

From: [Casey Sibert](#)
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: Public Hearing Comments BN Zoning
Date: Monday, April 30, 2012 9:20:14 AM

To all of the capable and dedicated members of our Kirkland city government:

Please consider these comments and enter them into the public record for the hearing on extending BN Moratorium

During the past 6 months, Council, Planning, City Staff and the public have been engaged in much discussion about the lack of zoning to fully implement the Comprehensive Plan for the Residential Market Commercial designation. These Residential Market properties were identified and given a definition long before any project was proposed and was approved by Ordinance in 1995 and several times since.

My husband and I greatly appreciate the examination of the issues by the planning commission and also the Council's expressed interest in making sure that Kirkland develops the way we intend it to. To this end, since City Council has not had the chance to actually vote in any zoning text changes that would finally implement the Plan, it would seem that the only appropriate course of action would be to extend the moratorium (likely for 6 months with an earlier removal of moratorium if the zoning use charts are appropriately updated prior).

Rather than repeating arguments that you've already heard, I will simply list the areas of the Comprehensive Plan that are not yet implemented:

- still missing zoning that will create a lowest in hierarchy commercial "Residential Market"
- still missing zoning that will result in "A VERY SMALL BUILDING/Center,"
- still missing zoning that focuses businesses on local pedestrian traffic as the ZONING still allows for vehicle intensive businesses including large schools, large businesses, etc without limits
- still missing zoning that provides for building that is residential in scale
- still missing zoning that provides for building that is residential in design
- still missing zoning that will ensure that buildings are integrated into the neighborhood
- still missing zoning that restricts uses to those that are identified as acceptable uses in the Residential Market definition (current zoning charts allow many uses that are not neighborhood serving retail or

service businesses. Many of the businesses allowed in zoning chart (like large schools) would bring hundreds of cars to the site and likely would be most concentrated during rush hour.

- still missing zoning that will implement the Comp Plan language that will restrict traffic ingress and egress to the Residential Market sites
- still missing zoning that limits the Residential Market density to either zero (as indicated in the Land Use and Economic Development chapters) or 12 per acre as documented in the neighborhood plan
- still missing zoning that discourages apartments in the neighborhood block that contains the two residential markets
- still missing zoning that ensures transition area between more intense uses and the surrounding family homes and low density condos
- still missing zoning that provides for compatible uses

Please do not remove the moratorium until these issues are addressed and are built into the new zoning text.

Thank you for your service and for listening to the voice of the citizens that you serve.

Sincerely,
Casey and Sam Sibert

From: [Lori Isch](#)
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: Public Hearing Comments BN Zoning
Date: Sunday, April 29, 2012 7:14:48 PM

Please consider these comments and enter them into the public record for the hearing on extending BN Moratorium.

Personally, I am very concerned about the already maxed-out traffic flow along Lake Washington Boulevard. I have seen no plans as to how to mitigate and increase the traffic volume expected with a high density development. I don't understand how any area can have no density limits, this seems to be a big gap with the previous planning. Also, it does not seem that this gap was brought to the forefront during the recent and extensive planning meetings/process for the updated Lakeview Neighborhood Plan. So, the moratorium should be extended to address these gaps in the zoning and the planning process.

REQUEST:

During the past 6 months, Council, Planning, City Staff and the public have been engaged in much discussion about the lack of zoning to fully implement the Comprehensive Plan for the Residential Market Commercial designation. These Residential Market properties were identified and given a definition long before any project was proposed and was approved by Ordinance in 1995 and several times since.

I want to express great appreciation for the examination of the issues by the planning commission and also the Council's expressed interest in making sure that Kirkland develops the way we intend it to. To this end, since City Council has not had the chance to actually vote in any zoning text changes that would finally implement the Plan, it would seem that the only appropriate course of action would be to extend the moratorium (likely for 6 months with an earlier removal of moratorium if the zoning use charts are appropriately updated prior).

Rather than repeating arguments that you've already heard, I will simply list the areas of the Comprehensive Plan that are not yet implemented:

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- still missing zoning that ensures transition area between more intense uses and the surrounding family homes and low density condos
- still missing zoning that provides for compatible uses

I am asking you not remove the moratorium until these issues are addressed and are built into the new zoning text.

Lori Isch, Lakeview Neighborhood Association

10116 NE 64th Street

lori.isch@usa.net

Jeremy McMahan

From: Eric Shields
Sent: Tuesday, March 06, 2012 3:08 PM
To: Jeremy McMahan
Subject: FW: From: Bruce Pym To: J Arnold & KPC

Follow Up Flag: Follow up
Flag Status: Flagged

Eric Shields

From: LetterToKPC@aol.com [<mailto:LetterToKPC@aol.com>]
Sent: Tuesday, March 06, 2012 3:03 PM
To: Andrew Held; Byron Katsuyama; C Ray Allshouse; Eric Shields; George Pressley; Glenn Peterson; Jay Arnold; Jon Pascal; Karen Tennyson; Mike Miller; Tennysonkk@aol.com
Subject: From: Bruce Pym To: J Arnold & KPC

The Potala location is simply not appropriate for *large* commercial or multi-family residential facilities. Please fix the zoning!
Bruce Pym

From: [Robert Gemmell](#)
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: re
Date: Monday, April 30, 2012 11:20:36 AM

Kirkland City Council:

We strongly urge you to either extend the moratorium on the BN Residential Market proposed for Lake Wash. Bl. until it is modified to meet all existing zoning requirements. We intend to establish our standing for future hearings.

The Comprehensive Plan for Kirkland clearly states all city approvals and actions for any project can only be given if they are fully supported by the Comprehensive Plan. The zoning changes required by the Comprehensive Plan to permit implementation of the Residential Market Commercial definition has not yet been achieved.

As proposed, this project will further congest an already busy residential thoroughfare. Specifically, shortcomings of this approval are:

- still missing zoning that will create a lowest in hierarchy commercial "Res Mkt"
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- still missing zoning that provides for compatible uses/

Thank you for your consideration.

Robert J. Gemmell & Phyllis P. Gemmell
6424 Lake Wash. Bl N.E., #11
Kirkland, WA 98033

From: [Robert Gemmell](#)
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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Thank you for your consideration.

Robert J. Gemmell & Phyllis P. Gemmell
6424 Lake Wash. Bl N.E., #11
Kirkland, WA 98033

From: [Janet Jonson](#) on behalf of [Joan McBride](#)
To: "[Jack Arndt](#)"
Cc: [Kurt Triplett](#); [Eric Shields](#); [Jeremy McMahan](#); [Teresa Swan](#)
Subject: RE: BN - Residential Market
Date: Wednesday, May 02, 2012 2:16:05 PM

Mr. Arndt, thank you for your correspondence to the Kirkland City Council, which will be forwarded to staff who can let you know about the next steps in the process. Thank you again. JJ

Janet Jonson
City Manager's Office
City of Kirkland
123 5th Avenue
Kirkland, WA 98033
425-587-3007
425-587-3019 fax
jjonson@kirklandwa.gov

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

From: Jack Arndt [<mailto:jcacra@frontier.com>]
Sent: Wednesday, May 02, 2012 12:54 PM
To: Joan McBride; Amy Walen; Dave Asher; Doreen Marchione; Penny Sweet; Toby Nixon; besternoff@kirklandwa.gov
Cc: Jay Arnold; Mike Miller; celiapym@aol.com; Robert Gemmell
Subject: BN - Residential Market

Mayor McBride and City Council Members,

First, I would like to thank you for extending BN Monartorium until the resolution of all issues can be addressed.

I would like to call out four issues that were discussed last night, since we were not given the opportunity to ask questions. I wanted to follow-up with you.

1- That you support new development - new development should be supported in a way that in fit's into the long term mission/objectives of Kirkland and it must include how we deal with traffic, pedestrian flow, how it fits into current residential flow and the amount of density that is allowed per acre in both a residential and business environment. It should not be based on new tax revenue that a new developer can bring, most developers are not concern with the impact of their actions within our community for the long term.

2- The BN in current discussion must be corrected with the proper zoning as these two areas were incorrectly zoned. The need to correct this is to make the hard decision and address now to protect our future growth in these areas.

3- Added traffic getting into downtown Kirkland will have a negative impact on our current businesses in Kirkland, those potential customers will look at different options outside of downtown to avoid traffic congestion.

4- Since specific pictures were shown by one of the developer attorney's, he failed to mention in his statement. Those pictures showed buildings that were far less in density than what one developer is proposing per acre, none supports a 300 parking garage with the traffic flowing onto Lake Washington Blvd or 10th street. Many of those units on the hill, have driveways not located on the Blvd.

I trust these issues along with the many other outstanding issues on the BN Residential Market will be dealt with common sense and the end conclusion will be in line with long term mission/objectives of

Kirkland and its citizens.

Sincerely,

Jack Arndt
View Pointe - HOA President.

From: [Eric Shields](#)
To: "[Chuck Pilcher](#)"
Cc: [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: RE: BN Zoning History & Rationale
Date: Wednesday, May 09, 2012 5:14:34 PM

Chuck,

I set aside your original inquiry and didn't get back to it right away. But now here's my response.

I do think the lack of a density limitation in the BN zones was intentional, but I don't think anyone was imagining the density of development that is now being proposed in the BN zone. All of the business district zones were left without a density limit at the time the (then) new zoning code was adopted in 1982. At that time, I don't think we had any development with a significant amount of structured parking. Everything was surface parking and that created a practical density limit. I don't recall the rationale that was discussed in 1982, but in the current era of growth management, there is more and more support for high density mixed use clusters in and around business districts. So in that regard, the lack of density limit makes sense. Of course, there is a counter argument to made that such high density is not so appropriate in smaller business districts, like BN zones or residential markets – but that's part of the discussion we're now having with the Planning Commission.

The minimum lot size regulation refers to the smallest size of lot on which development is allowed. It doesn't speak to density. In zones where there is a density limit, a special regulation in the far right hand column of the zoning chart spells it out as a minimum lot area per dwelling unit. In the RM 3.6 zone, for example, the minimum lot area per dwelling unit is 3600 sq. ft. With an acre of land being 43,560 sq. ft. that works out to be a little over 12 units per acre.

Eric Shields

From: Chuck Pilcher [mailto:chuck@bourlandweb.com]
Sent: Wednesday, May 09, 2012 8:10 AM
To: Eric Shields
Cc: 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: BN Zoning History & Rationale

Folks:

I still haven't heard back from a single person (except Janet Jonson acknowledging receipt) on this email from last week. But that doesn't surprise me one bit, because we all know that **there is no logical answer** to this. We've all been sitting on first base for a year. The City screwed up. Let's admit it and move on.

Chuck Pilcher
chuck@bourlandweb.com

206-915-8593

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: [Chuck Pilcher](#)
To: [Robin Herberger](#)
Cc: [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](#); [Robin Jenkinson](#)
Subject: Re: DON'T BE DENSE
Date: Monday, May 14, 2012 8:36:44 PM

Too good, Robin!!!. Send this to the Kirkland Reporter. Matt Phelps
<mphelps@kirklandreporter.com>

Chuck Pilcher
chuck@bourlandweb.com
206-915-8593

On May 14, 2012, at 4:45 PM, Robin Herberger wrote:

Dear City Officials:

So, let me get this straight. The City's response to over a year of listening to and reading about community outrage and activism, and meeting with the many constituents who are in opposition to the one-off, super high density, out-of-character-and-scale behemoth, traffic-jam inducing apartment/office complex in the middle of a residential area and along Kirkland's lakefront gateway to the City is . . . to put a HIGHER INTENSITY designation on the table for the BN zone on the Boulevard? Seriously? THAT'S the response. THAT'S something you will be considering Tuesday night? THAT'S an issue on which you want your political reputations judged, and think you will get re-elected?

Is this some ham-handed psychological ploy? Dangling a threat of the possibility of a grocery store or drug store or some other "Neighborhood Center" commercial enterprise in our faces, so that Lobsang Dargey's apartment/office complex will look better in comparison, and then we will thank our lucky stars that we'd have Potala Village for a neighbor instead of Rite-Aid or Applebee's or Potala Hooters?

Here is the nub of my gist, the take-away for the Council as it deliberates:

- 1) WE NEED A DENSITY CAP: A BN zone density cap in a residential area is essential. In your hearts and in your minds, you know this to be true, as most of you have said as much in your public comments: a) "In this case we have such a unique and extraordinary situation with this case which doesn't make any sense to me in the first place how this place

was zoned. I truly believe that there was never an intention to allow for unlimited density in zoning this property. I don't believe the City intended to do it that way. I believe that this is what we discovered in this process." – Council member Penny Sweet b) "There are times when things don't look quite right, and this is one of those that needs to be look at." – Council member Bob Sternoff

- 2) TRAFFIC: Regarding traffic impacts, let's throw caution to the wind and use some common sense, shall we? I know that you know how horrendous traffic along the Boulevard can be. I know, that you know, that we know, that you know how horrendous traffic along the Boulevard can be. Also that traffic studies can be manipulated to support a bogus argument. Common sense, AND LIVING IN KIRKLAND FOR PETE'S SAKE, tell you that imposing the "Village on the Corner" with 143 households, an office complex, and 316 parking stalls with ONE DRIVEWAY onto Lake St. S/LWB will cause tremendous traffic and safety problems for the community and for visitors. Not only will the community suffer, but many potential visitors will come to think that it's just not worth the hassle to get to downtown Kirkland if it takes them a half hour to get from Carillon Point to all the shops and restaurants.
- 3) Enact the LOWEST INTENSITY COMMERCIAL USE for Residential Market, which is what the BN site on the Boulevard is zoned for. Why would you re-do the Comprehensive Plan instead of enacting changes that have already been looked at and seriously considered? Why would you even contemplate such a blatant surrender of your duty to protect Kirkland's quality of life to accommodate one developer, and not simply oversee the smaller change of enacting the proper use of a Residential Market? There is an obvious imbalance between the two "choices."
- 4) Is it worth turning yourselves into pretzels or Cirque du Soleil contortionists to serve the purpose and interest of one developer at the expense of the common good of the community and its visitors?

If you are seriously considering UPZONING this BN site to a "Neighborhood Center," you will be poking a sharp stick in the eye of the community, and there will be consequences – political consequences for every Council member who votes for such an outrageous, perverted use of those properties. If you approve unlimited density and Potala Village on the BN zone goes up, Lobsang Dargey would then own the building (for a year or two), but in the mind of the community YOU would own the decision to put it there. And when people sit, and sit, and sit in their cars doing the Boulevard Crawl past Kirkland Aqua or Potala Village or Potala Hooters, who do you think they will blame – some developer most have never heard of, or those who made the decision for the

City?

However, despite what appear to be “all odds,” I remain hopeful that Council members will weigh the options carefully and respectfully, and make the right decision for the City and for the people you represent. Please do the right thing, and vote to cap residential density for BN zones in residential neighborhoods – and cap it at 12-25 units per acre, which is historical and compatible with its surroundings. Thank you.

Robin Herberger
6401 Lake Washington Blvd., NE
Kirkland, WA

From: [Laura Loomis](#)
To: [Jeremy McMahan](#)
Subject: RE: From L Loomis - attachment showing RM 3.6 zoning
Date: Tuesday, April 24, 2012 4:46:31 PM

Hi Jeremy,

Thanks for responding. Mistakes happen - but I WISH it wasn't a mistake. The REALLY big mistake would be to allow this development to be built as currently proposed. It's not an appropriate location for a building this size and density and would cause the city nothing but big headaches and expenses.

Best regards,

LAURA L. LOOMIS
CHARLES LOOMIS, INC.
11828 N.E. 112th
Kirkland, WA 98033
P: 800.755.0471/425.823.4560
Email: lauraloomis@charlesloomis.com
www.charlesloomis.com

From: Jeremy McMahan [mailto:JMcmahan@kirklandwa.gov]
Sent: Tuesday, April 24, 2012 4:29 PM
To: Laura Loomis
Cc: Eric Shields
Subject: RE: From L Loomis - attachment showing RM 3.6 zoning

Hi Laura – thanks for your emails on the BN zoning. I did want to follow up on the information from nwmaps.net that you sent because I tried the same research task on nwmaps.net and returned the same erroneous results on zoning. I contacting our mapping staff, I learned that this data is generated from a City of Bellevue server and is provided through a 3rd party vendor on contract with many eastside cities (Bellevue, Bothell, Issaquah, Renton...). Apparently there is a system bug that the cities have identified that prints incorrect zoning – even when the map is correct. The following examples from your research highlight this:

- Note that if you scroll down the results page the zoning map show the zoning correctly
- Note that when you researched to 1002 Lake Street S. property, nwmaps.net shows four zoning designations (Park/Public use, Waterfront District 2, Neighborhood Business, and Residential Medium Density 3.6) – clearly that is not the case

Obviously, the [official zoning map](#) is the one adopted by ordinance by the City Council. I contacted our IT staff and forwarded your email to them so they can prioritize a bug fix to avoid this kind of confusion. I'm really sorry that we have confusing information out there.

Please feel free to call if you have any questions.

Jeremy McMahan
Planning Supervisor
City of Kirkland

From: One Neighborhood [mailto: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

On Tue, Apr 17, 2012 at 2:06 PM, One Neighborhood

<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,
Laura Loomis

On Tue, Apr 17, 2012 at 11:15 AM, One Neighborhood

<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"

--

This email was Anti Virus checked by Astaro Security Gateway.
<http://www.astaro.com>

From: uwkkg@aol.com
To: uwkkg@aol.com; [Joan McBride](#); [Doreen Marchione](#); [Penny Sweet](#); [Amy Walen](#); [Dave Asher](#); [Bob Sternoff](#); [Toby Nixon](#); [Kurt Triplett](#); [Eric Shields](#); [Jeremy McMahan](#); [Robin Jenkinson](#)
Subject: Re: Fwd: TONIGHT - BN Development and views - Need speaker
Date: Tuesday, May 01, 2012 5:44:19 PM

Also, other clients of Brian Lawler join me in the comments I've made to City Council and Planning Commission over the past year.

Karen Levenson

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

From: uwkkg <uwkkg@aol.com>
To: [jmcbride](mailto:jmcbride@kirklandwa.gov) <jmcbride@kirklandwa.gov>; [dmarchione](mailto:dmarchione@kirklandwa.gov) <dmarchione@kirklandwa.gov>; [psweet](mailto:psweet@kirklandwa.gov) <psweet@kirklandwa.gov>; [awalen](mailto:awalen@kirklandwa.gov) <awalen@kirklandwa.gov>; [dasher](mailto:dasher@kirklandwa.gov) <dasher@kirklandwa.gov>; [bsternoff](mailto:bsternoff@kirklandwa.gov) <bsternoff@kirklandwa.gov>; [tnixon](mailto:tnixon@kirklandwa.gov) <tnixon@kirklandwa.gov>; [ktriplett](mailto:ktriplett@kirklandwa.gov) <ktriplett@kirklandwa.gov>; [eshields](mailto:eshields@kirklandwa.gov) <eshields@kirklandwa.gov>; [jmcmahan](mailto:jmcmahan@kirklandwa.gov) <jmcmahan@kirklandwa.gov>; [rjenkinson](mailto:rjenkinson@kirklandwa.gov) <rjenkinson@kirklandwa.gov>
Sent: Tue, May 1, 2012 5:43 pm
Subject: Fwd: TONIGHT - BN Development and views - Need speaker

Good evening council members:

I am sorry to be writing at this late hour, however a family medical emergency has necessitated my attention over the last couple of days.

I did want to enter into the record for tonight a list of those whom my comments over the past year are representing and also a quick comment about a subject that we've mostly avoided, views.

First, as I've said during this process, I've been asked to speak to you on behalf of several HOAs and neighbors and in the past I've provided some of the HOA names where they've met as a board or as membership and approved this representation. While these are listed in other records, a quick overview is Shumway, Water's Edge, Marsh Properties, The Park, Highland House, etc. A more complete list was provided at an earlier meeting and I'm currently a bit pressed for time. Additionally I've been asked to state that my comments are supported by "STOP" (the group where the initials stand for Support The Ordinances & Plan), similarly the newly forming group of neighbors that is calling themselves "One Neighborhood Block" (those residing in the one block bounded on the north and south by 10th S & NE 64th, and east and west by Lakeview Dr and Lake Washington Blvd/Lake St S). I also join with other neighbors in all the comments they will make tonight regarding request for extension of the moratorium in order to finally fully implement the Comprehensive Plan's Residential Market - Commercial as required by the plan and the implementation needs outlined in the implementation chapter of CP. Also the specifics of their comments are shared by me and those I represent. I will not further elaborate here as they are generally already on record from past meetings and emails.

On the subject of views, I just want to take a quick moment so that our perspective is on the record in case we all need to refer to it later. We've talked very little about preservation of views since compared to the mis-match between the intended Residential Market-Commercial and the potential for an overuse/abuse of unmodified zoning text... well

the view issue is so far down the list it has hardly gotten any mention.

Views are a tremendous tremendous value to our entire city. Our views give Kirkland the positive identity that make our housing, our restaurants, our merchants successful. Our views add to our property values and thus benefit our tax base.

Regardless of whether you are on the side of protecting "private" views, or not, a massive structure that maximizes every inch of it's building footprint and encompasses 3 full lots without relief between properties will by its enormous nature block public views. Public views from the side streets will lose much of their lake and city orientation. Pedestrians along Lake St S will lose their uphill territorial views.

For the record, all the previously mentioned individuals and organizations wish to put this concern into the record.

We also believe that there are some areas in the comprehensive plan where public views seem to be protected and we wonder if they are protected for some they should likely be given equal protection through the city. This may take further investigation but for now bears mentioning. Additionally, we feel that SEPA has view protection that extends into the realm of development of the BN-Residential Markets and should be thoroughly investigated.

Mostly let's right size the project and many of these other issues probably take care of themselves.

Thank you,

Karen Levenson

From: jrogers407@comcast.net
To: walen@kirklandwa.gov; [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](#); [Powell, Peter](#); [Kelly, Maureen](#)
Cc: [Kelly, Maureen](#)
Subject: Re: PLEASE EXTEND BN MORATORIUM
Date: Sunday, April 29, 2012 8:53:43 PM

Dear councilmembers: I know that you are acutely aware of the continuing controversy surrounding the zoning issues in our city. Many of us believe that this issue has transcended logic and reasonableness and morphed into an internecine conflict of large proportions. The proposed project on 10th avenue So. is such an example. I don't personally feel that this is a NIMBY issue but one that respects what should be right for the city in the long term. We are here dealing with traffic, parking overload, parks congestion, pedestrian issues and others you are aware of. I am not, and I believe many others are not opposed to BN specification where it fits with its environment. Regardless of the city's justification for this zoning, it flies in the face of the existing community structure and sensibility. Unlimited density on this limited piece of property will be a misfit in the long term. Let's work together to find an appropriate piece of real estate for Mr. Dargey's contribution to Kirkland. Please see fit to extend the moratorium until we can resolve our differences.

Gratefully J F

Rogers 1025 Lake st so.

From: mkelly@windermere.com
To: awalen@kirklandwa.gov, bkatsuyama@kirklandwa.gov, dmarchione@kirklandwa.gov, dasher@kirklandwa.gov, EShields@kirklandwa.gov, gpeterson@kirklandwa.gov, JMcMahan@kirklandwa.gov, jarnold@kirklandwa.gov, jpascal@kirklandwa.gov, ktriplett@kirklandwa.gov, mmiller@kirklandwa.gov, PSweet@kirklandwa.gov, tnixon@kirklandwa.gov, tswan@kirklandwa.gov, jmcbride@kirklandwa.gov, bsternoff@kirklandwa.gov, callshouse@kirklandwa.gov, aheld@kirklandwa.gov
Sent: Sunday, April 29, 2012 2:41:54 PM
Subject: PLEASE EXTEND BN MORATORIUM

Ladies and Gentlemen:

Your work is not done! Therefore the BN development moratorium should be extended. The City Council and Planning Commission must recognize that *failure to get a grip on this zoning error will result in 140 units or more on a prime residential site along Lake Washington Boulevard and 10th*. Allowing unlimited density along our signature boulevard and into the adjacent single family area will absolutely and irrevocably change the residential ambiance and congestion of the neighborhood. Only YOU have the power to protect what we, residents of the neighborhood, hold dear.

To be clear, I am not anti-unlimited density. Unlimited density in the CBD or Totem Lake business districts are an entirely different matter. But please, for the love of our City, protect our residential neighborhoods! Don't allow size setback and height restrictions self regulate unlimited density. Failure to correct this BN mistake will result in public criticism of City zoning decisions for years to come.

Respectfully,

Maureen Kelly

6201 Lake Washington Blvd NE #102
Kirkland, WA 98033
206-465-5550

From: [gail cottle](#)
To: [Amy Walen](#); [Byron Katsuyama](#); dmarcione@kirklandwa.gov; [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: Requesting an extension on Moratorium
Date: Monday, April 30, 2012 9:30:31 AM

Dear City Council,

Please vote to extend the moratorium on the project proposed at the site of Michael's cleaners on Lake WA Blvd. Additionally as a residents of Kirkland residing at 225 Second Street South/ Marina Pointe I believe An Unlimited density is inappropriate for this site and neighborhood. It would further burden our roads and traffic congestion, air quality and noise pollution. Our roads cannot support this increase and little by little the charm and character Peter Kirk envisioned for this community and left for all of us to enjoy is being carved up and developed without regard for esthetics or community. We need a city council with the leadership to stop these kinds of projects. An extended moratorium is needed to further evaluate the impact of this decision and others that will cross your desks. The waterfront and boulevard will be changed for the worse forever with a project like this if approved and will set the stage for more of the same and this simply is not good for our community.

How many of you drive the boulevard to get to your homes in Downtown Kirkland or West of Market? For those that don't I suggest a commute at rush hour especially on a sunny day to experience the mess we have now getting into town.

Respectfully Submitted
Gail Cottle
Reynold Brown

From: [gail cottle](#)
To: [Amy Walen](#); [Byron Katsuyama](#); dmarcione@kirklandwa.gov; [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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Respectfully Submitted
Gail Cottle
Reynold Brown

Jeremy McMahan

From: Eric Shields
Sent: Tuesday, March 06, 2012 10:48 AM
To: Jeremy McMahan; Teresa Swan
Subject: FW: From: P Rogers To: J Arnold & KPC

Follow Up Flag: Follow up
Flag Status: Flagged

Eric Shields

From: LetterToKPC@aol.com [<mailto:LetterToKPC@aol.com>]
Sent: Tuesday, March 06, 2012 10:43 AM
To: Andrew Held; Byron Katsuyama; C Ray Allshouse; Eric Shields; George Pressley; Glenn Peterson; Jay Arnold; Jon Pascal; Karen Tennyson; Mike Miller; Tennysonkk@aol.com
Subject: Re: From: P Rogers To: J Arnold & KPC

Re: BN - Residential Market

Note: Being that I have been involved with the Department of Housing and Urban Development (HUD) the majority of my life I have on-going concern with large out of scale projects such as this. My concerns today are from both a professional level as well as strongly from a personal level.

Issues: Traffic, Parking, Oversized Scale, 10 times the Density, Environmental Concerns, Lack of Real Neighborhood Services

Jill McDonald
Sunset Condos,
807 Lake Street South
Kirkland, WA 98033

Dear City Officials,

Seeing both beneficial and negative growth in Kirkland over the last 10 years, I urge you to please take time and complete an in-depth review of all impacts surrounding the Portala Development on Lake Street South. Our beautiful and growing community deserves more than a superficial review on such a concerning project.

I have attended various meetings with the developer of Potala, both for the Kirkland project and others. Being that I have been involved with the Department of Housing and Urban Development (HUD) the majority of my life I have on-going concern with large out of scale projects such as this. My concerns today are both from a professional level as well as strongly from a personal level.

Here are my main concerns of the Portala Development on Lake Street South:

Negative Traffic Impact –

There needs to be strong attention paid to the traffic impact on the neighborhood as well as the impact on downtown. Lake Washington Blvd. (Also known as Lake Street South) is a direct route to downtown business and in such we want this to be as easily accessible to out of town visitors as possible—Obviously we do not want to create even worse traffic congestion for these guests. As it stands today the traffic is VERY difficult on Lake Washington Blvd—especially during the summer months— Should people not want to “deal with the traffic” getting into Kirkland

it could potential harm revenues for the downtown business' as well, have homeowners consider moving out of the area. Public services like fire and Police are always concern – Sadly, we just had a drowning in the area.

*A complete third party traffic study needs to be done. (To include Tenth Avenue South)

Restrictive Parking for Homeowners and Guest –

During the summer months the local streets near Lake Street South are currently full of cars, the proposed Portala project will undoubtedly cause not only the streets to become impassable but the parking to be even more outrageously difficult to find.

Over-sized Scale– This project seems to be outrageously out of scale both by dimension and bulk for the neighborhood. Any project should be compatible with the neighborhood not to mention be compatible with the Comprehensive Plan and Developmental Regulations.

*The Comprensive Plan did not contemplate this type of development at this location – Is evaluated as Residential Market.

Portala Proposes 10 Times the Density of Any Neighboring Structure-

Lack of Required Setbacks –

Some of documents show only 15 foot setback on north rather than the required 20 foot.

Poor Design –

Kirkland's long standing desire is to have green space involved in every project to enhance the design and beatification of our City.

Insufficient Shoreline Impacts-

Environmental data presented to the city (by the developer) seemed to me to be somewhat misleading and fore-sure insufficient for Kirkland to evaluate the proposal under SEPA. SMP Policies need thorough scrutiny.

*The City has adopted the policies of SEPA, which places a strong emphasis on protecting our neighborhoods both (aesthetics and welfare).

Lack of Neighborhood Services –

Neighborhood Services absolutely should be required to assist in integrating this project to the neighborhood. There is a strong need for real neighborhood service space and just not office space.

This project has been inadequately studied.

We would all like to see continued positive growth in our loved Kirkland neighborhoods. The Portala proposed developer plans could combine a positive return on investment while protecting our neighborhood, residents, guests and real estate values – IF we all work together!

I thank the City for redirecting this project and allowing time to address real neighborhood issues.

Please include my letter in all review materials during this process.

Sincerely,

Jill McDonald

Jeremy McMahan

From: Kathy or Larry Saltz [lesaltz@earthlink.net]
Sent: Thursday, March 15, 2012 4:07 PM
To: Jay Arnold; Mike Miller; C Ray Allshouse; Byron Katsuyama; George Pressley; Glenn Peterson; Karen Tennyson; tennysonkk@aol.com; Andrew Held; Jon Pascal; Eric Shields; Jeremy McMahan; ktriplett@kirlandwa.gov
Subject: Potala
Follow Up Flag: Follow up
Flag Status: Flagged

To the Kirkland Planning Commission Chair;

Please put the Potala development issue on your meeting agenda.

I appreciate your progress in reducing the Potala Complex from one large building to 4 smaller ones. I am still concerned about the size of the project and the effect on the neighboring residences. I do not believe this site should have been downzoned to give one developer the right to unlimited density. To protect my home's livability please limit this development to 12 units per acre as is the standard now.

Thank You,

Kathleen Dier
6214 101st Court NE
Kirkland, WA

Jeremy McMahan

From: Jeremy McMahan
Sent: Thursday, March 08, 2012 3:10 PM
To: Planning Commissioners
Subject: FW: Finn Hill Zoning

Follow Up Flag: Follow up
Flag Status: Flagged

From: Kathy Schuler [<mailto:kathys@indepth-tech.com>]
Sent: Thursday, March 08, 2012 2:53 PM
To: PlanningInfo
Subject: Finn Hill Zoning

Dear Planning Commission:

Regarding Finn Hill Zoning:

We request that the Planning Commission re-establish the County's residential density limits, or a similar mechanism to reduce the allowed density of residential development, until such time that a neighborhood plan or other significant community planning effort is undertaken to solicit proper community feedback on the long-term vision for our neighborhood commercial centers.

Kathy and Kevin Schuler
12401 89th PL NE
Kirkland, WA 98034
425.823.7850

Jeremy McMahan

From: Marv Scott [marv@scocon.net]
Sent: Thursday, March 29, 2012 8:14 AM
To: Jeremy McMahan
Subject: Potala

I am writing to express my opposition to the density of this project. This is clearly out of scale with the neighborhood as is the size and shape of the building. The requested density would also create many traffic problems, including, but not limited to, ingress and egress to and from the site. Not enough parking is planned for the density which will create an overflow on 10th street, which is already very narrow.

Please scale this project back to the intended size and scale of the comprehensive plan.

Thank you

Marv Scott
Scott Construction LLC
Office 425-827-7300
Cell 425-444-6278
Fax 1-866-447-1427
www.scocon.net

Jeremy McMahan

From: Eric Shields
Sent: Monday, February 27, 2012 8:22 AM
To: Jeremy McMahan
Subject: FW: From: C&S Sibert To: J Arnold & KPC

Eric Shields

From: LetterToKPC@aol.com [<mailto:LetterToKPC@aol.com>]
Sent: Sunday, February 26, 2012 7:33 AM
To: Andrew Held; Byron Katsuyama; C Ray Allshouse; Eric Shields; George Pressley; Glenn Peterson; Jay Arnold; Jon Pascal; Karen Tennyson; Mike Miller; Tennysonkk@aol.com
Subject: Re: From: C&S Sibert To: J Arnold & KPC

Sending text... For some the transmission of the scanned letter may have failed:

=====
Casey and Sam Sibert
6610 Lake Washington Blvd NE
Kirkland 98033

City of Kirkland
Planning Department
c/o Teresa Swan

Dear Ms Swan,

Please accept this letter as a notice of concern regarding the development of parcels #082505-9233, 935490-0220 and 935490-0240. These are the parcels that are currently being proposed for 143 apartment units known as Potala Village. The surrounding Moss Bay and Lakeview neighborhoods have clearly restricted residential to 12 units per acre and the Moss Bay neighborhood plan describes “**Lands on the east side of Lake Washington Boulevard, south of 7th Avenue South and west of the midblock between First and Second Streets South, are also appropriate for multifamily uses at a density of 12 dwelling units per acre. This designation is consistent with permitted densities to the north and south along Lake Washington Boulevard.**”

We are usually supporters of growth and wish to see the city of Kirkland thriving and looking toward the future. We cannot, however, support growth that negatively impacts the quality of life that brings new business and residents to the community. The proposed development is simply too dense for its location along Lake Washington Blvd, a street that is already at capacity with regard to traffic. The addition of a possible 300 cars entering and leaving this property is not tolerable. The very atmosphere that attracts people to Kirkland is at risk if our park like boulevard must absorb so many new residents in so small a space.

Thank you

Casey & Sam Sibert

From: [John and Beth McCaslin](#)
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: Stop Potala!
Date: Sunday, May 13, 2012 4:47:41 PM

We can't be at the Tuesday City Council meeting, but we'd be there, wearing Stop Red, if we could! It's ridiculous that the zoning for Potala would let 143 new dwelling units be constructed on that tiny piece of property, with the attendant HORRIBLE impact on traffic!! There needs to be a reasonable density cap in that area that will not add significantly to the already bad evening traffic and parking situation.

John and Beth McCaslin

From: [Essie Swanson](#)
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: Stop Potala
Date: Monday, April 30, 2012 11:55:46 AM

I am not in favor of this development plan. It has too many negative impacts to make it a positive contribution for Kirkland.

Essie Swanson
10325 113th Ct NE
Kirkland, WA 98033

From: [Essie Swanson](#)
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: Stop Potala
Date: Monday, April 30, 2012 11:55:46 AM

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Essie Swanson
10325 113th Ct NE
Kirkland, WA 98033

Jeremy McMahan

From: Teresa Swan
Sent: Monday, February 13, 2012 11:41 AM
To: Eric Shields; Jeremy McMahan
Subject: FW: To the Planning Commission

Eric and Jeremy:

See letter from Bob Style. Did you receive this email? The subject is addressed to the Planning Commission.

Teresa

From: RLSTYLE@aol.com [<mailto:RLSTYLE@aol.com>]
Sent: Saturday, February 11, 2012 6:50 AM
To: Teresa Swan
Subject: Fwd: To the Planning Commission

An important PC meeting Thursday night.

I understand why 4 of the red shirts wanted to present a unified approach to the PC. They were excellent speakers. However, the PC needed to hear from everyone who wanted to speak. When I spoke at the end of the meeting, most of the audience including some of the 18 people wearing red shirts had left. Too bad. They and would have learned a lot.

The purpose of the Council directing the PC to take a second look at the BN zone is for damage control.

I am not confident all our excellent research will find its way to the Council. Even it does, I believe the Council would have to admit mistakes were made. They, the Planning Department and Public Works would be exposed to criticism and possibly bear the brunt of poor decisions and procedures. The Council can and will probably reestablish facts; after all, this is a political process. Ultimately, anything said at a public hearing can be used to justify whatever decisions are made.

The Commission and the Council might not consider the reason why all the property was zoned BN when in fact almost all (95%) of the property as multi-residential at 18 units per acre. **To rezone all of the property** when only a small (5%) portion falls within the BN designation is not justifiable. In an attempt to overlay the land use map (Page 9 of the Staff Memorandum dated 11/1/11), a map showing land use was drawn with circles instead of lot lines, the Planning Director administratively rezoned the entire property without a public hearing calling his

decision a "minor" one and within his authority to do so. The land use map was not definitive enough to make that decision.

Never mind that the number of trips from the Potala project were not added to the trips generated by the TOD at the South Kirkland Park & Ride when in fact the TOD traffic analysis was in the "pipeline" before the Potala project; yet, was excluded from the traffic analysis. Traffic data was manipulated.

At the TOD, our roads must accommodate 40 to 60 passengers loading and unloading every 15 minutes during peak hours getting into their cars and hopefully driving through Kirkland to get home. The Growth Management Act states that any land use decision that does not prevent further LOS degradation must either be mitigated or denied.

Never mind the public was censored from speaking on the concurrency requirements of the Growth Management Act thereby prevented the Planning Director from hearing all the facts before making his decision to exempt the project from further environmental review. It was only when his feet were held to the fire that the Planning Director realized he made a mistake and reversed his decision.

The LOS procedure needs to be revised to insure land use decisions are concurrent with the traffic impacts to protect those who already live here. It would be well within the PC authority to recommend to Council that the Growth Management Act should be complied with. Some Commissioner said that Density should be the ultimate deciding issue. He was only partly right. Traffic congestion has been a concern in almost every citizen survey by the city for the past 20 years.

The applicant passed out a revised (I think) photo of the proposed project. It showed 4 levels instead of three. Also, what the project proposes is more than just for the neighborhood. It reaches far beyond the NB designation. The PC should review the NB definition to insure it meets the needs of each neighborhood, not the entire city. Perhaps a project this large should be reviewed by the Design and Review Board.

A public hearing should be held on the 23st to insure the public is heard before the PC does the analysis needed to make an informed decision and before they make their recommendations to Council. Otherwise decisions will be made beforehand and public hearings will not be necessary except for protecting the Council's image

Bob Style

From: [Mosa, Dirk](#)
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: Subject line: Public Hearing Comments BN Zoning
Date: Monday, April 30, 2012 3:47:42 PM

Dear All,

I would like to express my appreciation for the work that the Council, Planning and City Staff have been doing over the past 6 months or so with regards to the lack of zoning of above mentioned project. With this, I would also like to submit the below comments and have them entered into the public record for the hearing on extending the BN Moratorium.

Over the past several months a lot of groups have been engaged in much discussion about the lack of zoning to fully implement the Comprehensive Plan for the Residential Market Commercial designation. These Residential Market properties were identified and given a definition long before any project was proposed and was approved by Ordinance in 1995 and several times since.

We need to continue to collaborate in making sure that Kirkland develops the way we intend it to. To this end, since City Council has not had the chance to actually vote in any zoning text changes that would finally implement the Plan, it would seem that the only appropriate course of action would be to extend the moratorium (likely for 6 months with an earlier removal of moratorium if the zoning use charts are appropriately updated prior).

Rather than repeating arguments that you've already heard, I will simply list the areas of the Comprehensive Plan that are not yet implemented:

- still missing zoning that provides for building that is residential in scale
- still missing zoning that focuses businesses on local pedestrian traffic as the ZONING still allows for vehicle intensive businesses including large schools, large businesses, etc without limits
- still missing zoning that will ensure that buildings are integrated into the neighborhood
- still missing zoning that will create a lowest in hierarchy commercial "Residential Market"
- still missing zoning that discourages apartments in the neighborhood block that contains the two residential markets
- still missing zoning that will result in "A VERY SMALL BUILDING/Center,"
- still missing zoning that provides for building that is residential

in design

- still missing zoning that restricts uses to those that are identified as acceptable uses in the Residential Market definition (current zoning charts allow many uses that are not neighborhood serving retail or service businesses. Many of the businesses allowed in zoning chart (like large schools) would bring hundreds of cars to the site and likely would be most concentrated during rush hour.

- still missing zoning that ensures transition area between more intense uses and the surrounding family homes and low density condos

- still missing zoning that will implement the Comp Plan language that will restrict traffic ingress and egress to the Residential Market sites

- still missing zoning that limits the Residential Market density to either zero (as indicated in the Land Use and Economic Development chapters) or 12 per acre as documented in the neighborhood plan

- still missing zoning that provides for compatible uses

We are hereby asking you not remove the moratorium until these issues have been addressed and are built into the new zoning text.

Thank you,

Dirk & Andrea Mosa
137 10th Ave South
Kirkland, WA 98033

Jeremy McMahan

From: Mark Taylor [mark.s.taylor@hotmail.com]
Sent: Tuesday, April 17, 2012 2:14 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
Cc: uwkkg@aol.com; Chuck Pilcher
Subject: BN zoning on Lake Washington Blvd

Members of the Kirkland City Council,

Please add our names to the list of Kirkland residents concerned about the neighborhood business ("BN") zoning under consideration for the parcel located on Lake Washington Blvd.

We bought our property on Lake Washington Blvd in 2010 largely because we were confident in the ability of the Kirkland City Council to manage the growth of the city in a way that would benefit the community as a whole. We have previously resided in communities that did not manage growth well, and it significantly degraded both the quality of life and the economic value of owning property. As relative newcomers to Kirkland, we are not wholly familiar with the history leading to this point, but several principles seem important.

- 1) The interests of the community at large are far more important than those of any single developer. While we believe the community is enhanced by the ability of developers to do their thing, there must be reasonable guidelines governing development that protect the interests of those already residing in the vicinity of a proposed development. The number of residents wearing red at council meetings and expressing concern about this issue should be a clear indication of public opinion.
- 2) A "neighborhood business" designation should mean exactly that. Simply put, a neighborhood business is a business that serves the needs of people living in the neighborhood. A coffee shop, a dry cleaner, or a small restaurant are all examples of neighborhood businesses. Professional services such as a doctor's office, while potentially serving the community, are not really neighborhood businesses because the majority of their clientele and staff reside elsewhere.
- 3) A BN-zoned parcel should complement its surroundings, especially when those surroundings are zoned residential. The lack of a density cap on the BN zoning designation is especially problematic, since it introduces the possibility of a significant mismatch between a BN-zoned parcel and its surrounding residential zones. At a minimum, a BN-zoned parcel should be required to have a density cap that does not exceed those of its surroundings.
- 4) The last thing that Lake Washington Blvd needs is more traffic. It is inconceivable that anyone could conclude that adding a hundred-plus housing units with three hundred-plus parking spaces would not significantly worsen an already bad traffic situation. This is only common sense.
- 5) The buck stops with you, the city council. You are the people ultimately accountable to the citizens of Kirkland. You should not place difficult decisions on the shoulders of planning commissions or city employees. You were elected to make the hard decisions. Now is your time.

It seems that multiple errors have been made over a number of years with respect to Kirkland zoning. It is never too late to reverse a bad decision. Please do so.

Respectfully,

Mark & Betty Taylor
6202 Lake Washington Blvd NE
Kirkland
206-979-8740 (cell phone)

From: RLSTYLE@aol.com
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: Uwkkq@aol.com; chuck@bourlandweb.com; rlstyle@aol.com
Subject: The moratorium
Date: Monday, April 30, 2012 8:42:05 AM

In reading the Planning Department's Memorandum to the Council dated November 1st 2011, there were liberties taken in describing the BN rezone and land use provisions.

As required by the Growth Management Act, in an effort to reduce the time it would take to make the land use map consistent with the zoning map if public hearings were required, the next to last paragraph on Page 3 tries to justify the need for eliminating the permits needed to rezone properties. Instead, Staff proposed using legislative rezones instead. ***It was a flawed process because on Page 9, it shows LU-2 Commercial Areas were based on the land use plan map with circles drawn around areas that were not specific to each property.*** Property lines, not circles, should have been used as justification for rezones.

Instead of identifying specific properties with their property lines being drawn, staff used LU-2 circular reference as justifications for rezoning regardless of the size or shape of the property. If that had been done, it would have shown that only 5% of the proposed NB property may have been in the redefined BN area. The majority of the property, some 95%, was not in the rezoned area and should not have been changed.

On Page 11, the 2nd paragraph starts off with "In 2011...", take note of the last sentence. Staff made a judgment call on whether the standards in the zoning charts matched the associated density standards. Staff elected to call the difference between use and zoning a "***correction***" not subject to a quasi-legal process that would have required a public hearing. Is the public aware of what constitutes a "correction?" I'm sure the Planning Director does.

The public was not informed of the consequences. The definition of what constitutes a correction was abused.

If staff were going to correct anything, it should have been to zone the

properties to protect existing neighborhoods as called for by RCW 36.70A.070 Paragraph (2) of the Growth Management Act. As written it calls for “A housing element ensuring the vitality and character of **established residential neighborhoods.**” The proposed BN does not do that.

The larger southern piece whose land use was set at 12 units per acre was appropriate and should not have been changed. Staff abused their authority when they used the **"correction"** process that **may or may not** have been authorized by Council. What resulted is one that allows an unlimited number of dwelling units. If density is unrestrained, using the same logic, many properties whose lot size is now too small to develop could take advantage of what was an error in judgment. What would Kirkland be like if allowed to continue?

I can't believe the Council would ignore the opportunity to select the element of the GMA that would help protect existing homeowners.

Councilmember Nixon stated it well. In an article in the 12-1-2011 edition of the Kirkland Patch referring to the City's Mission Statement he said Councilmembers are “committed to the enhancement of Kirkland as a community for living, working and leisure with an excellent quality of life which **preserves** the City's **existing** charm and natural amenities.”

The Council needs more time to review what happened so that BN zoning and future developments support the City's Mission Statement. It's needed to preserve our quality of life.

Robert L. Style
6735 Lake Washington Blvd, NE
Kirkland, WA 98033
425-827-0216

From: [Cynthia Morrow-Hattal](#)
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: Too Much Traffic
Date: Monday, May 14, 2012 2:59:40 PM

Dear Kirkland City Council~

I am so concerned about turning Kirkland into a high-density and heavily trafficked nightmare that I had to write to you. My husband and I moved to Kirkland 11 years ago because of the charm of the lakeside and village life. Since then I have opened the Violin & Viola Studio of Kirkland, Inc., a flourishing Kirkland business. This is done out of my home in the Highlands section, and my students park in my driveway. I am very careful not to impact my neighbors in any way. This new high density development will add to the traffic problems in downtown Kirkland and along the lake significantly, destroying much of the charm which attracts business and tourists to our city. It will impact all of us negatively and change the very nature of our town.

La Jolla, California, used to be a beautiful beach town which saw a lot of tourism. Today it is wall-to-wall high rises with great density, and it's not a destination place any more. Is this what we want?
Please just say NO!

Very truly yours,
Dr. Cynthia Morrow-Hattal
Violin & Viola Studio of Kirkland, Inc.
11435 NE 94th Street, Kirkland 98033
www.violinviolastudioofkirkland.com

From: [Gail Powell](#)
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: VOTE NO to Potala Village!!
Date: Monday, April 30, 2012 10:18:52 AM

Too many apartments at this location!!! Stop this for all the people who live and do business in Kirkland!

Gail Powell
510 Lake St, B102
Kirkland, WA 98033

Sent from my iPhone

From: [Gail Powell](#)
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: VOTE NO to Potala Village!!
Date: Monday, April 30, 2012 10:18:52 AM

Too many apartments at this location!!! Stop this for all the people who live and do business in Kirkland!

Gail Powell
510 Lake St, B102
Kirkland, WA 98033

Sent from my iPhone

Jeremy McMahan

From: uwkkg@aol.com
Sent: Tuesday, April 03, 2012 2:14 PM
To: Robin Jenkinson; Kurt Triplett; Eshields@kirkandwa.gov; Jeremy McMahan; Joan McBride; Doreen Marchione; Penny Sweet; Dave Asher; Bob Sternoff; Toby Nixon; Jay Arnold; Mike Miller; Byron Katsuyama; Andrew Held; Jon Pascal; C Ray Allshouse; Glenn Peterson
Subject: Fwd: Letter of Opposition to PORTOLA Development on Lake Washington Boulevard

HI all:

I am not sure why this letter was sent to Dr Pilcher and myself as it should be addressed to all of you. There has been a dramatic increase in folks contacting us to participate in making donations to the legal fund so our names are out there... This likely just got mis-directed.

While the author mentions Portola instead of Potala, the concerns that she voices are the same regarding land use and zoning as it relates to the mismatch between what we all thought was well agreed to in Comp Plans and we believed the city had done their work to implement.

I'll connect with the author so that she knows who to contact in the future.

~Karen Levenson

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

From: SUSAN WANGER <skwanger@hotmail.com>
To: uwkkg <uwkkg@aol.com>; chuck <chuck@bourlandweb.com>
Sent: Tue, Apr 3, 2012 1:28 pm
Subject: Letter of Opposition to PORTOLA Development on Lake Washington Boulevard

Dear Ms. Levenson & Mr. Pilcher: I am a resident of the City of Kirkland. I am also a business owner with offices at Carillon Point. I live at the Bayshore Condominiums located at 6421 Lake Washington Blvd. NE and I am absolutely opposed to the PORTOLA development being proposed for our community.

My reasons and comments follow:

1. The lakeshore neighborhood along Lake Washington Boulevard is unique. It is one of the last of the original waterfront neighborhoods along the shore of Lake Washington. Our neighborhood has diligently maintained the community plan as originally zoned, with a business and residential density that respects the integrity of the lake, provides adequate and necessary services to the businesses and residents located in our neighborhood, and protects the environment of the shore, its natural resources, and the wildlife habitat we all share.
2. The proposed PORTOLA development will never fit because it cannot maintain the integrity of our neighborhood and our community plan. Totem Lake and Finn Hill are examples and living testimonials of the failure of government, and of what can happen when expansion of a neighborhood occurs without a thorough and informed analysis of the considerations of the impact on the social and environmental issues involved.
3. The density of the proposed development sets forth occupancy requirements that cannot be met to support the debt service of the lenders. It is a lesson that has been and is being played out in Seattle and Bellevue today. This over-expansion of our neighborhood will cause foreclosures, business failures, and residential vacancies that will serve to become an attractive nuisance because it is unoccupied property. This will not add to the tax base. The burden on law enforcement and fire protection services will increase significantly and the security and protection the neighborhood now enjoys will be severely compromised.

4. Lake Washington Boulevard is a two-lane road which cannot support the volume of traffic it now has. The road cannot be widened - it was built that way. And there is no longer a bus route on Lake Washington Boulevard so accessibility to public transportation is restricted to the Kirkland Transit Center, located in the center of town, where there is no parking available - for a very good reason.

5. The increase in the transportation volume caused by the overexpansion is directly counter to the current mass transportation plans being implemented in King County by Seattle, Mercer Island, and Bellevue - as well as other cities in the State of Washington - to reduce the volume of vehicles on the roads to (1) preserve the environment, (2) protect the air quality, and (3) reduce the carbon footprint. An environmental impact statement from the State of Washington is warranted because of the proximity of the PORTOLA development to the Lake Washington shoreline and the natural wildlife habitats found along the shore. The environmental impact of this development and its proposed plan for overcrowding will be adverse to the health of the land, sea and air, as well as everything and everyone that lives near and around it.

Government has an absolute duty to protect and provide for the public good through the implementation of public policy - it is a right. The allowance of the PORTOLA development will violate public policy. I urge you to appoint a Citizen Site Committee, comprised of representative members from the residential community, as well as members from the business community licensed to do business in the City of Kirkland, to collaborate and work with the City of Kirkland to mutually formulate and present a land use plan for the site that will resolve the negative impact the PORTOLA development will have on the environment and our community.

Thank you.

Susan K. Wanger

Jeremy McMahan

From: SUSAN WANGER [skwanger@hotmail.com]
Sent: Wednesday, April 04, 2012 11:27 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; Doreen Marchione; Andrew Held; C Ray Allshouse; Mike Miller
Subject: Letter of Opposition to POTALA Development on Lake Washington Boulevard
Follow Up Flag: Follow up
Flag Status: Flagged

Dear Council Members:

I am a resident of the City of Kirkland. I am also a business owner with offices at Carillon Point. I live at the Bayshore Condominiums located at 6421 Lake Washington Blvd. NE. I am in favor of development in our neighborhood that is consistent with the character and requirements of the Comprehensive Plan, and, therefore I am absolutely opposed to any project such as the Potala development being proposed for our community.

My reasons and comments follow:

1. OUR NEIGHBORHOOD - The lakeshore neighborhood along Lake Washington Boulevard is one of the last of the original waterfront neighborhoods along the shore of Lake Washington. We have a mixed use neighborhood with single family residences, apartments, condominiums, 3 city parks with walking paths, and locally owned businesses. We have a corner grocery store, dry cleaners, 3 restaurants, bakery & coffee shop, a bank, and retail & commercial businesses. We know our neighbors.
2. KIRKLAND CITY CENTER - Kirkland City Center is within a 7 minute walk - there are apartments, condominiums, senior living, public library, retail & commercial businesses, a supermarket, restaurants, performing art center, art galleries, medical services, banks, real estate offices, coffee shops, recreational facilities, athletic field, public swimming pool, a large city park, walking paths, and much more. The Potala development has no unique service, business, or cultural attraction to add to Kirkland City Center or to be a convenience to our neighborhood.
3. COMMUNITY PLAN - Our neighborhood has diligently maintained the community plan as originally zoned, with a business and residential density that respects the integrity of the lake, provides adequate and necessary services to the businesses and residents located in our neighborhood, and protects the environment of the shore, its natural resources, and the wildlife habitat we all share. Right now it is in conformity with the Comprehensive Plan. The proposed Potala development plan has nothing to add because it does not represent the integrity of our neighborhood and our community plan.
4. REAL ESTATE FORECLOSURES & BUSINESS FAILURES - The density of the proposed development sets forth occupancy requirements that cannot be met to support the debt service of the lenders. It is a hard and costly lesson that has been and is being played out in Seattle and Bellevue today. This proposed over-expansion of our neighborhood will cause foreclosures, business failures, and residential vacancies that will serve to

become an attractive nuisance because it is unoccupied property. This will not add to the tax base, and may well cost the City real estate taxes by depressing the values of the properties in the neighborhood. Certainly, the lower values will cost the taxpayers money.

5. LAW ENFORCEMENT & FIRE PROTECTION - The burden on law enforcement and fire protection services will increase significantly, and the security and protection the neighborhood now enjoys will be severely compromised.

6. TRAFFIC VOLUME - Lake Washington Boulevard is a two-lane road that cannot support the volume of traffic it now has. The road cannot be widened because it was built to be two lanes only forever. And there is no longer a bus route on Lake Washington Boulevard so accessibility to public transportation is restricted to the Kirkland Transit Center which is conveniently located within walking distance in the center of town, where there is little to no parking available - for good reason. Getting out of my driveway now is a problem, and it will be exacerbated by the size and density of the Potala project or any other project that comes along seeking the same treatment.

7. ENVIRONMENTAL IMPACT STATEMENT - The increased volume of transportation caused by the overexpansion is directly counter to the current mass transit plans being implemented in King County by Seattle, Mercer Island, and Bellevue - as well as other cities in the State of Washington - to reduce the volume of vehicles on the roads to (1) preserve the environment, (2) protect the air quality, and (3) reduce the carbon footprint. An environmental impact statement from the State of Washington is warranted because of the proximity of the Potala development to the Lake Washington shoreline and the natural wildlife habitats found along the shore. Local ordinances will not even let you wash your car on your property if you live on the lakeshore. The environmental impact of developments like Potala and its proposed plan for overcrowding will be adverse to the health and use of the land, water and air, as well as everything and everyone that lives near and around it.

8. NAME CHANGE - It has been revealed the Potala developer may want to call itself "Aqua." What does this mean and what is the purpose of the name change?

9. PUBLIC POLICY - The allowance of any project such as proposed for Potala will violate public policy. Government has a duty to protect and provide for the public good through the implementation of public policy - it is the principle that no person or government official can legally perform an act that tends to injure the public. Public policy manifests the common sense and common conscience of the citizens as a whole that extends throughout their community and is applied to matters of public health, safety, and welfare. It is a general, well-settled public opinion that relates to the duties of citizens to their fellow citizens. Public policy enters into, and influences, the enactment, execution, and interpretation of legislation. Making the BN Zone classification consistent with the Comprehensive Plan will promote public policy and protect our neighborhood and its values.

10. SOLUTION – Add to the BN Zone classification the requirement that the residential dwelling unit density be consistent with the applicable community Comprehensive Plan. You can also appoint a Citizen Site Committee, comprised of representative members from the residential community, as well as members from the business

community licensed to do business in the City of Kirkland, to collaborate and work with the City of Kirkland to review any projects that seek approval from the Planning Commission.

Thank you.

Susan K. Wanger

From: [Robin Herberger](#)
To: [Amy Walen](#); [Bob Sternoff](#); [Dave Asher](#); [Doreen Marchione](#); [Joan McBride](#); [Penny Sweet](#); [Toby Nixon](#)
Cc: [Byron Katsuyama](#); [Glenn Peterson](#); [Jeremy McMahan](#); [Eric Shields](#); [Jay Arnold](#); [Jon Pascal](#); [Kurt Triplett](#); [Mike Miller](#); [C. Ray Allshouse](#); [Teresa Swan](#); [Andrew Held](#); [Robin Jenkinson](#)
Subject: WHY IS LAST TUESDAY'S CITY COUNCIL MEETING LIKE THE SPANISH INQUISITION?
Date: Saturday, May 19, 2012 12:39:23 PM

. . . Because NOBODY expects the Neighborhood Center!!

Dear Council Members:

Just as it's not such a hot idea to "drunk Tweet," writing to the City Council when you're hopping mad after a vote you think is mind-blowingly bad may also be ill-advised. So, I've spent a few days burning off the boo's, and think I'm finally ready to submit my citizen comment, as I feel compelled to do. Because I don't like getting sandbagged, and this doozy of a vote definitely deserves community response.

I want to know who is behind that well-coordinated Hail Mary Pass of a recommendation to turn the Residential Market into a Neighborhood Center at this stage of the game? I knew something was up when Dargey and his entourage showed up but took a pass at the podium. What was Tuesday night all about? Whatever it was, Mayor McBride and Council Members Walen, Sweet and Marchione turned it into a spectacle of thumb-nosing at the community. Council Member Walen teed it up with talking points right out of the developer's playbook in an attempt to change the Comp Plan and make a bad situation worse by trying to wave a wand and turn a Residential Market into a Neighborhood Center. Kind of reverse alchemy. Awesome!

The logic, reasonableness, and thoughtful deliberation expressed by Council Members Sternoff, Asher, and Nixon were in stark contrast to the often incoherent statements of their colleagues.

But, math rules. And Tuesday night, math was on the side of nonsense and developer pandering. A one-vote majority gave us George W. Bush. A one-vote majority gave us Citizens United. And Tuesday night, a one-vote majority gave us a victory of dubious sustainability for Lobsang Dargey. But don't rev up the backhoe just yet, Mr. Dargey.

What started out as a legitimate, reasonable, fact-based attempt by citizens to rectify faulty, flawed and confusing zoning regulations somehow got twisted into a personal wish list by some Council members and . . . an argument for affordable senior housing??!!
What the

This is not about what each of you PERSONALLY want. This isn't about Mayor McBride and her love affair with density. It's not about Council Member Sweet imploring us to

understand how really hard sticking it to the community is for her. It's not about Council Member Walen not being "personally interested in 12-24 units" and conflating Lobsang Dargey's apartment dream scheme with an affordable housing haven for the elderly. It's about fixing a mistake. It's about correcting and enacting legitimate zoning regulations. It's about responding to your constituents in good faith.

I realize you are operating with the Sword of Damocles twisting in the wind above your heads in the name of a constantly threatened lawsuit by Lobsang Dargey. But his evidence in the case is tainted, and Mr. Dargey is not the only one with lawyers on speed dial.

There were so many things said Tuesday night that simply did not make sense. At the risk of the length of this letter getting into Unabomber diatribe territory, I'm going to plow ahead because this really bothers me.

Council Member Walen, you cooked up a big messy pot of BN goulash, trying to divert the focus from the rather targeted object of our yearlong activities. Why are you doing this?

- You said, "I think zoning allowed it (super-density) in the beginning." If zoning allowed it, why do you think we've been going through this process for over a year? If zoning allowed it, Potala Village would now be open for business, Marsh Park would look like the beach of Ipanema, and it would take an hour to get from Carillon Point to downtown Kirkland instead of a half hour.
- How is the Puget Sound Regional Council's projection for the region to 5 million people relevant to the corner of Lake and 10th? I know you're tying this into Growth Management, but this reminds me of a second-rate PR firm that pads its client presentation with irrelevant statistics and studies. And Growth Management DOES have the word "management" in there somewhere.
- You said you want "commerce that serves the neighborhood." Well, that's called Neighborhood Business, isn't it?
- What was the whole housing diversity and affordable housing for seniors all about? Are you under the impression that Lobsang Dargey is building Potala Village as an affordable senior citizen housing facility? If he is, you are breaking a news story here.
- What are you talking about with regard to housing diversity? The residential area surrounding Lake and 10th HAS a variety of housing options: single family homes (large and small), condos, and apartments with a range of rental fees. This sounds like another PR talking point from someone who knows nothing about the area.
- "I ask that we change the Comp Plan to designate this as a Neighborhood Center." Yet again, this sounds like it was written by a PR flack who does not understand how Kirkland's legislative process works and thinks a Council member can order a

change to the Comp Plan.

Council Member Sweet:

- “What bothers me is the inconsistency.” That’s OUR point. That is what we have been telling YOU for over a year. And who is to blame for that inconsistency? The City! We are the ones who have been trying to make zoning policy consistent.
- You said that a Neighborhood Center sitting in the middle of a neighborhood doesn’t make a lot of sense to you . . .and then you voted to recommend turning a Residential Market into a Neighborhood Center! By your own account, you just voted for nonsense.
- You said, “I don’t care whether we change it to Residential Market or a Neighborhood Center.”
 - It already IS a Residential Market. You can’t change something into what it already is.
 - You said you don’t care whether we change it to a Residential Market or a Neighborhood Center. . . . YOU..DON’T..CARE.. And then you voted to recommend turning it into a Neighborhood Center.
- “I do believe there needs to be more density there than folks are asking for.” What “the folks” are asking for is the correct application of the zoning density requirements for the Residential Market that are consistent and compatible with surrounding properties – which is 12-24 units per acre. There’s a bit of psychological projection going on here: “the folks” aren’t asking for something out of the main, the developer is. And if what the developer wants is legally allowable, Potala Village would not still exist only on the drawing board.
- “An individual went out and purchased this property under an understanding of what they could do with this property. That implies a contract to a certain degree that I believe we have to pay attention to, and that has to be part of our consideration. “ Nonsense. This is 100% from the developer’s perspective. Talking about the implication of a contract in this context sounds as though it might have been inspired by Duana Kolouskova. As Council Member Sternoff said, “Zoning certainty is not just for the developer, but also for the people who live there.” And, as Justin Stewart has told us in a public meeting, Dargey has an “out” from the 99-year ground lease if the deal goes south. This is not a single property. And Dargey was notified by Desiree Goble in a meeting packet that the site was only suitable for 12 units per acre, and highlighted it in yellow to bring it to his particular attention, before he had any purchase or lease agreement.
- “The only way we’re going to make it through this thing is if we can figure out a way to compromise.” And your idea of a compromise is to introduce a recommendation for a shopping-center grade zone?

Mayor McBride:

- Yes, we KNOW you love density. But you can't impose it for its own sake. You may want a density explosion on Lake Washington Boulevard, but those of us who live along it have many reasons, legal as well as personal, why we do not.
- "I think cities on the Eastside – large urban areas – should welcome density." Thinking that you are the mayor of a large urban area is part of the problem. We're not Seattle and we're not Bellevue. And I don't think the majority of your constituents think we are, or want to be.

If you kicked this issue over to the Planning Commission to study and make recommendations and they conclude that the BN zone on the Boulevard is a Residential Market, WHY are you rejecting their recommendation before the process has played itself out, and choosing to inject this contradictory and radical measure? Mayor McBride and Council Members Walen, Sweet, and Marchione, please listen to the community and to your Planning Commissioners and reconsider your vote to recommend an imposition of a shopping mall grade zone into the middle of a low-mid density residential neighborhood along the City's scenic, gateway drive.

Robin Herberger
Kirkland, WA

Jeremy McMahan

From: Paul Stewart
Sent: Tuesday, March 13, 2012 8:48 AM
To: Jeremy McMahan; Eric Shields
Subject: FW: Finn Hill Zoning

From: Scott Guter
Sent: Tuesday, March 13, 2012 8:20 AM
To: Planning Commissioners
Subject: FW: Finn Hill Zoning

Another email addressed to the Planning Commission.

From: Marian [<mailto:marianewilliams@comcast.net>]
Sent: Friday, March 09, 2012 4:54 PM
To: PlanningInfo
Subject: Finn Hill Zoning

Dear Planning Commission:

Regarding Finn Hill Zoning:

We request that the Planning Commission re-establish the County's residential density limits, or a similar mechanism to reduce the allowed density of residential development, until such time that a neighborhood plan or other significant community planning effort is undertaken to solicit proper community feedback on the long-term vision for our neighborhood commercial centers.

Eldon & Marian Williams

12406-88th Pl. NE

Kirkland, Wa. 98034

Jeremy McMahan

From: Wilson, Kristine (Perkins Coie) [KRWilson@perkinscoie.com]
Sent: Wednesday, February 22, 2012 3:59 PM
To: Planning Commissioners
Cc: Eric Shields; Jeremy McMahan; Robin Jenkinson; Kurt Triplett; lobsang@pathamerica.com; 'Justin Stewart'
Subject: File No. ZON11-00042 - Potala Village Kirkland LLC's Comment Letter re. BN Zoning Code Review
Attachments: File No. ZON11-00042 - Letter from Potala re BN Zoning District Code Amendments.PDF

Dear Kirkland Planning Commissioners,

Attached please find a letter submitted on behalf of our client, Potala Village Kirkland, LLC, regarding your review of BN zoning standards, regulations, and policies, which will be considered again during tomorrow evening's Planning Commission meeting.

Best regards,

Kristine Wilson | Perkins Coie LLP

Attorney at Law

10885 NE 4th Street, Suite 700

Bellevue, WA 98004-5579

 Direct Office 425.635.1426

 Direct Fax 425.635.2426

 KRWilson@perkinscoie.com

www.perkinscoie.com

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* * * * *

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Kristine R. Wilson

PHONE: (425) 635-1426

FAX: (425) 635-2426

EMAIL: KRWilson@perkinscoie.com

February 22, 2012

VIA ELECTRONIC MAIL

Jay Arnold, Chair

Mike Miller, Vice Chair

C. Ray Allhouse, Commissioner

Andy Held, Commissioner

Byron Katsuyama, Commissioner

Jon Pascal, Commissioner

Glenn Peterson, Commissioner

George Pressley, Commissioner

Karen Tennyson, Commissioner

PlanningCommissioners@kirklandwa.gov

**Re: Commercial Codes KZC Amendments, File No. ZON11-00042
BN Zoning District Code Amendments**

Dear Kirkland Planning Commissioners:

On behalf of our client, Potala Village Kirkland, LLC ("Potala"), we thank the Planning Commission ("Commission") again for your time and consideration at your February 9th meeting. We submit the following to (a) respond to issues raised at that meeting regarding the impact of proposed City of Kirkland ("City") zoning amendments on the distinctive Lake Street South BN zone properties, the site of Potala's proposed mixed use project (the "Lake St. BN Properties"), (b) summarize existing BN zone regulations and policies; and (c) illustrate how the existing BN zone provisions regulate uses, building bulk and scale, and various neighborhood compatibility issues such as traffic.

A. Distinction of the Lake St. BN Properties from Other BN and BNA Parcels and Particularized Impact of Zoning Provisions

There are very few parcels in the City that fall within the BN and BNA zoning districts. In the BN zone, there are four BN parcels, three in the Moss Bay neighborhood and one in the

South Rose Hill neighborhood. The BNA zones lie within the Finn Hill and Juanita annexation areas. The Lake St. BN Properties are different from the rest of these parcels, both in its location and its current development and use pattern. Potala believes that these distinctions must be kept in mind in this review process.¹

The Lake St. BN Properties are located on a primary arterial, Lake Street South, a direct route between two major commercial areas of the City: the downtown business district and the Carillon Point development. The parcels also front on 10th Avenue South to the north. The current uses on the Lake St. BN Properties—the dry cleaning and restaurant uses—under utilize the site and under serve the neighborhood. The existing buildings of approximately 2114 square feet were constructed in 1958 and updated in 1985. They sit on parcels that have a combined square footage of 20,000. The remainder of the area is a gravel parking area that sits on 32,600 square feet of otherwise undeveloped property. The directly adjacent parcels are zoned for residential multifamily uses (RM 3.6) and primarily include multifamily condominium, apartment, and townhouse uses. Across the street from the Lake St. BN Properties are parcels lying within the Waterfront District I zone, while to the northeast are single-family properties within the RS 8.5 zone.

This differs from the South Rose Hill BN site in important ways. While the Lake St. BN Properties are located on a primary arterial between major commercial areas on a pedestrian and bicycle-friendly corridor, the South Rose Hill property is located on a secondary arterial at the far edge of the City limits. The Lake St. BN Properties are also nearly one-sixth larger than the South Rose Hill property (which totals approximately 46,720 square feet). The South Rose Hill site was fully developed in 1997 (and remodeled in 2002) with approximately 9,800 square feet of retail space, 7,650 square feet of office space, and surface parking that covers the remaining site apart from minor landscaping, a bus shelter, and lighting.

As discussed in the February 2, 2012 memorandum from Jeremy McMahan and Eric Shields to the Commission regarding Commercial Codes KZC Amendments, File No. ZON11-00042 (the "2/2 Memo"), the Lake St. BN Properties carry both Neighborhood Business and Residential Market designations under the Comprehensive Plan. There are only two sites with the Residential Market designation in the City, the other one being the site of the existing Super 24 convenience mart. The Lake St. BN Properties are even more distinct from the other Residential Market site than from the other BN site. The Super 24 site has a zoning designation of RM 3.6. The BN zone provides for a variety of retail and office uses and allows for

¹ Given the distinctions of the Lake St. BN Properties from the other properties within the BN and BNA zones, we remain concerned that the detriment of a rezone to this particular property and proposal may make for arbitrary, unequal impacts across this very narrow zoning district that amount to discriminatory or "reverse spot" zoning (i.e., when a zoning change imposes greater restrictions on property, resulting in economic detriment to the reclassified property owner). *See generally* Daniel R. Mandelker, *Land Use Law* 246 (4th ed.1997).

residential uses above the ground floor. The RM 3.6 zone allows medium residential density as a primary use and allows only limited neighborhood retail. While the other Residential Market site contains approximately 12,424 square feet (0.29 acre), the Lake St. BN Properties is nearly 4.5 times larger at over 53,600 square-feet (1.22 acres).

B. Current BN Zone and Comprehensive Plan Provisions Regarding Commercial and Residential Uses and Building Bulk, Scale and Orientation

As discussed in the staff memorandum presented at the Commission's February 9th meeting, the BN zone is not unusual among City of Kirkland commercial zones in its approach to residential density. "As with most other commercial zones in Kirkland, there is no maximum residential density limit. The actual feasible density is a factor of the size of units proposed within the building mass allowed by development standards such as height, setbacks, and parking." *See* page 5 of the 2/2 Memo.

For the Lake St. BN Properties, the existing code applies a maximum 30-foot building height; minimum 20-foot front yard, 10-foot side yard, and 10-foot rear yard setbacks; and a maximum lot coverage limit of 80 percent. 2/2 Memo at p. 6. In addition, a two-foot Lake Street South front yard setback—beyond the 20-foot front yard setback—is required for each foot that the building exceeds 25-feet. *Id.* With respect to commercial floor area, the existing Code requires a minimum of 75 percent of the total gross floor area located on the ground floor to contain commercial uses oriented to the adjoining street or sidewalk and prohibits residential use on the ground floor except for a lobby. *Id.*

The current Comprehensive Plan provisions relating to the Lake St. BN Properties encourage mixed use and residential development within this commercial zone. Policy LU-3.2

encourage[s] residential development within commercial areas. Residential development which is incorporated into commercial areas can provide benefits for businesses and residents alike. Housing within commercial areas provides the opportunity for people to live close to shops, services, and places of employment. Conversely, residents living within commercial areas create a localized market for nearby goods and services, provide increased security, and help to create a 'sense of community' for those districts.

See Attachment 3 to 2/2 Memo. Policy ED 3.5 also encourages mixed-use residential development within commercial areas, and states that "[m]ixed use development, when combined with multi-story structures, promotes a more compact and sustainable land use pattern and encourages walking and transit to reduce dependence on automobiles."

The Moss Bay Neighborhood Plan speaks of "limited commercial use of" the Lake St. BN Properties, and indicates commercial use "serves as a convenience to surrounding residences." (p. XV.D-24 of Moss Bay Neighborhood Plan) The Residential Market provisions of City plans are likewise focused on the limited scale of neighborhood retail or commercial uses and a desire to see building design that is compatible with the neighborhood in size, scale, and character. These policies merely suggest that **commercial** use of the site should be at a lower intensity than other City commercial zones; they do **not** speak to the scope of any **residential** uses within a mixed-use project.

As indicated in the 2/2 Memo, these existing Comprehensive Plan policies "do[] 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." 2/2 Memo at Attachment 5, p. 31. Given the greater impacts of customer, client, vendor, and employee trip generation and parking demands versus residential demands, this focus is not surprising. These provisions do not require density or FAR limits on residential components of a mixed use project. The plan relies upon zoning controls to regulate the building's bulk and scale. Given the size of the assembled Lake St. BN Properties, such residential restrictions would effectively give preference to office commercial uses at the site over neighborhood-serving retail uses which, because they are not regional destinations, practically require location and synergy with on-site residential uses in mixed use settings.

C. Illustration of Zoning and Plan Applications to Lake St. BN Properties

As discussed at the February 9th meeting, the current moratorium and proposal to amend the zoning for the Lake St. BN Properties are clearly driven by an effort to respond to neighborhood concerns regarding a specific project proposal. Potala's interest is to construct a mixed-use project that enhances the Lake St. BN Properties and is compatible with the neighborhood. Potala's developer has progressed in good faith for over two years in consultation with the City.² The first pre-submittal meeting on the application was held on December 9, 2009. A shoreline substantial development permit and environmental checklist were filed with the City on February 23, 2011. The current project plans are consistent with the existing zoning code and respond to several rounds of comments and guidance from City staff. Potala has met with neighbors on several occasions and continues to try to address neighbor concerns. Potala twice reduced the proposed density—from 163 units initially to 143 units and now to approximately 115 to 120 units—and incorporated other design changes to respond to neighborhood compatibility concerns.

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While the site-specific proposal for Potala is not before the Commission for review, we believe that the site-specific proposal and neighborhood responses regarding compatibility can help shed light on the zoning review. We believe this is the reason the City asked Potala and neighboring property owners to make a presentation to the Planning Commission at its last meeting. The following facts and circumstances can clarify and provide context to the Commission's BN zoning review process.

- **Building Bulk and Scale.** As discussed in Section B below, the existing BN zone building bulk and scale provisions effectively limit residential density and building footprint for projects within the City's BN zone. The code sets maximum building height, minimum setback requirements, and lot coverage standards that limit the building footprint on the site. The maximum building height in the BN zone is the same as the building height in adjacent multifamily residential zones. The current zoning code does nothing to incentivize neighborhood retail uses within the building envelope. The focus of the code is on the building footprint.
- **Environmental Review/Design Review.** Because the current development proposal for the Lake St BN Properties is consistent with the existing zoning designation and is permitted outright in the BN zone—as confirmed by City staff in multiple pre-application conferences, post-application review meetings and correspondence, and drawing/application review steps—the shoreline permitting process and related review under the State Environmental Policy Act ("SEPA") were pursued by Potala. On June 16, 2011, the City issued and published a Mitigated Determination of Non-significance ("MDNS") for the development proposal. On August 4, 2011, the City withdrew the MDNS and issued a Determination of Significance ("DS"), primarily citing concerns regarding the implementation of the City's SEPA policy that incorporates its comprehensive plan. In accordance with the DS, an environmental impact statement ("EIS") will be prepared to review the proposal, despite the Zoning Code's designation of the site for no required permit review process. (KZC 40.10 – Use Zone Chart) As initially scoped, the EIS will review the height, bulk and scale of the building, residential density, traffic, parking, wildlife, environmental remediation, and construction impacts of the proposal. Potala believes that this EIS process review of height, bulk and scale of the building will effectively take the place of design review. Creating design guidelines for the Lake St. BN Properties would likely be duplicative of this EIS review process.
- **Transportation.** Because the building bulk and scale are established under the existing Commercial Zone provisions without respect to the type of use (commercial or residential), the main neighborhood impact driven by the allocation of commercial uses and residential density on the Lake St BN Properties relates to the number of vehicle trips to and from the site and potential parking demand impacts. The City has already conducted a transportation concurrency review for the then-proposed development of 143 residential units and 7,279

square feet of commercial (office) space, and an underground parking garage. Neighbors appealed the project's concurrency determination. A full-day hearing was held on November 17, 2011. The hearing examiner upheld the City's transportation concurrency determination in a decision issued on December 2, 2011. The project has since been revised to reduce the number of residential units to 115 units. As discussed in the project's traffic impact analysis prepared by Mike Swenson and Stefanie Herzstein of Transpo Group, and as affirmed by testimony from the City's Transportation Engineer Thang Nguyen at the hearing, the residential units create lower vehicle trip counts than would increased office or retail uses at the property. With respect to parking, the project exceeds the required per residential unit parking standards (providing a 2 stall:unit ratio rather than the 1.7 stall:unit ratio required) in an effort to discourage additional demand for street parking.

- **Building Orientation.** The current building plans call for a building design that has a courtyard within the interior of the site, open to the east side of the property, where a steep slope impacts design. In response to comments from neighbors and the City, Potala is evaluating alternate designs that would orient the courtyard to Lake Street South. However, the current zoning code does not incentivize that orientation, which would reduce utility of units that would have less light and air access.
- **Retail Versus Office Uses.** The current BN provisions require that a minimum of 75 percent of the total gross floor area of all structures contain commercial uses oriented to the adjoining street or sidewalk. No residential uses are allowed on the ground floor except for a lobby area. Further, the current BN zoning does not limit the allowed square footage for office uses, but imposes an additional five-foot side yard setback for retail uses. *See* KZC 40.10 Use Zone Chart (requiring 10' side yard setbacks on each side for retail uses and 5' yard setbacks with combined 15' yard setbacks for office uses). In all, the current code encourages office uses over retail uses within the ground floor of a BN zone project.
- **Zoning Designation of Surrounding Residential Properties.** The Lake St BN Properties have long carried a different zoning designation from surrounding residential properties. While neighbors may have a desire to see their properties upzoned to allow higher densities, neither this Commercial Zone planning review process nor the project-specific review process pending before the Planning Department for the Lake St. BN Properties provide an appropriate means for addressing these policies and plans for parcels carrying Residential Zone designations. Potala would support a separate City process to review higher residential densities in the vicinity of the Lake St. BN Properties, but the issue is not properly before the City at this time.

D. Conclusion

Potala respectfully requests your consideration of how zoning restrictions and incentives can combine with existing planning policies to achieve City of Kirkland planning objectives. The facts and circumstances of the potential BN zoning code changes present a troubling reversal of code interpretations and representations previously provided by the City. Potala believes that the existing zoning code provisions are sufficient and have, in fact, through iterative review with the City and neighbors, produced developments in BN zones that achieve City goals.

Having reviewed the code, plans, and neighborhood conditions and concerns, Potala remains convinced that mixed-use commercial and residential development of the Lake St. BN Properties is consistent with City planning objectives and is more compatible with the neighborhood than a 100 percent office or retail use would be. The City's plans encourage residential projects within commercial areas. The Commission must act with caution to avoid effectively negating these planning policies in the BN zone. Without careful construction, the zoning methodologies will not produce the expected development results.

Very truly yours,



Kristine R. Wilson

Cc: Eric Shields, Planning Director
Jeremy McMahan, Planning Supervisor
Robin Jenkinson, City Attorney
Kurt Triplett, City Manager
Lobsang Dargey, Potala Village, LLC
Justin Stewart, Synergy Construction, Inc.

Jeremy McMahan

From: Wilson, Kristine (Perkins Coie) [KRWilson@perkinscoie.com]
Sent: Wednesday, February 22, 2012 3:59 PM
To: Planning Commissioners
Cc: Eric Shields; Jeremy McMahan; Robin Jenkinson; Kurt Triplett; lobsang@pathamerica.com; 'Justin Stewart'
Subject: File No. ZON11-00042 - Potala Village Kirkland LLC's Comment Letter re. BN Zoning Code Review
Attachments: File No. ZON11-00042 - Letter from Potala re BN Zoning District Code Amendments.PDF

Dear Kirkland Planning Commissioners,

Attached please find a letter submitted on behalf of our client, Potala Village Kirkland, LLC, regarding your review of BN zoning standards, regulations, and policies, which will be considered again during tomorrow evening's Planning Commission meeting.

Best regards,

Kristine Wilson | Perkins Coie LLP

Attorney at Law

10885 NE 4th Street, Suite 700

Bellevue, WA 98004-5579

 Direct Office 425.635.1426

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 KRWilson@perkinscoie.com

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* * * * *

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Kristine R. Wilson

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February 22, 2012

VIA ELECTRONIC MAIL

Jay Arnold, Chair

Mike Miller, Vice Chair

C. Ray Allhouse, Commissioner

Andy Held, Commissioner

Byron Katsuyama, Commissioner

Jon Pascal, Commissioner

Glenn Peterson, Commissioner

George Pressley, Commissioner

Karen Tennyson, Commissioner

PlanningCommissioners@kirklandwa.gov

**Re: Commercial Codes KZC Amendments, File No. ZON11-00042
BN Zoning District Code Amendments**

Dear Kirkland Planning Commissioners:

On behalf of our client, Potala Village Kirkland, LLC ("Potala"), we thank the Planning Commission ("Commission") again for your time and consideration at your February 9th meeting. We submit the following to (a) respond to issues raised at that meeting regarding the impact of proposed City of Kirkland ("City") zoning amendments on the distinctive Lake Street South BN zone properties, the site of Potala's proposed mixed use project (the "Lake St. BN Properties"), (b) summarize existing BN zone regulations and policies; and (c) illustrate how the existing BN zone provisions regulate uses, building bulk and scale, and various neighborhood compatibility issues such as traffic.

A. Distinction of the Lake St. BN Properties from Other BN and BNA Parcels and Particularized Impact of Zoning Provisions

There are very few parcels in the City that fall within the BN and BNA zoning districts. In the BN zone, there are four BN parcels, three in the Moss Bay neighborhood and one in the

South Rose Hill neighborhood. The BNA zones lie within the Finn Hill and Juanita annexation areas. The Lake St. BN Properties are different from the rest of these parcels, both in its location and its current development and use pattern. Potala believes that these distinctions must be kept in mind in this review process.¹

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For the Lake St. BN Properties, the existing code applies a maximum 30-foot building height; minimum 20-foot front yard, 10-foot side yard, and 10-foot rear yard setbacks; and a maximum lot coverage limit of 80 percent. 2/2 Memo at p. 6. In addition, a two-foot Lake Street South front yard setback—beyond the 20-foot front yard setback—is required for each foot that the building exceeds 25-feet. *Id.* With respect to commercial floor area, the existing Code requires a minimum of 75 percent of the total gross floor area located on the ground floor to contain commercial uses oriented to the adjoining street or sidewalk and prohibits residential use on the ground floor except for a lobby. *Id.*

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Very truly yours,



Kristine R. Wilson

Cc: Eric Shields, Planning Director
Jeremy McMahan, Planning Supervisor
Robin Jenkinson, City Attorney
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Lobsang Dargey, Potala Village, LLC
Justin Stewart, Synergy Construction, Inc.



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March 19, 2012

VIA ELECTRONIC MAIL

The Hon. Joan McBride, Mayor
The Hon. Doreen Marchione, Deputy Mayor
The Hon. Dave Asher, Council Member
The Hon. Toby Nixon, Council Member
The Hon. Bob Sternoff, Council Member
The Hon. Penny Sweet, Council Member
The Hon. Amy Walen, Council Member

citycouncil@kirklandwa.gov

**Re: Commercial Codes KZC Amendments, File No. ZON11-00042
BN Zoning District Code Amendments**

Dear Mayor, Deputy Mayor, and City Council Members:

We represent Potala Village Kirkland, LLC ("Potala"), which has a proposed mixed use project (the "Potala Project") planned to be constructed on 3 parcels at the corner of Lake Street South and 10th Avenue South in the City of Kirkland ("City"). In November of 2011, and again in January 2012, the City Council issued a building moratorium directly aimed at the Potala Project. The City Council instructed the City's Planning Commission ("Commission") to determine whether there need to be any changes to the City's Comprehensive Plan, the Neighborhood Business (BN) zoning code, or both.

Potala expressed concerns before the City Council's adoption of the moratorium, but agreed to participate in the zoning review in the hope that the process could proceed in a manner respectful of Potala's investment in the Potala Project, its reliance upon representations from City staff in a lengthy permitting review process, and its vested rights. This letter is intended to outline Potala's grave concerns about the actions that the City has taken so far, and the direction of where things are going.

73457-0002/LEGAL23139465.1

Attached please find copies of written comments that were submitted to the Commission on February 23, 2012 (Exhibit A) and March 8, 2012 (Exhibit B). The February 23rd comments at Exhibit A provided background regarding the Lake Street BN Properties. The March 8th comments at Exhibit B provide a table illustrating how potential amendments to BN zoning parameters create feasibility and policy challenges as applied to the Lake Street BN Properties. We asked that the Commission consider these issues and recognize that in this very small zoning district—which essentially includes two sites, the Lake Street BN Properties and the South Rose Hill Property—setting zoning parameters that disproportionately impact one of the two sites or that diverge from standards in other City of Kirkland commercial districts is unduly oppressive, unequal and unnecessary to achieve the city's land use and planning objectives.

Rather than taking heed of the dangers presented by engaging in what amounts to unauthorized design review for a particular project at a particular site, the Commission appears to be confusing the task assigned to it by the City Council under Ordinance 4335A with a wholesale adoption of what is, in effect, a site-specific rezone and design guidelines. As the transcripts will reflect, at each of the Planning Commission's three hearings on BN Zone review the discussion of zoning amendments focused almost entirely on the Potala Project. At the March 8, 2012 meeting, in addition to the problematic policies that surfaced in the discussions at the February 23, 2012 meeting (addressed in the Exhibit B comments), the Commission discussed novel approaches to BN zoning that were directly focused on "breaking up buildings" on the Lake Street BN Properties. As with several other proposed changes to BN zoning parameters, such an approach would amount to arbitrary and discriminatory treatment or "reverse spot zoning." It would (a) use a zoning control not used elsewhere in the City, and (b) would have a much greater impact on the Lake Street BN Properties than on the South Rose Hill BN property due to the difference in size and scope.

As expressed in our oral comments to the City Council on November 1, 2011 opposing adoption of an emergency moratorium ordinance, Potala has engaged in a long process with the City about its proposal, the zoning, shoreline plan, comprehensive plan, and environmental review processes. The Potala Project's shoreline substantial development permit vested in May 2011 and the City issued a mitigated determination of non-significance for the project on June 15, 2011. That MDNS was subsequently revoked on August 4, 2011, and a determination of significance was issued requiring preparation of an environmental impact statement. A full hearing was held on the Potala Project's transportation concurrency in November 2011, and the City's hearing examiner affirmed the City's determination in full on December 2, 2011. In the course of responding to neighbor and City feedback, the applicant has twice lowered the scale and density of its proposed project—from 164 residential units to 143 apartment units, and then to approximately 120 condominium units.

Potala remains concerned that the City is proceeding in a fashion that violates vested property and due process rights, would result in illegal spot-zoning, and would cause further

Kirkland City Council
March 19, 2012
Page 3

damages to Potala. The City may not "single out" a building project and put up road blocks for the developer simply because the neighbors do not like it. *Westmark Development Corp. v. City of Burien*, 140 Wn.App. 540, 558, 166 P. 3d 813 (2007); *Pleas v. City of Seattle*, 112 Wn.2d 794, 806, 774 P.2d 1158 (1989). Potala requests again that the City desist in taking actions that are site-specific in the guise of a legislative process. Several of the proposed zoning amendments create disproportionate adverse impacts on the Lake Street BN zone properties. Such unequal and inconsistent treatment would violate Potala's rights and should be rejected on policy and legal grounds.

Potala encourages the City to reconsider its procedures and ensure that additional review processes offer the protections afforded by common law and constitutional provisions. Potala remains interested in finding common ground with the City and Potala Project neighbors and creating a building that will be a source of pride for all. Potala will not, however, waive its rights and allow egregious processes to continue without further objection, potentially in the form of legal action against the City.

Very truly yours,



Kristine R. Wilson

Cc: Robin Jenkinson, City Attorney
Kurt Triplett, City Manager
Eric Shields, Planning Director
Jeremy McMahan, Planning Supervisor

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February 22, 2012

VIA ELECTRONIC MAIL

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C. Ray Allhouse, Commissioner
Andy Held, Commissioner
Byron Katsuyama, Commissioner
Jon Pascal, Commissioner
Glenn Peterson, Commissioner
George Pressley, Commissioner
Karen Tennyson, Commissioner

PlanningCommissioners@kirklandwa.gov

**Re: Commercial Codes KZC Amendments, File No. ZON11-00042
BN Zoning District Code Amendments**

Dear Kirkland Planning Commissioners:

On behalf of our client, Potala Village Kirkland, LLC ("Potala"), we thank the Planning Commission ("Commission") again for your time and consideration at your February 9th meeting. We submit the following to (a) respond to issues raised at that meeting regarding the impact of proposed City of Kirkland ("City") zoning amendments on the distinctive Lake Street South BN zone properties, the site of Potala's proposed mixed use project (the "Lake St. BN Properties"), (b) summarize existing BN zone regulations and policies; and (c) illustrate how the existing BN zone provisions regulate uses, building bulk and scale, and various neighborhood compatibility issues such as traffic.

A. Distinction of the Lake St. BN Properties from Other BN and BNA Parcels and Particularized Impact of Zoning Provisions

There are very few parcels in the City that fall within the BN and BNA zoning districts. In the BN zone, there are four BN parcels, three in the Moss Bay neighborhood and one in the

South Rose Hill neighborhood. The BNA zones lie within the Finn Hill and Juanita annexation areas. The Lake St. BN Properties are different from the rest of these parcels, both in its location and its current development and use pattern. Potala believes that these distinctions must be kept in mind in this review process.¹

The Lake St. BN Properties are located on a primary arterial, Lake Street South, a direct route between two major commercial areas of the City: the downtown business district and the Carillon Point development. The parcels also front on 10th Avenue South to the north. The current uses on the Lake St. BN Properties—the dry cleaning and restaurant uses—under utilize the site and under serve the neighborhood. The existing buildings of approximately 2114 square feet were constructed in 1958 and updated in 1985. They sit on parcels that have a combined square footage of 20,000. The remainder of the area is a gravel parking area that sits on 32,600 square feet of otherwise undeveloped property. The directly adjacent parcels are zoned for residential multifamily uses (RM 3.6) and primarily include multifamily condominium, apartment, and townhouse uses. Across the street from the Lake St. BN Properties are parcels lying within the Waterfront District I zone, while to the northeast are single-family properties within the RS 8.5 zone.

This differs from the South Rose Hill BN site in important ways. While the Lake St. BN Properties are located on a primary arterial between major commercial areas on a pedestrian and bicycle-friendly corridor, the South Rose Hill property is located on a secondary arterial at the far edge of the City limits. The Lake St. BN Properties are also nearly one-sixth larger than the South Rose Hill property (which totals approximately 46,720 square feet). The South Rose Hill site was fully developed in 1997 (and remodeled in 2002) with approximately 9,800 square feet of retail space, 7,650 square feet of office space, and surface parking that covers the remaining site apart from minor landscaping, a bus shelter, and lighting.

As discussed in the February 2, 2012 memorandum from Jeremy McMahan and Eric Shields to the Commission regarding Commercial Codes KZC Amendments, File No. ZON11-00042 (the "2/2 Memo"), the Lake St. BN Properties carry both Neighborhood Business and Residential Market designations under the Comprehensive Plan. There are only two sites with the Residential Market designation in the City, the other one being the site of the existing Super 24 convenience mart. The Lake St. BN Properties are even more distinct from the other Residential Market site than from the other BN site. The Super 24 site has a zoning designation of RM 3.6. The BN zone provides for a variety of retail and office uses and allows for

¹ Given the distinctions of the Lake St. BN Properties from the other properties within the BN and BNA zones, we remain concerned that the detriment of a rezone to this particular property and proposal may make for arbitrary, unequal impacts across this very narrow zoning district that amount to discriminatory or "reverse spot" zoning (i.e., when a zoning change imposes greater restrictions on property, resulting in economic detriment to the reclassified property owner). *See generally* Daniel R. Mandelker, *Land Use Law* 246 (4th ed.1997).

residential uses above the ground floor. The RM 3.6 zone allows medium residential density as a primary use and allows only limited neighborhood retail. While the other Residential Market site contains approximately 12,424 square feet (0.29 acre), the Lake St. BN Properties is nearly 4.5 times larger at over 53,600 square-feet (1.22 acres).

B. Current BN Zone and Comprehensive Plan Provisions Regarding Commercial and Residential Uses and Building Bulk, Scale and Orientation

As discussed in the staff memorandum presented at the Commission's February 9th meeting, the BN zone is not unusual among City of Kirkland commercial zones in its approach to residential density. "As with most other commercial zones in Kirkland, there is no maximum residential density limit. The actual feasible density is a factor of the size of units proposed within the building mass allowed by development standards such as height, setbacks, and parking." See page 5 of the 2/2 Memo.

For the Lake St. BN Properties, the existing code applies a maximum 30-foot building height; minimum 20-foot front yard, 10-foot side yard, and 10-foot rear yard setbacks; and a maximum lot coverage limit of 80 percent. 2/2 Memo at p. 6. In addition, a two-foot Lake Street South front yard setback—beyond the 20-foot front yard setback—is required for each foot that the building exceeds 25-feet. *Id.* With respect to commercial floor area, the existing Code requires a minimum of 75 percent of the total gross floor area located on the ground floor to contain commercial uses oriented to the adjoining street or sidewalk and prohibits residential use on the ground floor except for a lobby. *Id.*

The current Comprehensive Plan provisions relating to the Lake St. BN Properties encourage mixed use and residential development within this commercial zone. Policy LU-3.2

encourage[s] residential development within commercial areas. Residential development which is incorporated into commercial areas can provide benefits for businesses and residents alike. Housing within commercial areas provides the opportunity for people to live close to shops, services, and places of employment. Conversely, residents living within commercial areas create a localized market for nearby goods and services, provide increased security, and help to create a 'sense of community' for those districts.

See Attachment 3 to 2/2 Memo. Policy ED 3.5 also encourages mixed-use residential development within commercial areas, and states that "[m]ixed use development, when combined with multi-story structures, promotes a more compact and sustainable land use pattern and encourages walking and transit to reduce dependence on automobiles."

The Moss Bay Neighborhood Plan speaks of "limited commercial use of" the Lake St. BN Properties, and indicates commercial use "serves as a convenience to surrounding residences." (p. XV.D-24 of Moss Bay Neighborhood Plan) The Residential Market provisions of City plans are likewise focused on the limited scale of neighborhood retail or commercial uses and a desire to see building design that is compatible with the neighborhood in size, scale, and character. These policies merely suggest that **commercial** use of the site should be at a lower intensity than other City commercial zones; they do **not** speak to the scope of any **residential** uses within a mixed-use project.

As indicated in the 2/2 Memo, these existing Comprehensive Plan policies "do[] 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." 2/2 Memo at Attachment 5, p. 31. Given the greater impacts of customer, client, vendor, and employee trip generation and parking demands versus residential demands, this focus is not surprising. These provisions do not require density or FAR limits on residential components of a mixed use project. The plan relies upon zoning controls to regulate the building's bulk and scale. Given the size of the assembled Lake St. BN Properties, such residential restrictions would effectively give preference to office commercial uses at the site over neighborhood-serving retail uses which, because they are not regional destinations, practically require location and synergy with on-site residential uses in mixed use settings.

C. Illustration of Zoning and Plan Applications to Lake St. BN Properties

As discussed at the February 9th meeting, the current moratorium and proposal to amend the zoning for the Lake St. BN Properties are clearly driven by an effort to respond to neighborhood concerns regarding a specific project proposal. Potala's interest is to construct a mixed-use project that enhances the Lake St. BN Properties and is compatible with the neighborhood. Potala's developer has progressed in good faith for over two years in consultation with the City.² The first pre-submittal meeting on the application was held on December 9, 2009. A shoreline substantial development permit and environmental checklist were filed with the City on February 23, 2011. The current project plans are consistent with the existing zoning code and respond to several rounds of comments and guidance from City staff. Potala has met with neighbors on several occasions and continues to try to address neighbor concerns. Potala twice reduced the proposed density—from 163 units initially to 143 units and now to approximately 115 to 120 units—and incorporated other design changes to respond to neighborhood compatibility concerns.

² If the City's zoning and comprehensive plan provisions are inconsistent, this is due to City substantive and procedural errors, and not any actions of Potala. Potala is hopeful that the City can clarify its zoning and plan provisions in a manner that rectifies any City error without causing undue oppression or damages to Potala or other owners of BN or BNA-zoned properties.

While the site-specific proposal for Potala is not before the Commission for review, we believe that the site-specific proposal and neighborhood responses regarding compatibility can help shed light on the zoning review. We believe this is the reason the City asked Potala and neighboring property owners to make a presentation to the Planning Commission at its last meeting. The following facts and circumstances can clarify and provide context to the Commission's BN zoning review process.

- **Building Bulk and Scale.** As discussed in Section B below, the existing BN zone building bulk and scale provisions effectively limit residential density and building footprint for projects within the City's BN zone. The code sets maximum building height, minimum setback requirements, and lot coverage standards that limit the building footprint on the site. The maximum building height in the BN zone is the same as the building height in adjacent multifamily residential zones. The current zoning code does nothing to incentivize neighborhood retail uses within the building envelope. The focus of the code is on the building footprint.
- **Environmental Review/Design Review.** Because the current development proposal for the Lake St BN Properties is consistent with the existing zoning designation and is permitted outright in the BN zone—as confirmed by City staff in multiple pre-application conferences, post-application review meetings and correspondence, and drawing/application review steps—the shoreline permitting process and related review under the State Environmental Policy Act ("SEPA") were pursued by Potala. On June 16, 2011, the City issued and published a Mitigated Determination of Non-significance ("MDNS") for the development proposal. On August 4, 2011, the City withdrew the MDNS and issued a Determination of Significance ("DS"), primarily citing concerns regarding the implementation of the City's SEPA policy that incorporates its comprehensive plan. In accordance with the DS, an environmental impact statement ("EIS") will be prepared to review the proposal, despite the Zoning Code's designation of the site for no required permit review process. (KZC 40.10 – Use Zone Chart) As initially scoped, the EIS will review the height, bulk and scale of the building, residential density, traffic, parking, wildlife, environmental remediation, and construction impacts of the proposal. Potala believes that this EIS process review of height, bulk and scale of the building will effectively take the place of design review. Creating design guidelines for the Lake St. BN Properties would likely be duplicative of this EIS review process.
- **Transportation.** Because the building bulk and scale are established under the existing Commercial Zone provisions without respect to the type of use (commercial or residential), the main neighborhood impact driven by the allocation of commercial uses and residential density on the Lake St BN Properties relates to the number of vehicle trips to and from the site and potential parking demand impacts. The City has already conducted a transportation concurrency review for the then-proposed development of 143 residential units and 7,279

square feet of commercial (office) space, and an underground parking garage. Neighbors appealed the project's concurrency determination. A full-day hearing was held on November 17, 2011. The hearing examiner upheld the City's transportation concurrency determination in a decision issued on December 2, 2011. The project has since been revised to reduce the number of residential units to 115 units. As discussed in the project's traffic impact analysis prepared by Mike Swenson and Stefanie Herzstein of Transpo Group, and as affirmed by testimony from the City's Transportation Engineer Thang Nguyen at the hearing, the residential units create lower vehicle trip counts than would increased office or retail uses at the property. With respect to parking, the project exceeds the required per residential unit parking standards (providing a 2 stall:unit ratio rather than the 1.7 stall:unit ratio required) in an effort to discourage additional demand for street parking.

- **Building Orientation.** The current building plans call for a building design that has a courtyard within the interior of the site, open to the east side of the property, where a steep slope impacts design. In response to comments from neighbors and the City, Potala is evaluating alternate designs that would orient the courtyard to Lake Street South. However, the current zoning code does not incentivize that orientation, which would reduce utility of units that would have less light and air access.
- **Retail Versus Office Uses.** The current BN provisions require that a minimum of 75 percent of the total gross floor area of all structures contain commercial uses oriented to the adjoining street or sidewalk. No residential uses are allowed on the ground floor except for a lobby area. Further, the current BN zoning does not limit the allowed square footage for office uses, but imposes an additional five-foot side yard setback for retail uses. *See* KZC 40.10 Use Zone Chart (requiring 10' side yard setbacks on each side for retail uses and 5' yard setbacks with combined 15' yard setbacks for office uses). In all, the current code encourages office uses over retail uses within the ground floor of a BN zone project.
- **Zoning Designation of Surrounding Residential Properties.** The Lake St BN Properties have long carried a different zoning designation from surrounding residential properties. While neighbors may have a desire to see their properties upzoned to allow higher densities, neither this Commercial Zone planning review process nor the project-specific review process pending before the Planning Department for the Lake St. BN Properties provide an appropriate means for addressing these policies and plans for parcels carrying Residential Zone designations. Potala would support a separate City process to review higher residential densities in the vicinity of the Lake St. BN Properties, but the issue is not properly before the City at this time.

D. Conclusion

Potala respectfully requests your consideration of how zoning restrictions and incentives can combine with existing planning policies to achieve City of Kirkland planning objectives. The facts and circumstances of the potential BN zoning code changes present a troubling reversal of code interpretations and representations previously provided by the City. Potala believes that the existing zoning code provisions are sufficient and have, in fact, through iterative review with the City and neighbors, produced developments in BN zones that achieve City goals.

Having reviewed the code, plans, and neighborhood conditions and concerns, Potala remains convinced that mixed-use commercial and residential development of the Lake St. BN Properties is consistent with City planning objectives and is more compatible with the neighborhood than a 100 percent office or retail use would be. The City's plans encourage residential projects within commercial areas. The Commission must act with caution to avoid effectively negating these planning policies in the BN zone. Without careful construction, the zoning methodologies will not produce the expected development results.

Very truly yours,



Kristine R. Wilson

Cc: Eric Shields, Planning Director
Jeremy McMahan, Planning Supervisor
Robin Jenkinson, City Attorney
Kurt Triplett, City Manager
Lobsang Dargey, Potala Village, LLC
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March 8, 2012

VIA ELECTRONIC MAIL

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Glenn Peterson, Commissioner
George Pressley, Commissioner
Karen Tennyson, Commissioner

PlanningCommissioners@kirklandwa.gov

**Re: Commercial Codes KZC Amendments, File No. ZON11-00042
BN Zoning District Code Amendments**

Dear Kirkland Planning Commissioners:

On behalf of our client, Potala Village Kirkland, LLC ("Potala"), following on our comments filed on February 23, 2012 and the discussions of the Planning Commission ("Commission") at your February 23rd meeting, we submit the attached table to illustrate how the proposed amendments to BN zoning parameters create feasibility and policy challenges as applied to the Lake Street BN Properties. We ask that the Commission consider these issues and recognize that in this very small zoning district—which essentially includes two sites, the Lake Street BN Properties and the South Rose Hill Property—setting zoning parameters that disproportionately impact one of the two sites or that diverge from standards in other City of Kirkland commercial districts is unduly oppressive, unequal and unnecessary to achieve the city's land use and planning objectives.

Very truly yours,



Kristine R. Wilson

Cc: Eric Shields, Planning Director
Jeremy McMahan, Planning Supervisor
Robin Jenkinson, City Attorney
Kurt Triplett, City Manager

TABLE 1 – COMMENTS REGARDING FEASIBILITY AND POLICY ISSUES WITH PROPOSED CHANGES TO ZONING PARAMETERS¹

Zoning Parameter	BN (current)	Zoning Amendment Options (per 3/8 meeting packet)	Feasibility Issues	Policy Issues
Residential density	None	No change	None	None
Minimum commercial floor area	75% of ground floor	Minimum commercial frontage	Given the site conditions of the Lake Street BN Properties (steep slope on three sides of the site), the only practical storefront is on Lake Street. A 50' commercial depth is a reasonable dimension both for retail store size (local neighborhood market scale) and taking into consideration the particular limitations presented by this site condition.	A minimum commercial frontage of between 30' to 50' should achieve the City's policy goals and would be consistent with the approach taken elsewhere in the City. It is also consistent with the Comp. Plan goals of seeing that BN properties are used for minimal, neighborhood-serving commercial purposes and that residential uses are encouraged in commercial areas. There should also be a means to vary required commercial frontage to encourage increased landscaping and open space within a BN project. For the Lake Street BN Properties, provision of a landscape buffer and courtyard is more pedestrian friendly and more appropriate to siting on the busy street.
Residential on ground floor of structure	Prohibited	No change; allow lobby Revisit for residential behind minimum commercial frontage	Residential lobby should be authorized within the commercial frontage for ease of access, allowing the residential use to be pedestrian-friendly as well as commercial uses.	Residential lobbies should be allowable within the minimum commercial floor area, or the residential lobby should be treated as a commercial use.
Commercial orientation	Toward arterial or sidewalk	No change	None	None
		Minimum 13' ground floor height	A 12' commercial floor height would bring pedestrian areas and commercial grade one foot closer to the street level. Moreover, should the City change the maximum building height (e.g., to set a story limit) or require commercial to be at grade with the street, this limit on top of those changes would severely restrict the Lake Street BN Properties. If the ground floor were to be provided at grade, the minimum ground floor height should not exceed 10'.	Generally, a 12' minimum ground floor height is workable and could encourage development of retail within the BN zone. If this limit is combined with a building height or at-grade requirement, however, this would exacerbate reverse spot zoning impacts. This limit would create disproportionate adverse impacts on the Lake Street BN Properties given its topography.
		Specify commercial floor to be at grade with street/sidewalk	It is more desirable and serves the neighborhood better to have a sub-sidewalk grade public open space with water fountains, benches and other site features for people to enjoy and at the same time create a buffer from the busy street, rather than have at grade commercial. This would limit design creativity, diversity and the ability to respond to specific site conditions.	It is reverse spot zoning to specify that the commercial floor be at-grade with the street/sidewalk. The Potala project's building proposal is the specific target of the proposed restriction and the limit has a much greater impact on the Lake Street BN Properties given its topography and orientation to streets and sidewalks.

¹ Potala Village Kirkland, LLC submits these initial comments regarding proposed changes to BN Zone zoning parameters under a full reservation of rights including, but not limited to, rights with respect to due process, property rights, vesting, reverse spot zoning, and other legal interests.

Zoning Parameter	BN (current)	Zoning Amendment Options (per 3/8 meeting packet)	Feasibility Issues	Policy Issues
Maximum floor area ratio	None	No change	None	None
Maximum height	30'	30' above ABE	This is currently what the City uses to measure the building height throughout the commercial district. It appropriately recognizes the different impacts that result when applying a height limit on a sloped property.	Without this average building elevation measurement technique, the City's regulations would not apply fairly or equally to account for site conditions. This typical tool accounts for what has been a typical grounds for varying height restrictions: differential impacts within the same zone as a result of site topography.
		Cap # of stories – max. 3 stories above street	For the Lake Street BN Properties, where there is a steep slope and vast elevation drop between this site and the site behind, this cap will put half of the building inside a well. The height limits and the required yards setback already limit building mass. This requirement is redundant from zoning point of view since it does not affect the buildings massing (i.e., if the height limit remains the same but the number of stories is limited, a developer could still build the same building mass with a single story if he was so inclined). If a project meets the required height limit, why does it matter how many floors there are?	It is reverse spot zoning to use maximum stories here when (a) the method was previously used but has since been rejected elsewhere in the City, and (b) the Potala project's building proposal is the specific target of the proposed cap because the limit has a much greater impact on the Lake Street BN Properties given its topography.
Maximum lot coverage	80%	No change	None	None
Required yards	20' front 10' side & rear	10' for ground floor commercial story	A 10' setback is acceptable. An incentive should be provided if a property owner does more in order to create additional landscaping and public open space.	There should also be a means to vary required commercial frontage to encourage increased landscaping and open space within a BN project. For the Lake Street BN Properties, provision of a landscape buffer and courtyard is more pedestrian friendly and more appropriate to siting on the busy street.
		No change to front for 2nd and 3rd stories	If this means that, should a 10' ground floor standard be adopted, higher stories would be stepped back to 20', we think this would be workable.	A setback requirement of this type would have a disproportionate impact on the Lake Street BN Properties, given its configuration. Incentives should be offered for any additional landscaping and open space provided, especially within front yards.
		10' side and rear for all uses	Yes, commercial and office should be treated the same to allow flexibility of future tenant changes.	This standard is consistent with the code and Comp. Plan policies encouraging retail or office uses in the BN zone.

Zoning Parameter	BN (current)	Zoning Amendment Options (per 3/8 meeting packet)	Feasibility Issues	Policy Issues
Land use buffer	Retail = 15' adjoining SF or MF Office = 15' adjoining SF, 5' adjoining MF	15' for all commercial uses adjoining residential (SF or MF)	There seems to be some confusion about the nature of this buffer. It is a buffer from the property line where a retail or office use adjoins a parcel that is zoned SF or MF—it is <u>not</u> a setback of 15' or 5' from SF or MF <u>structures</u> . On the Lake Street BN Properties, the adjacent MF property to the east is separated from the site by an approximately 30' steep slope. Any new structure on the site above ground is likely to be more than 5' from that property line. Below ground, however, it is important to be able to make use of this additional space for parking. On the south side, on top of the land use buffer on this site, the adjoining property most immediately contains its own landscaping area, then a road, and next a parking area. We favor moving the existing retail buffer to the office standard (i.e., 5' adjoining MF) or making no change.	The existing 15' single-family and 5' multi-family buffers are appropriate for a neighborhood-serving commercial use. Making office and retail consistent at 5' from multi-family zoned properties is appropriate to code and Comp. Plan policies encouraging retail or office uses in the BN zone.
Maximum retail / restaurant store size	10,000 s.f. per establishment	5,000-9,000 (find examples of neighborhood services)	No comment. This is a wide range and feasibility will depend upon the size chosen.	No comment.
		4,000 s.f. (similar to MSC 2 zone)	Setting 4,000 s.f. as a maximum may preclude some desirable neighborhood-serving retail establishments.	No comment.
Use limitations	Use zone charts	Prohibit non-pedestrian oriented uses	What is a pedestrian oriented use? The zoning code presently provides a very circular definition. Future market trends may be very different from today so it is important that the use descriptions not be too restrictive.	The appropriateness of this restriction is very dependent upon which uses are included in the scope. Parking garage space at a ground floor level, in particular, is necessary to enable neighborhood-serving retail or office use.
Maximum building length	None	Determine if addressed through design guidelines or regulations	Traditionally this is controlled through setbacks, lot coverage and through modulation of the building elevations. We believe these factors should be used.	It is reverse spot zoning to use maximum stories here when any length chosen would be arbitrary and would affect the Lake Street BN Properties disproportionately given its size. It is possible that a property with a shorter street front (such as the Rose Hill BN Property) could have the same building length with smaller side yards. Furthermore, if this limit only applies in the BN zone and not elsewhere within the City, it could provide for unequal restrictions as compared to other commercial properties within the City.
Maximum building size	None	Determine if addressed through design guidelines or regulations	Maximum building size is already determined by limiting the building height, setbacks, floor area and landscape buffers. This requirement is redundant and can cause conflicts between zoning regulations.	The fact that this type of regulation is not in use anywhere else in the City is telling. It should not be used here either. Further, selecting a maximum building size under these circumstances amounts to reverse spot zoning. Setbacks and building height standards – as applied elsewhere – are appropriate here as well.

Zoning Parameter	BN (current)	Zoning Amendment Options (per 3/8 meeting packet)	Feasibility Issues	Policy Issues
Review process	None	Design Review (bring back Design Guidelines/regulations for MSC 2 for consideration)	This will duplicate the same public hearing and commenting process that will be conducted as part of SEPA EIS review. SEPA EIS review is examining the project more systematically to address any impacts to the environment and neighborhood/city. If additional review process is added in this zone, Administrative Design Review is more appropriate than Design Board Review.	This permit review process change will have a disproportionate impact on the Lake Street BN Properties. For the Lake Street BN Properties, applying a design review process will cause undue delays. The shoreline substantial development permit process for the site of the proposal already ensures sufficient consolidated review under SEPA. Design review should not apply where an EIS review is utilized including bulk and scale issues within the scope.

Jeremy McMahan

From: Wilson, Kristine (Perkins Coie) [KRWilson@perkinscoie.com]
Sent: Thursday, March 08, 2012 5:27 PM
To: Planning Commissioners
Cc: Eric Shields; Jeremy McMahan; Robin Jenkinson; Kurt Triplett; 'lobsang@pathamerica.com'; 'Justin Stewart'
Subject: File No. ZON11-00042: Potala Village Kirkland's Comments re. Proposed Amendments to BN Zoning Parameters
Attachments: 3-8-12 Letter from Potala to City of Kirkland Planning Commissioners.pdf
Follow Up Flag: Follow up
Flag Status: Flagged

Dear Kirkland Planning Commissioners,

Attached for your review and consideration please find a comment letter filed on behalf of our client, Potala Village Kirkland, LLC. Please note that the table provided on pages 2-5 of the .pdf is formatted on legal-sized paper for easier reading and accessibility.

Thank you for your consideration.

Very truly yours,

Kristine Wilson | Perkins Coie LLP

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March 8, 2012

VIA ELECTRONIC MAIL

Jay Arnold, Chair
Mike Miller, Vice Chair
C. Ray Allhouse, Commissioner
Andy Held, Commissioner
Byron Katsuyama, Commissioner
Jon Pascal, Commissioner
Glenn Peterson, Commissioner
George Pressley, Commissioner
Karen Tennyson, Commissioner

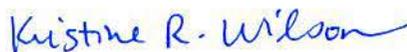
PlanningCommissioners@kirklandwa.gov

**Re: Commercial Codes KZC Amendments, File No. ZON11-00042
BN Zoning District Code Amendments**

Dear Kirkland Planning Commissioners:

On behalf of our client, Potala Village Kirkland, LLC ("Potala"), following on our comments filed on February 23, 2012 and the discussions of the Planning Commission ("Commission") at your February 23rd meeting, we submit the attached table to illustrate how the proposed amendments to BN zoning parameters create feasibility and policy challenges as applied to the Lake Street BN Properties. We ask that the Commission consider these issues and recognize that in this very small zoning district—which essentially includes two sites, the Lake Street BN Properties and the South Rose Hill Property—setting zoning parameters that disproportionately impact one of the two sites or that diverge from standards in other City of Kirkland commercial districts is unduly oppressive, unequal and unnecessary to achieve the city's land use and planning objectives.

Very truly yours,



Kristine R. Wilson

Cc: Eric Shields, Planning Director
Jeremy McMahan, Planning Supervisor
Robin Jenkinson, City Attorney
Kurt Triplett, City Manager

TABLE 1 – COMMENTS REGARDING FEASIBILITY AND POLICY ISSUES WITH PROPOSED CHANGES TO ZONING PARAMETERS¹

Zoning Parameter	BN (current)	Zoning Amendment Options (per 3/8 meeting packet)	Feasibility Issues	Policy Issues
Residential density	None	No change	None	None
Minimum commercial floor area	75% of ground floor	Minimum commercial frontage	Given the site conditions of the Lake Street BN Properties (steep slope on three sides of the site), the only practical storefront is on Lake Street. A 50' commercial depth is a reasonable dimension both for retail store size (local neighborhood market scale) and taking into consideration the particular limitations presented by this site condition.	<p>A minimum commercial frontage of between 30' to 50' should achieve the City's policy goals and would be consistent with the approach taken elsewhere in the City. It is also consistent with the Comp. Plan goals of seeing that BN properties are used for minimal, neighborhood-serving commercial purposes and that residential uses are encouraged in commercial areas.</p> <p>There should also be a means to vary required commercial frontage to encourage increased landscaping and open space within a BN project. For the Lake Street BN Properties, provision of a landscape buffer and courtyard is more pedestrian friendly and more appropriate to siting on the busy street.</p>
Residential on ground floor of structure	Prohibited	No change; allow lobby Revisit for residential behind minimum commercial frontage	Residential lobby should be authorized within the commercial frontage for ease of access, allowing the residential use to be pedestrian-friendly as well as commercial uses.	Residential lobbies should be allowable within the minimum commercial floor area, or the residential lobby should be treated as a commercial use.
Commercial orientation	Toward arterial or sidewalk	No change	None	None
		Minimum 13' ground floor height	A 12' commercial floor height would bring pedestrian areas and commercial grade one foot closer to the street level. Moreover, should the City change the maximum building height (e.g., to set a story limit) or require commercial to be at grade with the street, this limit on top of those changes would severely restrict the Lake Street BN Properties. If the ground floor were to be provided at grade, the minimum ground floor height should not exceed 10'.	Generally, a 12' minimum ground floor height is workable and could encourage development of retail within the BN zone. If this limit is combined with a building height or at-grade requirement, however, this would exacerbate reverse spot zoning impacts. This limit would create disproportionate adverse impacts on the Lake Street BN Properties given its topography.
		Specify commercial floor to be at grade with street/sidewalk	It is more desirable and serves the neighborhood better to have a sub-sidewalk grade public open space with water fountains, benches and other site features for people to enjoy and at the same time create a buffer from the busy street, rather than have at grade commercial. This would limit design creativity, diversity and the ability to respond to specific site conditions.	It is reverse spot zoning to specify that the commercial floor be at-grade with the street/sidewalk. The Potala project's building proposal is the specific target of the proposed restriction and the limit has a much greater impact on the Lake Street BN Properties given its topography and orientation to streets and sidewalks.

¹ Potala Village Kirkland, LLC submits these initial comments regarding proposed changes to BN Zone zoning parameters under a full reservation of rights including, but not limited to, rights with respect to due process, property rights, vesting, reverse spot zoning, and other legal interests.

Zoning Parameter	BN (current)	Zoning Amendment Options (per 3/8 meeting packet)	Feasibility Issues	Policy Issues
Maximum floor area ratio	None	No change	None	None
Maximum height	30'	30'above ABE	This is currently what the City uses to measure the building height throughout the commercial district. It appropriately recognizes the different impacts that result when applying a height limit on a sloped property.	Without this average building elevation measurement technique, the City's regulations would not apply fairly or equally to account for site conditions. This typical tool accounts for what has been a typical grounds for varying height restrictions: differential impacts within the same zone as a result of site topography.
		Cap # of stories – max. 3 stories above street	For the Lake Street BN Properties, where there is a steep slope and vast elevation drop between this site and the site behind, this cap will put half of the building inside a well. The height limits and the required yards setback already limit building mass. This requirement is redundant from zoning point of view since it does not affect the buildings massing (i.e., if the height limit remains the same but the number of stories is limited, a developer could still build the same building mass with a single story if he was so inclined). If a project meets the required height limit, why does it matter how many floors there are?	It is reverse spot zoning to use maximum stories here when (a) the method was previously used but has since been rejected elsewhere in the City, and (b) the Potala project's building proposal is the specific target of the proposed cap because the limit has a much greater impact on the Lake Street BN Properties given its topography.
Maximum lot coverage	80%	No change	None	None
Required yards	20' front 10' side & rear	10' for ground floor commercial story	A 10' setback is acceptable. An incentive should be provided if a property owner does more in order to create additional landscaping and public open space.	There should also be a means to vary required commercial frontage to encourage increased landscaping and open space within a BN project. For the Lake Street BN Properties, provision of a landscape buffer and courtyard is more pedestrian friendly and more appropriate to siting on the busy street.
		No change to front for 2nd and 3rd stories	If this means that, should a 10' ground floor standard be adopted, higher stories would be stepped back to 20', we think this would be workable.	A setback requirement of this type would have a disproportionate impact on the Lake Street BN Properties, given its configuration. Incentives should be offered for any additional landscaping and open space provided, especially within front yards.
		10' side and rear for all uses	Yes, commercial and office should be treated the same to allow flexibility of future tenant changes.	This standard is consistent with the code and Comp. Plan policies encouraging retail or office uses in the BN zone.

Zoning Parameter	BN (current)	Zoning Amendment Options (per 3/8 meeting packet)	Feasibility Issues	Policy Issues
Land use buffer	Retail = 15' adjoining SF or MF Office = 15' adjoining SF, 5' adjoining MF	15' for all commercial uses adjoining residential (SF or MF)	There seems to be some confusion about the nature of this buffer. It is a buffer from the property line where a retail or office use adjoins a parcel that is zoned SF or MF—it is <u>not</u> a setback of 15' or 5' from SF or MF <u>structures</u> . On the Lake Street BN Properties, the adjacent MF property to the east is separated from the site by an approximately 30' steep slope. Any new structure on the site above ground is likely to be more than 5' from that property line. Below ground, however, it is important to be able to make use of this additional space for parking. On the south side, on top of the land use buffer on this site, the adjoining property most immediately contains its own landscaping area, then a road, and next a parking area. We favor moving the existing retail buffer to the office standard (i.e., 5' adjoining MF) or making no change.	The existing 15' single-family and 5' multi-family buffers are appropriate for a neighborhood-serving commercial use. Making office and retail consistent at 5' from multi-family zoned properties is appropriate to code and Comp. Plan policies encouraging retail or office uses in the BN zone.
Maximum retail / restaurant store size	10,000 s.f. per establishment	5,000-9,000 (find examples of neighborhood services)	No comment. This is a wide range and feasibility will depend upon the size chosen.	No comment.
		4,000 s.f. (similar to MSC 2 zone)	Setting 4,000 s.f. as a maximum may preclude some desirable neighborhood-serving retail establishments.	No comment.
Use limitations	Use zone charts	Prohibit non-pedestrian oriented uses	What is a pedestrian oriented use? The zoning code presently provides a very circular definition. Future market trends may be very different from today so it is important that the use descriptions not be too restrictive.	The appropriateness of this restriction is very dependent upon which uses are included in the scope. Parking garage space at a ground floor level, in particular, is necessary to enable neighborhood-serving retail or office use.
Maximum building length	None	Determine if addressed through design guidelines or regulations	Traditionally this is controlled through setbacks, lot coverage and through modulation of the building elevations. We believe these factors should be used.	It is reverse spot zoning to use maximum stories here when any length chosen would be arbitrary and would affect the Lake Street BN Properties disproportionately given its size. It is possible that a property with a shorter street front (such as the Rose Hill BN Property) could have the same building length with smaller side yards. Furthermore, if this limit only applies in the BN zone and not elsewhere within the City, it could provide for unequal restrictions as compared to other commercial properties within the City.
Maximum building size	None	Determine if addressed through design guidelines or regulations	Maximum building size is already determined by limiting the building height, setbacks, floor area and landscape buffers. This requirement is redundant and can cause conflicts between zoning regulations.	The fact that this type of regulation is not in use anywhere else in the City is telling. It should not be used here either. Further, selecting a maximum building size under these circumstances amounts to reverse spot zoning. Setbacks and building height standards – as applied elsewhere – are appropriate here as well.

Zoning Parameter	BN (current)	Zoning Amendment Options (per 3/8 meeting packet)	Feasibility Issues	Policy Issues
Review process	None	Design Review (bring back Design Guidelines/regulations for MSC 2 for consideration)	This will duplicate the same public hearing and commenting process that will be conducted as part of SEPA EIS review. SEPA EIS review is examining the project more systematically to address any impacts to the environment and neighborhood/city. If additional review process is added in this zone, Administrative Design Review is more appropriate than Design Board Review.	This permit review process change will have a disproportionate impact on the Lake Street BN Properties. For the Lake Street BN Properties, applying a design review process will cause undue delays. The shoreline substantial development permit process for the site of the proposal already ensures sufficient consolidated review under SEPA. Design review should not apply where an EIS review is utilized including bulk and scale issues within the scope.