the surrounding lower density residential neighborhood around Lake Wash Blvd / 10<sup>th</sup> Ave S, Kirkland. The Potala Development project in its current form is unacceptable and out of place for the proposed location. We don't believe the City is taking enough time to thoroughly analyze the impacts of the Potala Development with regards to the following:

#### **Traffic/Parking:**

Traffic increase on Lake Washington Blvd/Lake Street S/10th Ave S both during construction and after residents have moved into the 143 apartments will be severe. As the parents of 8 month old twins, it's distressing that a project with such extreme density is being considered within mere feet of our currently family friendly neighborhood. We believe the true traffic impact has been far underestimated and needs a more thorough assessment. 10th Avenue S is not designed to be a main thru-street and thus to handle heavy traffic flows. Moreover, with its very residential and family friendly character, the resulting additional traffic would put drivers directly in the path of Lakeview Elementary students walking to and from school and the many mothers/fathers/caretakers who walk with strollers and/or toddlers to the nearby parks.

Furthermore, 10th Ave S is not equipped to handle the additional parking which would result from residents and visitors of the new building with its 143 apartments. While the developer is no longer pursuing the initial parking variance request, we are concerned that the project does not provide sufficient parking.

**Environmental Impact:**

We are stunned to find out that the Environmental Impact of the proposed project has been not been studied. Given the existing dry cleaning business and former gas filling station on this site and the proximity to the lake, nesting eagles and parks where children play, this is cause for great concern.

**Aesthetic "Fit" with our neighborhood:**

The proposed building does not fit with the surrounding neighborhood of single family homes and condos. In its current design it is an inappropriate, massive block sitting right on Lake Street; perhaps appropriate for a downtown area, but not at this location. Allowing 143 new apartments at a density of 116 units per acre (10 times that of anything in the immediate vicinity!) is irresponsible.

Please enter this into the record and keep us advised of the "progress" of the Potala Development.

Sincerely,

Andrea & Dirk Mosa  
137 10<sup>th</sup> Ave S  
[andrea.mosa@live.com](mailto:andrea.mosa@live.com)  
206-228-7627

-----Original Message-----

From: LetterToKPC <[LetterToKPC@aol.com](mailto:LetterToKPC@aol.com)>

To: AHeld <[AHeld@kirklandwa.gov](mailto:AHeld@kirklandwa.gov)>; BKatsuyama <[BKatsuyama@kirklandwa.gov](mailto:BKatsuyama@kirklandwa.gov)>; CALLshouse <[CALLshouse@kirklandwa.gov](mailto:CALLshouse@kirklandwa.gov)>; EShields <[EShields@kirklandwa.gov](mailto:EShields@kirklandwa.gov)>; GPressley <[GPressley@kirklandwa.gov](mailto:GPressley@kirklandwa.gov)>; GPeterson <[GPeterson@kirklandwa.gov](mailto:GPeterson@kirklandwa.gov)>; JArnold <[JArnold@kirklandwa.gov](mailto:JArnold@kirklandwa.gov)>; JPascal <[JPascal@kirklandwa.gov](mailto:JPascal@kirklandwa.gov)>; KTennyson <[KTennyson@kirklandwa.gov](mailto:KTennyson@kirklandwa.gov)>; MMiller <[MMiller@kirklandwa.gov](mailto:MMiller@kirklandwa.gov)>; Tennysonkk <[Tennysonkk@aol.com](mailto:Tennysonkk@aol.com)>

Sent: Mon, Feb 27, 2012 9:38 am

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)

**From:** [Ravi Khanna](#)  
**To:** [Amy Walen](#); [Byron Katsuyama](#); [Doreen Marchione](#); [Dave Asher](#); [Eric Shields](#); [Glenn Peterson](#); [Jeremy McMahan](#); [Jay Arnold](#); [Jon Pascal](#); [Kurt Triplett](#); [Mike Miller](#); [Penny Sweet](#); [Toby Nixon](#); [Teresa Swan](#); [Joan McBride](#); [Bob Sternoff](#); [C. Ray Allshouse](#); [Andrew Held](#); [Robin Jenkinson](#)  
**Subject:** Need for Density Limit in the area being proposed for the Potala Village project  
**Date:** Sunday, May 13, 2012 10:43:11 PM

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Dear Council members,

I understand you are meeting on May 15th to discuss the zoning of the area being proposed for the Potala Village project.

As as been communicated before,any increase in density would be highly deleterious to the area.Washington Boulevard cannot handle the increased traffic and the character of the waterfront will be irrevocably altered for the worse.

As council members,I hope you not allow that to happen to Kirkland.Please order a low density limit for the area.

Sincerely,

Ravi Khanna  
303 2nd St S  
Kirkland,WA 98033

## Jeremy McMahan

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**From:** Eric Shields  
**Sent:** Monday, February 27, 2012 8:23 AM  
**To:** Teresa Swan; Jeremy McMahan  
**Subject:** FW: From:Arlyn & Sharon Nelson To:J Arnold & KPC

Eric Shields

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**From:** [LetterToKPC@aol.com](mailto:LetterToKPC@aol.com) [<mailto:LetterToKPC@aol.com>]  
**Sent:** Monday, February 27, 2012 6:26 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](mailto:Tennysonkk@aol.com)  
**Subject:** From:Arlyn & Sharon Nelson To:J Arnold & KPC

**From:** Sharon Nelson [<mailto:sharonjnelson@comcast.net>]

To whom it may concern:

Please consider this as our Formal Request to be a Parties of Record for the development (Potala Village – or any future name) – Parcels #082505-9233, 935490-0220 and 935490-0240.

Our concerns are with regard to (1) Comprehensive Plan, (2) Zoning, (3) Shoreline Master Plan, (4) SEPA, (5) Design Review, (6) Public Process and (7) Legal Ramifications:.

- **COMPREHENSIVE PLAN (Density):** The proposed project is not in line with the surrounding neighborhood of low/medium density residential and single family.
- **ZONING:** The site is the only site in the surrounding residential neighborhood zoned (BN) Commercial, not High Density Residential. 143 residential units on a parcel this size is high density.
- **SHORELINE MASTER PLAN: Design Review.** Mass, scale, density, view corridors, terracing. 600sf+ retail partially below grade??
- **SEPA: Traffic Congestion & Parking for Lake Street AND 10th:** 143 Units, some with 2 cars, most with guest requirements, particularly during summer. Since it appears that 10<sup>th</sup> is now the access for emergency vehicles and this is not a wide enough street to accommodate the potential parking issues and traffic, this is of great concern for public safety on all counts.
- **DESIGN REVIEW:** Mass, scale, density, view corridors, terracing. 600sf+ retail partially below grade?
- **PUBLIC PROCESS:**
- **LEGAL:** What are the legal ramifications of one mega building on parcels with different owners? Project should be hugely scaled back and broken in to a minimum of two buildings on separate parcels.

Sincerely,  
Arlyn & Sharon Nelson  
6736 Lake Washington Blvd NE #8  
Kirkland, WA 98033

[Arlyn Nelson 206.718.3612](tel:206.718.3612)

[Arlyn.nelson@comcast.net](mailto:Arlyn.nelson@comcast.net)

Sharon Nelson 425.260.3500  
[sharonjnelson@comcast.net](mailto:sharonjnelson@comcast.net)

April 30, 2012

City Clerk & Kirkland City Council  
City of Kirkland  
Kirkland, WA 98033

Delivered by Hand to City of Kirkland

To Whom It May Concern:

My name is Sharon Nelson and my husband, Arlyn, and I live at 6736 Lake Washington Blvd in Kirkland. We are speaking on behalf of "One Neighborhood Block" – a group of local neighbors that are deeply concerned about the direction the city may be taking with regard to the Comprehensive Plan and high-density/zoning issues. I am a Realtor (managing broker) and my husband and I both work in downtown Kirkland.

We are ALL shocked as to what appears to be a devastating plan for our area.

Living on the 'Blvd', we have noticed a big change in the traffic. It has become extremely difficult to get in and out of our driveway, and during the summer months, cars are at a virtual stand-still. We can walk to town faster than the cars get there! Having guests during certain times of the year is also very difficult because parking is impossible - already.

Our boulevard and parks are a very positive and unique attraction. Where can you go these days and enjoy sun, water activities, beautiful views, walking, riding bicycles, jogging, picnics, etc. like we have here? So why on earth would you cram more cars, people (density) in an already high traffic area?

One of our neighbors inquired of the city as to any potential development going in before they purchased their property and were told that wouldn't happen but now they are hearing a different story. They purchased their home at a premium based on what information they received from the city and now they feel betrayed. They are sickened and very angry.-We, also, paid a premium for our location, only to discover plans for a high-density multi-family building being built nearly next door, when the zoning is for Neighborhood Business.

All due respect, but there appears to be a lack of 'vision' as to what our city should/could be. Kirkland has such great potential and uniqueness but any real and appropriate vision seems to be lacking. With our lake and park accesses, views, etc. it could be so much more. Now, we face the possibility of ruining the waterfront and close-in areas by inappropriate development. We HAVE a GOOD master plan. Why don't we just enforce it with our Zoning Code?

**RECEIVED**

APR 30 2012

CITY OF KIRKLAND  
CITY MANAGER'S OFFICE

Please consider our position. We are NOT against development, just inappropriate development and zoning. We would LOVE to see Kirkland thrive, but put high-density in areas where it is appropriate. Listen to your constituents, not developers who benefit from city mistakes.

A wrong decision now could be tragic for our city and may just set the stage for more negative uprisings. Now is the time for the city to LISTEN to their residents and LISTEN well.

In a nutshell, here are our concerns:

- "One Neighborhood Block" would like to establish "standing" for any future hearings and go on record with our concerns.
- Please extend the moratorium for an additional 6 months. We would be supportive of an earlier termination of the moratorium if the work of aligning the zoning of Residential Markets with the Comp Plan is achieved prior to that.
- The Comprehensive Plan of Kirkland clearly states that ALL development may only be approved if it is in compliance with that Plan.
- The zoning changes that are required by the Comprehensive Plan for Residential Market/Neighborhood Business are still not in place.

We want what is best for the city of Kirkland both now and for the future. Now is the time to set things right so we can go forward with proper guidelines.

Thank you for your time!



Sharon & Arlyn Nelson  
6736 Lake Washington Blvd NE #8  
Kirkland, WA 98033  
425.260.3500

## Jeremy McMahan

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**From:** LetterToKPC@aol.com  
**Sent:** Wednesday, March 07, 2012 10:57 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; Jeremy McMahan  
**Subject:** From: L Obrzut & D Ling To: J Arnold & KPC  
**Attachments:** Potala--Neighborhood\_Comment\_Letter.pdf  
**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Lee Obrzut and Dan Ling  
Water's Edge  
925 Lake St S, Unit 302S  
Kirkland, 98033

As you know the neighbors along Lake St and 10th Avenue are deeply concerned about the scale and **density** of the Potala project being proposed for the corner of Lake and 10th. Attached please find a detailed letter covering our concerns.

We hope you will carefully review this project and find ways to mitigate the neighborhood's concerns.  
Yours truly,

Lee Obrzut and Dan Ling

FILE



FOSTER PEPPER PLLC

Direct Phone (206) 447-5942  
Direct Facsimile (206) 749-1946  
E-Mail gills@foster.com

June 24, 2011

Teresa Swan, Senior Planner  
123 - 5th Ave.  
Kirkland, WA 98033

Re: SEP11-00004 SEPA Comment Letter

Dear Ms. Swan:

Thank you for providing an opportunity to comment on the City of Kirkland's SEPA Determination of Non-Significance ("DNS") for the Potala project on Lake Street at 10th Avenue South. As you are aware, this law firm represents a coalition of Kirkland citizens who live in the Moss Bay neighborhood immediately surrounding the proposed Potala project. This letter details our clients' serious concerns about the probable significant environmental impacts of this project, all currently left unaddressed by the City's decision to issue a DNS.

A project of this scale in this neighborhood requires, at the least, an environmental impact statement ("EIS"). In the alternative, we request that the City impose mitigating conditions under its substantive SEPA authority as informed by adopted SEPA policies incorporating by reference the Comprehensive Plan and SEPA itself. Unless our clients' concerns are addressed by close of business on June 28, 2011, we will appeal the City's DNS to the Hearing Examiner.

This project proposes almost ten times the density of any neighboring structure or zone. It includes at least ten times the number of units of any single development in the vicinity. The design calls for a 48-foot-tall building in a zone with a 30-foot height limit. The design would place massive façades, beyond the scale of any existing development in the neighborhood, against the City's rights of way in Lake Street and 10th Avenue South. The project would create traffic conflicts on the already-congested Lake Street as vehicles wait to turn left only a few feet south of traffic turning left from westbound 10th Avenue South. The neighborhood is concerned about the impacts associated with siting a development of this scope and scale in the middle of a medium-to-low density neighborhood.

Neither the Kirkland Comprehensive Plan ("Comp Plan"), nor any Comp Plan EIS or supplement thereto, contemplated this sort of development at this location. In recognition of the property's existing uses—a small hamburger stand and a drycleaner—the Comp Plan designates this property as Residential Market, the lowest intensity commercial zone in the City. *See* Comp Plan at LU-2. The Comprehensive Plan defines this designation as:

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

Comp Plan at VI-14 (emphasis added).

Indeed, the Comprehensive Plan addresses this very parcel, stating that “[l]imited commercial use . . . should remain.” *Id.* at XI.D-24 (addressing “[t]he southeast quadrant of the 10th Avenue South and Lake Street intersection”). In contrast to the small-scale development contemplated by the Comp Plan, the proposal would create 6,000 square feet of office, 143 residential units, and underground parking for hundreds of vehicles—hardly a project one could call “very small” or “limited commercial use.” It certainly does not fit among the list of uses the Comp Plan contemplates in a Residential Market designation.

The Neighborhood Business (“BN”) zoning on the parcel is inconsistent with the Comprehensive Plan designation. During the Comp Plan update in 2004, the City Council issued a directive that the discrepancy be addressed by “[a]mend[ing] the Zoning Code as appropriate to establish standards for residential markets.” *Id.* at XIV-5, Table IS-1 (LU-6). Unfortunately, this task was not completed before the applicant sought permits. Unlike all other zones outside of downtown and heavy commercial zones, the BN zone contains no residential density limit. KZC 40.14.090-100. It allows large-scale mixed-use projects without regard to compatibility with neighboring zones and uses. *Id.* It limits structure height to 30 feet, but due to the City’s “average building elevation” height measurement technique, coupled with the fact that the site increases 23 feet in elevation from west-to-east, the BN zone appears to allow a 48-foot-tall façade spanning the entire block, with two floors of underground parking. The SEPA checklist states that the four-story project will have four levels in residential use, which would violate the zoning code’s prohibition against ground-floor residential, KZC 40.10.100. With this exception, which the City must examine, the project may comply with the zoning code. Nevertheless, the City has broader authority to protect its citizens from inappropriate development than just the zoning code.

The City’s substantive SEPA authority empowers it to impose conditions to mitigate a project’s impacts without regard to whether the project complies with applicable zoning. Although zoning codes control over conflicting comprehensive plan provisions, the City has adopted the provisions of its Comp Plan as substantive SEPA policies. In addition, the City has adopted the policies of SEPA itself, which place a strong emphasis on protecting neighborhood aesthetics and welfare. Under these policies, as a matter of SEPA law, the City may condition the project to better comply with the Comp Plan notwithstanding the zoning code.

This project has been inadequately studied. The City failed to recognize the probable significant environmental impacts of this project when it issued the DNS. The City should withdraw its DNS and prepare an EIS. Alternatively, the City should re-issue its DNS with conditions sufficient to mitigate the project’s impacts.

**I. The City Erred in Issuing a DNS—the Project Will Impose Significant Environmental Impacts that Must be Studied in an EIS**

Neither the environmental impacts of this project, nor any project of its type at this location, have ever been studied. The checklist submitted by the applicant does not provide the City with enough information to meaningfully evaluate potential impacts, and no other environmental study to our knowledge has done so either. Specifically, neither the programmatic environmental study for the Comp Plan, nor its amendments, has ever evaluated the impacts of such dense development in this location—outside of downtown and the City’s heavy commercial areas. These types of environmental unknowns are exactly what SEPA was designed to identify before adverse impacts occur. The City must thoroughly study the probable significant environmental impacts of this project as currently designed.

With many urban infill projects, a DNS is appropriate. After all, if a project complies with the zoning code, which in turn is consistent with the comprehensive plan, most of the project-level impacts will already have been analyzed in the programmatic EIS for the comprehensive plan. For example, there is no need to analyze the environmental impacts of constructing an office building on land zoned “office” that also carries a comprehensive plan designation of “office use,” because the impacts would already have been analyzed in the comprehensive plan EIS.

Here, by contrast, although the project arguably complies with the zoning code, the zoning code is plainly inconsistent with the Comp Plan. On its face, the BN zone conflicts with the Residential Market designation. *Compare* Comp Plan at VI-14 (defining “Residential Market” as “an individual store or very small, mixed-use building”) *with* KZC 40.14.090-.100 (development standards for BN zone, containing no residential density limit and an effective 48’ height limit). It appears that the BN zone pre-dates the Comp Plan and has yet to be updated, despite the Comp Plan’s directive to create zoning standards for the “Residential Market” designation. Comp Plan at XIV-5, Table IS-1 (LU-6). Because the Comp Plan envisions such a low-intensity designation to this property, no review of the environmental impacts of this use or of a project like this has ever been conducted.

The apparent presumption that the project will produce no significant environmental impacts because it complies with the zoning code is unfounded. This project is virtually certain to produce a variety of significant environmental impacts, none of which have been studied.

Among the significant environmental impacts that require more in-depth study are:

- **Neighborhood aesthetics:** The height, bulk, and scale of the project are far beyond anything in the immediate vicinity, and the proposal will result in massive walls along 10th Avenue South and Lake Street;
- **Density:** The project is ten times the density of any building in the area and will concentrate a large number of people in an area not suited to handle it;

- **Traffic:** Vehicles turning left from the project will have conflicts with vehicles turning left from 10th Avenue South; the exit point from the project is just steps away from a heavily used crosswalk; Lake Street is already very congested at peak hours (and often gridlocked on sunny afternoons all the way from Carillon Point to downtown); and additional pedestrian/bicycle traffic will create conflicts with existing motorized and non-motorized transportation;
- **Construction:** The proposal calls for 45,000 cubic yards of cut and 50 cubic yards of fill, producing at least 3,000 truck trips (assuming a relatively large, 15 cy truck) over the excavation period of construction;
- **Environmental contamination:** The proposal would displace an existing drycleaner as well as several barrels of waste, and it appears the property was once in use as a gas station, both of which suggest that the site may contain toxic soils, and neither of which were discussed in the SEPA checklist;
- **Plants and animals:** Neighbors report eagles roosting in the trees on the project site;
- **Recreation:** Parks within walking distance, including the privately owned and maintained facility across Lake Street near the Water's Edge condominium, are already heavily used and could be overwhelmed by the addition of hundreds of new residents;

In light of the fact that none of these environmental impacts have been studied, and many are ignored or only cursorily mentioned in the applicant's SEPA checklist, the City should withdraw its DNS and issue a Determination of Significance, and prepare an EIS for the project.

## II. The City Should Exercise its Broad Authority to Condition Projects Under Substantive SEPA

The City has the authority under SEPA to impose conditions to mitigate impacts that a strict application of its zoning code would allow. *See, e.g., Victoria Tower Partnership v. City of Seattle*, 59 Wn. App. 592, 597, 800 P.2d 380 (1990) ("There is no longer any question that SEPA policies can restrict projects otherwise permitted under zoning regulations."). Here, the proposed project offends not only the Comp Plan, but also SEPA's policy statements seeking to protect the character and aesthetic qualities of the built and natural environment.

*Victoria Tower* is instructive. In that case, the applicant sought to construct a 16-story apartment tower that complied with Seattle's zoning code—in particular, its proposed height of the sixteen-story building (179 feet) was well under the allowed height of 239 feet. *Id.* at 594. The planning director found that the proposed building was out-of-character with the neighborhood, despite the fact that the immediate neighboring building was a nine-story condominium. *Id.* at 595. The director denied the permit, and the hearing examiner affirmed. *Id.* at 596. The City Council approved the permit subject to a condition limiting the project to eight stories, which the superior court affirmed. *Id.* at 595-96, 602. The appellate court agreed that the mitigation imposed by the City Council was appropriate and within its very broad substantive SEPA authority. *Id.* at 600.

As the Seattle City Council did in *Victoria Tower*, here the City can and should impose conditions under its substantive SEPA authority to mitigate the significant adverse impacts to the neighborhood. Chief among them are height, bulk, and scale: Compared to the existing neighborhood, this development is simply huge. It is taller, wider, and deeper than any building around it, and it introduces 143 units into a neighborhood where the largest multi-family structures contain only 15 units. This concentration of units creates a host of associated problems, not the least of which involves traffic. As discussed below, the City's SEPA policies address circumstances such as these, and the City must act to protect both its citizens and the built environment from inappropriate development.

#### **A. The City's SEPA Policies Address Impacts to Neighborhood Aesthetics**

The City has incorporated a broad range of SEPA policies by reference. See KMC 24.02.038. Among these are "[t]he policies of the State Environmental Policy Act—Chapter 43.21C RCW" and "[t]he most recent version of the Comprehensive Plan." KMC 24.02.038(a)-(b). Contained within the Comprehensive Plan and SEPA are general statements regarding protection of aesthetics, including the aesthetics of the built environment. SEPA seeks to "[a]ssure for all people of Washington safe, healthful, productive, and aesthetically and culturally pleasing surroundings" RCW 43.21C.020(2)(b) (emphasis added). This policy supported the City of Seattle's decision to limit to eight stories a multi-family structure in a zone that allowed 239-foot towers. *Victoria Tower, supra*.

Here, the aesthetics of the neighborhood would be severely impacted by a structure with the height, bulk, and scale of the proposal. As discussed above, the project proposes a 48-foot-tall façade stretching a full block on Lake Street, far taller and wider than any existing improvements in the area. The project presents a similar wall to 10th Avenue South. The proposal takes full advantage of the building envelope allowed by the zoning code, offering no relief in terms of added setback or modulation. The renderings show that the architect attempted, by means of a multi-colored paint scheme and false balconies, to create the illusion of modulation, but at the end of the day the project will produce an enormous, block-long wall on the edge of 10<sup>th</sup> Avenue South.

#### **B. The City's SEPA Policies Address Impacts to the General Welfare, Including Safety**

The SEPA policies seek to "[f]oster and promote the general welfare." RCW 43.21C.020(1) (incorporated by reference by KMC 24.02.038(a)). This project is counter to the general welfare of the community. It would introduce hundreds of new residents to a small area that is ill-equipped to handle them. The small community park across the street would be overrun with patrons. The privately owned and maintained dock next to this park is already heavily used by the public.

These hundreds of new residents, driving hundreds of cars, would make hundreds, if not thousands, of daily vehicle trips on Lake Street and 10th Avenue South. Although the traffic study concludes that the addition of these trips will not reduce level of service at area intersections, the proximity of the Potala's driveway to 10th Avenue South means that vehicles

turning left (south) onto Lake Street would create conflicts with one another and with pedestrians crossing either street. Moreover, given the challenges of exiting the development to the left, residents are likely to exit to the right and immediately turn up 10th Avenue South, placing additional traffic pressures on a side street that is not designed for heavy use. Additional traffic up 10<sup>th</sup> Avenue South also results in dozens, if not hundreds, of additional vehicles driving through the Lakeview Elementary school zone, adding to the potential safety hazards and policing requirements for that area.

The general welfare is likewise not served by allowing pollution to escape the site and enter the groundwater or Lake Washington. The neighbors are not convinced that the site is clean—drycleaners are notorious for producing polluted soils and groundwater, and the property once had a gas station. A number of rusting barrels of waste currently sit on the property, with more behind the hamburger stand. The neighbors do not know what is in these barrels, nor do they know what is in the dirt. Based on a review of the information submitted by the developer, the City has no idea either. Insofar as there is pollution in the soils, it cannot be addressed by simply scooping it out and hauling it away. Even if the project proceeds as planned, it is likely that excavation will not commence until the end of summer, and continue through the fall rains. Precautions must be taken to prevent any contaminated soils or surface water from reaching Lake Washington.

### C. The City's SEPA Policies Address Density Impacts

As discussed above, the Comprehensive Plan designates this property with the lowest-intensity commercial development in the City: Residential Market. This designation contemplates very small-scale commercial development, like that currently existing on the property and the convenience store further down Lake Street. It does not contemplate a massive mixed-use office and apartment complex like the one proposed. As a matter of SEPA policy, the City could require development on a Residential Market scale.

The Comp Plan also expresses concerns about abrupt density shifts across adjacent districts. It states outright that “significantly greater densities” should not be sited in areas of predominately low-density use (defined as not exceeding seven dwelling units per acre, Comp Plan at VI-3-4). Comp Plan at VI-13. This policy recognizes that there are negative impacts associated with abrupt changes in density. The Comp Plan defines “high-density development” as that exceeding 15 dwelling units per acre. Here, the surrounding neighborhood is zoned RM 3.6 (12.1 units per acre) and RS 8.5 (5.1 units per acre), while the proposed density of Potala is 116 units per acre—nearly ten times the designated density of any nearby property in any direction. This type of abrupt increase in density across property lines is exactly the sort of incongruous shift the Comp Plan seeks to avoid by encouraging residential growth “consistent with the basic pattern of land use in the City.” Policy LU 4.3, Comp Plan at VI-13.

Comp Plan provisions cannot, on their own, trump contrary zoning code provisions. However, because the City incorporates the Comp Plan provisions as substantive SEPA policies, the City may (and should) impose conditions to protect the values expressed in the Comp Plan.

#### D. The City Should Issue a DNS With Conditions

The City should condition the project as follows:

- **Height, Bulk, and Scale:** The City should restrict height to twenty feet above Average Building Elevation, rather than the zoning code limit of thirty feet. This would eliminate the top floor of residential, reducing the yield to a more appropriate 90-100 units and the density to 73-81 dwelling units per acre. The reduction in height would protect the neighborhood aesthetics, while the reduction in yield would have the added benefit of mitigating impacts associated with excessive density, including traffic, park usage impacts, and construction impacts.
- **Height, Bulk, and Scale:** The City should impose 20-foot setbacks in the side and rear yards, rather than the 10-foot setbacks currently provided. This would reduce the length and depth of the façades on Lake Street and 10<sup>th</sup> Avenue South, helping to protect neighborhood aesthetics. This would further reduce yield by an unspecified amount, helping address density impacts as noted above.
- **Environmental Remediation:** The City should require that the site be studied for contamination and, if necessary, cleaned up before excavation begins. A Phase I environmental assessment should be completed.
- **Plants and Animals:** The City should require the applicant to conduct a habitat survey to determine if the site contains any eagle nesting sites. If so, the City should impose conditions protecting the sites or mitigating their loss.
- **Construction Impacts:** The City should restrict construction truck traffic to non-peak, weekday hours.

### III. CONCLUSION

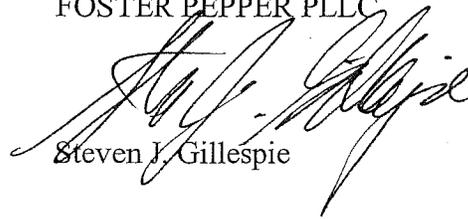
Our clients respectfully request that the City withdraw the DNS and prepare an EIS for the project, or, in the alternative, that the City issue a DNS with conditions. When viewed against the existing context of the neighborhood, the proposal as currently designed would produce significant adverse environmental impacts. At a minimum, the City erred by issuing a DNS without imposing appropriate conditions pursuant to its substantive SEPA authority.

Our clients would like to work with the applicant and the City to arrive at a solution that allows the applicant to recover an acceptable return on his investment, while protecting the built and natural environment. We are happy to discuss any of the matters raised in this letter, and invite the City and the applicant to contact us. However, if we do not reach a negotiated settlement, we will have no choice but to file an appeal with the Hearing Examiner. We think the Examiner will agree that, in light of the record, the City committed clear error in issuing a DNS for a project of this scope in this neighborhood.

Teresa Swan, Senior Planner  
June 24, 2011  
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Sincerely,

FOSTER PEPPER PLLC

A handwritten signature in black ink, appearing to read "S. J. Gillespie", written over the printed name.

Steven J. Gillespie