



**MEMORANDUM**

**Date:** April 15, 2015  
**To:** Planning Commission  
**From:** Dorian Collins, Senior Planner  
Paul Stewart, Deputy Director  
**Subject:** Comprehensive Plan Update – Totem Lake Business District,  
File No. CAM13-00465, #4

This memo addresses the following Comprehensive Plan Update topic:

- Draft Plan for Totem Lake Business District and Urban Center – Responses to Direction from January 22<sup>nd</sup> and Additional Plan Update Topics
- Study Session #6

**I. RECOMMENDATION**

Review the issues identified and provide direction to staff to revise the draft Totem Lake Business District Chapter of the Comprehensive Plan. Based on Planning Commission direction, staff will revise the draft Plan for review at the study session on May 28th. The Chapter will remain in draft form and continue to be shaped by the following processes:

- City Council input at briefings on the Totem Lake Business District Plan and the five Citizen Amendment Requests (CARs) located in Totem Lake (July 7)
- Public input throughout the process
- Completion of the Transportation Element and the Transportation Master Plan (Final Draft to Planning Commission on April 23<sup>rd</sup>)
- EIS analysis of growth alternatives, including the Totem Lake Planned Action EIS (EIS hearing: July 9<sup>th</sup>; Planned Action hearing: August 13<sup>th</sup>)
- Public hearings on the Totem Lake Business District Plan and CARs, and the Totem Lake Planned Action EIS (August 13<sup>th</sup> and August 27<sup>th</sup>)

**II. BACKGROUND DISCUSSION**

The Planning Commission reviewed the draft updated plan for the Totem Lake Business District at the meeting on January 22<sup>nd</sup>. Packet materials for that meeting are located [here](#). The Commission provided direction to staff on several topics that will be addressed

in revisions to the draft text and maps for review on May 28<sup>th</sup>. The Commission also identified topics for additional discussion. Staff would also appreciate direction from the Commission on these and several additional topics.

Note that yellow highlighting indicates text that property owners in the auto industry have requested be deleted or added to the draft Plan the Commission reviewed in January.

**A. PLANNING COMMISSION DIRECTED TOPICS FOR ADDITIONAL DISCUSSION ON APRIL 23<sup>RD</sup>**

**1. AUTO INDUSTRY POLICIES: (see Attachments 1 and 2).**

In his letter (Attachment 1), Mr. Carson asked that the Commission defer discussion of draft policies related to the auto industry until after the CAR for Greg Rairdon had been considered. The meeting to discuss the Rairdon request was held on April 16<sup>th</sup>. Following the receipt of this letter from Mr. Carson and subsequent phone calls from another attorney representing Mr. Rairdon, Duana Kolouskova, Planning staff met with Ms. Kolouskova, Mr. Rairdon, and Jim Walen. Both Mr. Rairdon and Mr. Walen own auto dealerships located in the Totem Lake Business District.

At the meeting, these property owners suggested that the draft text be revised to address the needs and concerns of the auto industry. The concerns about the proposed text include:

- a. Request that the text related to visual impacts of vehicle storage in gateways be removed:

***Policy TL-4.1:***

Provide flexibility in development standards while maintaining an inviting visual environment.

Vehicle sales uses seek to maximize visibility and efficiency in the display and storage of inventory. Flexible development standards that assist vehicle dealers in these goals without compromising the visual character of the area should be considered in are provided in development standards and design guidelines for these uses. ~~should be considered. For example, required landscape areas could be consolidated at site entries and building fronts to create a massed planting area. Consolidated landscaping could improve the overall appearance of the site while providing the vehicle dealer with greater flexibility in use of the balance of the site.~~ Where parking areas for vehicle storage are located near gateways identified in this Plan, special attention to visual impacts is important. Parking areas should be appropriately landscaped so they do not detract from efforts to provide a welcoming and attractive entrance to the business district.

***Citizens request that highlighted text be eliminated.***

Attachment 3 contains the draft Totem Lake Urban Design map. The urban design elements noted on the map were created prior to the 2011 annexation of the eastern

portion of the Totem Lake Business District. Staff had anticipated moving the gateway shown on NE 124<sup>th</sup> Street farther to the east, to acknowledge the new entrance to Totem Lake in this area. The proposed text in Policy 4.1 is intended to address the benefit of additional landscaping in an area where lots may be used for the storage of vehicles.

**Staff requests that the Planning Commission provide direction for revisions.**

Several options exist:

- Retain text as drafted
- Revise text to be more general, and not to cite “vehicle storage” specifically  
**(Staff Recommendation)**
- Eliminate policy
- Other?

***Does the Planning Commission agree? Is there another approach the Commission would prefer?***

- b. Request that some text proposed to be added be deleted and that other text proposed to be deleted be retained:

***Policy TL-4.3:***

Assist existing and prospective vehicle dealers through a variety of means, while encouraging new businesses to locate near existing dealerships to promote an industry cluster and consolidate land occupied by this low intensity use within the Urban Center.

***Property owners request that language referring to an “industry cluster” be deleted.***

Because vehicle sales and service uses typically have unique spatial and visibility needs, these uses may require special assistance to ensure their continued viability in the City. ~~Zoning and regulatory measures should be considered to remove obstacles to development and increase flexibility in development standards.~~—When warranted by a clear public

***Property owners request that language related to removing obstacles and increasing flexibility be retained.***

interest and benefit, the City ~~should could also~~ provide technical assistance in identification of sites or by facilitating business-to-business communication efforts. ~~These business retention and recruitment measures should be considered as a means to ensuring the continued economic viability of vehicle-related retail sales in Kirkland.~~

***Policy TL-24.2:***

***Property owners request that this policy be deleted.***

Encourage the creation of an “Auto Dealership District”.

Auto dealerships are an established land use along 124<sup>th</sup> Avenue NE and NE 124<sup>th</sup> Street within the Eastern Commercial District. While these businesses provide important benefits to the City, as discussed in the Economic Development section of this Plan, they do not

contribute to the density and pedestrian orientation desired in an Urban Center. Standards to encourage consolidation of land devoted to sales and storage of automobiles, coordination of signage, shared parking, unique lighting, design elements, streetscape and landscaping to provide and identity for the district could be useful in minimizing the impacts of this low density land use while strengthening the industry's presence within Totem Lake.

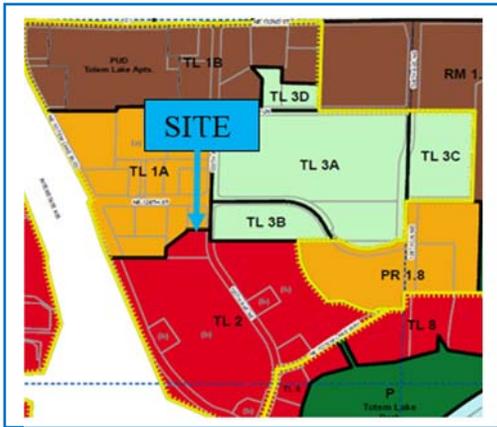
The text related to removing obstacles and increasing flexibility was proposed to be deleted because changes to implement this policy have been made since the time the Plan was adopted, which provide greater flexibility in terms of reduced setbacks and simplified design review. The "cluster" concept was intended to support the auto industry in Totem Lake through greater flexibility in areas such as coordinated directional signage or promotions for industry events. The representatives who met with staff, however, stated they are not interested in the "cluster" concept, and expressed concern that the concept would not be implementable since dealerships are prevented from sharing signage, parking and other elements that may contribute to an "auto district".

***Staff requests that the Planning Commission provide direction for revisions.***  
Several options exist:

- Remove reference to "industry cluster" in Policy TL-4.3
- Retain text related to removing obstacles and increasing flexibility (***Staff recommendation***)
- Revise policies 4.3 and 24.2 to retain the concept of an auto cluster in a more general sense, with the objective to support future efforts by the City to meet with the auto industry to better understand their needs and to make regulatory changes where they will be helpful to the industry (***Staff recommendation***)
- Delete policy 24.2
- Other?

***Does the Planning Commission agree? Is there other text the Commission would prefer?***

2. TL 2 REZONE TO TL 1A: (see Attachment 4)



At the meeting on January 22<sup>nd</sup>, the Planning Commission heard from Mr. Parker, owner of the property at 12707 120<sup>th</sup> Avenue, and zoned TL 2. The property is developed with medical offices, independent from the Totem Lake Mall. Mr. Parker requested that the Commission consider a rezone of the property from TL 2 to TL 1A, which would increase the building height limit for the site. The Commission discussed the issue, and gave preliminary direction to staff to proceed with the rezone.

Future development of the Parker site would likely be coordinated with other properties within TL 1A to the north or west. The Parker site is located at the base of a steep hill along 120<sup>th</sup> Avenue NE, at a similar elevation to the lower Totem Lake Mall site (approximately 130', see inset). The grade rises at the Parker site's northwest corner, and properties to the north and west are considerably higher than the Parker site (ranging from about 150' to 170').

Current regulations within the TL 2 zone limit development to 30' in height for uses not included within the Totem Lake Mall. Under a Master Plan, development on the mall property may be up to 90' in height (with provisions for 10% of the development at up to 135'). Near term redevelopment plans for the mall property include retaining the one-story structures that exist near the Parker site. Elsewhere on the site, preliminary plans indicate that structures will not exceed approximately five stories.

Staff recommends that two new special regulations be added to the TL 1A zone to ensure that, if this site is redeveloped with other properties to the north and west, vehicular access will not use 120<sup>th</sup> Avenue NE at this location at the base of



the hill, and that building height will be in character with the existing topography and surrounding development. The standards would include:

- Access for development over 30' in height must be to the north (NE 128<sup>th</sup> Street) or west (Totem Lake Blvd).
- Building height may not exceed five stories (65')

***Does the Planning Commission agree with this approach? Are there other approaches or special regulations the Commission would prefer?***

### **3. MIXED- USE CONCEPT FOR PARMAC:**

In response to a suggestion from the City Manager, the Commission has considered the concept of providing for a large, mixed use "village" or community within the Parmac area adjacent to the Cross Kirkland Corridor (CKC). The City Manager has suggested this idea as a possible solution to address housing needs that may result from expanded employment along the CKC, south of the Totem Lake Business District. The Planning Commission has expressed some concerns regarding expanding housing opportunities in this area, due to potential conflicts between existing light industrial uses and new residential uses. The Commission asked staff to return with recommendations for ways to allow for the concept without introducing conflicts into the functioning light industrial area.

If the Commission is in agreement with the idea of a mixed use village, staff recommends that the following considerations be incorporated into new policies and regulations for this type of community in Parmac:

- Require adjacency to the CKC, with preference for development that straddles the corridor.
- Require land aggregation of at least ten acres to ensure that the development will contain adequate land to provide a significant mix of commercial and residential uses to function as a community (Juanita Village is developed on 11 acres, the Totem Square ownership contains 9 acres)
- Require that vehicular and pedestrian access be oriented away from primary access routes for industrial traffic
- Require substantial buffers provided between the mixed use community and industrial areas

***Does the Planning Commission support this recommendation? Are there additional considerations that should be addressed?***

### **4. LEGAL AGREEMENT – RESIDENTIAL/INDUSTRIAL CONFLICTS**

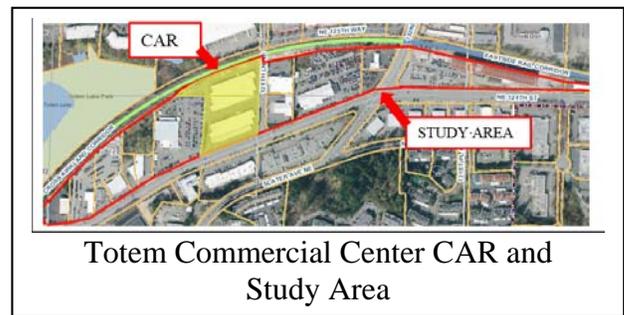
The Commission asked staff to research the possibility of putting residential developers and residents on notice about potential impacts from industrial uses in areas that allow

both uses. The City Attorney's response to this question is presented in Attachment 5. The City Attorney and the Municipal Research Service Center concluded that a City could not require a landowner to sign an agreement not to protest a use or seek mitigation when any potential future impacts are not known at the time of the agreement. Neither the City Attorney nor the MSRC are aware of other jurisdictions where this type of agreement has been used.

***Does the Planning Commission have further questions or comments on this topic?***

## **5. BUILDING HEIGHTS**

At the meeting on March 12<sup>th</sup>, the Planning Commission discussed the topic of height limits in Totem Lake, when considering the CAR for the Totem Commercial Center. The materials for that meeting can be reviewed [here](#). The staff recommendation for the Totem Commercial Center Study Area included an increase in height from 45' to 65' for mixed use containing residential.



Totem Commercial Center CAR and Study Area

The recommendation for the increase to 65' was based on a number of factors, discussed in the staff report prepared for March 12<sup>th</sup>. As can be seen in Attachment 6, maximum building heights for zones surrounding the Study Area do not exceed 65', including those equally close, or closer, to the core of the Urban Center (zones TL 4A and TL 8). Maximum building height for mixed use in TL 6A, directly to the south of the Study Area is also 65'. The applicant had requested an increase to 80'.

The Planning Commission asked staff to provide a map of current building height limits within the Totem Lake Business District. That map is included in Attachment 6.

***Does the Planning Commission have a recommendation for the height limit for the Totem Commercial Center CAR? Does the Commission have other direction for staff on the topic of building height?***

## **B. STAFF IDENTIFIED TOPICS FOR DISCUSSION ON APRIL 23<sup>RD</sup>**

### **1. URBAN CENTER BOUNDARIES**

The Planning Commission has recommended several changes to the boundaries of the Totem Lake Business District and Totem Lake Urban Center. The revised Urban Center boundaries discussed in January are shown in Attachment 7.

Staff recommends that the Commission consider additional changes to the eastern boundary of the Urban Center that would make the Urban Center more compact and would more accurately reflect land within the Business District that is planned for urban center densities within proximity of transit centers. The proposed additional changes are shown in Attachment 8. They include moving the following areas out of the Urban Center:

- Industrial areas (TL 9 and eastern portion of TL 7)
- Parcels located east of Slater Ave NE within TL 6A
- Multifamily residential area north of the Lake Washington Institute of Technology with access to the east rather than toward the Urban Center core

***Does the Planning Commission support these changes to the Totem Lake Urban Center boundary?***

## **2. HOUSING INCENTIVE AREAS – AREA 4**

There are five areas designated as “Housing Incentive Areas” (HIAs) within the Totem Lake Business District (see Attachment 9) in the Comprehensive Plan. Draft revisions to policies related to the Housing Incentive Areas that were reviewed by the Planning Commission in January are shown in Attachment 10. The changes reflect the changed economy and housing market since the Plan was adopted (2002), and no longer call for incentives to address a market disadvantage for residential in comparison to office development.



The Planning Commission has also discussed several changes that may be appropriate for the boundaries of Area 4, located in the Parmac area (see inset). This HIA contains “Stand-alone” housing areas along its western boundary, where residential use is allowed as a free-standing use. Throughout the rest of the area, residential use is allowed only when developed in combination with office or high tech uses.

At the meeting in January, the Commission directed staff to revise the boundaries of Housing Incentive Area 4, to:

- Eliminate provisions for mixed use (residential/office or high tech) within HIA 4, based on recommendations from the Heartland Industrial Study to un-couple these uses, as they are unlikely to develop together for market reasons (see [Heartland Study 2014](#)).
- Prevent conflicts between residential and industrial uses, through allowing residential use on the higher elevation, away from the industrially-developed land at a lower elevation to the east (see inset at right).



Upon further study of the area, staff has concluded that the land at the higher elevation is used as the sole access for the property to the north (Kirkland Business Center), and provides required fire access to this area.

To address all of the issues noted above, staff recommends that Housing Area 4 be revised to allow residential use only in the northern (TL 10C) and southern (TL 10D) areas within HIA 4. This would eliminate the land currently in use as an access road (see inset at right). This change would also eliminate the "Stand Alone Housing Areas" figure within the Comprehensive Plan.



***Does the Planning Commission agree with this recommendation?***

### **3. TRANSFER OF DEVELOPMENT RIGHTS (TDR)**

Last year, the City studied the feasibility of developing a Transfer of Development Rights (TDR) program within the Totem Lake Business District, in coordination with King County's regional County-to-City program (see [TDR and TIF Study](#)). Among the conclusions of the study were that traditional bonus mechanisms used in TDR programs would not be successful in the case of the Totem Lake Business District where demand is already met by existing regulations. Generous height limits, for example, have already been established throughout much of the business district.

In June of 2014, the City Council adopted a Resolution of Intent to adopt TDR policies and regulations as part of the Comprehensive Plan update. The draft update of the Totem Lake Business District plan (reviewed by the Planning Commission in January) contains draft policy language to address TDR:

*Policy TL-1.3:*

The City should consider partnering with King County on a regional TDR effort, at the appropriate time, through an interlocal agreement (ILA). The ILA should require King County to provide the City with funding for public improvements in the Totem Lake Business District if increased development capacity is allowed through TDR

Staff recommends that regulations to allow for the implementation of a future TDR program be included in the Zoning Code as a “place keeper” wherever increases to building heights are established with this update. Possible language to be included in these zones could state:

“Development proposals for structures over X feet (*the height limit prior to any increase with this update*) in height may be required to participate in the City’s Transfer of Development Rights program”.

***Does the Planning Commission agree with this recommendation?***

### **III. NEXT STEPS**

Staff will incorporate any recommended changes into the revised draft of the Totem Lake Business District plan for review by the Commission on May 28th. The City Council will receive a briefing on the draft Plan and CARs on July 7<sup>th</sup>. The draft Plan and CARs will be considered at a public hearing on August 13<sup>th</sup>.

Attachments:

1. Draft policies – auto industry
2. Comment letter – Carson
3. Draft TLBD Urban Design Map
4. Comment letter – Parker
5. Legal guidance – agreements – future land use impacts
6. TLBD Building heights
7. Urban Center Boundaries – current Planning Commission recommendation
8. Urban Center Boundaries – staff recommended changes
9. Housing Incentive Areas Map
10. Draft revisions – Housing Incentive Area policies

the sustainability and growth of these larger business clusters or ecosystems should guide planning decisions in Totem Lake.

***Policy TL-3.5:***

Limit uses that do not contribute to a dense and vibrant urban environment.

Low density uses such as retail storage facilities occupy large amounts of land, provide very minimal employment and almost no sales tax revenue to the City. These uses, which often accompany high concentrations of multifamily housing, do not contribute to the dense, economically vibrant vision for Totem Lake and should be located outside of the Urban Center.

Goal TL-3: Preserve and intensify commercial areas outside of Totem Center.

***Policy TL-3.6:***

Strengthen the district's light industrial areas through supporting expansion of existing uses and welcoming redevelopment of these uses, while enabling them to evolve into innovative centers for commerce and employment.

**~~Figure TL-2: Totem Lake—Totem Center~~**  
**~~Figure TL-3: Totem Lake—Land Use~~**

***Goal TL-4: Establish and support incentives to encourage automobile and other vehicle dealerships within appropriate areas of the business district neighborhood.***

***Policy TL-4.1:***

Provide flexibility in development standards while maintaining an inviting visual environment.

Vehicle sales uses seek to maximize visibility and efficiency in the display and storage of inventory. Flexible development standards that assist vehicle dealers in these goals without compromising the visual character of the area should be considered in are provided in development standards and design guidelines for these uses. should be considered. For example, required landscape areas could be consolidated at site entries and building fronts to create a massed planting area. Consolidated landscaping could improve the overall appearance of the site while providing the vehicle dealer with greater flexibility in use of the balance of the site. Where parking areas for vehicle storage are located near gateways identified in this Plan, special attention to visual impacts is important. Parking areas should be appropriately landscaped so they do not detract from efforts to provide a welcoming and attractive entrance to the business district.

***Policy TL-4.2:***

Provide incentives for vehicle dealers to share storage, signs, and other features.

Vehicle dealers located in close proximity to each other could benefit from more efficient use of space for storage, increased effectiveness in signage, and an improved identity as a retail destination. Where feasible, vehicle dealers should share storage areas, consolidate signs, or take other measures to strengthen the attractiveness of the area to shoppers. Regulatory measures that remove obstacles and encourage such efforts should be implemented.

While important to vehicle dealers, the storage of vehicles within the Urban Center is not an efficient use of land in areas planned for high density and along transit routes. Outdoor storage of vehicles should be limited to vehicles associated with dealerships located within the Urban Center.

***Policy TL-4.3:***

Assist existing and prospective vehicle dealers through a variety of means, while encouraging new businesses to locate near existing dealerships to promote an industry cluster and consolidate land occupied by this low intensity use within the Urban Center.

Because vehicle sales and service uses typically have unique spatial and visibility needs, these uses may require special assistance to ensure their continued viability in the City. ~~Zoning and regulatory measures should be considered to remove obstacles to development and increase flexibility in development standards.~~ When warranted by a clear public interest and benefit, the City ~~should~~ could also provide technical assistance in identification of sites or by facilitating business-to-business communication efforts. ~~These business retention and recruitment measures should be considered as a means to ensuring the continued economic viability of vehicle related retail sales in Kirkland.~~

~~***Goal TL-5: Monitor economic and employment needs in light of changing technology and make adjustments to land use where necessary.***~~

*Goal and policy moved to Implementation Chapter.*

***Policy TL-5.1:***

~~— Monitor conditions and trends affecting commercial uses in the Totem Lake Neighborhood.~~

~~Over the past decade or more, rapid changes in technology have changed the nature and function of many commercial uses. For example, areas designated for traditional light industrial uses, such as manufacturing or warehousing, are increasingly used by businesses that produce computer related hardware and software. Similarly, changes in communication have changed the way some retail activities take place. Because these changes impact the way that land is used, these changes should be monitored. As needed, changing economic needs should be addressed through adjustments in land use designations, definition of uses or other appropriate measures.~~

**Policy TL-24.2:**

Encourage the creation of an “Auto Dealership District”.

Auto dealerships are an established land use along 124<sup>th</sup> Avenue NE and NE 124<sup>th</sup> Street within the Eastern Commercial District. While these businesses provide important benefits to the City, as discussed in the Economic Development section of this Plan, they do not contribute to the density and pedestrian orientation desired in an Urban Center. Standards to encourage consolidation of land devoted to sales and storage of automobiles, coordination of signage, shared parking, unique lighting, design elements, streetscape and landscaping to provide an identity for the district could be useful in minimizing the impacts of this low density land use while strengthening the industry’s presence within Totem Lake.



## Dorian Collins

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**From:** Brent Carson <brc@vnf.com>  
**Sent:** Wednesday, January 21, 2015 6:05 PM  
**To:** Dorian Collins  
**Cc:** 'grairdon@rairdon.com'  
**Subject:** RE: Totem Lake Business District Plan Update

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

Ms. Collins,

I am writing on behalf of Rairdon/RC 124<sup>th</sup> LLC, the applicant for the Citizen Amendment Request to change the zoning of TL 9A (Industrial) and TL 9B (Multifamily Residential) to TL 7 (Industrial/Commercial).

Staff has presented for Planning Commission discussion at the January 22nd Study Session a draft Plan, including new proposed sub-districts and new specific policies applicable within the Totem Lake Business District and within specific sub-districts. For example, draft Policy TL – 4.3 proposes that vehicle dealerships be in an “industry cluster.” Draft Policy TL - 24.2 proposes an “auto district” in the Eastern Commercial District.

The current draft has been prepared in advance of any discussion concerning the six Citizen Amendment Requests. Staff has noted that future discussion on these CARs may influence the land use and policy direction in this plan.

We would request that any discussion on draft Policy TL – 4.3 and TL – 24.2 and any discussion on the boundaries for the sub-districts that include the six CARs be deferred until after the Planning Commission has the opportunity to consider the CARs. This will provide a more thoughtful assessment and assure better consistency in the final draft plan.

Thank you.

### Brent Carson | Partner

VanNess  
 Feldman LLP

719 Second Avenue, Suite 1150  
 Seattle, Washington 98104-1728

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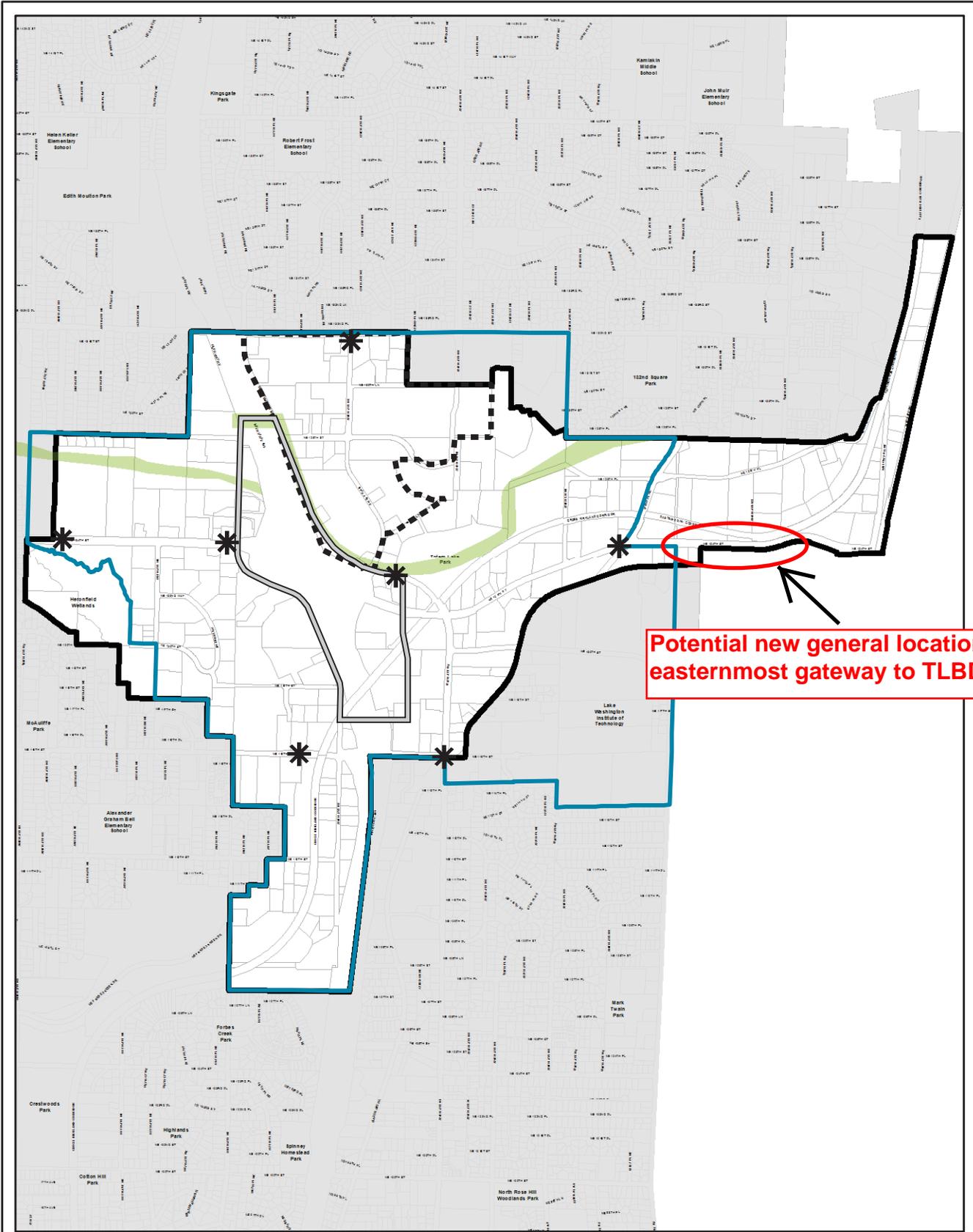
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**From:** Dorian Collins [<mailto:DCollins@kirklandwa.gov>]  
**Sent:** Wednesday, January 21, 2015 1:36 PM  
**Cc:** Dorian Collins; Teresa Swan  
**Subject:** Totem Lake Business District Plan Update

You are receiving this information because you have expressed interest in the update of the Totem Lake Neighborhood (Business District) Plan and/or the Citizen Amendment Requests (CAR's) for properties located within the Totem Lake





**Potential new general location for easternmost gateway to TLBD.**

- Gateways
- Activity Center - Totem Center
- Greenways
- Neighborhood Boundary
- Other Neighborhoods
- Landscaped Boulevard
- Totem Lake Urban Center

**\*\*\*Draft\*\*\***

N  
1 inch = 1,750 feet

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**Figure TL-6: Totem Lake Urban Design**



# INSTITUTE PROPERTIES

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January 14, 2015

To: Kirkland Planning Commission  
Attn: Dorian Collins, AICP  
[dcollins@kirklandwa.gov](mailto:dcollins@kirklandwa.gov)  
Phone: 425.587.324 Fax: 425.587.3232

Kirkland City Hall, 123 5<sup>th</sup> Avenue  
Kirkland, Washington 98033-6189

Re: Request for rezone from TL2 to TL1A

Institute Properties is located adjacent to the Totem Lake Mall at 12707 120<sup>th</sup> Avenue NE in the City of Kirkland. The current zoning of this property is the same as the Totem Lake Mall; TL2.

The history of our property shows that the mall originally owned this property, and during 1978 constructed the existing building with Main Roads, a Washington Corporation. The current zoning is consistent with the original mall ownership of the property at that time, reflecting the zoning evident for the overall mall itself.

The property was purchased from the mall in October, 1981 by Jack Padrick's group, Kinsman Investors 111. It has been owned and operated, independent of the Totem Lake Malls group, since that time, a period over 33 years.

Institute Properties signed a lease with option to purchase property with Padrick's group in 1995, consummating the purchase in November 1997. Since our original occupancy at this property with Clinical Sports Medicine Professionals, Orthopedic and Sports Medicine Clinics, an Ambulatory Surgery Center and Physical Therapy, it is evident that our independent existence and operation as a Medical Professional Property is more consistent with the properties abutting our property lines on the north and west side, than that of the mall.

Any future redevelopment of our property should not be tied to the Totem Lake Mall, but would most likely be part of a redevelopment of the super block north of the mall which is currently made up of medical professional properties, of which we share boundaries with.

**We are asking the City of Kirkland Planning Commission to consider changing our zoning from TL 2 (which is associated with the mall) to TL 1A (which is consistent with the properties that we share boundaries within the superblock north of the mall).**

We have no plans at this time for redevelopment of our property, but given the circumstances of new ownership and eminent redevelopment of the mall property, and the potential for growth of the Evergreen Medical Campus, which we share, it is relevant at this time to ask for this change in zoning designation.

Sincerely,

David L. Parker PhD  
Institute Properties LLC  
Managing Partner

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12707 120<sup>th</sup> Ave NE Suite 100  
Kirkland, Washington 98034  
Phone: 425.820.2110 Fax: 425.820.2111  
Email: [info@washington-institute.com](mailto:info@washington-institute.com)



## Dorian Collins

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**From:** Robin Jenkinson  
**Sent:** Thursday, March 12, 2015 9:12 AM  
**To:** Dorian Collins  
**Subject:** Planning Commission Inquiry

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

Good morning, Dorian –

Below is the response from the Municipal Research Services Center.

Thanks.

Robin

Robin S. Jenkinson  
 Kirkland City Attorney's Office  
 123 5<sup>th</sup> Avenue  
 Kirkland, WA 98033-6189  
 Phone: 425.587.3031  
 FAX: 425.587.3025

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**From:** Paul Sullivan [mailto:psullivan@mrsc.org]  
**Sent:** Thursday, March 12, 2015 8:56 AM  
**To:** Robin Jenkinson  
**Subject:** Residential and industrial uses in a zone

You provide the following information and question: Planning Commissioners have discussed conflicts between residential and industrial uses in zones that allow both (or in some cases, conflicts between schools/daycares and industrial uses). Commissions have asked whether new development standards could put these non-industrial uses on notice about potential impacts in some way or require that the non-industrial uses sign and record an agreement acknowledging that they are aware of potential impacts (and would therefore not protest or require mitigation down the road).

We have some doubts about this. I spoke to Bob Meinig, who is our land use expert. He questioned whether the city could require a landowner to sign an agreement, agreeing to not protest a use or seek mitigation when the industrial use might be years away and its nature not known at the time the agreement is signed. How can one waive something when the person has no idea what he or she might experience when an industrial use is permitted nearby? I agree with Bob. Obviously (I think obviously) the zoning provisions for the district would provide a landowner with some idea of the types of development that may occur in the district. But it is difficult to put a person on notice of an actual planned use until the use is proposed.

We are not aware of any jurisdiction that has done this. We question whether it could be.

**Paul Sullivan**

Legal Consultant  
206.436-3797 | [MRSC.org](http://MRSC.org) | Local Government Success

## Dorian Collins

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**From:** Robin Jenkinson  
**Sent:** Wednesday, March 11, 2015 6:05 PM  
**To:** Dorian Collins  
**Subject:** Land Use Compatibility Concerns

Hello, Dorian –

As we discussed, traditional zoning has focused on separating different land uses, including residential and industrial uses, by zone. Performance zoning systems focus on establishing standards and criteria to control or limit the impacts of proposed uses or activities on neighboring properties, i.e., limits on noise, glare or traffic impacts. What you have described is the situation where residential uses are introduced into zones where the preexisting uses are predominantly non-residential or industrial. The Planning Commission is concerned that the introduction of residential uses adjacent to non-residential or industrial might interfere with the continued use of the preexisting industrial uses. This is similar to specific laws related to conserving agricultural lands in the Growth Management Act (RCW 36.70A.040, 36.70A.060 and 36.70A.170) and the Right to Farm Act (RCW 7.48.300 through 7.48.310 and 7.48.905 – agricultural activities and forest practices presumed to be reasonable and not nuisances). The requirements of these laws are intended to protect agricultural land from residential development and not to protect residential development from agricultural lands.

If you were talking about developing a residential plat near an agricultural use, a notification on the plat might be appropriate, but if a condominium development, school or daycare is going to be a permitted use in an industrial zone, it does not seem as though the same approach would apply or even be helpful. Perhaps the use that is being introduced or permitted in the industrial zone should be required to meet some compatibility standards. I am not aware of any Washington communities that have imposed the kind of requirements described below, but I am checking further with the Municipal Research Services Center. I will let you know if I learn more.

Thanks.

Robin

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 Phone: 425.587.3031  
 FAX: 425.587.3025

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**From:** Dorian Collins  
**Sent:** Tuesday, March 03, 2015 3:06 PM  
**To:** Robin Jenkinson  
**Subject:** Agreement to "not protest"?

Hello Robin,

At recent Planning Commission meetings where we have discussed conflicts between residential and industrial uses in zones that allow both (or in some cases, conflicts between schools/day cares and industrial uses), Commissioners have asked whether or not we could either include new development standards that would put these non-industrial uses on

notice about these impacts in some way, or require that they sign and record an agreement acknowledging that they are aware of potential impacts (and would therefore not protest or require mitigation down the road). I'm not aware of our having done this in the past.

Do you have an guidance on this issue?

Thank you,

Dorian

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**Totem Lake Business District Building Height and Floor Area Ratio (FAR) Maximums**

TL 1A: 30'-160'  
 Max FAR: 3.0  
 TL 1B:  
 office: 30'-45'  
 resid: 30'-160'  
 Max FAR: 3.0  
 \*Addl height requires land ded & imp of internal road grid

TL 3A/B: 75'-150'  
 TL 3C: 30'-60'  
 TL 3D: 65'

TL 9B:  
 non-resid:  
 30'  
 resid:  
 50'

TL 6B:  
 non-resid: 30'/45'  
 resid: 65'

TL 2: 90'  
 (10% at 135')

TL 8: 65'

TL 9A: 45'

TL 10A: 35'-55'

TL 7: 45'

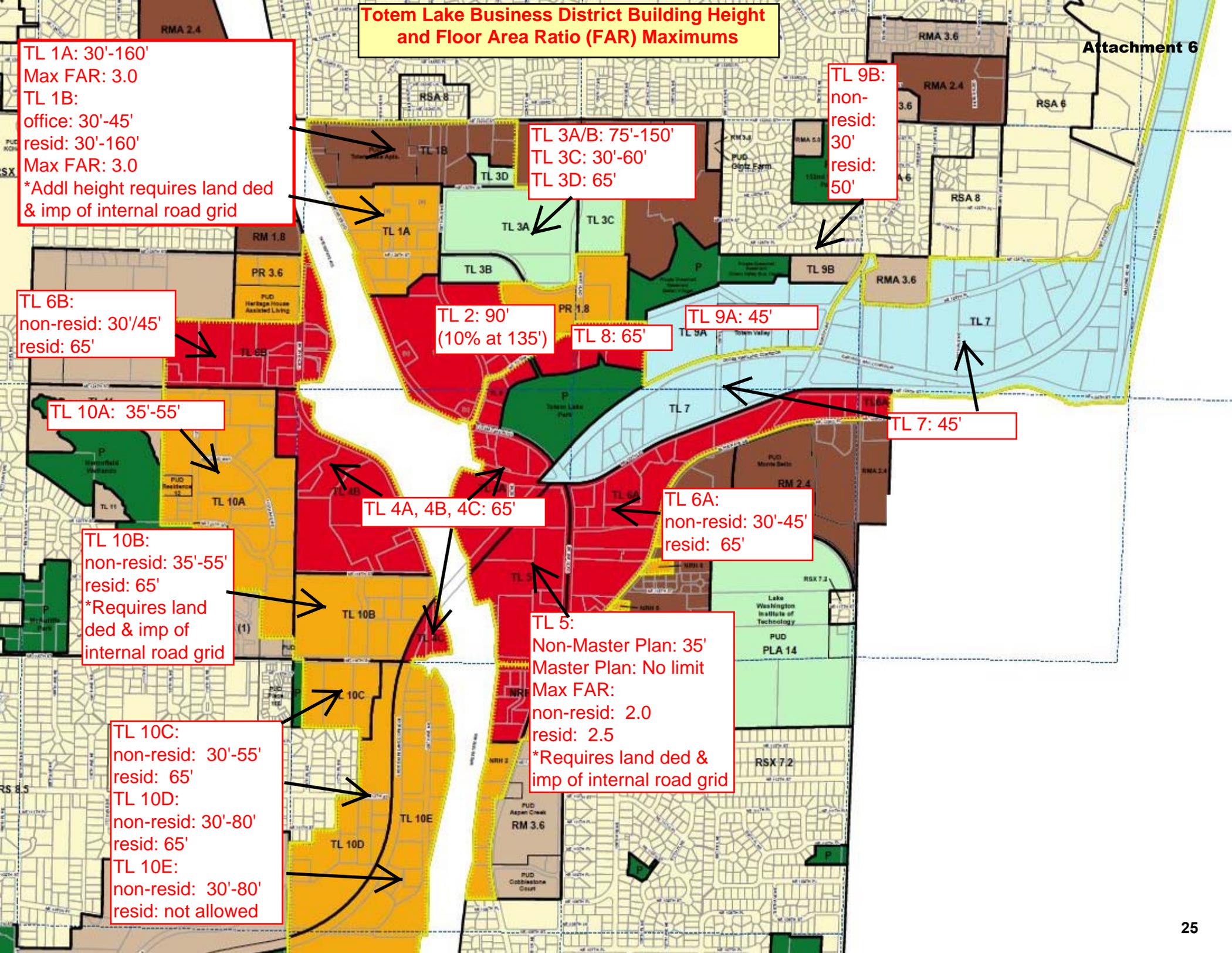
TL 10B:  
 non-resid: 35'-55'  
 resid: 65'  
 \*Requires land ded & imp of internal road grid

TL 4A, 4B, 4C: 65'

TL 6A:  
 non-resid: 30'-45'  
 resid: 65'

TL 5:  
 Non-Master Plan: 35'  
 Master Plan: No limit  
 Max FAR:  
 non-resid: 2.0  
 resid: 2.5  
 \*Requires land ded & imp of internal road grid

TL 10C:  
 non-resid: 30'-55'  
 resid: 65'  
 TL 10D:  
 non-resid: 30'-80'  
 resid: 65'  
 TL 10E:  
 non-resid: 30'-80'  
 resid: not allowed









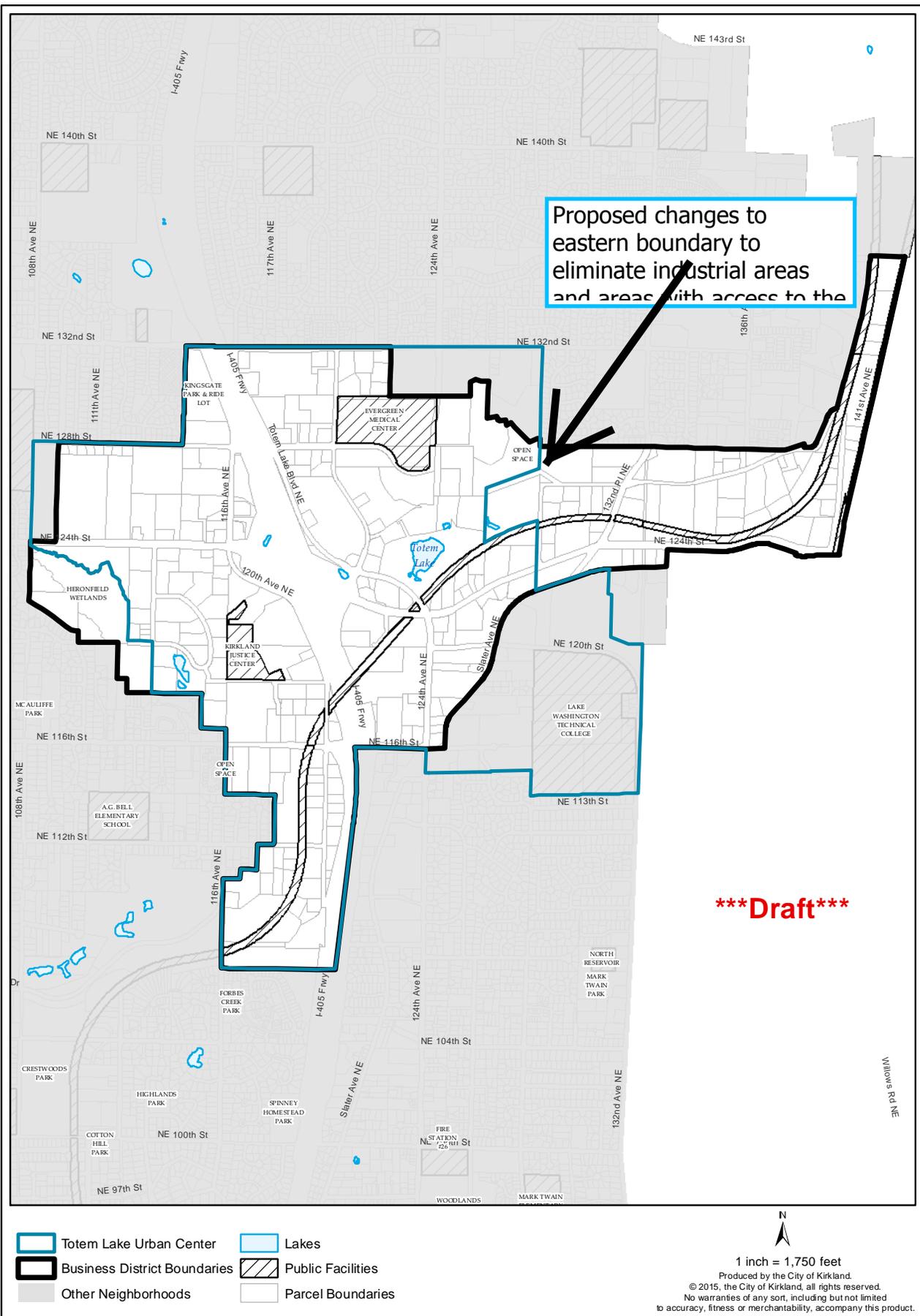


Figure TL-1: Totem Lake Business District and Urban Center Boundaries



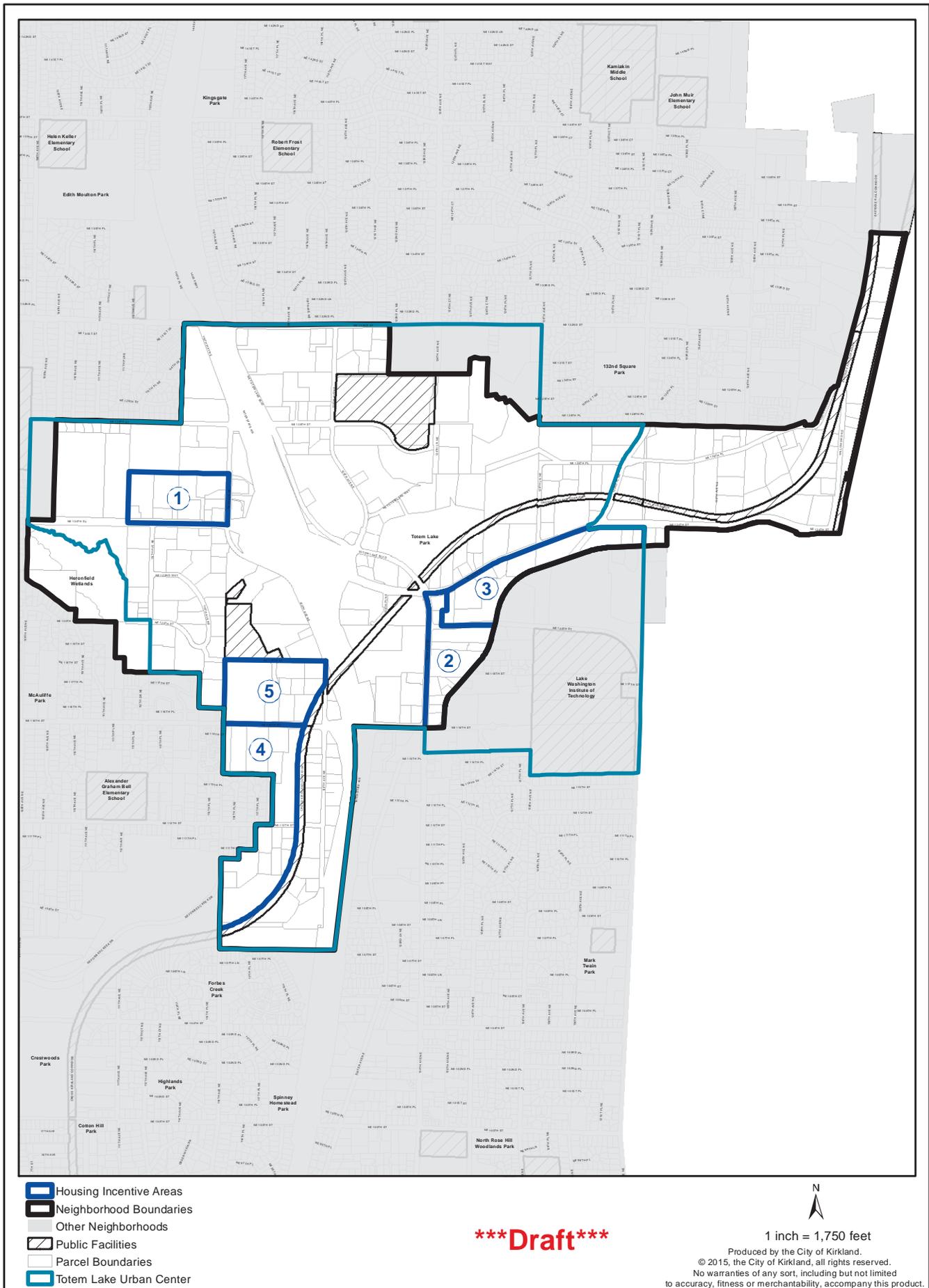


Figure TL-7: Totem Lake Housing Incentive Areas



**Draft revisions to text for Housing Incentive Areas**

*Addressed in design guidelines.*

~~Nonresidential uses adjoining multifamily areas should be subject to design guidelines that would be intended to preserve the character of the areas, and could include measures such as controlling bulk and placement, landscaping measures, driveway location or other similar measures.~~

**Policy TL-1126.3:**

~~Seek~~ Expand housing opportunities to expand housing in the Totem Lake Business District~~Neighborhood~~.

In the Totem Lake Business District~~Neighborhood~~, expanded housing opportunities are provided through high residential densities (minimum of 50 units per acre) and support for mixed-use development in the district's core~~Totem Center~~. These measures provide for a significant amount of additional housing while preserving existing multi and single-family areas in and adjacent to the Totem Lake Business District~~Neighborhood~~.

~~Housing is Significant opportunities also exist to~~ encourage housing within ~~within~~ some of the general commercial areas of the district~~neighborhood~~. ~~Since housing development may be less financially profitable than office development where both uses are allowed, relatively high densities must be permitted to ensure that this use is on an equal footing with the development of an office use.~~ To further encourage developers to choose to provide housing, an increase in height ~~should be~~ is allowed in many commercial areas when upper story residential use is provided. This incentive ~~would enable~~ s residential use to be included either in mixed-use projects, or in stand-alone developments where commercial~~retail~~ use is not mandated as a ground floor use.

~~This incentive for greater height for residential development would be appropriate for~~ The areas listed below, and shown in Figure TL-~~X7~~ are "Housing Incentive Areas", where a greater building height is allowed for structures containing residential use:

1. Totem Lake West, north of NE 124th Street, west of 116th Avenue NE,
2. Properties east of 124th Avenue NE, north of NE 116th Street and west of Slater Avenue,
3. Properties east of 124th Avenue NE, south of NE 124th Street,
4. Properties south of NE 116th Street, west of the Cross Kirkland Corridor, and
5. Property north of NE 116th Street, south of NE 118th Street, and west of the Cross Kirkland Corridor.

*In area 4, staff recommends that the boundaries of the HIA be adjusted to address direction from the Planning Commission that residential use should not occur within the industrial area. The map may also be revised to add the concept for a master planned development in this area to include residential use, straddling the CKC (see Attachment X).*

Within these areas, properties north and south of NE 116th Street and west of I-405 (districts TL 10B and TL 10C in Figure TL-~~X4~~ X4), should be allowed additional height only if residential uses are provided. As these areas are located near residential uses to the west, and are situated at the southeast gateway to the Totem Lake Neighborhood, residential use in this area will provide an appropriate transition to the commercial areas to the east.

Another possible opportunity for expanded housing supply is through transit-oriented-development (TOD) at the ~~located at the~~ Kingsgate Park and Ride, located in the northwest corner of the Totem Lake Business District; ~~immediately northwest of the Totem Lake Neighborhood, in the North Juanita Neighborhood.~~ At this location,

