



CITY OF KIRKLAND
Planning and Building Department
123 Fifth Avenue, Kirkland, WA 98033
425-587-3000

MEMORANDUM

To: Kurt Triplett, City Manager

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

Date: August 22, 2024

Subject: **Approval of Miscellaneous Code Amendments, File No. CAM24-00348 and CAM22-00845**

RECOMMENDATION:

Staff recommends that City Council adopts Ordinance O-4881 and its publication summary to amend various sections of the Kirkland Zoning Code (KZC), and Ordinance O-4882 and its publication summary to amend Kirkland Zoning Map, as recommended by the Planning Commission (PC).

EXECUTIVE SUMMARY

- City Council will be considering whether to approve proposed Ordinances O-4881 and O-4882, and the associated publication summaries.
- Ordinance O-4881 comprises several minor KZC amendments that include administrative and non-policy items, along with two KZC amendments to apply commercial zones consistently across all parcels within the specified zones. One of the KZC amendments implements the Alavi Community-Initiated Amendment Request (CAR) in the Market neighborhood.
- Ordinance O-4882 amends the Kirkland Zoning Map to add two properties to the recently adopted Goat Hill Overlay Zone boundary. These parcels were inadvertently left out of the Overlay Zone when it was presented to City Council for adoption on July 16, 2024.

BACKGROUND:

Staff keeps an ongoing list of miscellaneous code amendments that are necessary to reflect current practice, clarify sections of the 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 within the specified zones. Staff has followed all required public noticing steps for interested parties to learn more and participate.

DISCUSSION/ANALYSIS:

Proposed Amendments

To assist the Council in deliberating and making a decision 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 prohibit 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. 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 wireless carriers with more time to implement their projects before permit expiration. Because of the substantial body of federal regulations and preemptions related to wireless facilities, providing a longer timeline for wireless facility permits to remain valid would not diminish the City's ability to regulate these facilities.
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.
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 July 16,

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.

2024 Council meeting staff memo). 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 adopted by City Council 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 (i.e., the properties on Goat Hill subject to the most substantial access constraints).

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.

During the June 22, 2023 PC meeting², the PC recommended to Council that the Alavi CAR proceed to Phase 2 review. During the July 18, 2023 City Council meeting³, the Council voted to advance the Alavi CAR to Phase 2 review (i.e., the phase of the CAR process under which Council makes a final decision on the matter). Since Zoning Code amendments to implement the Alavi CAR are minor, the public hearing occurred as part of the Miscellaneous Code Amendments hearing on August 8, 2024.

The Alavi CAR was made by property owner Barry Alavi and pertains to 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 the use on 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 would allow for non-residential uses such as office or retail uses on the subject parcel, if those uses could comply with the development standards for all other parcels in the MSC 1 zone.

The proposal requires removal of the following zoning text in KZC 51.08:

(6) Development on parcels fronting the south side of 17th Avenue West shall be limited to detached or duplex development.

² www.kirklandwa.gov/files/sharedassets/public/v/1/planning-amp-building/cars/2023-2024/pcmeetingpacket_2023-06-22_transportation_cars.pdf

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

Existing Conditions

The property is located at the corner of 17th Avenue W and Market Street. It is currently developed with a three-bedroom 1,120-square-foot detached house. The property is within the Market Street Corridor and is zoned MSC 1, Office. There are detached residences to the west of the property on 17th Avenue W and offices adjacent to the property to the south on Market Street and north of the property on the corner lot on the north side of 17th Avenue W and Market Street.

Figure 1: 545 17th Avenue W Zoning Map



Staff Recommendation

See the staff memorandum for the July 18, 2023 Council meeting⁴ for the staff analysis of relevant Comprehensive Plan goals and policies.

Staff recommends that Council adopt the proposed zoning text amendment that the Alavi CAR requests. The removal of 51.08(6) from the KZC 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, allowing for the development of 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.

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

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. In addition, there is a preservation easement for the Giant Sequoia tree on this property that states that the tree shall be retained in perpetuity, so threats to the tree associated with redevelopment would be minimized.

If the property develops or requests a change in use, the applicant would be required to show compliance with all development standards as part of the development review process.

Planning Commission Hearing and Recommendation

The PC held a public hearing on the proposed KZC amendments at their August 8, 2024 meeting⁵. Two community members provided public testimony. The first community member requested clarification about the sequoia tree on the Alavi CAR property, and expressed concern about buffers between commercial and residential properties. The second community member expressed support for the removal of the use restrictions that are applied inconsistently in the JBD 6 zone. At the conclusion of the public hearing, the PC deliberated and voted unanimously to recommend the proposed KZC amendments to City Council as presented by staff and shown in Attachment 1 to this memo.

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;
2. The proposed amendment bears a substantial relation to public health, safety, or welfare;
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, and ensure that zoning regulations are applied consistently and logically.

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.

⁵ www.kirklandwa.gov/files/sharedassets/public/v/1/planning-amp-building/cars/2023-2024/pchearingmeetingpacket_2024-08-08_misccode_housing.pdf

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

Council should consider adoption of Ordinances O-4881 and O-4882, and the publication summaries.

ATTACHMENTS

Attachment 1 – Proposed KZC Amendments

Attachment 2 – Alavi Community-Initiated Amendment Request Application

Enclosures

Ordinance O-4881

Publication Summary for Ordinance O-4881

Ordinance O-4882

Publication Summary for Ordinance O-4882

cc: File No. CAM24-00348, CAM22-00845

MISCELLANEOUS CODE AMENDMENTS – FILE NO., CAM24-00348 AND CAM22-00845

For the following code subsections, proposed text changes are indicated by underlining for added text, and ~~striketrough for removed text~~. Any subsections of the KMC or KZC not shown are not proposed to be amended.

Chapter 51 – MARKET STREET CORRIDOR (MSC) ZONES

Zone MSC-1, 4

Section 51.08 – GENERAL REGULATIONS

The following regulations apply to all uses in this zone unless otherwise noted:

1. Refer to Chapter 1 KZC to determine what other provisions of this code may apply to the subject property.
 2. Developments creating four or more new dwelling units shall provide at least 10 percent of the units as affordable housing units as defined in Chapter 5 KZC. Two additional units may be constructed for each affordable housing unit provided. In such cases, the minimum lot size listed in the Use Regulations shall be used to establish the base number of units allowed on the site, but shall not limit the size of individual lots. See Chapter 112 KZC for additional affordable housing incentives and requirements.
 3. For structures located within 30 feet of a parcel in a low density zone (or a low density use in PLA 17), KZC 115.136 establishes additional limitations on structure size.,
 4. Some development standards or design regulations may be modified as part of the design review process. See Chapters 92 and 142 KZC for requirements.
 5. The Giant Sequoia on the corner of 17th Avenue West and Market Street shall be retained. Prior to issuance of a development permit the Planning Official may require site plan adjustments that exceed the modifications otherwise authorized by KZC 95.32 in order to protect the Giant Sequoia.
 6. ~~Development on parcels fronting the south side of 17th Avenue West shall be limited to detached or duplex development.~~
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CHAPTER 52 – JUANITA BUSINESS DISTRICT (JBD) ZONES

Zone JBD-6

Section 52.42 – USE ZONE CHART (table)

52.42.010 – Special regulations for restaurant or tavern use

- ~~1. This use is not allowed east of NE 120th Place.~~
2. 1. Gross floor area for this use may not exceed 10,000 square feet.
3. 2. Drive-in or drive-through facilities are prohibited.

52.42.030 – Special regulations for entertainment, cultural and/or recreational facility use

- ~~1. This use is not allowed east of NE 120th Place.~~
2. 1. Gross floor area for this use may not exceed 10,000 square feet.

52.42.040 – Special regulations for any retail establishment uses other than those specifically listed in this zone, selling goods or providing services, including banking and related financial services

- ~~1. This use is not allowed east of NE 120th Place.~~
2. 1. The following uses are not permitted in this zone:
 - a. Retail establishments providing storage services unless accessory to another permitted use.
 - b. Automobile or boat sales and/or rental facilities.
 - c. Automobile service station or center.
 - d. Boat service or repair.
 - e. Outdoor storage of bulk commodities, except in the following circumstances:
 - i. 1) If the square footage of the storage area is less than 20 percent of the total square footage of the retail structure; or
 - ii. 2) If the commodities represent growing stock in connection with horticultural nurseries, whether the stock is in open ground, pots, or containers.
 - f. f. Storage and operation of heavy equipment except normal delivery vehicles associated with retail uses.
3. 2. Gross floor area for this use may not exceed 10,000 square feet.
4. 3. Drive-through facilities are prohibited.
5. 4. Ancillary assembly and manufacture of goods on the premises of this use are permitted only if:
 - a. The assembled or manufactured goods are directly related to and are dependent upon this use, and are available for purchase and removal from the premises.
 - b. The outward appearance and impacts of this use with ancillary assembly or manufacturing activities must be no different from other retail uses.

52.42.080 – Special regulations for private lodge or club use

- ~~1. This use is not allowed east of NE 120th Place.~~
- ~~2. 1. Gross floor area for this use may not exceed 10,000 square feet.~~

Chapter 117 – WIRELESS SERVICE FACILITIES

117.40 Macro Facility Permit Procedures

5. Macro Facility Permit Conditions

~~g. A macro facility permit issued under this chapter shall be substantially implemented within 12 months from the date of final approval or the permit shall expire. The permittee may request up to four 12-month extensions, if the permittee cannot construct the macro facility within the original 12-month period.~~

~~hg.~~ The permittee shall maintain the macro facilities in safe and working condition. The permittee shall be responsible for the removal of any graffiti or other vandalism and shall keep the site neat and orderly, including but not limited to following any maintenance or modifications on the site.

~~ih.~~ All macro facilities shall meet current standards and regulations of the FAA, the FCC and any other agency of the federal government with the authority to regulate macro facilities. If such standards and regulations are changed, the owners of the macro facilities shall bring such facility into compliance with such changes in accordance with the compliance deadlines and requirements of such changes. Failure to bring macro facilities into compliance shall constitute grounds for permit revocation in accordance with KZC 117.30(7).

117.65 Small Wireless Facility Permit Procedures

4. Permit Conditions

~~f. Permit Time Limit. Construction of the small wireless facility shall be completed within 12 months after the approval date by the City. The permittee may request up to four 12-month extensions.~~

~~gf.~~ Site Safety and Maintenance. The permittee shall maintain the small wireless facilities in safe and working condition. The permittee shall be responsible for the immediate removal of any graffiti or other vandalism and shall keep the site neat and orderly, including but not limited to following any maintenance or modifications on the site.

~~hg.~~ Operational Activity. The grantee shall commence operation of the small wireless facility no later than 12 months after installation and may request two extensions for additional six-month periods if grantee can show that such operational activity is delayed due to inability to connect to electrical or backhaul facilities.

~~ih.~~ Modifications. If a grantee desires to make a modification to an existing small wireless facility, including but not limited to expanding or changing the antenna type, increasing the

equipment enclosure, placing additional pole-mounted or ground-mounted equipment, or modifying the concealment elements, then the applicant shall apply for a small wireless facility permit.

ji. Exceptions to Modifications. A small wireless facility permit shall not be required for routine maintenance and repair of a small wireless facility within the rights-of-way, or the replacement of an antenna or equipment of similar size, weight, and height; provided, that such replacement does not defeat the concealment elements, designated as stealth techniques, used in the original deployment of the small wireless facility, does not impact the structural integrity of the pole, and does not require pole replacement. Further, a small wireless facility permit shall not be required for replacing equipment within the equipment enclosure or reconfiguration of fiber or power to the small wireless facility. If the small wireless facility is located in the right-of-way, a right-of-way permit may be required for such routine maintenance, repair or replacement consistent with KMC Title 26.

117.90 Lapse of Approval

1. A WSF permit issued under this chapter shall expire in three years from the date of issuance. An existing WSF permit may be renewed one time, provided the permit has not been expired for more than one year.

a. For development activity or other actions with phased construction, lapse of approval may be extended when approved under this chapter and made a condition of the notice of decision.

2. For all WSF permit decisions issued for applications that were complete on or before the effective date of the ordinance codified in this chapter, the applicant must substantially complete construction for the development or other actions approved under this chapter and complete the applicable conditions listed on the notice of decision within five years after the final approval on the matter or the decision becomes void.

Kirkland Zoning Map – GOAT HILL OVERLAY

Note: Parcel numbers 9194100735 and 9194100740, to be added to the Goat Hill Overlay boundary are outlined in blue.



Community-Initiated Amendment Requests (CARs) to the Comprehensive Plan, Zoning Code and Zoning Code Map



Submission date: **8 November 2022, 4:08PM**
Receipt number: **22**
Related form version: **15**

I. Contact Information

Applicant's Name	Barry Alavi
Applicant's Address	545 17th Ave W
Applicant's City	Kirkland
Applicant's State <small>(Abbreviated: i.e. WA, CA, OR, etc.)</small>	WA
Applicant's Zip Code	98033
Applicant's Phone Number	4255019999
Applicant's Email Address	barryalavi@gmail.com
Is Applicant the same as Property Owner (or Legal Representative)?	Yes
Property Owner's (or Legal Representative's) State <small>(Abbreviated: i.e. WA, CA, OR, etc.)</small>	WA

Note: If the applicant is the property owner or is representing the property owner, then the property owner must sign the last page. If the applicant is neither the property owner nor representing the property owner, then the affected property owner must be notified. Send or hand-deliver a copy of this completed application to all affected property owners. Complete an Affidavit of Service that this has been done.

Copies of staff reports and meeting agendas will be sent by email unless you request to the project planner that you want paper copies mailed to you.

II. For Site Specific Proposal

A. Address of proposal (if vacant, provide nearest street names): **545 17th Ave W**

B. King County Tax Parcel number(s): **3885803395**

C. Describe improvements on property if any: **There is currently a three-bedroom one-bathroom 1,120 square-foot single family house on the property.**

D. Attach a map of site that includes adjacent street names: **[IMapSite.JPEG](#)**

E. Current Zoning on subject property: **Market street Corridor (MSC-1),Office**

F. Current land use designation & permitted density shown on appropriate neighborhood plan land use map: **Office/ Multifamily with a permitted density of 10-14 units per acre.**

III. For All Proposals

A. Description of Proposal: **The applicant requests that KZC Chapter 51.08(6) is removed from the Zoning Code to support the development of a commercial or retail use. KZC Chapter 51.08(6) limits only this specific parcel along 17th Avenue West to be a duplex or detached dwelling unit.**

B. Description of the specific reasons for making the proposal:

The intention of the Market Street Corridor zone is to maintain an eclectic, attractive, and economically healthy area with a mix of small-scale office and retail uses supported by various residential units in the vicinity. Compatible amenities support a convenient, walkable lifestyle for the Market neighborhood residents. The MSC-1 zone concentrates commercialized activities representing the central business area for the neighborhood and is surrounded by residential zones, including RS 6.3 and RS 7.2. The applicant proposes a change to the Kirkland Zoning Code that would only impact one property, APN 3885803395 or 545 17th Ave W. KZC Chapter 51.08(6) limits only this specific parcel along 17th Avenue West to be a duplex or detached dwelling unit despite its location at the SWC of Market Street and 17th Avenue West. The applicant intends to remove one (1) dwelling unit on the property to develop a retail use permitted in the MSC-1, Office zone. The parcel is located in a zone intended for retail uses and the applicant would like to participate in the same opportunities that other properties within MSC-1, Office zone can develop.

C. Description of how the proposed amendment relates to the following criteria:

The project meets the intent of the Kirkland Zoning Code, Market Street Corridor Plan, and the Kirkland Comprehensive Plan as described in the following responses.

1. The proposal demonstrates a strong potential to serve the public interest by implementing specifically identified goals and policies of the Comprehensive Plan.

The Kirkland 2035 Comprehensive Plan outlines the City's plan to create vibrant and livable communities. The plan includes policies that are applicable to the overall city and policies that are specific to the Market Street Corridor. The project meets the goals and policies of each of these sections of the Comprehensive Plan demonstrating that the project serves the public interest and implements the City's goals and policies. A revision to KZC 51.08(6) to allow for a retail use on the south side of 17th Avenue west would meet the goals and policies of the

Comprehensive Plan. The following sections break down the consistency analysis into two distinctive portions: (1) General Goals and Policies and (2) Market Street Corridor Goals and Policies.

General Goals and Policies

The 2035 Comprehensive Plan's vision is to uphold Kirkland as one of the most livable cities in the county by implementing the principles of livability, sustainability, and connectivity. The Market Street Corridor is a component of this vision that implements each principle into a walkable, self-sufficient neighborhood with recreational activities, retail shopping, and visually attractive corridor. The project meets various goals and policies outlined in the Land Use chapter of the plan.

Goal LU-1 requires the management of community growth to ensure an orderly pattern of land uses. Market Street is designed to be for commercial or office uses, as demonstrated in Figure LU-2 showing the Market Street Corridor as a mixed use area. There are two corner lots at this SWC intersection because APN 3885803395 and 3885803370 effectively share the corner designation. APN 3885803370 operates as an office use.

There are a number of corner parcels with businesses that have their secondary frontage along Market Street, such as Kirkland Smiles Dental Care or the Kahan Law Firm. Permitting a commercial use on the subject site would reflect the existing pattern of development. Policy 1-4 addresses creating effective transitions between land uses, a natural concern for changing the permitted uses at the subject site. As the policy states, privacy between commercial and residential can be a concern but continues to state, "building and site design can act to minimize conflicts". The subject site can be designed to have

an enhanced buffer to reduce potential neighborhood impacts. The policy continues with, “mixing of land uses is encouraged to bring shops, services, and offices in close proximity to residential uses” to create immediate market areas and reduce reliance on cars by enhancing accessibility to said shops and services.

Goal LU-3 promotes land use patterns that enhance mobility, transportation choices, and convenient access to goods and services. Market Street achieves this goal with numerous businesses operating along the corridor, bicycle and pedestrian pathways, and transit services. Supporting neighborhood walkability requires the availability of desirable services that attract customers. A continuous effort is needed to provide these opportunities within the MSC-1 zone and Office/Multifamily land use designation. Policy LU-3.1 states neighborhoods should allow residents to walk places that meet their daily needs, and LU-4.5 allows neighborhoods to propose neighborhood-oriented commercial uses to meet such local needs.

The proposal for a neighborhood commercial use is proposing walkable development based on local demand, exemplary of policies LU-3.1 and LU4.5. Similarly, policy ED 1.2 encourages a broad range of businesses that provide goods and services to the community. Adding a commercial site would broaden the range of businesses available to the community in this location. Allowing a commercial use at this site is in line with the goals and policies of the land use element.

Market Street Corridor

The subject site is located in the Office/Multifamily designation of the Comprehensive Plan and is within the Market Street Corridor. Section XV.L of the Comprehensive Plan describes the Market Street

Corridor and has its own specific goals. Policy MS-4 encourages a variety of residential and neighborhood-oriented shops and services to promote neighborhood walkability. Under the policy description, the comprehensive plan specifies “neighborhood-oriented businesses located on the west side of Market Street, north of 14th Avenue West provide convenient shopping and services for residents in the area”.

The site is located north of 14th Avenue on the west side of Market Street and is appropriate for the development of a neighborhood retail use. A commercial use at this site would serve the public interest by creating a local business which provides a place to gather while reducing vehicle trips needed for residents to meet their daily needs. Allowing this use within this zone implements Policy MS-4 set forth in both the Kirkland Comprehensive plan and the Market Street Corridor Plan.

Additionally, Policy MS-7 encourages the enhancement of the community’s design for new commercial uses in the Market Street Corridor. New development at this parcel will be designed to reflect the community and align with the Market Street Corridor Plan and the Kirkland Zoning Code. A commercial use could help increase opportunities for walkable business uses within the community, as well as providing a better-defined aesthetic buffer between the commercial corridor and dwelling units per MS-14. This parcel’s location provides an opportunity to ease the visual transition from the low-density residential areas to mixed use along the market street frontage. Policy MS-15 requires that buildings are oriented toward Market Street, which the site will be able to achieve.

Policies MS-1 through MS-3 are related to historic preservation. The dwelling unit on-site was constructed in 1953 and would not be considered a historically significant.

2. The public interest would best be served by considering the proposal in the current year, rather than delaying consideration to a later neighborhood plan review or plan amendment process.

The proposal should be considered this year since it is already within the Market Street Corridor, a subarea plan of the 2035 Comprehensive Plan and is only related to a single parcel's ability to propose retail or commercial use instead of only residential. This proposal is compliant to the comprehensive and existing subarea plan as described in the response above. It is imperative that the city consider this application prior to the 2024 Comprehensive Plan's adoption as to consider the change to available lands needed to meet housing and job growth projections.

3. The proposal would correct an inconsistency within or make a clarification to a provision of the Comprehensive Plan.

Neither the Comprehensive Plan nor the Market Street Corridor plan needs to be reviewed or revised to align with the proposed project. Rather, the Kirkland Zoning Code should be revised to appropriately align with the Comprehensive Plan and Market Street Corridor plan. KZC Chapter 51.08(6) regulates only one parcel within the Market Street Corridor, and the regulation contradicts the intended use of the site under the Market Street Corridor zone. There is no adopted definition within the KZC for the Market Street Corridor, however the overview statement within the Corridor plan describes the intent of the zone: "The Market Street Corridor is an eclectic, attractive, and economically healthy area that includes a mix of small-scale office and retail uses, along with various housing types. A few commercial buildings provide convenient retail shopping and services for nearby residents and visitors from other areas in the region. The corridor is generally one lot wide bordering Market Street and is bounded by established and highly valued single-family residential neighborhoods to the north, east and west and the Central Business District to the south".

The intent is for the zone to provide neighborhood scale goods and services or professional offices that are intended to serve the surrounding residents. Commercial uses are primarily located along Market

Street with residential units in the adjacent streets. Per MS-6, commercial development should remain along Market Street and should not extend beyond 19th Avenue North. The site shares a corner with APN 3885803370 and is within the MSC-1 zone, which typically permits retail, commercial, or office uses along Market Street. This singular section of code does not align with the intent of the zone, otherwise the site would be zoned strictly as a low density residential (RS 7.2). This is a consistency issue within the adopted regulations that this application seeks to address.

There are similarly operating sites within the vicinity of APN 3885803370 that are: (1) located on a corner parcel along Market Street, (2) operate a retail business, and (3) are adjacent to a residential use or zone. A few examples of this would include 1720 Market Street (APN 1245001110, site is currently being converted from commercial to residential use), 906 Market Street (APN 3885804740), or 1209 Market Street (APN 3885803500, site is an office use).

It is possible that a commercial or retail use on the subject site is infeasible, however this would be up to the determination of a developer to propose a project that would meet the Comprehensive Plan, Market Street Corridor Plan, Kirkland Municipal Code, and the Kirkland Zoning Code. For example, impervious surface standards, parking requirements, or environmental requirements could ultimately determine that a commercial use is not feasible for a developer. Ultimately, the decision on the feasibility of a commercial use at this site is up to the developer, their consultants, and their creativity.

The applicant respectfully requests the City of Kirkland's consideration to repeal KZC Chapter 51.08(6) in order to reflect the intent of the Comprehensive Plan, Market Street Corridor Plan, and Kirkland Zoning Code.

IV. Property Owner's Signature or Service of Affidavit

A. If the applicant is the property owner, or is a legal representative of the property owner, then the property owner must sign below.

APPLICANT: If you are not the property owner, you will need to have the property owner sign this form electronically. Once you have completed all content, signed as applicant, and uploaded the any additional information, you will need to save this document by clicking the blue "SAVE" button below. You will then receive an email with a link to this form for you to forward to the property owner to sign online. The information you entered will be saved for the property owner to review prior to signing. Once they access the link and sign, they can submit the application, or sign it, save and allow you to submit the form. Keep the link for your records in case you need to access it again prior to the property owner submitting it. Contact the Planning and Building Department at 425-587-3600 if you have any questions.

Legal Declaration

I certify and declare, under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Applicant's Signature



[Link to signature](#)

Type Applicant's Name

Barry Alavi

Date Applicant Signed

11/08/2022

B. If the applicant is not the property owner or a legal representative of the property owner, then the affected property owner must be notified.

- Send or hand-deliver a copy of this completed application to all affected property owners.
- Complete the Affidavit of Service form (linked below).
- Upload the Affidavit of Service when you submit this application form. The Affidavit of Service confirms that a copy of the completed application form has been provided to all affected property owners.
- **Contact the Planning and Building Department at 425-587-3600 for fee amount due** and a planner will invoice you with the fee total for you to pay. **No work will be done on your permit until the fee is paid.**

Before submitting, upload attachment:

1. [Affidavit of Service](#)

Upload signed copy of Affidavit of Service, including [Affidavit - Unsigned.pdf](#)
Exhibit A and/or Exhibit B.

NOTE:

Once you submit this form, you will receive an email confirmation from our third-party provider, OpenForms, along with a PDF copy of the form you submitted. Keep it for your records. Be sure to check your spam/junk folder so you don't miss it!

{{snippet-14}}

{{snippet-13}}