



MEMORANDUM

DATE: March 19, 2013

To: Planning Commission

FROM: Jeremy McMahan, Planning Supervisor

SUBJECT: Commercial Codes KZC Amendments (Phase 2), File No. CAM13-00185

RECOMMENDATION

Review and discuss the list of potential code amendments and provide direction to staff on draft amendments for a public hearing. A number of the amendments will fall within the jurisdiction of the Houghton Community Council.

BACKGROUND

The Planning Commission reviewed the initial scope for phase 2 on February 14th and provided staff with the following direction:

- Draft regulations for ground floor commercial should follow the direction set with phase 1 amendments. As a starting point, zones similar to BC would establish a minimum commercial FAR and zones similar to BN would establish a minimum commercial frontage requirement.
- Explore amendments to the BC zone with the Houghton and Everest neighborhoods to see if there is an interest in making the BC zone consistent with the BCX, BC 1, and BC 2 zones.
- Include a review of school/daycare setback requirements. Staff should provide additional information on how the use is regulated by adjoining cities.

DISCUSSION

1. **Measuring Ground Floor Commercial:** Staff has reviewed the remaining zones on the list and recommends draft regulations as follows. A summary of current regulations is included in Attachment 1.
 - MSC 3 Zone (see Attachment 2) – The MSC 3 zone was developed from the prior BC zoning for the area. The zone has 0' setbacks and design guidelines/review for pedestrian-orientation. Due to the limited parcel depths ($\pm 90-100'$), the minimum commercial frontage approach and the minimum FAR approach would likely yield similar results. For example, a 30' deep commercial frontage across a 100' deep lot would yield .30 commercial FAR.

Because this zone is more similar in character to the CBD zones than to BC family of zones/

neighborhood centers, staff recommends utilizing the phase 1 approach used for the BN family of zones including a 30' depth commercial frontage, allowing residential behind commercial frontage, and 13' ground floor height with a commensurate 3' increase in the allowed height (currently 30').

- NRH 1A, NRH 1B Zones (see Attachment 3) – these zones were developed from a mix of prior BN, BC, and FC 1 zones. Current regulations simply preclude dwelling units on the ground floor, but (oddly) allow assisted living uses if there is a 30' commercial frontage along the street. Properties in NRH 1A adjoining the freeway have a strong commercial emphasis of lodging, dining, and gas stations. Properties in NRH 1A oriented to Slater and 124th are housing above a commercial and parking podium. The Totem Station project currently under construction received approval of a PUD that allowed residential parking to be located on the ground floor, behind commercial frontage (see project drawing below). NRH 1B is currently developed with strip commercial on the west portion, while the east portion (approximately 40% of the NRH 1B zone) is encumbered by the Seattle City Light easement (shown in purple in Attachment 3). Since no structures are allowed in the easement, the .25 FAR requirement may not be practical.



For NRH 1A and NRH 1B, staff recommends utilizing the commercial frontage regulations used in phase 1 for the BN family of zones.

- BC Zone (see Attachment 4) – Staff met with representatives of the Central Houghton and Everest Neighborhood organizations on March 7th to discuss potential amendments. Staff will be attending the Everest Neighborhood meeting to gather additional input on March 26th. We will report back to the Planning Commission at the study session.
- RH 1A, RH 2A, RH 3, RH 5A, RH 5B, RH 7 Zones (see Attachment 5) – Although included in the initial scope, on further review of the existing code, *staff is not recommending any changes at this time*. The current zoning emphasizes retail uses (50% of the ground floor area) but also allows other uses such as office and residential (except RH 2A) on the ground floor. Existing design guidelines and pedestrian regulations adequately address retail orientation.

Direction needed:

- Confirm commercial frontage approach to MSC 3, NRH 1A, and NRH 1B
- Discuss results of neighborhood outreach and decide whether to include the BC zone in project scope
- Confirm no changes to RH zones

2. **Setbacks for School and Daycare uses** (PR, PRA, PO, MSC 1, MSC 4, RH 4, TL 10B, PLA 5C, PLA 6B, BN, MSC 2, MSC 3, YBD 1 Zones):

As illustrated in the chart below, in many commercial zones, schools and daycare centers have the same setbacks as other uses in the zone. However, in the commercial zones listed above and noted in the top section of the following chart, schools and daycare centers have 20' or 50' setbacks consistent with those found in residential zones. This setback requirement has the effect of precluding otherwise desirable school/daycare uses from inclusion in mixed use buildings or areas.

This chart illustrates the required setbacks for both the building and the structured play area - based on the number of students.

	Commercial Zone	Building setback <i>(if blank, same as other uses in zone)</i>		Structured play area setback		
		13-49 students	50+ students	13-49 students	50+ students	
Zones with greater setbacks	PR*, PRA	20'	50'	10'	20'	Office Zones
	PO*	20'	50'	10'	20'	
	MSC 1 & 4	20'	50'	10'	20'	
	RH 4	20'	50'	10'	20'	
	TL 10B	20'	50'	10'	20'	
	PLA 5C	20'	50'	10'	20'	
	PLA 6B	20'	50'	10'	20'	Commercial Zones
	BN	20'	50'	10'	20'	
	MSC 2	20'	50'	10'	20'	
	MSC 3	30' (front only)	30' (front only)	10'	20'	TOD Zone
YBD 1*	20'	50'	10'	20'		
Zones with basic setbacks	LIT	Not allowed				Industrial Zones
	BC*, BC 1, BC 2			10'	20'	
	BCX			10'	20'	
	CBD			5'	5'	
	JBD			10'	20'	
	RH 1A, 1B, 2A, 2B, 2C, 3			10'	20'	
	RH 5A, 5B			10'	20'	
	RH 7			10'	20'	
	RH 8			10'	20'	
	NRH 1A, 1B, 2, 3, 4, 5, 6			10'	20'	
	TL 1A, 1B, 2, 3A, 3B, 3C, 3D			5'	5'	
	TL 4A, 4B, 4C, 5, 6A, 6B, 7, 8, 9A, 10A, 10C, 10D			10'	20'	
	YBD* 2, 3			5'	5'	
	PLA 6G			10'	20'	
	PLA 17A			10'	20'	

Consistent with information from a speaker at the previous study session, staff's review of regulations in neighboring cities confirms that Kirkland is unique in these setbacks. Setbacks for daycare operations in Bellevue, Bothell, Kenmore, Woodinville, Redmond, and King County

are the same as other uses in the applicable zone. Redmond establishes a 10' setback for play equipment similar to Kirkland's structured play area setback.

Staff recommends that the draft regulations require building setbacks for schools and daycares consistent with other setbacks in the applicable zone. Staff does not recommend changes to the setback requirements for structured play areas at this time. However, the definition of "Structured Play Area" should be reviewed to ensure that it includes the components and activities that should be setback from adjoining properties. The definition is somewhat open to interpretation because it includes both structures (e.g. – a swing set) and non-structures (e.g. – a hard-surface playground). "Tot lots" is a grey area because the distinction between a lawn or similar area (excluded) and a tot lot (included) may not always be evident. Staff recommends that the definition be amended to clarify that the setbacks apply only to structures within the play area and not the entire play area.

.917 Structured Play Area

– An area designed, constructed, and intended for active recreation and/or congregation of users and/or observers. Structured play areas include, but are not limited to: tot lots, climber toys, swing sets, hard-surfaced playgrounds, sport courts, swimming pools, baseball infields, viewing stands or bleachers, and similar facilities. Structured play areas do not include baseball outfields, passive recreation areas, lawns, or similar areas

Direction needed:

- Should school/daycare buildings have greater setbacks than other buildings in the identified zones?
- Should structured play area setbacks be maintained? If so, should it be limited to actual play equipment in commercial zones (similar to Redmond)?
- Should the definition of structured play area be revised for clarity?

3. **Review Process IIA criteria for increased height.** In the BC, BCX, LIT, TL 9A, and PLA 6G zones, the Code contains the following provision for increasing building height:

Special Regulation: Except if adjoining a low density zone, structure height may be increased above *((applicable height in zone))* feet in height through a Process IIA, Chapter 150 KZC, if:

- It will not block local or territorial views designated in the Comprehensive Plan;
- The increased height is not specifically inconsistent with the applicable neighborhood plan provisions of the Comprehensive Plan; and
- The required front yard of any portion of the structure is increased one foot for each foot that any portion of the structure exceeds 30 feet above average building elevation (does not apply to Public Park uses).

No maximum height is specified (although there would be a practical limit given the increased setback requirements). Staff is only aware of one prior request for a Process IIA height increase. In 1997, the City approved an increase from 30' to 39' on the Pace Chemical site in the PLA 6G zone. That approval for the project subsequently expired and the project was not constructed.

Direction needed:

- Primarily, staff wants to ensure that the Planning Commission is aware of the regulations because the criteria are not particularly robust and these zones do not have design review. Options include:
 - No changes
 - Establish a maximum height that can be requested
 - Revisit the decisional criteria for the additional height

4. **KZC - Miscellaneous Minor Commercial Code Amendments:**

In addition to the above, staff proposes the following additional amendments:

- Codify CBD 7 retail interpretation. The Planning Director recently approved Interpretation 13-1 (see Attachment 6) to clarify that retail frontage is only required along designated pedestrian-oriented streets. Staff will draft regulations to codify the interpretation.
- Codify interpretation allowing schools in LIT zone. In May, 2009, the City Council authorized a Zoning Code Interpretation 09-2 (see Attachment 7) to allow schools in the LIT zone. Staff recommends a new use listing allowing schools and daycares (similar to the TL 7 industrial zone).
- Make regulations for ground floor assisted living uses consistent with other residential use regulations (e.g. – lobbies rules, ground floor prohibitions, etc.)
- Codify provisions for encroachment of structural columns in parking spaces in garages.
- Use consistent terminology for gas stations and auto repair uses.
- Correct special regulations for mini-schools and mini-daycares that reference out of date statutes.

Direction needed:

- Confirm codification of interpretations for CBD 7 retail and schools/daycares in LIT zones.

Attachments

1. Summary of Ground Floor Regulations
2. MSC 3 Area
3. NRH 1A & 1B Area
4. BC Area
5. RH Area
6. Interpretation 13-1
7. Interpretation 09-2

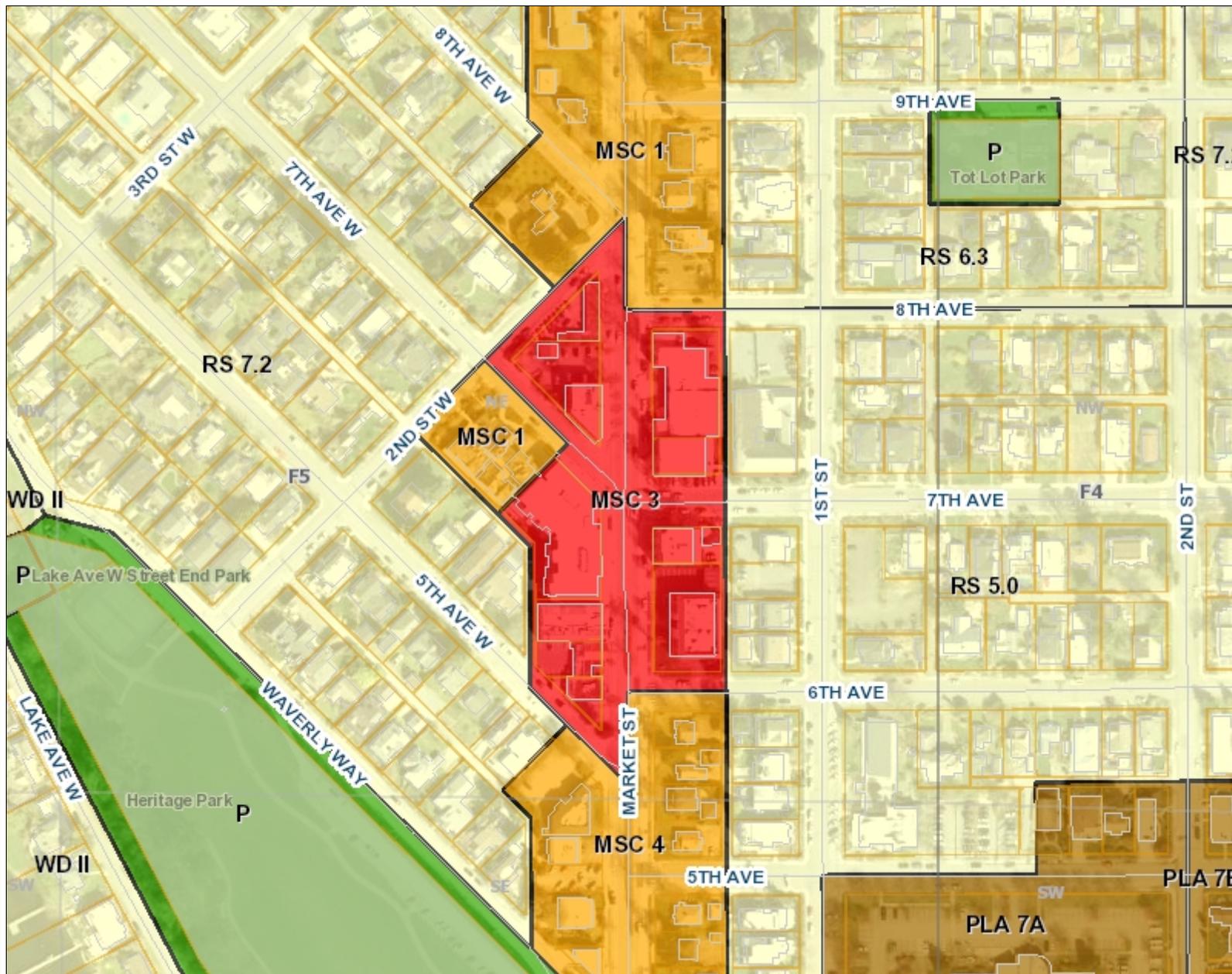
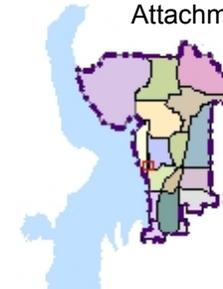
ZONES WHERE GROUND FLOOR COMMERCIAL USE IS REQUIRED		APPLICABLE N'HOOD PLAN	ZONING BACKGROUND	DESIGN REVIEW?
Key: <ul style="list-style-type: none"> ▪ Retail required ▪ Commercial required (residential restricted) ▪ GR = General Regulation, applies to all uses in zone ▪ SR = Special Regulations, applies to specific use in zone 				
BN	Amended, Phase 1. Commercial Frontage	MB, SRH	BN	Y
MSC 2	Amended, Phase 1. Commercial Frontage	MSC	BN	Y
BNA	Amended, Phase 1. Commercial Frontage & King County limit of residential to 50% of total floor area	FH	BN	Y
BC 1 BC 2	Amended, Phase 1. Minimum .25 Commercial FAR & Commercial Orientation to Street	NJ, K	BC	N
BCX	Amended, Phase 1. Minimum .25 FAR & Commercial Orientation to Street	BT	BC	N
BC	<p>GR 3. At least 75 percent of the total gross floor area located on the ground floor of all structures on the subject property must contain retail establishments, restaurants, taverns, hotels or motels, or offices. These uses shall be oriented to an adjacent arterial, a major pedestrian sidewalk, a through-block pedestrian pathway or an internal pathway.</p> <p>SR 1 (Stacked Dwelling Unit), SR 3 (Assisted Living): This use, with the exception of a lobby, may not be located on the ground floor of a structure.</p>	E, CH	BC	N

<p>MSC 3</p>	<p>GR.4: At least 75 percent of the total gross floor area located on the ground floor of all structures on the subject property must contain retail establishments, restaurants, taverns, hotels or motels, or offices. These uses shall be oriented to an adjacent arterial, a major pedestrian sidewalk, a through-block pedestrian pathway or an internal pathway.</p> <p>SR's (Stacked Units, Assisted Living): This use, with the exception of a lobby, may not be located on the ground floor of a structure.</p>	<p>MSC</p>	<p>BC</p>	<p>Y</p>
<p>RH 1A RH 3 RH 5A RH 5B RH 7</p>	<p>GR 3: At least 50 percent of the total gross floor area located on the ground floor of all structures on the subject property must contain retail establishments, restaurants, taverns, hotels or motels. These uses shall be oriented to NE 85th Street, a major pedestrian sidewalk, a through-block pedestrian pathway or an internal pathway.</p>	<p>85TH</p>	<p>BC, FCII (Cos tco)</p>	<p>Y</p>
<p>RH 2A</p>	<p>GR 3: At least 50 percent of the total gross floor area located on the ground floor of all structures on the subject property must contain retail establishments, restaurants, taverns, hotels or motels. These uses shall be oriented to NE 85th Street, a major pedestrian sidewalk, a through-block pedestrian pathway or an internal pathway.</p> <p>SR 1 (Attached or Stacked Unit): This use may not be located on the ground floor of a structure in RH 2A.</p>	<p>85TH</p>	<p>BC</p>	<p>Y</p>
<p>NRH 1A NRH 1B</p>	<p>SR 1 (Stacked Units): This use may not be located on the ground floor of a structure.</p> <p>SR 1 (Assisted Living): This use may be located on the street level floor of a building only if there is a commercial space extending a minimum of 30 feet of the building depth between this use and the abutting right-of-way. The Planning Director may approve a reduction to the depth requirement for the commercial space if the applicant demonstrates that the proposed configuration of the commercial use provides an adequate dimension for a viable retail tenant and provides equivalent or superior visual interest and potential foot traffic as would compliance with the required dimension.</p>	<p>NRH</p>	<p>BN, BC, FC 1</p>	<p>Y</p>



MSC 3 Area

Attachment 2



Legend

- City Limits
- Grid
- QQ Grid
- Streets
- Parcels
- Buildings
- Parks
- Schools
- Zoning**
- Commercial
- Industrial
- Transit Oriented Development
- Office
- High Density Residential
- Medium Density Residential
- Low Density Residential
- Institutions
- Park/Open Space
- z_Image09**
- Red: Band_1
- Green: Band_2
- Blue: Band_3

1: 2,692



0.1 0 0.04 0.08 Miles

NAD_1983_StatePlane_Washington_North_FIPS_4601_Feet
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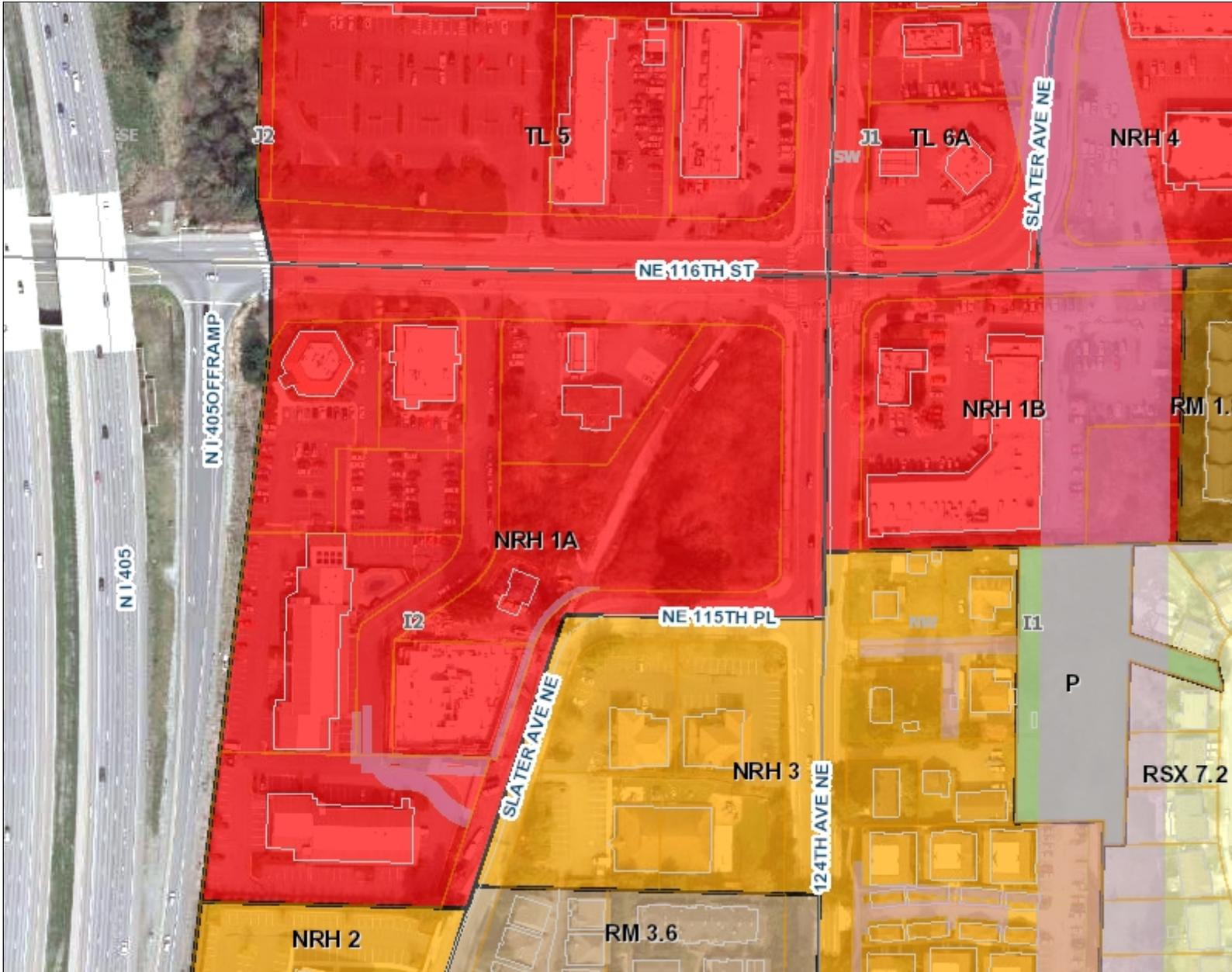
Notes

MSC 3 Area



NRH 1A & 1B Area

Attachment 3



Legend

- City Limits
 - Grid
 - QQ Grid
 - Railroad
 - Streets
 - Parcels
 - Easements
 - Buildings
 - Parks
 - Schools
- Zoning**
- Commercial
 - Industrial
 - Transit Oriented Development
 - Office
 - High Density Residential
 - Medium Density Residential
 - Low Density Residential
 - Institutions
 - Park/Open Space
- z_Image09**
- Red: Band_1
 - Green: Band_2
 - Blue: Band_3

1: 2,096



0.1 0 0.03 0.07 Miles

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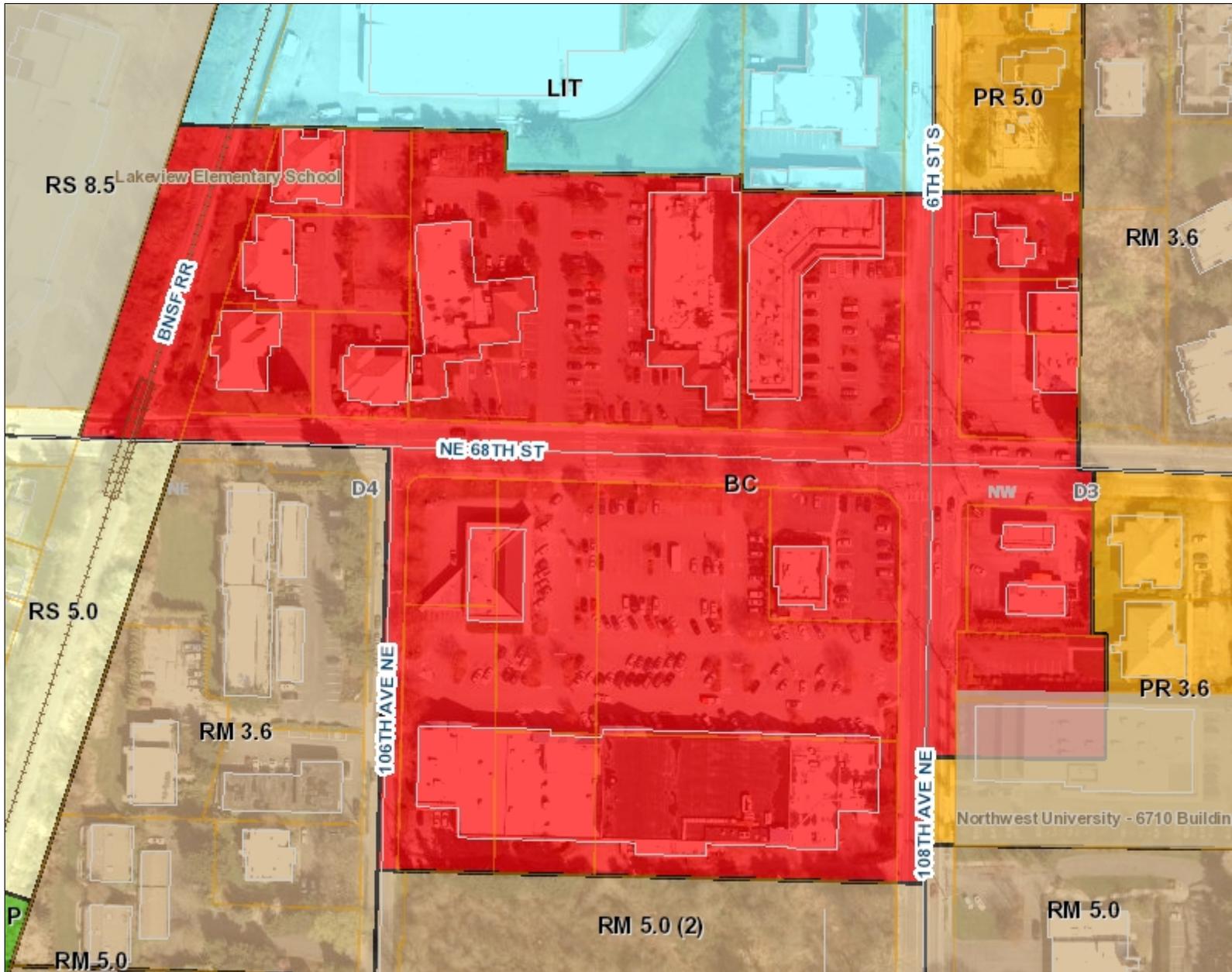
Notes

NRH 1A & 1B Area



BC Area

Attachment 4



Legend

- City Limits
 - Grid
 - QQ Grid
 - Railroad
 - Streets
 - Parcels
 - Buildings
 - Parks
 - Schools
- Zoning**
- Commercial
 - Industrial
 - Transit Oriented Development
 - Office
 - High Density Residential
 - Medium Density Residential
 - Low Density Residential
 - Institutions
 - Park/Open Space
- z_Image09**
- Red: Band_1
 - Green: Band_2
 - Blue: Band_3

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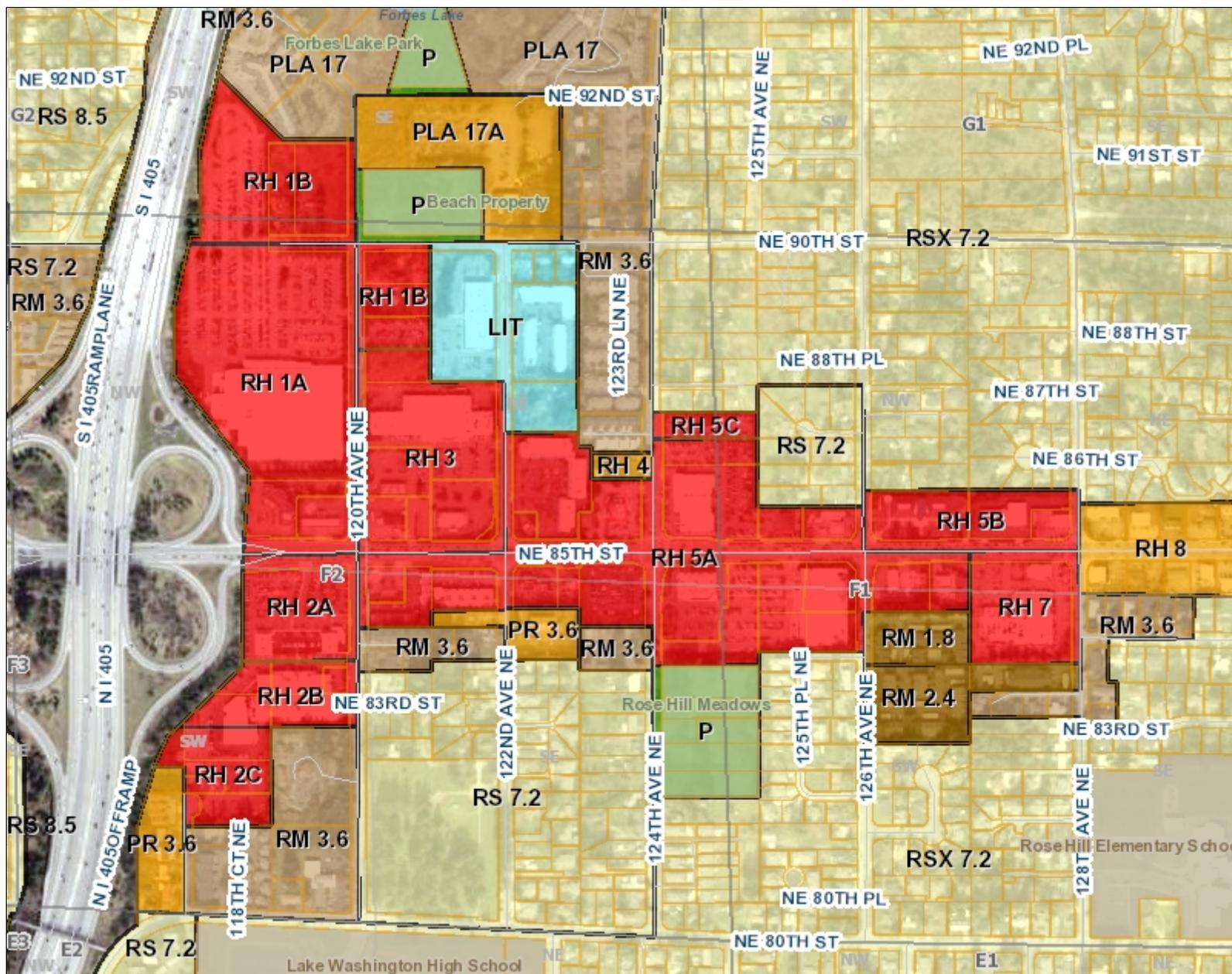
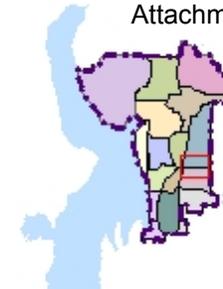
Notes

BC Area



RH Area

Attachment 5



Legend

- City Limits
- Grid
- QQ Grid
- Railroad
- Streets
- Parcels
- Lakes
- Parks
- Schools
- Zoning**
- Commercial
- Industrial
- Transit Oriented Development
- Office
- High Density Residential
- Medium Density Residential
- Low Density Residential
- Institutions
- Park/Open Space
- z_Image09**
- Red: Band_1
- Green: Band_2
- Blue: Band_3

1:6,712



0.2 0 0.11 0.21 Miles

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Notes

RH Area



CITY OF KIRKLAND
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www.kirklandwa.gov - 425.587.3225

MEMORANDUM

To: Interpretation No. 13-1

From: Eric R. Shields, AICP, Planning Director

Date: February 25, 2013

Subject: KZC 50.47 – INTERVENING RETAIL SPACE REQUIREMENT IN CBD 7

ISSUE

There are several types of uses in the CBD 7 zoning district which require an intervening retail space if located on the street level floor of a building. They are private lodges or clubs, churches, office uses, assisted living, stacked or attached dwelling units, and residential suites. At question is whether these uses should be allowed without an intervening retail space on the street level floor of a building where property does not front a pedestrian-oriented street.

INTERPRETATION

The CBD 7 special regulation requiring an intervening retail use does not apply along 4th Avenue.

APPLICABLE CODE SECTIONS

The following CBD 7 uses in Kirkland Zoning Code (KZC) Section 50.47 have a special regulation requiring an intervening retail space: private lodge or club, church, office, assisted living, stacked or attached dwelling units, and residential suites. The special regulation for each use states:

This use may be located on the street level floor of a building only if there is a retail space extending a minimum of 30 feet of the building depth between this use and the abutting right-of-way. The Planning Director may approve a reduction to the depth requirement for the retail space if the applicant demonstrates that the proposed configuration of the retail use provides an adequate dimension for a viable retail tenant and provides equivalent or superior visual interest and potential foot traffic as would compliance with the required dimension.

The specific code sections are as follows:

KZC Section 50.47.070 - Private lodge or club, Special Regulation 3

KZC Section 50.47.080 – Church, Special Regulation 3

KZC Section 50.47.090 – Office, Special Regulation 4

KZC Section 50.47.110 - Assisted living, Special Regulation 3

KZC Section 50.47.120 - Stacked or attached dwelling units, Special Regulation 1

KZC Section 50.47.125 - Residential suites, Special Regulation 1

ANALYSIS

KZC Section 170.40.1 states that the Planning Director may issue an interpretation of any of the provisions of the Code. This section requires the Planning Director to base a decision on three criteria which are addressed below.

1. Defined or common meaning of the words of the provision.

The strict meaning of the words contained in the special regulation would require retail use at the street level floor abutting all rights of way within the CBD 7 zone.

2. The general purpose of the provision as expressed in the provision.

The general purpose of this provision is to encourage active retail streetscapes in the Central Business District. This is accomplished by precluding less pedestrian-oriented uses on the street level unless they are located behind a retail storefront. For those properties in CBD 7 fronting on Central Way, the retail requirement is appropriate to create a cohesive retail district and streetscape. The subject of this interpretation is whether the general purpose of the retail provision is to create a retail streetscape along 4th Avenue (see map to right).



CBD 7 and Surrounding Zoning

The portion of 4th Avenue within CBD 7 is not designated as a Pedestrian-Oriented Street. This street currently serves as vehicular access to the condominium development to the north. Based on the land use patterns and the Comprehensive Plan provisions noted below, this street is not part of the retail district and is not intended to have a retail streetscape. Rather, this area forms the transition and provides access from the Central Business District into a residential development.

3. The logical or likely meaning of the provision viewed in relation to the Comprehensive Plan.

Comprehensive Plan policies regarding 4th Avenue do not indicate the street as having a retail character and streetscape. None of the Downtown Plan maps designate 4th Avenue within CBD 7 as being a 'major pedestrian route' (Figure MB-4) or identified as a 'pedestrian path' (Figure MB-6).

Further, the Zoning Code designates Pedestrian-Oriented Streets (Plate 34H) and establishes street improvement requirements based on that designation. The requirements include elements such as pedestrian weather protection, minimum requirements for windows and window displays, and wider sidewalks. In all cases, Pedestrian-Oriented Streets are retail streets (Central Way, Park Lane, Lake Street, Kirkland Avenue, etc.). The fact that 4th Avenue is not a designated Pedestrian-Oriented Street further reinforces the conclusion that this street was not intended to be a retail oriented street. If retail were to develop along this street, the absence of the Pedestrian-Oriented Street designation would exempt the street level retail from many of the design requirements that make retail attractive and functional.



CITY OF KIRKLAND
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www.ci.kirkland.wa.us

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

ISSUE

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

INTERPRETATION

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

APPLICABLE CODE SECTIONS

The Zoning Code defines Community Facility as:

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

ANALYSIS

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

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

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

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