



City of Kirkland
Planning and Building
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MEMORANDUM

To:	Planning Commission
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From: Lindsay Levine, AICP, Senior Planner
LeAndra Baker-Lewis, Senior Planner
Allison Zike, AICP, Deputy Planning & Building Director
Adam Weinstein, AICP, Planning & Building Director

Date: July 24, 2024

Subject: **Miscellaneous Code Amendments Public Hearing, File No. CAM24-00348, CAM22-00845**

Recommendation

Hold a public hearing to receive public testimony on the proposed draft miscellaneous Kirkland Zoning Code (KZC) Amendments, which include the Alavi Community-Initiated Amendment Request. At the conclusion of the public hearing, the Planning Commission (PC) should deliberate and make a recommendation to City Council (Council) on the proposed miscellaneous code amendments. Council is anticipated to consider and act on the recommendation of the PC on September 3, 2024.

Background

Staff keeps an ongoing list of miscellaneous code amendments that are necessary to reflect current practice, clarify sections of the Kirkland Zoning Code (KZC) and Kirkland Municipal Code (KMC), maintain consistency with relevant state and/or federal regulations, and promote good planning principles. The KZC and KMC are updated periodically to correct the issues that have been identified and are included on the list.

The proposed miscellaneous code amendment package consists of several minor KZC amendments that include administrative and non-policy items, along with two KZC amendments to apply commercial zones consistently across all parcels, per previous Planning Commission direction. Staff has followed all required public noticing steps for interested parties to learn more and participate.

Proposed Amendments

To assist the PC in deliberating and making a recommendation on the amendments included in detail as Attachment 1, staff provides the following list of the proposed amendments, with brief descriptions of each.

1. KZC 51.08 (MSC 1, 4 General Regulations)

Description: Amend the text related to permitted uses in the MSC 1 zone (analysis provided in Alavi Community-Initiated Amendment Request subsection below).

Effect: Removes a use restriction that applies to only one parcel in the MSC 1 zone and ensure the zone's regulations apply consistently to all parcels in the zone.

2. KZC 52.42 (JBD 6, Use Zone chart)

Description: Remove the specific use restrictions that currently only restrict restaurant, tavern, retail, entertainment, cultural and/or recreational facility, and private lodge or club uses on parcels east of NE 120th Place in the JBD 6 zone.

Effect: Removes a use restriction that applies to only two parcels in the JBD 6 zone and ensures the zone's regulations apply consistently to all parcels in the zone.

3. KZC 117.40 (Macro Facility Permit Procedures)

Description: Remove subsection on macro facility¹ permit expiration and extension.

Effect: Permit procedure change. See proposed amendment 5, which would consolidate all language about permit expiration and extension under subsection 117.90, Lapse of Approval.

4. KZC 117.65 (Small Wireless Facility Permit Procedures)

Description: Remove subsection on small wireless facility permit expiration and extension.

Effect: Permit procedure change. See proposed amendment 5, which would consolidate all language about permit expiration and extension under subsection 117.90, Lapse of Approval.

5. KZC 117.90 (Lapse of Approval)

Description: Add language stating that a wireless service facility permit issued under this chapter shall expire after three years and that a wireless service facility permit may be renewed one time.

Effect: Improves clarity of requirements and consistency of code by consolidating all language about wireless service facility permit expiration and extension under this subsection. The change in wireless service facility permit validity from one to three years is consistent with the expiration regulations for building permits, per KMC 21.06.255(b), and provides applicants with more time to implement their projects before permit expiration.

6. Kirkland Zoning Map (Goat Hill Property)

Description: Add two properties (parcel numbers 9194100735 and 9194100740 – see Attachment 1) to the recently adopted Goat Hill Overlay Zone boundary (see

¹ A Macro Facility is a large wireless service facility that provides radio frequency coverage for wireless services. Generally, macro facility antennas are mounted on ground-based towers, rooftops, and other existing structures, at a height that provides a clear view over the surrounding buildings and terrain.

July 16, 2024 Council meeting staff memo²). These parcels, which are accessed from the south (via 89th Avenue NE and NE 121st Street), were inadvertently left out of the Overlay Zone when it was presented to City Council for adoption on July 16, 2024.

Effect: Clarifies the application of the Goat Hill development standards and increases consistency in the inclusion of all properties zoned RSA 4 in the Goat Hill area.

Alavi Community-Initiated Amendment Request

The City uses a systematic process to amend the Comprehensive Plan, and to make changes to the Zoning Map or Zoning Code that are necessary to implement such Comprehensive Plan amendments. There are two ways changes can be made. The City can initiate the change, or a Community-Initiated Amendment Request (CAR) may be initiated by the public.

CARs may be made by an individual, property owner, neighborhood organization, or other groups. The City accepts CAR applications in even-numbered years, and conducts review of CAR applications in the proceeding odd-numbered year; adoption may occur in the next even-numbered year. Each CAR that is submitted must go through a two-phase process as described below.

Phase 1 Summary

During the June 22, 2023 PC meeting³, the PC recommended to Council that the Alavi CAR proceed to Phase 2 review. During the July 18, 2023 City Council meeting⁴, the Council voted to advance the Alavi CAR to Phase 2 review. Since Zoning Code amendments to implement the Alavi CAR are minor, the public hearing is occurring as part of the Miscellaneous Code Amendments on July 25, 2024.

Alavi CAR Analysis

The property owner, Barry Alavi, submitted a CAR application for 545 17th Avenue W in the Market neighborhood (see Attachment 2).

Mr. Alavi requests that the City remove subsection (6) of KZC 51.08 (Market Street Corridor - MSC 1 and MSC 4 zones) in order to remove the restriction that limits this single parcel along 17th Ave W to be a detached residential or duplex development, even though the property is zoned MSC 1, Office. This very narrow restriction was added to KZC 51 when the subject property was rezoned in 2017 as a result of a prior CAR. The request at the time did not explicitly request that commercial use be allowed on the property, and staff also determined that commercial redevelopment was unlikely due to the relatively small size of the property, commercial parking requirements, and vehicular access constraints from Market Street. The removal of 51.08(6) from the KZC

² https://www.kirklandwa.gov/files/sharedassets/public/v/1/city-council/agenda-documents/2024/july-16-2024/9a_business.pdf

³ <https://kirklandwa.primegov.com/Portal/Meeting?meetingTemplateId=451>

⁴ https://www.kirklandwa.gov/files/sharedassets/public/v/1/city-council/agenda-documents/2023/july-18-2023/3c_study-session.pdf

Staff Recommendation

See the staff memorandum for the July 18, 2023 Council meeting⁵ for the staff analysis of relevant Comprehensive Plan goals and policies.

Staff recommends that the PC adopt the proposed zoning text amendment that the Alavi CAR requests. The removal of 51.08(6) from the Zoning Code would remove the restriction that limits only this parcel along 17th Ave W to be a detached residential or duplex development and would allow for this property to be developed with uses consistent with the current zoning designation, which is MSC 1, Office. This code amendment would enable allowed uses to be applied consistently within the MSC 1 zone. In addition, supporting office and retail uses in the Market Street corridor would contribute to the vibrancy of the neighborhood by generating additional commercial activity, enhancing walkability, and reducing the need for locals to drive to access their daily needs.

Staff notes that subsection (5) of KZC 51.08 states that the Giant Sequoia on the corner of 17th Avenue W and Market Street shall be retained (see Attachment 1). This application does not request to modify subsection (5) and the proposed zoning text amendment would not affect the Giant Sequoia tree on the property. In accordance with subsection (5), prior to the issuance of a development permit, the Planning Official may require site plan adjustments beyond the requirements of KZC 95.32 in order to protect the Giant Sequoia tree.

If the property develops or requests a change in use, the applicant would be required to address traffic and other environmental concerns as part of the development review process.

Code Amendment Process and Criteria

Pursuant to KZC 160.60 and KZC 135.25, the City may amend the text of the Zoning Code only if it finds that:

1. The proposed amendment is consistent with the applicable provisions of the Comprehensive Plan; and
2. The proposed amendment bears a substantial relation to public health, safety, or welfare; and
3. The proposed amendment is in the best interest of the residents of Kirkland; and
4. When applicable, the proposed amendment is consistent with the Shoreline Management Act and the City's adopted shoreline master program.

The proposed Zoning Code amendments are consistent with the Comprehensive Plan, bear a substantial relation to public health, safety, or welfare, and are in the best interest of the residents of Kirkland because they are intended to clarify the existing regulations and make them more effective.

⁵ https://www.kirklandwa.gov/files/sharedassets/public/v/1/city-council/agenda-documents/2023/july-18-2023/3c_study-session.pdf

State Environmental Policy Act (SEPA)

To fulfill environmental review requirements, the proposed code amendments require the City to issue a SEPA addendum to the City of Kirkland 2015 Comprehensive Plan Update Draft and Final Environmental Impact Statement. The SEPA addendum (File SEP24-00469), which was issued on July 19, 2024, concludes that the proposed code amendments would result in no new significant environmental impacts beyond those already identified in the 2015 Final Environmental Impact Statement.

The Goat Hill amendment is included as part of a separate SEPA addendum (File SEP24-00309), which was issued on June 17, 2024. This addendum encompasses the likely impacts of adding two additional parcels to the Goat Hill Overlay Zone.

Next Steps

At the conclusion of the public hearing, PC will deliberate on the proposed amendments and make a recommendation to Council. Council is tentatively scheduled to consider the Miscellaneous Code Amendments on September 3, 2024.

Attachments

1. Proposed KZC Amendments
2. Alavi Community-Initiated Amendment Request