CITY OF KIRKLAND
CITY COUNCIL

Joan McBride, Mayor • Doreen Marchione, Deputy Mayor • Dave Asher • Toby Nixon
Bob Sternoff • Penny Sweet • Amy Walen • Kurt Triplett, City Manager

Vision Statement

Kirkland is an attractive, vibrant, and inviting place to live, work and visit.
Our lakefront community is a destination for residents, employees and visitors.
Kirkland is a community with a small-town feel, retaining its sense of history,
while adjusting gracefully to changes in the twenty-first century.

123 Fifth Avenue • Kirkland, Washington 98033-6189 • 425.587.3000 • www.kirklandwa.gov

AGENDA
KIRKLAND CITY COUNCIL MEETING
City Council Chamber
Tuesday, January 17, 2012
6:00 p.m. – Study Session – Peter Kirk Room
7:30 p.m. – Regular Meeting

COUNCIL AGENDA materials are available on the City of Kirkland website www.kirklandwa.gov, or at the Public Resource Area at City Hall on the Friday afternoon prior to the City Council meeting. Information regarding specific agenda topics may also be obtained from the City Clerk's Office on the Friday preceding the Council meeting. You are encouraged to call the City Clerk's Office (425-587-3190) or the City Manager's Office (425-587-3001) if you have any questions concerning City Council meetings, City services, or other municipal matters. The City of Kirkland strives to accommodate people with disabilities. Please contact the City Clerk's Office at 425-587-3190. If you should experience difficulty hearing the proceedings, please bring this to the attention of the Council by raising your hand.

EXECUTIVE SESSIONS may be held by the City Council only for the purposes specified in RCW 42.30.110. These include buying and selling real property, certain personnel issues, and litigation. The Council is permitted by law to have a closed meeting to discuss labor negotiations, including strategy discussions.

ITEMS FROM THE AUDIENCE provides an opportunity for members of the public to address the Council on any subject which is not of a quasi-judicial nature or scheduled for a public hearing. (Items which may not be addressed under Items from the Audience are indicated by an asterisk*.) The Council will receive comments on other issues, whether the matter is otherwise on the agenda for the same meeting or not. Speaker's remarks will be limited to three minutes apiece. No more than three speakers may address the Council on any one subject. However, if both proponents and opponents wish to speak, then up to three proponents and up to three opponents of the matter may address the Council.

1. *CALL TO ORDER*
2. *ROLL CALL*
3. *STUDY SESSION*, Peter Kirk Room
   - *a.* Recommended Changes to Draft Code of Ethics
4. *EXECUTIVE SESSION*
5. *HONORS AND PROCLAMATIONS*
   - *a.* Kirkland History Month Proclamation
6. *COMMUNICATIONS*
   - *a. Announcements*
   - *b. Items from the Audience*
   - *c. Petitions*
7. *SPECIAL PRESENTATIONS*
   - *a.* Frontier Donation Recognition
   - *b.* 2011 Eastside Month of Concern for the Hungry Results

QUASI-JUDICIAL MATTERS Public comments are not taken on quasi-judicial matters, where the Council acts in the role of judges. The Council is legally required to decide the issue based solely upon information contained in the public record and obtained at special public hearings before the Council. The public record for quasi-judicial matters is developed from testimony at earlier public hearings held before a Hearing Examiner, the Houghton Community Council, or a city board or commission, as well as from written correspondence submitted within certain legal time frames. There are special guidelines for these public hearings and written submittals.

ORDINANCES are legislative acts or local laws. They are the most permanent and binding form of Council action, and may be changed or repealed only by a subsequent ordinance. Ordinances normally become effective five days after the ordinance is published in the City's official newspaper.

RESOLUTIONS are adopted to express the policy of the Council, or to direct certain types of administrative action. A resolution may be changed by adoption of a subsequent resolution.

PUBLIC HEARINGS are held to receive public comment on important matters before the Council. You are welcome to offer your comments after being recognized by the Mayor. After all persons have spoken, the hearing is closed to public comment and the Council proceeds with its deliberation and decision making.

8. CONSENT CALENDAR

a. Approval of Minutes: January 3, 2012

b. Audit of Accounts:

Payroll $

Bills $

c. General Correspondence

d. Claims

e. Award of Bids

f. Acceptance of Public Improvements and Establishing Lien Period

g. Approval of Agreements

h. Other Items of Business

(1) Resolution R-4906, Authorizing the Duly-Appointed Administering Agency for a Regional Coalition for Housing (ARCH) to Execute All Documents Necessary to Enter into Agreements for the Funding of Affordable Housing Projects, as Recommended by the ARCH Executive Board, Utilizing Funds From the City's Housing Trust Fund

(2) ARCH 2012 Work Program and Administrative Budget

(3) Resolution R-4907, Authorizing the Director of Planning and Community Development to Enter into a Contract with Bayshore Vista, LLC, Regarding a Potential Multifamily Housing Property Tax Exemption and Approving the Issuance of a Conditional Certificate of Tax Exemption

(4) Resolution R-4908, Adopting Right-of-Way Acquisition and Relocation Policies and Procedures

(5) Surplus Vehicles/Equipment for Sale

(6) Report on Procurement Activities

9. PUBLIC HEARINGS

a. Ordinance O-4345 and its Summary, Relating to Zoning, Planning, and Land Use and Amending Ordinance 3719 as Amended, the Kirkland Zoning Ordinance and Approving a Summary Ordinance for Publication, File No. ZON11-00045.

10. UNFINISHED BUSINESS

a. City Council Subcommittee Appointments

b. Transit Oriented Development at the South Kirkland Park and Ride Update

c. Transportation Benefit District Update

NEW BUSINESS consists of items which have not previously been reviewed by the Council, and which may require discussion and policy direction from the Council.

11. NEW BUSINESS

a. Comments on National Pollutant Discharge Elimination System (NPDES) Western WA Phase II Municipal Stormwater Permit

b. 2012 City Council Retreat Draft Agenda

c. Ordinance O-4346 and its Summary, Relating to Planning Department Fees and Amending KMC 5.74.070 by Correcting Format/Typographical Errors, Adding Clarifications, Adding an Affordable Housing Incentive Fee, Homeless Encampment with Modification Fee and Adding Fees for Integrated Development Plan Modifications, File MIS11-00023

ITEMS FROM THE AUDIENCE Unless it is 10:00 p.m. or later, speakers may continue to address the Council during an additional Items from the Audience period; provided, that the total amount of time allotted for the additional Items from the Audience period shall not exceed 15 minutes. A speaker who addressed the Council during the earlier Items from the Audience period may speak again, and on the same subject, however, speakers who have not yet addressed the Council will be given priority. All other limitations as to time, number of speakers, quasi-judicial matters, and public hearings discussed above shall apply.

12. REPORTS

a. City Council

(1) Regional Issues

b. City Manager

(1) Calendar Update

13. ITEMS FROM THE AUDIENCE

14. ADJOURNMENT

CITY OF KIRKLAND
City Attorney's Office
123 Fifth Avenue, Kirkland, WA 98033 425.587.3030
www.kirklandwa.gov

MEMORANDUM

To: Kurt Triplett, City Manager

From: Robin Jenkinson, City Attorney

Date: January 6, 2012

Subject: Recommended Changes to Draft Code of Ethics

RECOMMENDATION:

The City Council receives a presentation from Wayne Barnett, Executive Director of the Seattle Ethics and Elections Commission, on recommended changes to the Draft Code of Ethics and provide input.

BACKGROUND DISCUSSION:

In 2010, the City Council initiated a process for developing a Code of Ethics. An ad hoc citizen task force was appointed that worked with a subcommittee of the City Council to draft a document for consideration by the full Council. At a Council Study Session on November 16, 2010, the Ethics Task Force presented its draft Code of Ethics and a process for adoption and implementation. The City Council determined that any further work on the draft Code of Ethics would be undertaken by the City Council with the assistance of the Council subcommittee. The subcommittee was asked to meet and return with a recommendation regarding the next steps for consideration of the draft Code of Ethics.

The subcommittee met and staff was requested to research outside resources for the conduct of ethics investigations and presentation of matters before the Hearing Examiner. On June 21, 2011, the City Council was presented with the options developed by the subcommittee and the Council opted to contract with an external party to act as an "Ethics Officer" and administer the Code of Ethics. Staff met with representatives of the Seattle Ethics and Elections Commission and King County Ombudsman's Office and determined that either agency was highly qualified to evaluate ethics complaints for sufficiency, determine the scope of investigations, conduct investigations, prepare findings and conclusions and present matters before the Hearing Examiner. In addition, both agencies could provide advisory opinions as well as training. Staff recommended the Seattle Ethics and Elections Commission and an interlocal agreement was entered between the cities.

As one of the duties under the interlocal agreement, the Seattle Ethics and Election Commission staff was asked to review the draft Code of Ethics, including any City Council amendments, to assure that the document is enforceable and contains all provisions necessary for its

administration. Mr. Barnett has completed the review and has recommended a number of changes to the draft Code of Ethics. As explained in the cover memorandum provided by Mr. Barnett, most of the changes involve reorganizing the document.

City Council direction is needed with regard to the recommended changes.

Memo

To: Robin Jenkinson, Kirkland City Attorney

From: Wayne Barnett, Executive Director, Seattle Ethics and Elections Commission

Date: January 5, 2012

Re: Recommended changes to draft Ethics Code

I have completed my review of the draft Ethics Code. While at first blush the proposed changes seem extensive, on closer review I trust you will see that most of the changes involve reorganizing the document. This memo provides an overview of my recommendations.

1. **Draw a bright line between those provisions that are <u>enforceable</u> by the Ethics Officer and those provisions that are <u>aspirational</u>.**

A good Ethics Code does two things: it inspires individuals to strive to be their very best, and establishes rules for individuals to follow. When there are questions whether or not an individual has followed the rules, those questions can be resolved through an investigation. But questions about whether an individual is "behaving their very best" should not be resolved through an investigation.

To that end, I recommend dividing the provisions in the Code between two sections: the first called "prohibited conduct," and the second entitled "code of conduct." Under "prohibited conduct," I have grouped those provisions that are elements of ethics codes adopted by the federal government and countless state and local governments. The Ethics Code I recommend would prohibit officials from (1) participating in decisions in which they or someone close to them had a financial interest, (2) misusing their position or public resources for private gain, (3) representing others before their own agency, (4) soliciting charitable contributions from City employees, (5) accepting certain gifts and favors, and (6) sharing confidential information. It would also require disclosure of information before participating in a decision when that information would cause a reasonable person to question the official's judgment.

Under the heading "Code of Conduct," I recommend placing those provisions that involve subjective judgments – i.e., whether an official's conduct is "above reproach" – as well as provisions that do not necessarily raise ethical concerns. If an official is cited for speeding, he or she has violated state law, but not in a way that should be the subject of an investigation by the Ethics Officer.

2. **Empower the Ethics Office to provide advice regarding, and investigations of, only the enforceable provisions of the Ethics Code.**

The Ethics Code should authorize the Ethics Officer to investigate and advise on only the enforceable provisions of the Code. Whether or not an official has represented a third party before his or her agency, or shared confidential information, are questions of fact that can ideally be determined after interviewing witnesses and reviewing records. Whether or not an official has based his or her decisions on the merits is likely a question that cannot be resolved definitively with an investigation. Reasonable minds will still disagree on the interpretation of the "facts" gleaned through an investigation regarding the basis for an official's decision.

Limiting the Ethics Officer's investigative powers also diminishes the opportunity for the Ethics Officer to be drawn into election contests or for the Ethics Code to be abused for other ends. It also reserves to the public decisions that should not be entrusted to a civil servant. Whether or not an official has "worked for the common good" is a question that should be reserved to the people of Kirkland, not to an Ethics Officer.

3. **Embrace an Ethics Code that will work under the best of circumstances as well as the worst.**

The draft code that I reviewed presumes that violations of the Code can best be resolved informally, and specifically calls for the formal complaint process to be employed only "when informal processes fail." I would submit that there may come a time – hopefully not this year, or within the next five years, or ever – when an official will violate the Code in a way that demands a more formal resolution. You should adopt a Code that will be useful if and when a violation occurs that is intentional, and greatly offends the people of Kirkland. My proposed changes to the enforcement section make it clear that inadvertent and minor violations of the Ethics Code are to be dismissed. Beyond that, though, I strongly encourage you to adopt neutral language that makes no assumptions about the nature of the violation.

I also recommend that you provide for complaints to be made to the Ethics Officer and not to the City Clerk. My concern is that requiring that complaints be filed with a City employee will deter individuals from filing complaints. To be sure, some of those complaints would be frivolous, but not necessarily all of them. Approximately five years ago, my office received a complaint regarding an official's execution of a contract with a consultant on a date that the official was the guest of that consultant at the consultant's vacation condominium. I doubt very much that complaint ever would have been filed with the City Clerk.

CONCLUSION

The vast majority of my recommended changes to the draft Ethics Code fit under one of these three overarching themes. I look forward to the discussion on the 17th, and again want to make myself available to meet with you or anyone else in the weeks prior to that meeting or afterward as well. It is rare for a community to take up the adoption of an Ethics Code in the absence of a monumental breach – Watergate spawned federal ethics rules, and scandals at the Seattle Police Department spawned the City's adoption of a code – so Kirkland deserves a tremendous amount of credit for its proactive approach to this issue.

ATTACHMENT A

CITY OF KIRKLAND

CODE OF ETHICS

SECTION 1 - POLICY

~~Policy~~ Purpose

The Kirkland City Council has adopted a Code of Ethics for members of the City Council and the City's boards and commissions to ~~ensure~~ promote public confidence in the integrity of local government and fair operation. This policy will provide the basis for education and training for city officials, both elected and appointed, to ensure that the highest standards and best practices with regard to ethics will be followed.

Intent

The citizens and businesses of Kirkland are entitled to have fair, ethical and accountable local government that has earned the public's full confidence for integrity. In keeping with the City of Kirkland commitment to excellence, the effective functioning of democratic government therefore requires that:

- public officials, both elected and appointed, comply with the laws and policies affecting the operations of government;
- public officials be independent, impartial and fair in their judgment and actions;
- public office be used for the public good, not for personal gain; and
- public deliberations and processes be conducted openly, unless legally confidential, in an atmosphere of respect and civility.

SECTION 2 - ~~Definitions~~DEFINITIONS

~~**"Material financial interest"** means (1) remuneration from outside employment or services as an independent contractor in excess of $1,000 per year from any person or entity; (2) ownership of a non-managerial equity interest in excess of $10,000 in any privately held entity or one percent or greater of any publicly traded entity; (3) a managerial interest in any for-profit entity doing business with the City, whether compensated or not; (4) an interest as a trustee, director or officer an any entity doing business with the City, and (5) status as a creditor of a person or entity that has a City contract, sale, lease, purchase or grant and where the face of the debt is $10,000 or more.~~

"Official" means a member~~s~~ of the City Council or a ~~and~~ member~~s~~ of Council-~~-~~appointed City boards and commissions and other Council-appointed task groups or committees, including youth members.

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"Relative" means spouse or domestic partner, child, step-child, parent, step-parent, parent-in-law, grandparent, grandchild, sibling, aunt, uncle, niece, nephew, son- or daughter-in law, brother- or sister-in law.

SECTION 3 - ~~for the purposes of this Code means: persons related by blood, marriage, or legal adoption (including grandparent, parent, spouse, domestic partner, brother, sister, child, grandchild or any person with whom the Official has a close personal relationship such as a fiancée or co-habitant).~~

~~INTENT~~

~~The citizens and businesses of Kirkland are entitled to have fair, ethical and accountable local government which has earned the public's full confidence for integrity. In keeping with the City of Kirkland commitment to excellence, the effective functioning of democratic government therefore requires that:~~

- **~~public officials, both elected and appointed, comply with the laws and policies affecting the operations of government;~~**
- **~~public officials be independent, impartial and fair in their judgment and actions;~~**
- **~~public office be used for the public good, not for personal gain; and~~**
- **~~public deliberations and processes be conducted openly, unless legally confidential, in an atmosphere of respect and civility.~~**

~~A.~~ **~~COMPLY WITH THE LAW AND CITY POLICY~~**

~~Officials shall comply with the laws of the nation, the State of Washington and the City of Kirkland in the performance of their public duties. These laws include, but are not limited to: the United States and Washington constitutions; laws pertaining to conflicts of interest, election campaigns, financial disclosures and open processes of government; and City ordinances and policies. *See* Appendix A.~~

~~B.~~ **~~ACT IN THE PUBLIC INTEREST~~PROHIBITED CONDUCT**

~~Recognizing that stewardship of the public interest must be their primary concern, Officials will work for the common good of the people of Kirkland and not for any private or personal interest, and they will ensure fair and equal treatment of all persons, claims and transactions coming before the Kirkland City Council, boards and commissions. Officials need to be mindful that making special requests of staff – even when the response does not benefit the Official personally, puts staff in an awkward position.~~

1. *Conflicts of Interest.* In order to ensure their independence and impartiality on behalf of the common good, Officials shall not participate in government decisions in which any of the following has a financial interest: (i) the Official, (ii) a Relative, (iii) an individual with whom they reside, or (iv) an entity that they serve as an officer, director, trustee, partner or employee. Officials shall abstain from participating in deliberations and decision-making where conflicts exist. This section shall not apply to decisions regarding taxes and fees, or if the

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financial interest is shared with more than ten percent of the City's population, or if the financial interest exists solely because of the official's ownership of less than one percent of the outstanding shares of a publicly traded corporation.

2. *Appearance of Conflict.* If it could appear to a reasonable person, having knowledge of the relevant circumstances, that the Official's judgment is impaired because of either (1) a personal or business relationship not covered under the foregoing paragraph, or (2) a transaction or activity engaged in by the Official, the Official shall make a public, written disclosure of the facts giving rise to the appearance of a conflict before participating in the matter .

3. *Misuse of Public Position or Resources.* Except for infrequent use at little or no cost to the City, Officials shall not use public resources that are not available to the public in general, such as City staff time, equipment, supplies or facilities, for other than a City purpose.

4. *Representation of Third Parties.* Except in the course of official duties, Officials shall not appear on behalf of the financial interests of third parties before the Council or any board, commission or proceeding of the City, or in interaction with staff.

5. *Solicitations of Charitable Contributions.* No Official may make direct personal solicitations for charitable contributions from City employees.

6. ~~*1.*~~ *Gifts and Favors.* Officials shall not take any special advantage of services or opportunities for personal gain, by virtue of their public office, which are not available to the public in general. They may not solicit or receive any thing of monetary value from any person or entity where the thing of monetary value has been solicited, or received or given or, to a reasonable person, would appear to have been solicited, received or given with intent to give or obtain special consideration or influence as to any action by the Official in his or her official capacity; provided, that nothing shall prohibit campaign contributions which are solicited or received and reported in accordance with applicable law. They shall not accept or solicit any gifts, favors or promises of future benefits except as allowed by Kirkland Municipal Code 3.80.140.

~~1.~~ *Confidential information.* Officials shall not disclose or use any confidential information gained by reason of their official position for other than a City purpose.

SECTION 4 – FINANCIAL DISCLOSURE STATEMENTS

~~2. Use of Public Resources. Generally, except for infrequent use at little or no cost to the City, Officials shall not use public resources that are not available to the public in general, such as City staff time, equipment, supplies or facilities, for private gain or personal purposes.~~

~~3. Representation of Third Parties. Officials shall not appear on behalf of the private interests of third parties before the Council or any board, commission or proceeding of the City, or in interaction with staff.~~

~~4. Campaign Solicitation. As required by RCW 42.17.750, no Official shall knowingly solicit or encourage, directly or indirectly, any political contribution from any City employee.~~

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~~5. Campaign Activities. As required by RCW 42.17.130, no Official may use or authorize the use of the facilities of the City for the purpose of assisting a campaign for the election of any person to any office, or for the promotion of or opposition to any ballot proposition in a manner not available to the general public on the same terms.~~

~~6. Nepotism. The City Council will not appoint Relatives of City Council Members to boards or commissions or other appointed positions.~~

~~7. Solicitations of Charitable Contributions. No Official may make direct personal solicitations for charitable contributions from City employees.~~

~~D. CONFLICT OF INTEREST~~

~~In order to ensure their independence and impartiality on behalf of the common good, Officials shall not use their positions to influence government decisions in which they or their Relatives have a material financial interest or have a relationship which may give the appearance of a conflict of interest.~~

All Officials shall file a City of Kirkland Disclosure Statement annually. In accordance with Chapter 42.17 RCW, members of the Kirkland City Council shall also disclose investments, interests in real property, sources of income, and creditors through the filing of a Public Disclosure Commission Form F-1, "Personal Financial Affairs Statement." Members of boards and commissions shall be advised as part of the application process, that they will be required to file the applicable City of Kirkland Disclosure Statement within ten days of appointment. ~~Officials shall abstain from participating in deliberations and decision-making where conflicts exist.~~

SECTION 5 – ~~CODE OF CONDUCT~~ ETHICAL STANDARDS

In addition to Section 3 of the ~~Ethics~~ Code of Ethics, which shall be administered by the Ethics Officer, Officials are also encouraged to comply with the following standards:
~~Officials shall make public any conflict of interest the Official has with respect to any issue under consideration by the body. The nature of such conflict need only be described in terms that make clear the existence of a conflict. The Official shall leave the meeting room, not participate in discussions of the subject and shall not vote on it if:~~

~~1. The Official has a material financial interest in the subject,~~
~~2. The Official is a Relative of or has a close personal or professional relationship with a person who has a material financial interest in the subject, or~~
~~3. The ordinances of the City of Kirkland or Chapter 42.23 RCW prohibit the Official's involvement.~~

~~If the Official has only a casual association with the subject or the parties, the Official must state the relationship, and then may fully participate.~~

~~E. CONDUCT OF OFFICIALS~~

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~~1. Personal integrity. The professional and personal conduct of Officials must be above reproach and avoid even the appearance of impropriety. Officials shall refrain from abusive conduct, threats of official action, personal accusations or verbal attacks upon the character or motives of other members of Council, boards and commissions, the staff or public. Officials shall maintain truthfulness and honesty and not compromise them for advancement, honor, or personal gain. Additionally, Officials shall not directly or indirectly induce, encourage or aid anyone to violate the Code of Ethics and it is incumbent upon Officials to make a good faith effort to address apparent violations of this Code of Ethics, as provided in Section 3.A.~~

~~2. Respect for Process. Officials shall perform their duties in accordance with the processes and rules of order established by the City Council and board and commissions governing the deliberation of public policy issues, meaningful involvement of the public, and implementation of policy decisions of the City Council by City staff.~~

~~3. Conduct of Public Meetings. Officials shall prepare themselves for public issues; listen courteously and attentively to all public discussions before the body; and focus on the business at hand. They shall refrain from interrupting other speakers; making personal comments not germane to the business of the body; or otherwise interfering with the orderly conduct of meetings.~~

~~4. Decisions Based on Merit. Officials shall base their decisions on the merits and substance of the matter at hand, rather than on unrelated considerations.~~

~~5. Ex parte Communications. In quasi-judicial matters, Officials shall publicly disclose substantive information that is relevant to a matter under consideration by the Council or boards and commissions, which they may have received from sources outside of the public decision-making process.~~

~~6. Attendance. As provided in RCW 35A.12.060, a Council Member shall forfeit his or her office by failing to attend three consecutive regular meetings of the Council without being excused by the Council. Unless excused, members of boards and commissions are expected to attend all meetings. It is a violation of this Code of Ethics for members of boards and commissions to be absent without excuse from more than 20 percent of meetings in a twelve-month period.~~

~~F. CONFIDENTIAL INFORMATION~~

~~Officials shall keep confidential all written materials and verbal information provided to them during executive sessions to ensure that the City's position is not compromised. Confidentiality also includes information provided to Officials outside of executive session when the information is considered to be exempt from disclosure under exemptions set forth in the Revised Code of Washington. Questions about whether or not information is confidential should be referred to the City Attorney. The release of confidential or disclosure-exempt information must be considered and approved by the full Council prior to disclosure.~~

1. *Compliance with other laws.* Officials shall comply with the laws of the nation, the State of Washington and the City of Kirkland in the performance of their public duties.

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These laws include, but are not limited to: the United States and Washington constitutions; laws pertaining to conflicts of interest, election campaigns, financial disclosures and open processes of government; and City ordinances and policies. *See* Appendix A. As required by RCW 42.17.750, no Official shall knowingly solicit or encourage, directly or indirectly, any political contribution from any City employee. Except under limited circumstances described in RCW 42.17.130, no Official may use or authorize the use of the facilities of the City for the purpose of assisting a campaign for the election of any person to any office, or for the promotion of or opposition to any ballot proposition in a manner not available to the general public on the same terms.

2. *Personal integrity.* The professional and personal conduct of Officials must be above reproach and avoid even the appearance of impropriety. Officials shall refrain from abusive conduct, threats of official action, personal accusations or verbal attacks upon the character or motives of other members of Council, boards and commissions, the staff or public. Officials shall maintain truthfulness and honesty and not compromise them for advancement, honor, or personal gain. Additionally, Officials shall not directly or indirectly induce, encourage or aid anyone to violate the Code of Ethics and it is incumbent upon Officials to make a good faith effort to address apparent violations of this Code of Ethics.

3. *Working for the Common Good.* Recognizing that stewardship of the public interest must be their primary concern, Officials will work for the common good of the people of Kirkland and not for any private or personal interest, and they will ensure fair and equal treatment of all persons, claims and transactions coming before the Kirkland City Council, boards and commissions. Officials need to be mindful that making special requests of staff – even when the response does not benefit the Official personally, puts staff in an awkward position.

4. *Respect for Process.* Officials shall perform their duties in accordance with the processes and rules of order established by the City Council and board and commissions governing the deliberation of public policy issues, meaningful involvement of the public, and implementation of policy decisions of the City Council by City staff.

5. *Commitment to Transparency.* Transparency, openness, and accountability are fundamental values of the City of Kirkland – and are also required by the laws of the state of Washington. The public has a right to inspect and copy public records unless exempt by law from disclosure. All materials relating to the conduct of City government that are prepared, possessed, used or retained by any Official, including email and other electronic records, are subject to requirements for retention, protection, and disclosure. Officials may assume that all copies of materials received from City staff have already been archived and do not need to be retained. Officials shall not discard, damage, or destroy the original copy of any public record unless directed by the City Public Records Officer (the City Clerk), who has responsibility to ensure that the City complies with the record retention schedules established under Chapter 40.14 RCW. Officials shall promptly provide any records requested by the Public Records Officer in response to a disclosure request under the Public Records Act, Chapter 42.56 RCW. It is the responsibility for the Public Records Officer, together with the City Attorney, to decide which records meet the definition of "public record" and whether or not they are exempt from disclosure; Officials must not take it upon themselves to decide whether a record meets the

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definition of a public record, that a record is exempt from disclosure, or to otherwise conceal a record.

6. *Conduct of Public Meetings.* Officials shall prepare themselves for public issues; listen courteously and attentively to all public discussions before the body; and focus on the business at hand. They shall refrain from interrupting other speakers; making personal comments not germane to the business of the body; or otherwise interfering with the orderly conduct of meetings.

7. *Decisions Based on Merit.* Officials shall base their decisions on the merits and substance of the matter at hand, rather than on unrelated considerations.

8. *Ex parte Communications.* In quasi-judicial matters, Officials shall publicly disclose substantive information that is relevant to a matter under consideration by the Council or boards and commissions, which they may have received from sources outside of the public decision-making process.

9. *Attendance.* As provided in RCW 35A.12.060, a Council Member shall forfeit his or her office by failing to attend three consecutive regular meetings of the Council without being excused by the Council. Unless excused, members of boards and commissions are expected to attend all meetings.

10. *Nepotism.* The City Council will not appoint Relatives of City Council Members to boards or commissions or other appointed positions.

~~*G. RETENTION, DESTRUCTION, AND IMPROPER CONCEALMENT OF RECORDS*~~

~~*Transparency, openness, and accountability are fundamental values of the City of Kirkland – and are also required by the laws of the state of Washington. The public has a right to inspect and copy public records unless exempt by law from disclosure. All materials relating to the conduct of City government that are prepared, possessed, used or retained by any Official, including email and other electronic records, are subject to requirements for retention, protection, and disclosure. Officials may assume that all copies of materials received from City staff have already been archived and do not need to be retained. Officials shall not discard, damage, or destroy the original copy of any public record unless directed by the City Public Records Officer (the City Clerk), who has responsibility to ensure that the City complies with the record retention schedules established under Chapter 40.14 RCW. Officials shall promptly provide any records requested by the Public Records Officer in response to a disclosure request under the Public Records Act, Chapter 42.56 RCW. It is the responsibility for the Public Records Officer, together with the City Attorney, to decide which records meet the definition of "public record" and whether or not they are exempt from disclosure; Officials must not take it upon themselves to decide whether a record meets the definition of a public record, that a record is exempt from disclosure, or to otherwise conceal a record. Willful failure to act in*~~

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~~*accordance with this subsection is a violation of the Code of Ethics and may subject the City to substantial financial penalties and costs.*~~

~~*H. ADVOCACY*~~*Advocacy.*

11. When acting in an official capacity as a City of Kirkland Official representing Kirkland, Officials shall represent the official policies or positions of the City Council, board or commission to the best of their ability when the City Council, board or commission has taken a position or given an instruction. When presenting their individual opinions and positions, members shall explicitly state they do not represent their body or the City of Kirkland, nor will they allow the inference that they do. Officials have the right to endorse candidates for all Council seats or other elected offices. It is inappropriate to make or display endorsements during Council meetings, board/commission meetings, or other official City meetings. However, this does not preclude Officials from participating in ceremonial occasions, community events, or other events sponsored by civic groups.

~~*I.*~~ *Policy Role* ~~*Of*~~ *of Officials.*

12. Officials shall respect and adhere to the council-manager structure of Kirkland City government as outlined by Chapter 35A.13 RCW. In this structure, the City Council determines the policies of the City with the advice, information and analysis provided by the public, boards and commissions, and City staff. Except as provided by state law, Officials shall not interfere with the administrative functions of the City or the professional duties of City staff; nor shall they impair the ability of staff to implement Council policy decisions.

SECTION 6~~2~~ – ETHICS OFFICER

1. The City Council creates the position of Ethics Officer. The City Manager will contract with one or more agencies to fill this position. The Ethics Officer will provide for annual review of the Code of Ethics, review of training materials provided for education regarding the Code of Ethics, and advisory opinions concerning the Code of Ethics. The Ethics Officer shall also be responsible for the prompt and fair enforcement of its provisions ~~in the rare occasion when informal measures to deal with ethical lapses have failed~~when necessary.

2. The Ethics Officer, in addition to other duties may recommend changes or additions to this Code of Ethics to the City Council. The Ethics Officer shall provide input into and review the training materials and program developed for this Code of Ethics.

SECTION 7 – ADVISORY OPINIONS

~~A. BOARD ESTABLISHED~~

~~There is created the position of Ethics Officer for the City of Kirkland. The purpose of establishing an Ethics Officer position is to retain an objective third party with a high level of expertise in the conduct of ethics investigations and issuance of advisory opinions. The Ethics Officer shall issue advisory opinions on the provisions of this Code of Ethics and determine the sufficiency of complaints alleging violations of this Code of Ethics..~~

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~~B. ADVISORY OPINIONS~~

1. Upon request of any Official, the Ethics Officer ~~may~~ shall render written advisory opinions concerning the applicability of ~~the~~ Sections 3 and 4 of this Code ~~of Ethics~~ to hypothetical circumstances and/or situations solely related to the persons making the request. The Ethics Officer will not render opinions on matters that are the purview of other government agencies or officials, e.g., the Public Disclosure Commission, the City Public Records Officer, etc.

2. Upon request of any Official, the Ethics Officer may also render written advisory opinions concerning the applicability of the Code of Ethics to hypothetical circumstances and/or situations related to a matter of city-wide interest or policy.

3. The Ethics Officer will endeavor to respond to requests for advisory opinions within forty-five (45) days of submission of the request, or more rapidly if the requester expresses urgency in the request.

~~3.~~

~~C. ADVISORY OPINIONS – EFFECT ON ENFORCEMENT~~

4. A person's conduct based in reasonable reliance on an advisory opinion rendered by the Ethics Officer shall not be found to violate this Code of Ethics, as long as all material facts have been fully, completely, accurately presented in a written request for an advisory opinion, and the person's conduct is consistent with the advisory opinion. The Ethics Officer reserves the right to reconsider the questions and issues raised in an advisory opinion and, where the public interest requires, rescind, modify, or terminate the opinion, but a modified or terminated advisory opinion will not form the basis of a retroactive enforcement action against the original requestor. Advisory opinions will contain severability clauses indicating that should portions of the opinion be found to be unenforceable or not within ~~their~~ the Ethics Officer's authority, the remainder of the opinion shall remain intact.

~~D. ADDITIONAL DUTIES~~

~~The Ethics Officer, in addition to other duties may recommend changes or additions to this Code of Ethics to the City Council. The Ethics Officer shall provide input into and review the training materials and program developed for this Code of Ethics.~~

SECTION 8~~3~~ – COMPLAINTS, INVESTIGATIONS, HEARINGS AND ENFORCEMENT~~ADDRESSING ETHICAL INFRACTIONS~~

The Ethics Officer shall resolve inadvertent and minor violations of the ~~Ethics~~ Code of Ethics informally and may resolve inadvertent or minor violations informally, unless the Ethics Officer determines that doing so would not serve the public interest. When a violation is neither inadvertent nor minor, the Ethics Officer may initiate an action in accordance with this section. ~~Violations or infractions of ethics codes often occur inadvertently because of a lack of knowledge of ethics code requirements. Most people intend and want to do the right thing. Officials themselves have the primary responsibility of ensuring that ethical standards are understood and met and that the public can continue to have full confidence in the integrity of~~

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~~government. Officials have the additional responsibility of intervening by bringing any issue to another Official's attention when actions of Officials which appear to be in violation of this Code of Ethics are brought to their attention. Officials should point out infractions of this Code of Ethics to the offending Official. The formal complaint process outlined below is intended to be used when informal processes fail and to provide for the fair and effective administration and enforcement of this Code of Ethics.~~

A. COMPLAINT PROCESS

~~A formal complaint should be filed if and only if all other efforts to resolve the problem have been exhausted without satisfactory resolution. A formal complaint is a serious matter and not to be made lightly.~~

~~1.~~ *Complaint Requirements – Service.* Any person may submit a written complaint to the ~~City Clerk~~Ethics Officer alleging one or more violations of this Code of Ethics by an Official. The complaint must ~~:~~

~~a. S~~set forth specific facts with enough precision and detail for the Ethics Officer to make a determination of sufficiency. ~~A complaint is sufficient if it precisely alleges and describes acts which constitute a prima facie showing of a violation of a specified provision of this Code of Ethics that is within the purview of the Ethics Officer; and~~

~~b. Set forth the specific section(s) and subsection(s) of this Code of Ethics that the complaining party believes has been violated; and~~

~~c. Provide an explanation by the complaining party of the reasons why the alleged facts violate this Code of Ethics; and~~

1. ~~d.~~ It must b~~B~~e signed under penalty of perjury by the person(s) submitting it in a manner consistent with Chapter 9A.72 RCW~~; and~~.

~~e. State each complaining person's correct name, address at which mail may be personally delivered to the submitter and the telephone number and email, if available, at which each complaining person may be contacted.~~

~~*The City Clerk shall promptly mail and email a copy of the complaint to the person complained against and submit the complaint to the Ethics Officer for a determination of sufficiency.*~~

2. ~~*2.*~~ *Finding of Sufficiency.* The Ethics Officer shall make~~submit a written report with a finding~~ a determination of sufficiency ~~or insufficiency~~ within thirty ~~fifteen~~ (30~~15~~) days of ~~its~~ receipt of the written complaint. A complaint shall be sufficient if the allegations, if established, would violate Section 3 or 4 of this Code.~~Determination of sufficiency is a process as to form, required above, and determining the possibility of a violation, if the facts of the complaint are determined to be as presented.~~ The Ethics Officer's determination is not reviewable~~finding of insufficiency by the Ethics Officer is final and binding, and no administrative or other legal appeal is available through the Ethics Officer. A finding of insufficiency due to form (Complaint Requirements 1b, c, d, and e) may be corrected and resubmitted to the City Clerk for further consideration by the Ethics Officer. A correction of a complaint by the person(s) originally submitting it must be received by the City Clerk within ten~~

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days of the date of the letter of notification of the finding of insufficiency... If the finding is one of sufficiency of the complaint, then the Ethics Officer shall investigate the complaint shall be investigated as set forth below.

Dismissal. The Ethics Officer shall dismiss the complaint if the Ethics Officer determines that the violation was inadvertent and minor; or a violation occurred, but appropriate actions have been taken to fully address the allegedly unethical conduct.

3. Dismissal. The Ethics Officer shall dismiss the complaint if the Ethics Officer determines the complaint is:

a. insufficient;
b. thethe violation was inadvertent and minor; or
3. c. aa violation occurred, but appropriate actions have been taken to fully address the allegedly unethical conduct.

4. 4. Notice. Notice of action by the Ethics Officer shall be provided as follows:

a. Notice of a finding of insufficiency or dismissal of a complaint by the Ethics Officer shall be sentmailed to the person who made the complaint and the person complained against within seven (7) days of the decision by the Ethics Officer. A finding of insufficiency or dismissal of a complaint by the Ethics Officer is final and binding, and no administrative or other legal appeal is available through the Ethics Officer, except a correction as to form may be submitted as provided in Section 3.a.2..

b. Within seven (7) days of the Ethics Officer rendering a finding of sufficiency, the City Clerk shall sendmail notice to the person who made the complaint and the person complained against, of the public hearing which will be held to determine if a violation has occurred. Notice shall be provided at least thirty (30) days prior to the date set for the hearing. The person complained against shall have the right to file a written answer to the charge and to appear at the hearing with or without legal counsel, submit testimony, be fully heard, and to examine and cross examine witnesses.

5. 5. *Stipulations.* Violation of any provision of the Code of Ethics should raise questions for the Official concerned as to whether resignation, compensatory action, or a sincere apology is appropriate to promote the best interests of the City and to prevent the cost – in time, money and emotion – of an investigation and hearings. At any time after a complaint has been filed with the Ethics Officer, the Ethics Officer may seek and make recommendations that the City Council enter into a stipulation with the person complained against. The recommended stipulation will include the nature of the complaint, relevant facts, the reasons the Ethics Officer thinks a stipulation is appropriate, an admission of the violation by the person complained against, a promise by the person complained against not to repeat the violation, and if appropriate, a recommended remedy or penalty. The recommended stipulation shall be mailed sent to the person who made the complaint and the person complained against and forwarded to the City Council for action.

B. CONDUCT OF HEARINGS

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1. All hearings on complaints found to be sufficient by the Ethics Officer shall be conducted by the Hearing Examiner. The hearing shall be informal, meaning that the Hearing Examiner shall not be bound by the strict rules of evidence prevailing in courts of law or equity. The Hearing Examiner may call witnesses on his or her own motion and compel the production of books, records, papers, or other evidence as needed. To that end, the Hearing Examiner shall issue subpoenas and subpoenas duces tecum. All testimony shall be under oath administered by the Hearing Examiner. The Hearing Examiner may adjourn the hearing from time to time to allow for the orderly presentation of evidence. The Hearing Examiner shall prepare an official record of the hearing, including all testimony, which shall be recorded by mechanical device, and exhibits; provided that the Hearing Examiner shall not be required to transcribe such records unless presented with a request accompanied by payment of the cost of transcription.

2. Within thirty (30) days after the conclusion of the hearing, the Hearing Examiner shall, based upon a preponderance of the evidence, make and fully record in his or her permanent records, findings of fact, conclusions of law, and his or her recommended disposition. A copy of the findings, conclusions, and recommended disposition shall be mailed to the person who made the complaint and to the person complained. Additional copies of the findings, conclusions, and recommendations shall be forwarded to the Ethics Officer and City Council.

C. CITY COUNCIL ACTION

Final City Council action to decide upon stipulations and recommendations from the Ethics Officer and findings, conclusions, and recommendations from the Hearing Examiner shall be by majority vote in a public meeting. If the proceeding involves a member of the City Council, that member will not participate in any executive session unless requested and shall not vote on any matter involving the member. Deliberations by the Council may be in executive session; however, upon request of the person against whom the complaint was made, a public hearing or public meeting before the Council will be held on the issue of penalties.

D. DISPOSITION

In the event the Hearing Examiner's finds that the person against whom the complaint was made has violated the Code of Ethics, then the City Council may take any of the following actions by a majority vote of the Council. The action of the City Council shall be final and not subject to further review or appeal except as may be otherwise provided by law or as provided in Subsection E below.

1. ~~1.~~ *Dismissal.* Dismissal of the complaint without penalties.

2. ~~2.~~ *Referral*. A complaint may be referred to another agency with jurisdiction over the violation, such as the Public Disclosure Commission. Final action on the complaint may be stayed pending resolution of the matter by the agency to which it was referred.

3. *Admonition*. An admonition shall be an oral non-public statement made by the Mayor, or his/her designee, or if the complaint is against the Mayor, the Deputy Mayor or his/her designee to the Official.

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4. *Reprimand*. A reprimand shall be administered to the Official by a resolution of reprimand by the City Council. The resolution shall be prepared by the City Council and shall be signed by the Mayor or, if the complaint is against the Mayor, the Deputy Mayor.

5. ~~5.~~ *Censure*. A resolution of censure shall be a resolution read personally to the person in public. The resolution shall be prepared by the City Council and shall be signed by the Mayor or if the complaint is against the Mayor, the Deputy Mayor. The person shall appear at a City Council meeting at a time and place directed by the City Council to receive the resolution of censure. Notice shall be given at least twenty (20) calendar days before the scheduled appearance at which time a copy of the proposed resolution of censure shall be provided to the person. The resolution of censure shall be read publicly, and the person shall not make any statement in support of, or in opposition thereto, or in mitigation thereof. The resolution of censure shall be read at the time it is scheduled whether or not the Official appears as required.

6. ~~6.~~ *Removal*. Member of Board or Commission or Other Appointed Task Group or Committee. In the event the individual against whom the complaint was made is currently a member of a City board or commission or other task group or committee, appointed by the City Council, the City council may, in addition to other possible penalties set forth in this section, and notwithstanding any other provision of the Kirkland Municipal Code, by a majority vote remove the individual from such board or commission effective immediately.

7. ~~7.~~ *Civil Penalties*. The City Council may assess a civil penalty of up to One Thousand Dollar ($1,000.00) or three (3) times the economic value of anything received in violation of this Code of Ethics or three times (3) the economic value of any loss to the City, whichever is greater. Any monetary penalty assessed civilly shall be placed in the City's general fund.

8. ~~8.~~ *Contract void*. As provided by RCW 42.23.050, any contract made in violation of Chapter 42.23 RCW, "Code of ethics for municipal officers – contract interests," is void.

9. ~~9.~~ *Other penalties*. The City Council may impose a restriction, loss of a committee assignment, or loss of appointment as a representative of the City for any regional or multi-jurisdictional body or membership on any board or commission which requires an appointment or confirmation of an appointment by the City Council.

E. REVIEW OF CIVIL PENALTIES

If the City Council orders a person to pay a civil penalty, the person may seek a writ of review from the superior court pursuant to Ch. 7.16 RCW, within thirty (30) days of the City Council's order.

F. PROTECTION AGAINST RETALIATION

Neither the City nor any Official may take or threaten to take, directly or indirectly, official or personal action, including but not limited to discharge, discipline, personal attack, harassment,

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intimidation, or change in job, salary, or responsibilities, against any person because that person files a complaint with the Ethics Officer.

G. PUBLIC RECORDS

Records filed with the Ethics Officer become public records that may be subject to inspection and copying by members of the public, unless an exemption in law exists. To the extent required to prevent an unreasonable invasion of personal privacy interests protected by RCW 42.56.230(2), identifying details may be redacted when an unsubstantiated complaint is made available in response to a public records request; however, in each case, the justification for the redaction shall be explained fully in writing. A finding by the Ethics Officer determining that a complaint is sufficient shall contain at the beginning the following specific language:

> NOTICE: ANY PORTION OF THIS FINDING DETERMINING SUFFICIENCY OF ANY PORTION OF A COMPLAINT DOES NOT DETERMINE THE TRUTH OR FALSITY OF THE ALLEGATIONS CONTAINED IN THE COMPLAINT FILED WITH THE ETHICS OFFICER. THE ETHICS OFFICER HAS ONLY DETERMINED THAT IF CERTAIN FACTS CONTAINED IN THE COMPLAINT ARE FOUND TO BE TRUE DURING A LATER HEARING TO BE CONDUCTED BY THE HEARING EXAMINER, THEN VIOLATION(S) OF THE ~~ETHICS~~ CODE OF ETHICS MAY BE FOUND TO HAVE OCCURRED.

The City shall release copies of any written reports resulting from an investigation of a sustained complaint, any Hearing Examiner orders, and any written censures or reprimands issued by the City Council, in response to public records requests consistent with Chapter 42.56 RCW and any other applicable public disclosure laws.

H. LIBERAL CONSTRUCTION – LIMITATION PERIOD – EFFECTIVE DATE

a. This Code of Ethics shall be liberally construed to effectuate its purpose and policy and to supplement existing laws that relate to the same subject.

b. Any action taken under this Code of Ethics must be commenced within three years from the date of violation.

c. This Code of Ethics shall take effect _____.

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CITY OF KIRKLAND

CODE OF ETHICS

SECTION 1 - POLICY

Purpose

The Kirkland City Council has adopted a Code of Ethics for members of the City Council and the City's boards and commissions to promote public confidence in the integrity of local government and fair operation. This policy will provide the basis for education and training for city officials, both elected and appointed, to ensure that the highest standards and best practices with regard to ethics will be followed.

Intent

The citizens and businesses of Kirkland are entitled to have fair, ethical and accountable local government that has earned the public's full confidence for integrity. In keeping with the City of Kirkland commitment to excellence, the effective functioning of democratic government therefore requires that:

- public officials, both elected and appointed, comply with the laws and policies affecting the operations of government;
- public officials be independent, impartial and fair in their judgment and actions;
- public office be used for the public good, not for personal gain; and
- public deliberations and processes be conducted openly, unless legally confidential, in an atmosphere of respect and civility.

SECTION 2 - DEFINITIONS

"Official" means a member of the City Council or a member of Council-appointed City boards and commissions and other Council-appointed task groups or committees, including youth members.

"Relative" means spouse or domestic partner, child, step-child, parent, step-parent, parent-in-law, grandparent, grandchild, sibling, aunt, uncle, niece, nephew, son- or daughter-in law, brother- or sister-in law.

SECTION 3 - PROHIBITED CONDUCT

1. *Conflicts of Interest.* In order to ensure their independence and impartiality on behalf of the common good, Officials shall not participate in government decisions in which any of the following has a financial interest: (i) the Official, (ii) a Relative, (iii) an individual with whom they reside, or (iv) an entity that they serve as an officer, director, trustee, partner or

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employee. Officials shall abstain from participating in deliberations and decision-making where conflicts exist. This section shall not apply to decisions regarding taxes or fees, if the financial interest is shared with more than ten percent of the City's population, or if the financial interest exists solely because of the official's ownership of less than one percent of the outstanding shares of a publicly traded corporation.

2. *Appearance of Conflict.* If it could appear to a reasonable person, having knowledge of the relevant circumstances, that the Official's judgment is impaired because of either (1) a personal or business relationship not covered under the foregoing paragraph, or (2) a transaction or activity engaged in by the Official, the Official shall make a public, written disclosure of the facts giving rise to the appearance of a conflict before participating in the matter .

3. *Misuse of Public Position or Resources.* Except for infrequent use at little or no cost to the City, Officials shall not use public resources that are not available to the public in general, such as City staff time, equipment, supplies or facilities, for other than a City purpose.

4. *Representation of Third Parties.* Except in the course of official duties, Officials shall not appear on behalf of the financial interests of third parties before the Council or any board, commission or proceeding of the City, or in interaction with staff.

5. *Solicitations of Charitable Contributions.* No Official may make direct personal solicitations for charitable contributions from City employees.

6. *Gifts and Favors.* Officials shall not take any special advantage of services or opportunities for personal gain, by virtue of their public office, which are not available to the public in general. They may not solicit or receive any thing of monetary value from any person or entity where the thing of monetary value has been solicited, or received or given or, to a reasonable person, would appear to have been solicited, received or given with intent to give or obtain special consideration or influence as to any action by the Official in his or her official capacity; provided, that nothing shall prohibit campaign contributions which are solicited or received and reported in accordance with applicable law. They shall not accept or solicit any gifts, favors or promises of future benefits except as allowed by Kirkland Municipal Code 3.80.140.

Confidential information. Officials shall not disclose or use any confidential information gained by reason of their official position for other than a City purpose.

SECTION 4 – FINANCIAL DISCLOSURE STATEMENTS

All Officials shall file a City of Kirkland Disclosure Statement annually. In accordance with Chapter 42.17 RCW, members of the Kirkland City Council shall also disclose investments, interests in real property, sources of income, and creditors through the filing of a Public Disclosure Commission Form F-1, "Personal Financial Affairs Statement." Members of boards and commissions shall be advised as part of the application process, that they will be required to file the applicable City of Kirkland Disclosure Statement within ten days of appointment.

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SECTION 5 – ETHICAL STANDARDS

In addition to Section 3 of the Code of Ethics, which shall be administered by the Ethics Officer, Officials are also encouraged to comply with the following standards:

1. *Compliance with other laws.* Officials shall comply with the laws of the nation, the State of Washington and the City of Kirkland in the performance of their public duties. These laws include, but are not limited to: the United States and Washington constitutions; laws pertaining to conflicts of interest, election campaigns, financial disclosures and open processes of government; and City ordinances and policies. *See* Appendix A. As required by RCW 42.17.750, no Official shall knowingly solicit or encourage, directly or indirectly, any political contribution from any City employee. Except under limited circumstances described in RCW 42.17.130, no Official may use or authorize the use of the facilities of the City for the purpose of assisting a campaign for the election of any person to any office, or for the promotion of or opposition to any ballot proposition in a manner not available to the general public on the same terms.

2. *Personal integrity.* The professional and personal conduct of Officials must be above reproach and avoid even the appearance of impropriety. Officials shall refrain from abusive conduct, threats of official action, personal accusations or verbal attacks upon the character or motives of other members of Council, boards and commissions, the staff or public. Officials shall maintain truthfulness and honesty and not compromise them for advancement, honor, or personal gain. Additionally, Officials shall not directly or indirectly induce, encourage or aid anyone to violate the Code of Ethics and it is incumbent upon Officials to make a good faith effort to address apparent violations of this Code of Ethics.

3. *Working for the Common Good.* Recognizing that stewardship of the public interest must be their primary concern, Officials will work for the common good of the people of Kirkland and not for any private or personal interest, and they will ensure fair and equal treatment of all persons, claims and transactions coming before the Kirkland City Council, boards and commissions. Officials need to be mindful that making special requests of staff – even when the response does not benefit the Official personally, puts staff in an awkward position.

4. *Respect for Process.* Officials shall perform their duties in accordance with the processes and rules of order established by the City Council and board and commissions governing the deliberation of public policy issues, meaningful involvement of the public, and implementation of policy decisions of the City Council by City staff.

5. *Commitment to Transparency.* Transparency, openness, and accountability are fundamental values of the City of Kirkland – and are also required by the laws of the state of Washington. The public has a right to inspect and copy public records unless exempt by law from disclosure. All materials relating to the conduct of City government that are prepared, possessed, used or retained by any Official, including email and other electronic records, are subject to requirements for retention, protection, and disclosure. Officials may assume that all copies of materials received from City staff have already been archived and do not need to be retained. Officials shall not discard, damage, or destroy the original copy of any public record

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unless directed by the City Public Records Officer (the City Clerk), who has responsibility to ensure that the City complies with the record retention schedules established under Chapter 40.14 RCW. Officials shall promptly provide any records requested by the Public Records Officer in response to a disclosure request under the Public Records Act, Chapter 42.56 RCW. It is the responsibility for the Public Records Officer, together with the City Attorney, to decide which records meet the definition of "public record" and whether or not they are exempt from disclosure; Officials must not take it upon themselves to decide whether a record meets the definition of a public record, that a record is exempt from disclosure, or to otherwise conceal a record.

6. *Conduct of Public Meetings.* Officials shall prepare themselves for public issues; listen courteously and attentively to all public discussions before the body; and focus on the business at hand. They shall refrain from interrupting other speakers; making personal comments not germane to the business of the body; or otherwise interfering with the orderly conduct of meetings.

7. *Decisions Based on Merit.* Officials shall base their decisions on the merits and substance of the matter at hand, rather than on unrelated considerations.

8. *Ex parte Communications.* In quasi-judicial matters, Officials shall publicly disclose substantive information that is relevant to a matter under consideration by the Council or boards and commissions, which they may have received from sources outside of the public decision-making process.

9. *Attendance.* As provided in RCW 35A.12.060, a Council Member shall forfeit his or her office by failing to attend three consecutive regular meetings of the Council without being excused by the Council. Unless excused, members of boards and commissions are expected to attend all meetings.

10. *Nepotism.* The City Council will not appoint Relatives of City Council Members to boards or commissions or other appointed positions.

11. *Advocacy.* When acting in an official capacity as a City of Kirkland Official representing Kirkland, Officials shall represent the official policies or positions of the City Council, board or commission to the best of their ability when the City Council, board or commission has taken a position or given an instruction. When presenting their individual opinions and positions, members shall explicitly state they do not represent their body or the City of Kirkland, nor will they allow the inference that they do. Officials have the right to endorse candidates for all Council seats or other elected offices. It is inappropriate to make or display endorsements during Council meetings, board/commission meetings, or other official City meetings. However, this does not preclude Officials from participating in ceremonial occasions, community events, or other events sponsored by civic groups.

12. *Policy Role of Officials.* Officials shall respect and adhere to the council-manager structure of Kirkland City government as outlined by Chapter 35A.13 RCW. In this structure, the City Council determines the policies of the City with the advice, information and analysis provided by the public, boards and commissions, and City staff. Except as provided by state law, Officials shall not interfere with the administrative functions of the City or the professional

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duties of City staff; nor shall they impair the ability of staff to implement Council policy decisions.

SECTION 6 – ETHICS OFFICER

1. The City Council creates the position of Ethics Officer. The City Manager will contract with one or more agencies to fill this position. The Ethics Officer will provide for annual review of the Code of Ethics, review of training materials provided for education regarding the Code of Ethics, and advisory opinions concerning the Code of Ethics. The Ethics Officer shall also be responsible for the prompt and fair enforcement of its provisions when necessary.

2. The Ethics Officer, in addition to other duties may recommend changes or additions to this Code of Ethics to the City Council. The Ethics Officer shall provide input into and review the training materials and program developed for this Code of Ethics.

SECTION 7 – ADVISORY OPINIONS

1. Upon request of any Official, the Ethics Officer shall render written advisory opinions concerning the applicability of Sections 3 and 4 of this Code to hypothetical circumstances and/or situations solely related to the persons making the request. The Ethics Officer will not render opinions on matters that are the purview of other government agencies or officials, e.g., the Public Disclosure Commission, the City Public Records Officer, etc.

2. Upon request of any Official, the Ethics Officer may also render written advisory opinions concerning the applicability of the Code of Ethics to hypothetical circumstances and/or situations related to a matter of city-wide interest or policy.

3. The Ethics Officer will endeavor to respond to requests for advisory opinions within forty-five (45) days of submission of the request, or more rapidly if the requester expresses urgency in the request.

4. A person's conduct based in reasonable reliance on an advisory opinion rendered by the Ethics Officer shall not be found to violate this Code of Ethics, as long as all material facts have been fully, completely, accurately presented in a written request for an advisory opinion, and the person's conduct is consistent with the advisory opinion. The Ethics Officer reserves the right to reconsider the questions and issues raised in an advisory opinion and, where the public interest requires, rescind, modify, or terminate the opinion, but a modified or terminated advisory opinion will not form the basis of a retroactive enforcement action against the original requestor. Advisory opinions will contain severability clauses indicating that should portions of the opinion be found to be unenforceable or not within the Ethics Officer's authority, the remainder of the opinion shall remain intact.

SECTION 8 – COMPLAINTS, INVESTIGATIONS, HEARINGS AND ENFORCEMENT

The Ethics Officer shall resolve inadvertent and minor violations of the Code of Ethics informally and may resolve inadvertent or minor violations informally, unless the Ethics Officer determines

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that doing so would not serve the public interest. When a violation is neither inadvertent nor minor, the Ethics Officer may initiate an action in accordance with this section.

A. COMPLAINT PROCESS

1. *Complaint Requirements – Service.* Any person may submit a written complaint to the Ethics Officer alleging one or more violations of this Code of Ethics by an Official. The complaint must set forth specific facts with enough precision and detail for the Ethics Officer to make a determination of sufficiency. It must be signed under penalty of perjury by the person(s) submitting it in a manner consistent with Chapter 9A.72 RCW.

2. *Finding of Sufficiency.* The Ethics Officer shall make a determination of sufficiency within thirty (30) days of receipt of the written complaint. A complaint shall be sufficient if the allegations, if established, would violate Section 3 or 4 of this Code. The Ethics Officer's determination is not reviewable. If the finding is one of sufficiency of the complaint, then the Ethics Officer shall investigate the complaint as set forth below.

3. *Dismissal.* The Ethics Officer shall dismiss the complaint if the Ethics Officer determines that the violation was inadvertent and minor; or a violation occurred, but appropriate actions have been taken to fully address the allegedly unethical conduct.

4. Notice. Notice of action by the Ethics Officer shall be provided as follows:

a. Notice of a finding of insufficiency or dismissal of a complaint by the Ethics Officer shall be sent to the person who made the complaint and the person complained against within seven (7) days of the decision by the Ethics Officer. A finding of insufficiency or dismissal of a complaint by the Ethics Officer is final and binding, and no administrative or other legal appeal is available through the Ethics Officer.

b. Within seven (7) days of the Ethics Officer rendering a finding of sufficiency, the City Clerk shall send notice to the person who made the complaint and the person complained against, of the public hearing which will be held to determine if a violation has occurred. Notice shall be provided at least thirty (30) days prior to the date set for the hearing. The person complained against shall have the right to file a written answer to the charge and to appear at the hearing with or without legal counsel, submit testimony, be fully heard, and to examine and cross examine witnesses.

5. *Stipulations.* At any time after a complaint has been filed with the Ethics Officer, the Ethics Officer may seek and make recommendations that the City Council enter into a stipulation with the person complained against. The recommended stipulation will include the nature of the complaint, relevant facts, the reasons the Ethics Officer thinks a stipulation is appropriate, an admission of the violation by the person complained against, a promise by the person complained against not to repeat the violation, and if appropriate, a recommended remedy or penalty. The recommended stipulation shall be sent to the person who made the complaint and the person complained against and forwarded to the City Council for action.

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B. CONDUCT OF HEARINGS

1. All hearings on complaints found to be sufficient by the Ethics Officer shall be conducted by the Hearing Examiner. The hearing shall be informal, meaning that the Hearing Examiner shall not be bound by the strict rules of evidence prevailing in courts of law or equity. The Hearing Examiner may call witnesses on his or her own motion and compel the production of books, records, papers, or other evidence as needed. To that end, the Hearing Examiner shall issue subpoenas and subpoenas duces tecum. All testimony shall be under oath administered by the Hearing Examiner. The Hearing Examiner may adjourn the hearing from time to time to allow for the orderly presentation of evidence. The Hearing Examiner shall prepare an official record of the hearing, including all testimony, which shall be recorded by mechanical device, and exhibits; provided that the Hearing Examiner shall not be required to transcribe such records unless presented with a request accompanied by payment of the cost of transcription.

2. Within thirty (30) days after the conclusion of the hearing, the Hearing Examiner shall, based upon a preponderance of the evidence, make and fully record in his or her permanent records, findings of fact, conclusions of law, and his or her recommended disposition. A copy of the findings, conclusions, and recommended disposition shall be mailed to the person who made the complaint and to the person complained. Additional copies of the findings, conclusions, and recommendations shall be forwarded to the Ethics Officer and City Council.

C. CITY COUNCIL ACTION

Final City Council action to decide upon stipulations and recommendations from the Ethics Officer and findings, conclusions, and recommendations from the Hearing Examiner shall be by majority vote in a public meeting. If the proceeding involves a member of the City Council, that member will not participate in any executive session unless requested and shall not vote on any matter involving the member. Deliberations by the Council may be in executive session; however, upon request of the person against whom the complaint was made, a public hearing or public meeting before the Council will be held on the issue of penalties.

D. DISPOSITION

In the event the Hearing Examiner's finds that the person against whom the complaint was made has violated the Code of Ethics, then the City Council may take any of the following actions by a majority vote of the Council. The action of the City Council shall be final and not subject to further review or appeal except as may be otherwise provided by law or as provided in Subsection E below.

1. *Dismissal.* Dismissal of the complaint without penalties.

2. *Referral*. A complaint may be referred to another agency with jurisdiction over the violation, such as the Public Disclosure Commission. Final action on the complaint may be stayed pending resolution of the matter by the agency to which it was referred.

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3. *Admonition*. An admonition shall be an oral non-public statement made by the Mayor, or his/her designee, or if the complaint is against the Mayor, the Deputy Mayor or his/her designee to the Official.

4. *Reprimand*. A reprimand shall be administered to the Official by a resolution of reprimand by the City Council. The resolution shall be prepared by the City Council and shall be signed by the Mayor or, if the complaint is against the Mayor, the Deputy Mayor.

5. *Censure*. A resolution of censure shall be a resolution read personally to the person in public. The resolution shall be prepared by the City Council and shall be signed by the Mayor or if the complaint is against the Mayor, the Deputy Mayor. The person shall appear at a City Council meeting at a time and place directed by the City Council to receive the resolution of censure. Notice shall be given at least twenty (20) calendar days before the scheduled appearance at which time a copy of the proposed resolution of censure shall be provided to the person. The resolution of censure shall be read publicly, and the person shall not make any statement in support of, or in opposition thereto, or in mitigation thereof. The resolution of censure shall be read at the time it is scheduled whether or not the Official appears as required.

6. *Removal*. Member of Board or Commission or Other Appointed Task Group or Committee. In the event the individual against whom the complaint was made is currently a member of a City board or commission or other task group or committee, appointed by the City Council, the City council may, in addition to other possible penalties set forth in this section, and notwithstanding any other provision of the Kirkland Municipal Code, by a majority vote remove the individual from such board or commission effective immediately.

7. *Civil Penalties*. The City Council may assess a civil penalty of up to One Thousand Dollar ($1,000.00) or three (3) times the economic value of anything received in violation of this Code of Ethics or three times (3) the economic value of any loss to the City, whichever is greater. Any monetary penalty assessed civilly shall be placed in the City's general fund.

8. *Contract void*. As provided by RCW 42.23.050, any contract made in violation of Chapter 42.23 RCW, "Code of ethics for municipal officers – contract interests," is void.

9. *Other penalties*. The City Council may impose a restriction, loss of a committee assignment, or loss of appointment as a representative of the City for any regional or multi-jurisdictional body or membership on any board or commission which requires an appointment or confirmation of an appointment by the City Council.

E. REVIEW OF CIVIL PENALTIES

If the City Council orders a person to pay a civil penalty, the person may seek a writ of review from the superior court pursuant to Ch. 7.16 RCW, within thirty (30) days of the City Council's order.

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F. PROTECTION AGAINST RETALIATION

Neither the City nor any Official may take or threaten to take, directly or indirectly, official or personal action, including but not limited to discharge, discipline, personal attack, harassment, intimidation, or change in job, salary, or responsibilities, against any person because that person files a complaint with the Ethics Officer.

G. PUBLIC RECORDS

Records filed with the Ethics Officer become public records that may be subject to inspection and copying by members of the public, unless an exemption in law exists. To the extent required to prevent an unreasonable invasion of personal privacy interests protected by RCW 42.56.230(2), identifying details may be redacted when an unsubstantiated complaint is made available in response to a public records request; however, in each case, the justification for the redaction shall be explained fully in writing. A finding by the Ethics Officer determining that a complaint is sufficient shall contain at the beginning the following specific language:

> NOTICE: ANY PORTION OF THIS FINDING DETERMINING SUFFICIENCY OF ANY PORTION OF A COMPLAINT DOES NOT DETERMINE THE TRUTH OR FALSITY OF THE ALLEGATIONS CONTAINED IN THE COMPLAINT FILED WITH THE ETHICS OFFICER. THE ETHICS OFFICER HAS ONLY DETERMINED THAT IF CERTAIN FACTS CONTAINED IN THE COMPLAINT ARE FOUND TO BE TRUE DURING A LATER HEARING TO BE CONDUCTED BY THE HEARING EXAMINER, THEN VIOLATION(S) OF THE CODE OF ETHICS MAY BE FOUND TO HAVE OCCURRED.

The City shall release copies of any written reports resulting from an investigation of a sustained complaint, any Hearing Examiner orders, and any written censures or reprimands issued by the City Council, in response to public records requests consistent with Chapter 42.56 RCW and any other applicable public disclosure laws.

H. LIBERAL CONSTRUCTION – LIMITATION PERIOD – EFFECTIVE DATE

a. This Code of Ethics shall be liberally construed to effectuate its purpose and policy and to supplement existing laws that relate to the same subject.

b. Any action taken under this Code of Ethics must be commenced within three years from the date of violation.

c. This Code of Ethics shall take effect _____.

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APPENDIX A

Ch. 9A.72 RCW	Perjury and interference with official proceedings
RCW 35A.12.060	Vacancy for nonattendance
Ch. 35A. 13 RCW	Council-manager plan of government
RCW 35A.13.020	Incompatible offices
Ch. 40.14 RCW	Preservation and destruction of public records
RCW 42.17.130	Use of public office or agency facilities in campaigns – prohibition - exceptions
RCW 42.17.750	Solicitation of contributions by public officials or employees.
Ch. 42.23 RCW	Code of ethics for municipal officers – contract interests
Ch. 42.36 RCW	Appearance of fairness doctrine - limitations
Ch. 42.56 RCW	Public records act
KMC 3.80.140	Kirkland code on acceptance of gifts
Ch. 3.12 KMC	Limitations on campaign contribution

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City of Kirkland
Annual Disclosure Statement

This form is subject to disclosure under the Public Records Act, Chapter 42.56 RCW.

I make the following disclosures regarding a financial interest, arrangement, or affiliation with one or more individuals or entities that could be perceived as a real, apparent or potential conflict of interest in the following categories on behalf of myself or members of my household: *(Attach additional sheets as needed.)*

1. Employment/Non-Employee Compensation ☐ No, I do not have an employment relationship with or receive other compensation for services in excess of $1,000 from any person or entity. ☐ Yes, I do have an employment relationship with or receive other compensation for services in excess of $1,000 from another person or entity. (Please describe):	**2. Material Financial Interest (as defined in Policy)** ☐ No, I do not have a Material Financial Interest with any entity doing business with the City of Kirkland. ☐ Yes, I have a Material Financial Interest with the following entities doing business with the City of Kirkland:
3. Board of Directors/Other Leadership Position ☐ No, I do not have a leadership position with any public, private, or non-profit entity. ☐ Yes, I have a leadership position with:	**4. Relationship with Another Party that May Impair Judgment** ☐ No, I do not have a relationship with another party, internal or external, that may impair my professional judgment. ☐ Yes: (Please describe below)
5. Consultant or Member of an Advisory Board or Review Panel ☐ No, I do not have a consultant or advisory position to disclose. ☐ Yes, I have a consultant or advisory position with:	**6. Other Potential Conflicts:** ☐ No, I do not have other potential conflicts to disclose. ☐ Yes: (Please describe below)
7. I agree to promptly (within 30 days) notify City of Kirkland of any changes that may or does result in a conflict of interest. I have attached additional pages hereto for a full and complete explanation.	

I acknowledge that I have received, read, and understand City of Kirkland's Code of Ethics; I agree to abide by the Code of Ethics; and the foregoing is true and correct.

Signature:_____ Date:_____

Printed Name:_____ Role:_____

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CITY OF KIRKLAND
City Manager's Office
123 Fifth Avenue, Kirkland, WA 98033 425.587.3001
www.kirklandwa.gov

MEMORANDUM

To: Kurt Triplett, City Manager

From: Marie Stake, Communications Program Manager

Date: January 10, 2012

Subject: "Kirkland History Month" Proclamation

RECOMMENDATION**:**

Council authorizes the Mayor to sign the Kirkland History Month Proclamation.

BACKGROUND DISCUSSION:

The Kirkland Heritage Society (KHS) has long coordinated the recognition of Peter Kirk, primarily by asking the City of Kirkland to proclaim a week containing February 15, the birth date of Peter Kirk, as Founders Week. This year, the KHS has asked the City to proclaim the entire month of February as "Kirkland History Month" as a way to honor Kirkland's rich history, its founders, and to recognize the "new" history of Kirkland from members of the recently annexed Finn Hill, North Juanita, and Kingsgate neighborhoods.

It is anticipated that Mark Amick, Chair, History Month Committee and Loita Hawkinson, President, Kirkland Heritage Society will be present at the January 17 Council meeting to receive the proclamation.

For historical information on Kirkland, visit the KHS website at www.kirklandheritage.org.

A PROCLAMATION OF THE CITY OF KIRKLAND

Proclaiming February 2012 as "Kirkland History Month" in the City of Kirkland, Washington

WHEREAS, the City of Kirkland has traditionally celebrated its rich history with the recognition of Peter Kirk's birth date on February 15 by proclaiming Founder's Week in the month of February; and

WHEREAS, the Kirkland Heritage Society has raised public awareness of Kirkland's history by collecting, preserving, exhibiting, and sharing all aspects of the history and heritage of Kirkland and its people; and

WHEREAS, the Kirkland Heritage Society has been able to expand the scope of recognizing Kirkland's past to include downtown and the Juanita and Lakeview Neighborhoods thanks to a grant from 4Culture, the cultural services agency for King County; and

WHEREAS, with the annexation of the Finn Hill, North Juanita, and Kingsgate neighborhoods in 2011, Kirkland's history of these areas has been integrated into the Kirkland Heritage Society's programs and outreach; and

WHEREAS, as part of Kirkland History Month, local businesses will display informational signs at their businesses describing the historical importance of their sites;

NOW, THEREFORE, I, Joan McBride, Mayor of the City of Kirkland, do hereby proclaim the month of February 2012 as "Kirkland History Month" in Kirkland, Washington and urge all citizens of Kirkland to honor the memory of those who helped form our City, to learn about Kirkland's cultural and historic past, and to share memories, photographs, and stories to keep Kirkland's history alive.

Signed this 17th day of January, 2012

_____

Joan McBride, Mayor

CITY OF KIRKLAND
Department of Parks & Community Services
505 Market Street, Suite A, Kirkland, WA 98033 425.587.3300
www.kirklandwa.gov

MEMORANDUM

To: Kurt Triplett, City Manager

From: Jennifer Schroder, Director
Jason Filan, Park Operations Manager

Date: January 5, 2012

Subject: Frontier Communications Donation

RECOMMENDATION:

For Council to thank Frontier Communication for donating to the City of Kirkland the outdated copper phone lines that existed under the causeway at Juanita Bay Park, valued at $60,982.86.

BACKGROUND DISCUSSION:

Over the past 50 years, gains in technology and the modes of transmitting information have made the old copper phone lines underneath the causeway at Juanita Bay Park obsolete. With an interest in removing the outdated infrastructure from the wetland area, staff pursued permission from Frontier Communications to recycle the copper cable.

Frontier agreed that it would be good for the ecology of Juanita Bay to remove the cables from the wetland area and authorized the City to remove the cable.

The City was issued a Hydraulic Project Approval by Washington Department of Fish and Wildlife on October 3, 2011, and removal was completed in mid-October. 39,232 pounds of copper cable were removed and sold to the highest bidder.

Per the agreement with Frontier, the value of the donated copper, nearly $61,000, will be put toward funding installation of a picnic shelter at newly renovated Juanita Beach Park.

Richard Klena, Senior Vice President will attend the Council's January 17th meeting to represent Frontier Communications.

CITY OF KIRKLAND
Department of Parks & Community Services
505 Market Street, Suite A, Kirkland, WA 98033 425.587.3300
www.kirklandwa.gov

MEMORANDUM

To: Kurt Triplett, City Manager

From: Regi Schubiger, Youth Services Coordinator
Kari Page, Neighborhood Services Coordinator
Jennifer Schroder, Director

Date: January 5, 2012

Subject: Eastside Month of Concern for the Hungry Results

The 2011 Eastside Month of Concern for the Hungry, "Share What You Can" campaign collected more than 90,000 pounds of food and $15,000 in cash donations during the month-long drive. Neighborhood associations, community leaders, faith organizations, local grocery stores, businesses, hospitals and schools organized local efforts by hosting food drives and fundraising events in their city from September 24 through October 22. The cities of Bellevue, Kirkland, Issaquah, Mercer Island, Redmond, and Sammamish participated in the Month of Concern for the Hungry as a collaborative initiative among public and non-profit human service agencies spearheaded by the Eastside Human Service Forum.

The emphasis for the month-long drive was to "Share What You Can" and fill food bank shelves with non-perishable food items before the holidays. Eastside Month of Concern for the Hungry was a community-wide effort benefitting local area food banks, including HopeLink, Emergency Feeding Program, ARAS Foundation, Issaquah Food Bank, Mercer Island Food Pantry, and Renewal Food program.

This year has been especially challenging for food banks in our community due to recent, unexpected federal cuts to food programs in King County. This, coupled with the increased demand in clients needing food assistance, has created added challenges for food bank providers. Emergency Feeding Program Operations Director, Brian Anderson noted how much the effort has grown in three short years. "As other sources of support have been eroding, grassroots efforts like this - people coming together to help other people – are so vitally important. And so very effective. The amount of food collected this year is incredibly impressive – food that will go right to work helping feed the increasing number of households in our community who struggle to keep adequate nutritious food on the family table. This year's response truly makes me proud to be an Eastsider."

We would like to ask the Mayor to present certificates of appreciation to both HopeLink and Emergency Feeding Program for their support and efforts during the drive.

KIRKLAND CITY COUNCIL REGULAR MEETING MINUTES
January 03, 2012

1. CALL TO ORDER

2. ROLL CALL

ROLL CALL:
Members Present: Councilmember Dave Asher, Councilmember Doreen Marchione, Mayor Joan McBride, Councilmember Toby Nixon, Councilmember Bob Sternoff, Deputy Mayor Penny Sweet, and Councilmember Amy Walen.
Members Absent: None.

3. STUDY SESSION

a. Community Survey

Joining Councilmembers for this discussion were City Manager Kurt Triplett, Assistant City Manager Marilynne Beard, University of Washington Evans School of Public Affairs Intern Amanda Brown, and Andrew Thibault, Partner, EMC Market and Opinion Research Services.

4. EXECUTIVE SESSION

None.

5. OATH OF OFFICE

Oaths of Office were adminstered by Muncipal Court Judge Michael Lambo.

a. Councilmember Dave Asher

b. Councilmember Toby Nixon

c. Councilmember Bob Sternoff

6. ELECTION OF MAYOR AND DEPUTY MAYOR

Motion to elect Joan McBride to the position of Mayor for a two year term.
Moved by Councilmember Amy Walen, seconded by Councilmember Dave Asher
Vote: Motion carried 7-0
Yes: Councilmember Amy Walen, Councilmember Bob Sternoff, Deputy Mayor Penny Sweet, Mayor Joan McBride, Councilmember Dave Asher, Councilmember Toby Nixon, and Councilmember Doreen Marchione.

Motion to elect Doreen Marchione to the position of Deputy Mayor for a two year term.
Moved by Deputy Mayor Penny Sweet, seconded by Councilmember Amy Walen
Vote: Motion carried 7-0
Yes: Councilmember Amy Walen, Councilmember Bob Sternoff, Deputy Mayor Penny Sweet, Mayor Joan McBride, Councilmember Dave Asher, Councilmember Toby Nixon, and Councilmember Doreen Marchione.

Council recessed for a short break.

7. HONORS AND PROCLAMATIONS

None.

8. COMMUNICATIONS

a. Announcements

b. Items from the Audience

Tim McGruder
Nona Ganz
Jim Bachman

c. Petitions

9. SPECIAL PRESENTATIONS

None.

10. CONSENT CALENDAR

a. Approval of Minutes: December 12, 2011 Special Meeting

b. Audit of Accounts:
Payroll $4,271,732.35
Bills $3,263,036.04
run #1056 checks #530999 - 531007
run #1057 checks #531008 - 531016
run #1058 checks #531018 - 531133
run #1059 checks #531134 - 531216
run #1060 checks #531246 - 531299
run #1061 checks #531300 - 531448
run #1062 checks #531449 - 531469
run #1063 checks #531470 - 531489

c. General Correspondence

d. Claims

e. Award of Bids

f. Acceptance of Public Improvements and Establishing Lien Period

g. Approval of Agreements

h. Other Items of Business

Motion to approve the Consent Calendar.
Moved by Councilmember Penny Sweet, seconded by Deputy Mayor Doreen Marchione
Vote: Motion carried 7-0
Yes: Councilmember Amy Walen, Councilmember Bob Sternoff, Councilmember Penny Sweet, Mayor Joan McBride, Councilmember Dave Asher, Councilmember Toby Nixon, and Deputy Mayor Doreen Marchione.

11. PUBLIC HEARINGS

a. Ordinance O-4343, Imposing a Moratorium Within Neighborhood Business (BN) Zones on the Acceptance of Applications for the Review and/or Issuance of Development Permits for Any New Development, Addition or Alteration as Such Term are Defined in the Ordinance

Mayor McBride described the parameters of the hearing and opened it. Director of Planning and Community Development Eric Shields reviewed the pertinent issues related to the proposed ordinance.
Testimony was provided by Margaret Bull, Atis Freimanis, Chuck Pilcher, Tom Grimm, and Maureen Kelly. No further testimony was offered and the Mayor closed the hearing.

Motion to approve Ordinance O-4343, entitled "AN ORDINANCE OF THE CITY OF KIRKLAND IMPOSING A MORATORIUM WITHIN NEIGHBORHOOD BUSINESS (BN) ZONES ON THE ACCEPTANCE OF APPLICATIONS FOR THE REVIEW AND/OR ISSUANCE OF DEVELOPMENT PERMITS FOR ANY NEW DEVELOPMENT, ADDITION OR ALTERATION AS SUCH TERMS ARE DEFINED IN THIS ORDINANCE."
Moved by Councilmember Bob Sternoff, seconded by Councilmember Dave Asher
Vote: Motion carried 6-1
Yes: Councilmember Amy Walen, Councilmember Bob Sternoff, Councilmember Penny Sweet, Councilmember Dave Asher, Councilmember Toby Nixon, and Deputy Mayor Doreen Marchione.
No: Mayor Joan McBride.

b. Ordinance O-4344, Extending a Moratorium on the Establishment of Medical Marijuana Collective Gardens, Defining "Medical Marijuana Collective Gardens"; Providing for a Public Hearing; Establishing an Effective Date, and Providing that the Moratorium, Unless Extended, Will Sunset Within Six (6) Months of the Date of Adoption

Mayor McBride described the parameters of the public hearing and opened it. Testimony was provided by Margaret Bull. No further testimony was offered and the Mayor closed the hearing.

Motion to approve Ordinance O-4344, entitled "AN ORDINANCE OF THE CITY OF KIRKLAND EXTENDING A MORATORIUM ON THE ESTABLISHMENT OF MEDICAL MARIJUANA COLLECTIVE GARDENS, DEFINING "MEDICAL MARIJUANA COLLECTIVE GARDENS"; ESTABLISHING AN EFFECTIVE DATE, AND PROVIDING THAT THE MORATORIUM, UNLESS EXTENDED, WILL SUNSET WITHIN SIX (6) MONTHS OF THE DATE OF ADOPTION."
Moved by Councilmember Dave Asher, seconded by Deputy Mayor Doreen Marchione
Vote: Motion carried 7-0
Yes: Councilmember Amy Walen, Councilmember Bob Sternoff, Councilmember Penny Sweet, Mayor Joan McBride, Councilmember Dave Asher, Councilmember Toby Nixon, and Deputy Mayor Doreen Marchione.

12. UNFINISHED BUSINESS

None.

13. NEW BUSINESS

a. Resolution R-4905, Approving a City of Kirkland Legislative Agenda to be Addressed to the 2012 Session of the State Legislature

Intergovernmental Relations Manager Lorrie McKay reviewed how the legislative process agenda works and the proposed 2012 agenda for Council consideration.

Motion to Amend Resolution R-4905, entitled "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND APPROVING A CITY OF KIRKLAND LEGISLATIVE AGENDA TO BE ADDRESSED TO THE 2012 SESSION OF THE STATE LEGISLATURE." with revisions to the agenda attachment separating the top priorities from the support items as discussed.
Moved by Councilmember Dave Asher, seconded by Councilmember Toby Nixon
Vote: Motion carried 7-0
Yes: Councilmember Amy Walen, Councilmember Bob Sternoff, Councilmember Penny Sweet, Mayor Joan McBride, Councilmember Dave Asher, Councilmember Toby Nixon, and Deputy Mayor Doreen Marchione.

Motion to Approve Resolution R-4905, entitled "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND APPROVING A CITY OF KIRKLAND LEGISLATIVE AGENDA TO BE ADDRESSED TO THE 2012 SESSION OF THE STATE LEGISLATURE" as amended.
Moved by Councilmember Dave Asher, seconded by Councilmember Toby Nixon

Vote: Motion carried 7-0
Yes: Councilmember Amy Walen, Councilmember Bob Sternoff, Councilmember Penny Sweet, Mayor Joan McBride, Councilmember Dave Asher, Councilmember Toby Nixon, and Deputy Mayor Doreen Marchione.

14. REPORTS

a. City Council

(1) Regional Issues

Councilmembers shared information regarding an upcoming School Siting Taskforce; Suburban Cities Association orientation; Emergency Medical Services Levy Advisory Committee subcommittee meeting; bicyclist comments regarding waste containers in bike lanes; thanks were extended to Council and staff from Councilmember Nixon; City Council agenda calendar posting on the City's external website; Nourishing Networks Thanksgiving summit, upcoming presentation to Kirkland Interfaith Network; Greater Kirkland Chamber of Commerce luncheon and awards; City Council draft subcommittee and regional committee assignments; and the upcoming "One Night Count" of the homeless on January 27, 2012.

b. City Manager

(1) Calendar Update

City Manager Kurt Triplett updated the the City Council on a draft Juanita Bay Noise Ordinance tentatively scheduled for the March 3, 2012 City Council meeting; a proposed Cascade Bicycle Club Bike Safety Summit; and the Burlington Northern Santa Fe property purchase and sale agreement.

15. ITEMS FROM THE AUDIENCE

Jim Bachman

16. ADJOURNMENT

The Kirkland City Council regular meeting of January 3, 2012 was adjourned at 9:23 p.m.

City Clerk

Mayor

CITY OF KIRKLAND
Department of Planning and Community Development
123 Fifth Avenue, Kirkland, WA 98033 425-587-3225
www.kirklandwa.gov

MEMORANDUM

To: Kurt Triplett, City Manager

From: Dawn Nelson, Planning Supervisor

Date: January 3, 2012

Subject: ARCH 2011 HOUSING TRUST FUND RECOMMENDATION, FILE MIS12-00001

RECOMMENDATION

Staff recommends that the City Council adopt the enclosed resolution and approve the recommendations and conditions of approval of the ARCH Executive Board to allocate Kirkland funds as part of the Fall 2010 ARCH Housing Trust Fund:

- $342,457 to the South Kirkland Transit Oriented Development;
- $17,126 to the Sophia Way – Sophia's Place project; and
- $100,000 to the Low Income Housing Institute Bellevue Apartments project.

BACKGROUND DISCUSSION

As in previous funding rounds, general funds set aside by the Council for low and moderate income housing development projects are administered through the ARCH Housing Trust Fund application process. This year, there were seven applications for funding from ARCH. The ARCH Executive Board has recommended that awards be made to five of the seven projects, including the following projects that would use Kirkland funds. The total amount of Kirkland funds being committed this year exceeds our budgeted set aside of $216,000 but includes funds that were set aside in previous years but not allocated.

South Kirkland Transit Oriented Development (TOD)
This project includes construction of up to 70 units of affordable rental housing as part of the larger TOD redevelopment of the South Kirkland Park and Ride that is owned by King County Metro. Because the application deadlines for affordable housing funding by the State, King County and ARCH fell before a developer for the project had been selected, ARCH acted as the applicant for this project for all of the public funding requests. Imagine Housing has since been chosen as the developer for the affordable housing portion of the project. The affordable housing will include a mix of studio, one and two bedroom units that will be affordable at 30%, 40% and 60% of King County median income. The conditions of approval request that the developer also explore the feasibility of including some three bedroom units in the project. Up to 20% of the units will be set aside for those coming out of homelessness. The award would be made in the form of a deferred, contingent loan.

Sophia Way – Sophia's Place
This project includes construction of permanent shelter facilities for up to 20 homeless women at St. Luke's Lutheran Church in Bellevue. The Sophia Way has been operating a temporary shelter for 10 women at a different church in Bellevue since 2008. That shelter is available to

serve the women for only 12 hours per day, from 7 pm to 7 am. The space at St. Luke's is currently an unfinished daylight basement that would be made available for the shelter through a long-term lease agreement. Services would be expanded under the proposal, with the long term goal of being open to the residents at all times. The award would be made in the form of a secured grant.

Low Income Housing Institute (LIHI) Bellevue Apartments
LIHI's Bellevue Apartments is the proposed construction of 56 units of affordable housing and one manager's unit on a site in Downtown Bellevue. The project will include a mix of unit sizes from studios to three bedroom units. Half the units will serve those earning no more than 30% of King County median income. The remaining units will serve households at 40% and 60% of King County median income. Twelve of the units will be set aside for households transitioning out of homelessness, and 12 units will be set aside for households with persons living with disabilities

A summary of the Executive Board recommendation for these projects is included in Exhibit A to the attached Resolution, starting on pages 2, 11 and 14, respectively. Additional information about the projects and their financing is included as Attachment 1 to this memo. ARCH staff will be available to answer questions at the January 17th City Council meeting.

Cc: Arthur Sullivan, ARCH, 16225 NE 87th Street, Suite A-3, Redmond, Washington 98052

ARCH HOUSING TRUST FUND (HTF) APPLICATIONS 2011

Applicant	Funds Requested (Grant/Loan) / Recommendation	Housing Type/ # of units/ bdrms	Income Served	Project Location	Duration of benefit	Total cost per unit	HTF cost per aff. unit	Project completion
ARCH – South Kirkland Transit Oriented Development (TOD)	$1,000,000 (Deferred Loan) Plus 14 Section 8 Vouchers / $940,367 Plus 14 Vouchers Recommended	New construction Family rental housing at Park and Ride, Affordable portion of a larger mixed-use, mixed-income development 58 - 70	50% @ 30% 25% @ 40% 25% @ 60% (20% Homeless set aside; 20% Disabled Set aside)	10610 NE 38th Place, Kirkland	50 Years	$249,305	$13,434 - $16,213	Fall 2014
Community Homes CH 7	$100,000 (Secured Grant) / $100,000 Recommended	Acq/Rehab of Group Home for Developmentally Disabled 5	5 at 30%	ARCH Sphere of Influence	50 Years	$160,080/bed	$20,000	June 2013
Friends of Youth Youth Haven	$272,500 (Secured Grant) / $332,133 Recommended	Acq/New Construction Housing for Youth under 18 10	10 @ 30%	13116 NE 132nd St. Kirkland (Grace Chapel)	50 Years	$208,588/bed	$33,213	Jan 2013
Sophia Way Sophia Place at St. Luke's	$250,000 (Secured Grant) / $250,000 Recommended	Fit out Church Basement as Homeless Shelter 20 (Incremental Increase of 10)	20 @ 30%	3030 Bellevue Way NE Bellevue (St. Luke's Lutheran Church)	15 Years, 5 yr renewals	$28,809	$12,500	May 2012
Low Income Housing Institute (LIHI) – Bellevue Apartments	$1,000,000 (Loan) Plus 8 Vouchers Recommended	New Construction 57	8 @ 30% (homeless), 35 @ 50%, 14 @ 60%	204 111th Ave NE Bellevue, WA 98004	50 Years	$279,968	$17,544	Fall, 2013

ARCH HOUSING TRUST FUND (HTF) APPLICATIONS
2011 (Continued)

Applicant	Funds Requested (Grant/Loan) / Recommendation	Housing Type/ # of units/ bdrms	Income Served	Project Location	Duration of benefit	Total cost per unit	HTF cost per aff. unit	Project completion
Foundation For the Challenged FFC – VI	$100,000 (Secured Grant) / $0 Recommended	Acq/Rehab of Group Home for Developmentally Disabled 4	4 @ 30%	ARCH Sphere of Influence	50 Years	$121,905/bed	$25,000	Nov 2012
Imagine Housing (Formerly St. Andrew's) – Barron Ridge	$1,062,171 (Deferred Loan) 8 Section 8 Vouchers / $0 , No Vouchers Recommended	New Construction 71	19 @ 30% 36 @ 40% 16 @ 50% (75% Homeless set aside)	4049 129th PL SE Bellevue (Adjacent to Andrew's Heights)	50 Years	$256,989	$14,960	Dec 2014
Imagine Housing (Formerly St. Andrew's) – Totem Lake Senior	$0 8 Section 8 Vouchers / $0, No Vouchers Recommended	New Construction 76	38 @ 30% 19 @ 40% 19 @ 50% (20% set aside for disabled, 6 units set aside for Homeless)	Adjacent to 12601 NE 124th St Kirkland	50 Years	$242,556	$0	Sept 2013

2011 HOUSING TRUST FUND: PROPOSED FUNDING SCOURCES

SOURCE		PROJECT					
		ARCH South Kirkland TOD	Community Homes 7	Friends of Youth - Youth Haven	Sophia Way - Sophia's Place	LIHI Bellevue Apartments	TOTAL
Request		$ 1,000,000	$ 100,000	$ 272,500	$ 250,000	$ 1,000,000	$ 2,622,500
CAB Recommendation		$ 1,000,000	$ 100,000	$ 272,500	$ 250,000	$ 1,000,000	$ 2,622,500
Swaps with County		$ (59,633)	$ -	$ 59,633	$ -		$ -
Adjusted Recommendation		$ 940,367	$ 100,000	$ 332,133	$ 250,000	$ 1,000,000	$ 2,622,500
Current Funding							
Sub-Regional CDBG			$ 100,000	$ 332,133			$ 432,133
Bellevue							
	CDBG						$ -
	General Fund	$ 265,000			$ 200,000	$ 635,000	$ 1,100,000
Issaquah							
	General Fund	$ 4,147			$ 1,102	$ 50,000	$ 55,249
Kirkland							
	General Fund	$ 342,457			$ 17,126	$ 100,000	$ 459,583
Mercer Is.							
	General Fund	$ 16,091			$ 4,278	$ 20,000	$ 40,369
Redmond							
	General Fund	$ 184,753			$ 8,675	$ 100,000	$ 293,428
Newcastle							
	General Fund					$ 9,600	$ 9,600
Kenmore							
	General Fund	$ 92,973			$ 9,528	$ 50,000	$ 152,501
Woodinville							
	General Fund	$ 9,875			$ 2,625	$ 16,399	$ 28,899
Clyde Hill							
	General Fund	$ 12,061			$ 3,207	$ 15,000	$ 30,268
Medina							
	General Fund	$ 7,892			$ 2,098		$ 9,990
Yarrow Point							
	General Fund	$ 3,123			$ 830	$ 1,501	$ 5,454
Hunts Point							
	General Fund	$ 1,995			$ 531	$ 2,500	$ 5,026
TOTAL		$ 940,367	$ 100,000	$ 332,133	$ 250,000	$ 1,000,000	$ 2,622,500
	CDBG	$ -	$ 100,000	$ 332,133	$ -	$ -	$ 432,133
	General Fund	$ 940,367	$ -	$ -	$ 250,000	$ 1,000,000	$ 2,190,367

ARCH HOUSING TRUST FUND, 2011

Leveraging Funds - - Projects Recommended for Funding

	ARCH South Kirkland TOD		Community Homes 7th Adult Family Home		Friends of Youth Youth Haven		Sophia Way Sophia's Place		Low Income Housing Institute Bellevue Apartments		TOTAL
ARCH	$ 940,367	5%	$ 100,000	12%	$ 332,133	16%	$250,000	43%	$1,000,000	7%	$2,622,500
Local Public Loan Repayment - Historic											
King County HOF/HOME/CDBG 2060/2163 Veterans/Human Services Other	$709,633		$400,000		$228,367		$ -		$2,289,752		$3,627,752
KC TOTAL	$ 709,633	4%	$ 400,000	50%	$ 228,367	11%	$ -	0%	$ 2,289,752	15%	$3,627,752
WA HAP WA HTF WA HFC (Equity Fund) WSHFC Washington Works	$2,000,000		$284,200		$496,000						$2,780,200
WA TOTAL	$ 2,000,000	11%	$ 284,200	36%	$ 496,000	24%	$ -	0%	$ -	0%	$2,780,200
Federal/HUD Section 811 McKinney Other (VA Per Diem)											
FEDERAL TOTAL	$ -	0%	$ -	0%	$ -	0%	$ -	0%	$ -	0%	$0
Tax Credits	$11,412,695	65%		0%		0%		0%	$ 10,044,076	67%	$21,456,771
TCAP		0%		0%		0%		0%		0%	$0
Bonds		0%		0%		0%		0%		0%	$0
Bank Loans	$2,388,647	14%		0%		0%		0%	$ 1,220,692	0%	$3,609,339
Deferred Developer Fee		0%		0%		0%		0%	$ 350,000	0%	$350,000
Private		0%	$16,200	2%	$1,029,379	49%	$226,178	39%		0%	$1,271,757
Other		0%		0%		0%	$100,000	17%		0%	$100,000
TOTAL COST	$ 17,451,342	100%	$ 800,400	100%	$ 2,085,879	100%	$ 576,178	100%	$ 14,904,520	89%	$35,818,319

ECONOMIC SUMMARY: ARCH SOUTH KIRKLAND TOD

1. Applicant/Description: ARCH / New construction of 58 – 70 affordable rental units including 20% of units are for homeless/very low income households

2. Project Location: 10610 NE 38th Place, Kirkland

3. Financing Information:

Funding Source	Funding Amount	Commitment
ARCH	$940,367	Applied for Fall 2011
King County	$709,633	Committed Fall 2011
Commerce Trust Fund	$2,000,000	Committed Fall 2011
Tax Credits	$11,412,695	To be applied for in December 2011
Private Debt	$2,388,647	To be applied for in 2012
TOTAL	17,451,342	

4. Development Budget:

ITEM	TOTAL	PER UNIT	HTF
Acquisition	$1,765,000	$25,214	
Construction	$12,826,735	$183,239	$940,367
Design	$560,000	$8,000	
Consultants	$195,750	$2,796	
Developer fee	$870,000	$12,429	
Finance costs	$362,529	$5,179	
Reserves	$89,000	$1,271	
Permits/Fees/Other	$782,328	$11,176	
TOTAL	$17,451,342	$249,305	$940,367

5. Debt Service Coverage: Debt service payments will be finalized upon commitment. Basic terms will include a 50 year amortization, deferral of payments for a period of between 10 and 15 years, 1% interest, and ability to request a deferral of annual payment to preserve economic integrity of property.

6. Security for City Funds:
- A recorded covenant to ensure affordability and use for targeted population for 50 years.
- A promissory note secured by a deed of trust. The promissory note will require repayment of the loan amount upon non-compliance with any of the loan conditions.

7. Rental Subsidy: 14 Section 8 Vouchers

ECONOMIC SUMMARY: COMMUNITY HOMES, INC. HOUSE 7

1. Applicant/Description: CHI / Acquisition/rehabilitation of single family home with 5 beds for very low income developmentally disabled adults.

2. Project Location: East King County

3. Financing Information:

Funding Source	Funding Amount	Commitment
ARCH	$100,000	Applied for Fall 2011
King County	$400,000	Committed Fall 2010
Commerce Trust Fund	$284,200	Committed Fall 2011
Owner Equity	$16,200	Committed
TOTAL	$800,400	

4. Development Budget:

ITEM	TOTAL	PER BED	HTF
Acquisition	$487,750	$97,550	$100,000
Construction	$205,500	$41,100	
Design	$9,000	$1,800	
Consultants	$9,450	$1,890	
Developer fee	$60,000	$12,000	
Finance costs	$0	$0	
Reserves	$10,700	$2,140	
Permits/Fees/Other	$18,000	$3,600	
TOTAL	$800,400	$160,080	$100,000

5. Debt Service Coverage: Secured grant, no repayment if in compliance.

6. Security for City Funds:
- A recorded covenant to ensure affordability and use for targeted population for 50 years.
- A promissory note secured by a deed of trust. The promissory note will require repayment of the loan amount upon non-compliance with any of the loan conditions.

7. Rental Subsidy: None

ECONOMIC SUMMARY: FRIENDS OF YOUTH – YOUTH HAVEN

1. Applicant/Description: FOY / Acquisition/new construction of group living facility with 10 beds for very low income youth ages 11 - 17

2. Project Location: 13116 NE 132nd Street, Kirkland

3. Financing Information:

Funding Source	Funding Amount	Commitment
ARCH	$332,133	Applied for Fall 2011
King County	$228,367	Committed Fall 2011
Commerce Trust Fund	$496,000	Committed Fall 2011
From disposition of 2 properties	$537,132	Committed
Owner Equity	$492,247	Committed
TOTAL	$2,085,879	

4. Development Budget:

ITEM	TOTAL	PER BED	HTF
Acquisition	$706,000	$70,600	$332,133
Construction	$978,369	$97,837	
Design	$91,000	$9,100	
Consultants	$14,000	$1,400	
Developer fee	$165,000	$16,500	
Finance costs	$9,000	$900	
Reserves	$8,500	$850	
Permits/Fees/Other	$114,010	$11,401	
TOTAL	$2,085,879	$208,588	$332,133

5. Debt Service Coverage: Secured grant, no repayment if in compliance.

6. Security for City Funds:
- A recorded covenant to ensure affordability and use for targeted population for 50 years.
- A promissory note secured by a deed of trust. The promissory note will require repayment of the loan amount upon non-compliance with any of the loan conditions.

7. Rental Subsidy: None

ECONOMIC SUMMARY: SOPHIA WAY – SOPHIA'S PLACE

1. Applicant/Description: SW / 15 yr Lease/build out of church basement for shelter with 20 beds for single homeless women

2. Project Location: 3030 Bellevue Way, Bellevue (St. Luke's Lutheran Church)

3. Financing Information:

Funding Source	Funding Amount	Commitment
ARCH	$250,000	Applied for Fall 2011
Jubilee Services	$100,000	Committed Fall 2011
Pro Bono other work	$23,000	Committed Fall 2011
Individual donations	$100,000	2/3s committed
Foundations	$103,178	Applying 2011
TOTAL	$576,178	

4. Development Budget:

ITEM	TOTAL	PER BED	HTF
Acquisition	$100	$5	
Construction	$519,278	$25,964	$228,200
Design	$20,000	$1,000	
Consultants	$8,000	$400	$5,000
Developer fee	$6,000	$300	$6,000
Finance costs	$0	$0	
Reserves	$20,000	$1,000	$8,000
Permits/Fees/Other	$2,800	$140	$2,800
TOTAL	$576,178	$28,809	$250,000

5. Debt Service Coverage: Secured grant, no repayment if in compliance.

6. Security for City Funds:

- A recorded covenant to ensure affordability and use for targeted population for 50 years.
- A promissory note secured by a deed of trust. The promissory note will require repayment of the loan amount upon non-compliance with any of the loan conditions in the first 15 years; thereafter, 1/30 of the obligation will be forgiven for every year the project has been in service.

7. Rental Subsidy: None

ECONOMIC SUMMARY: LIHI DOWNTOWN BELLEVUE APARTMENTS

1. Applicant/Description: Downtown Bellevue / New construction of 56 affordable rental units (plus 1 unrestricted manager's unit) including 8 Project Based Section 8 Vouchers

2. Project Location: 204 111th Ave NE, Bellevue

3. Financing Information:

Funding Source	Funding Amount	Commitment
ARCH	$1,000,000	Applied for Fall 2010
King County	$2,289,752	$208,232 Committed in Fall 2011; Apply in 2012 for remainder
Tax Credits (9%)	$10,044,076	Apply for in 2012
Conventional Loan	$1,220,692	Apply for in 2012
LIHI Deferred Developer Fees	$350,000	Committed
TOTAL	$14,904,520	

4. Development Budget:

ITEM	TOTAL	PER UNIT	HTF
Acquisition	$2,265,000	$40,446	
Construction	$9,451,910	$168,784	$800,000
Design	$700,000	$12,500	$200,000
Consultants	$280,000	$5,000	
Developer fee	$800,000	$14,286	
Finance costs	$644,414	$11,507	
Reserves	$235,950	$4,213	
Permits/Fees/Other	$527,246	$9,415	
TOTAL	$14,904,520	$266,152	$1,000,000

5. Debt Service Coverage: Debt service payments will be finalized upon commitment. Basic terms will include a 50 year amortization, deferral of payments for a period of 10 years, 1% interest, and ability to request a deferral of annual payment to preserve economic integrity of property.

6. Security for City Funds:
- A recorded covenant to ensure affordability and use for targeted population for 50 years.
- A promissory note secured by a deed of trust. The promissory note will require repayment of the loan amount upon non-compliance with any of the loan conditions.

7. Rental Subsidy: 8 Section 8 Vouchers

FIGURE 1
ARCH: EAST KING COUNTY TRUST FUND SUMMARY
LIST OF PROJECTS FUNDED (1993 - Fall 2010)

Project	Location		Owner	Units/Beds	Funding	Pct of Total Allocation	Distribution Target
1. Family Housing							
Andrews Heights Apartments	Bellevue		Imagine Housing	24	$400,000		
Garden Grove Apartments	Bellevue		DASH	18	$180,000		
Overlake Townhomes	Bellevue		Habitat of EKC	10	$120,000		
Glendale Apartments	Bellevue		DASH	82	$300,000		
Wildwood Apartments	Bellevue		DASH	36	$270,000		
Somerset Gardents (Kona)	Bellevue		KC Housing Authority	198	$700,000		
Pacific Inn	Bellevue	*	Pacific Inn Assoc. *	118	$600,000		
Eastwood Square	Bellevue		Park Villa LLC	48	$600,000		
Chalet Apts	Bellevue		Imagine Housing	14	$163,333		
St Margaret's	Bellevue		Imagine Housing	10 /11	$387,500		
YWCA Family Apartments	K.C. (Bellevue Sphere)		YWCA	12	$100,000		
Highland Gardens (Klahanie)	K.C. (Issaquah Sphere)		Imagine Housing	54	$291,281		
Crestline Apartments	K.C. (Kirkland Sphere)		Shelter Resources	22	$195,000		
Parkway Apartments	Redmond		KC Housing Authority	41	$100,000		
Habitat - Patterson	Redmond		Habitat of EKC	24	$446,629		
Avon Villa Mobile Home Park	Redmond	**	MHCP **	93	$525,000		
Terrace Hills	Redmond		Imagine Housing	18	$442,000		
Village at Overlake Station	Redmond	**	KC Housing Authority **	308	$1,645,375		
Summerwood	Redmond		DASH	166	$1,187,265		
Coal Creek Terrace	Newcastle	**	Habitat of EKC	12	$240,837		
RoseCrest (Talus)	Issaquah	**	Imagine Housing	40	$918,846		
Mine Hill	Issaquah		Imagine Housing	28	$450,000		
Clark Street	Issaquah		Imagine Housing	30	$355,000		
Lauren Heights (Iss Highlands)	Issaquah	**	Imagine Housing/SRI **	45	$657,343		
Habitat Issaquah Highlands	Issaquah	***	Habitat of EKC **	10	$200,000		
Issaquah Family Village I	Issaquah	***	YWCA **	87	$4,382,584		
Issaquah Family Village II	Issaquah	***	YWCA	47	$2,760,000		
Greenbrier Family Apts	Woodinville	**	DASH **	50	$286,892		
Plum Court	Kirkland		DASH	61 /66	$1,000,000		
Francis Village	Kirkland		Imagine Housing	15	$375,000		
Kenmore Court	Kenmore	**	LIHI **	33	$452,321		
Homeowner Downpayment Loan	Various		KC/WSHFC/ARCH	87 est	$615,000		
SUB-TOTAL				**1,841**	**$21,347,206**	60.5% (56%)	
2. Senior Housing							
Cambridge Court	Bellevue		Resurrection Housing	20	$160,000		
Ashwood Court	Bellevue	*	DASH/Shelter Resources *	50	$1,070,000		
Evergreen Court (Assisted Living)	Bellevue		DASH/Shelter Resources	64 /84	$2,480,000		
Vasa Creek	K.C. (Bellevue Sphere)		Shelter Resources	50	$190,000		
Riverside Landing	Bothell	**	Shelter Resources **	50	$225,000		
Kirkland Plaza	Kirkland		Imagine Housing	24	$610,000		
Heron Landing	Kenmore		DASH/Shelter Resources	50	$65,000		
Ellsworth House Apts	Mercer Island		Imagine Housing	59	$900,000		
Greenbrier Sr Apts	Woodinville	**	DASH/Shelter Resources **	50	$196,192		
SUB-TOTAL				**417**	**$5,896,192**	16.7% (19%)	

FIGURE 1
ARCH: EAST KING COUNTY TRUST FUND SUMMARY
LIST OF PROJECTS FUNDED (1993 - Fall 2010)

Project	Location		Owner	Units/Beds		Funding	Pct of Total Allocation	Distribution Target
3. Homeless/Transitional Housing								
Hopelink Place	Bellevue	**	Hopelink **	20		$500,000		
Chalet	Bellevue		Imagine Housing	4		$46,667		
Kensington Square	Bellevue		Housing at Crossroads	6		$250,000		
St Margarets	Bellevue		Imagine Housing	30		$1,162,500		
Dixie Price Transitional Housing	Redmond		Hopelink	4		$71,750		
Avondale Park	Redmond		Hopelink (EHA)	18		$280,000		
Avondale Park Redevelopment	Redmond	**	Hopelink (EHA) **	60		$1,502,469		
Petter Court	Kirkland		KITH	4		$100,000		
Francis Village	Kirkland		Imagine Housing	45		$1,125,000		
Rose Crest (Talus)	Issaquah	**	Imagine Housing	10		$229,712		
Lauren Heights (Iss Highlands)	Issaquah	***	SRI **	5		$73,038		
Issaquah Family Village I	Issaquah	***	YWCA **	10		$503,745		
SUB-TOTAL				**198**		**$5,844,881**	16.6%	(13%)
4. Special Needs Housing								
My Friends Place	K.C.		EDVP	6	Beds	$65,000		
Stillwater	Redmond		Eastside Mental Health	19	Beds	$187,787		
Foster Care Home	Kirkland		Friends of Youth	4	Beds	$35,000		
FOY New Ground	Kirkland		Friends of Youth	6	Units	$250,000		
DD Group Home 4	Redmond		Community Living	5	Beds	$111,261		
DD Group Homes 5 & 6	Redmond/KC (Bothell)		Community Living	10	Beds	$250,000		
United Cerebral Palsy	Bellevue/Redmond		UCP	9	Beds	$25,000		
DD Group Home	Bellevue		Residence East	5	Beds	$40,000		
AIDS Housing	Bellvue/Kirkland		Aids Housing of WA.	10	Units	$130,000		
Harrington House	Bellevue		AHA/CCS	8	Beds	$290,209		
DD Group Home 3	Bellevue		Community Living	5	Beds	$21,000		
Parkview DD Condos III	Bellevue		Parkview	4		$200,000		
IERR DD Home	Issaquah		IERR	6	Beds	$50,209		
FFC DD Homes	NE KC		FFC	8	Beds	$300,000		
Oxford House	Bothell		Oxford/Compass Ctr.	8	Beds	$80,000		
Parkview DD Homes VI	Bothell/Bellevue		Parkview	6	Beds	$150,000		
SUB-TOTAL				**119**	**Beds/Units**	**$2,185,466**	6.2%	(12%)
TOTAL				**2,575**		**$35,273,745**	**100.0%**	
						10%		

* Funded through Bellevue Downtown Program
** Also, includes in-kind contributions (e.g. land, fee waivers, infrastructure improvements)
*** Amount of Fee Waiver still to be finalized

RESOLUTION R-4906

A RESOLUTION AUTHORIZING THE DULY-APPOINTED ADMINISTERING AGENCY FOR A REGIONAL COALITION FOR HOUSING (ARCH) TO EXECUTE ALL DOCUMENTS NECESSARY TO ENTER INTO AGREEMENTS FOR THE FUNDING OF AFFORDABLE HOUSING PROJECTS, AS RECOMMENDED BY THE ARCH EXECUTIVE BOARD, UTILIZING FUNDS FROM THE CITY'S HOUSING TRUST FUND.

WHEREAS, A Regional Coalition for Housing (ARCH) was created by interlocal agreement to help coordinate the efforts of Eastside cities to provide affordable housing; and

WHEREAS, the ARCH Executive Board has recommended that the City of Kirkland participate in the funding of certain affordable housing projects and programs hereinafter described; and

WHEREAS, the ARCH Executive Board has developed a number of recommended conditions to ensure that the City's affordable housing funds are used for their intended purpose and that projects maintain their affordability over time; and

WHEREAS, the City Council approved Resolution R-4804 on March 2, 2010, approving the Amended and Restated Interlocal Agreement for ARCH; and

WHEREAS, the City Council desires to use $459,583 from City funds as designated below to finance the projects recommended by the ARCH Executive Board;

NOW, THEREFORE, be it resolved by the City Council of the City of Kirkland as follows:

Section 1. The City Council authorizes the duly-appointed administering agency of ARCH, pursuant to the Amended and Restated Interlocal Agreement for ARCH, to execute all documents and take all necessary actions to enter into Agreements on behalf of the City with:

ARCH South Kirkland Transit Oriented Development in an amount not to exceed $342,457; and

The Sophia Way – Sophia's Place in an amount not to exceed $17,126; and

Low Income Housing Institute Bellevue Apartments in an amount not to exceed $100,000.

Section 2. The Agreements entered into pursuant to Section 1 of this Resolution shall be funded in a combined amount not to exceed $459,583. Such Agreements shall include terms and conditions to ensure that the City's funds are used for their intended purpose and that the project maintains its affordability over time. In determining what conditions should be included in the Agreements, the duly-appointed administering agency of ARCH shall be guided by the recommendations set forth in the ARCH Executive Board's memorandum of December 9, 2011, a copy of which is attached hereto as Exhibit A.

Passed by majority vote of the Kirkland City Council in open meeting this _____day of _____, 2012.

Signed in authentication thereof this ____ day of _____, 2012

_____
MAYOR

Attest:

_____
City Clerk

A Regional Coalition for Housing

Together Center Campus
16225 NE 87th Street, Suite A-3 ♦ Redmond, Washington 98052
(425) 861-3677 ♦Fax: (425) 861-4553 ♦ WEBSITE: www.archhousing.org

M E M O R A N D U M

TO: City of Bellevue Council Members
City of Clyde Hill Council Members
Town of Hunts Point Council Members
City of Issaquah Council Members
City of Kenmore Council Members
City of Kirkland Council Members
City of Medina Council Members
City of Mercer Island Council Members
City of Newcastle Council Members
City of Redmond Council Members
City of Woodinville Council Members
Town of Yarrow Point Council Members

FROM: Frederick Stouder, Chair, and ARCH Executive Board

DATE: December 9, 2011

RE: 2011 Housing Trust Fund (HTF) Recommendation

The ARCH Executive Board (EB) has completed its review of eight applications for funding through the 2011 Housing Trust Fund round. The Executive Board at its June and November meetings considered these projects and recommends funding for five projects. Recommendations total $2,622,500 as summarized in the attached table: Proposed Funding Sources. The actual amount will depend on final action by the City Councils.

Following is a summary of the applications, the CAB recommendation and rationale, and proposed contract conditions for the four proposals recommended for funding at this time. Also enclosed is an evaluation matrix for each proposal, an economic summary for the four projects recommended for funding, leveraging charts, project summary table, and a summary of funded projects to date.

1. ARCH – South Kirkland TOD

Funding Request: $1,000,000 (Contingent Loan) Plus 14 Section 8 Vouchers
58 - 70 units

CAB Recommendation: $940,367* (Contingent Loan) Plus 14 Section 8 Vouchers
See attached Funding Chart for distribution of City Funds

(* Reduced recommendation offset by increase funding award from King County. Done to allow CDBG funds allocated through ARCH to fully fund two other projects)

Project Summary:
A Regional Coalition for Housing (ARCH) acting as stand-in developer for purposes of accessing funding in the current round, is proposing up to a 70 unit rental housing project as part of a larger transit oriented development at the South Kirkland Metro Park and Ride consisting of affordable and market-rate housing, commercial/retail space and structured parking for expanded capacity at the South Kirkland Park and Ride. Construction of the affordable units will be four stories of residential wood framed construction over structured parking with ground floor retail in a portion of the parking structure.

The site is served by numerous bus lines and is in close proximity to a range of in-town amenities such as stores, parks and recreational facilities, schools, and places of worship.

The affordable portion of project targets households earning below 30%, 40% and 60% of median income, 14 units (or 20% of the total) are being set aside for homeless housing with an additional 14 units for persons living with disabilities. A number of local agencies have indicated willingness to deliver services for those residents that they would refer to the set-aside units. The project will feature a range of unit sizes from studios to two bedroom units.

King County Metro has done an RFQ/RFP process for soliciting developer team proposals for the site, and selection of a preferred proposal is expected in October 2011. A partnership of Polygon and Imagine Housing has been selected by Metro as the preferred developer of the site. Imagine Housing has proposed rental housing with a similar unit and affordability mix as submitted by ARCH, but with potentially approximately 60 units instead of 70 units. .

Funding Rationale:

The CAB supported the intent of this application for the following reasons:

- Supports implementation of a local housing/neighborhood plan. The creation of housing with an affordable component at the South Kirkland Park and Ride site has been a high priority for the City of Kirkland for a number of years.
- There is site control
- The project integrates very-low and low-income housing with market rate housing and retail/commercial in a gateway project for the Houghton neighborhood.
- The project has a portion of housing for homeless and disabled populations, which city has indicated an interest in providing on this site, and some of proposed funding sources state as priority needs.
- Proposal is an integral element of an overall TOD development
- The affordable component in an integral component of the overall plan to increase overall housing supply and expanded Park and Ride capacity on this site.
- Leverages funding from several other affordable housing sources, and also leverages federal funds to expand capacity of the Park and Ride.

Potential Conditions:

Special / Revised Conditions:

1. The funding commitment shall continue for **twenty-four (24) months** from the date of Council approval and shall expire thereafter if all conditions are not satisfied. An extension may be requested to City staff no later than sixty (60) days prior to the expiration date. At that time, the selected developer will provide a status report on progress to date, and expected schedule for start of construction and project completion. City staff will consider an extension only on the basis of documented, meaningful progress in bringing the project to readiness or completion. At a minimum, the selected developer will demonstrate that all capital funding has been secured or is likely to be secured within a reasonable period of time. City staff will grant up to a 12 month extension. If necessary a second extension of up to 6 months may be requested by following the same procedures as the first extension.

2. Funds will be in the form of a **deferred, contingent loan**. Loan terms will account for various factors, including loan terms from other fund sources and available cash flow. Final loan terms shall be determined prior to release of funds and must be approved by City Staff. Based on the preliminary development budget, it is anticipated that loan payments will be based on a set repayment schedule, and begin after repayment of deferred developer fee (approximately year 10), with 1% interest. The terms will also include a provision for deferment of a payment if certain conditions are met (e.g. low cash flow due to unexpected costs). Any requested deferment of loan payment is subject to approval by City Staff, and any deferred payment would be repaid from future cash flow or at the end of the amortization period.

3. Until such time as the any deferred developer fee structured into the sources is fully repaid, all cash flow after payment of operating expenses and debt service, shall be used to repay the deferred developer fee or project reserves as approved by City Staff.

4. A covenant is recorded ensuring affordability for at least 50 years, with affordability for the number of units in the proportion as shown in the following table which is for 70 units. In the event less units are provided, affordability mix would be a similar proportion as in the table. Affordability levels will be defined using the requirements for tax credits, and utility costs will be based on King County Housing Authority allowances, unless otherwise approved by City Staff.

Median Income Level	Studio	1 Bedrm	2 Bedrm	Total
Very Low Income 30% AMI	**15**	**12**	**8**	**35**
Low Income 31-40% AMI	**8**	**6**	**4**	**18**
Moderate Income 40-60% AMI	**7**	**6**	**4**	**17**
Total	**30**	**24**	**16**	**70 ***

* Up to 14 of the units can be Section 8 units, with a minimum of 7 of the Section 8 units being in two or three bedroom units.

5. Selected developer will explore the feasibility of incorporating some three bedroom units into the property.

6. Based on the availability of adequate support services, up to 20% of the units will be set-aside for homeless, unless otherwise approved by City Staff.

7. The design should reflect a conscious integration of the affordable units with the overall site design, and design of the affordable structure complementing the market rate housing.

8. The Agency shall submit a property management plan prior to release of funds for review by City staff. At a minimum, the property management plan will address:
   - Resident selection procedures including marketing and outreach process, including local targeted marketing outreach to local businesses and community organizations.
   - A short and long term strategy for covering operating expenses.
   - Management procedures to address resident needs, a description of the relationship of residents referred by agencies to those agencies' programs and services.
   - Overall transportation demand management for the affordable units (e.g. transit education, availability of bus passes, bicycle storage,) and management policies related to adequately managing resident and staff parking based on the approved amount of parking.
   - Description of the coordination of the management of the affordable housing with management of the market rate housing, retail and, if applicable transit facilities.
   - A summary of the City affordability requirements and annual monitoring procedures.

9. Submit documentation of the City's approval of the provision of parking for the affordable housing and overall project.

<u>Standard Conditions:</u>

10. Funds shall be used by the Agency toward project construction related costs as approved by City Staff. Funds may not be used for any other purpose unless city staff has given written authorization for the alternate use.

11. The Agency shall submit evidence of funding commitments from all proposed public and private sources. In the event commitment of funds identified in the application cannot be secured in the time frame identified in the application, the Agency shall immediately notify city staff, and describe the actions it will undertake to secure alternative funding and the timing of those actions subject to city staff's review and approval. Prior to initiating construction, the Agency shall submit evidence of all public and private resources needed to complete the project.

12. The Agency shall provide a revised development budget based upon actual funding commitments, which must be approved by City staff. If the Agency is unable to adhere to the budget, City staff must be immediately notified and a new budget shall be submitted by the Agency for the City's approval. The City shall not unreasonably withhold its approval to a revised budget, so long as such new budget does not materially adversely change the Project. This shall be a continuing obligation of the Agency. Failure to adhere to the budgets, either original, or as amended, may result in withdrawal of the City's commitment of funds.

13. In the event federal funds are used, and to the extent applicable, federal guidelines must be met, including but not limited to: contractor solicitation, bidding and selection; wage rates; and Endangered Species Act (ESA) requirements.

14. Submit monitoring reports quarterly through completion of the project, and annually thereafter. Submit a final budget upon project completion. If applicable, submit initial tenant information as required by the City.

2. Community Homes, Inc. (CHI) – 7th Residence

Funding Request: $100,000 (Secured Grant)
5 beds

CAB Recommendation: $100,000 (Secured Grant)
King County CDBG Funds

Project Summary:
CHI is proposing to acquire and rehabilitate a single family residence for use as a shared home for five developmentally disabled individuals at or below 30% of King County Median Income. The home would also provide accommodation for a live-in care provider. The arrangement is similar to their prior six homes, of which five included city funding allocated through ARCH.

Services to residents will be provided by the live-in care provider, funded through a separate contract with the State. Residents' 'housing' payments include allowances for food and toiletries.

A home has not been selected as of this time. CHI will proceed with seeking a home that is located near transit and services once all funding is in place.

Funding Rationale:

The CAB supported the intent of this application for the following reasons:

- Serves very low income developmentally disabled individuals
- Provides housing for a population (Special Needs housing) that currently is below long term ARCH Trust goals
- Property will have live in care provider
- Acquisitions to be done near transit and community amenities
- Developer has 15 year track record and good reputation with funders and Department of Developmental Disabilities
- Department of Commerce Trust Fund has a special needs set aside and King County has already awarded funds to the project

Potential Conditions:

Special / Revised Conditions:

1. The funding commitment shall continue for **six (6) months** from the date of Council approval and shall expire thereafter if all conditions are not satisfied. An extension may be requested to City staff no later than sixty (60) days prior to the expiration date. At that time, the applicant will provide a status report on progress to date, and expected schedule for start of construction and project completion. City staff will consider an extension only on the basis of documented, meaningful progress in bringing the project to readiness or completion. At a minimum, the applicant will demonstrate that all capital funding has been secured or is likely to be secured within a reasonable period of time. City staff will grant up to a 12 month extension. If necessary a second extension of up to 6 months may be requested by following the same procedures as the first extension.

2. Funds shall be used by the Agency toward acquisition costs. Funds may not be used for any other purpose unless city staff has given written authorization for the alternate use.

3. CHI shall not proceed with searching for a home until all funding commitments have been received. The Agency shall only purchase unoccupied homes or owner occupied homes in order to not trigger local and federal relocation regulations.

4. Prior to acquisition, the Agency shall submit an appraisal by a qualified appraiser. The appraisal shall be equal to or greater than the purchase price.

5. Site control cannot be entered into until the completion of the HUD required Environmental Assessment. The option agreement shall contain language that addresses federal funds' "choice-limiting" restrictions.

6. Funds will be in the form of a **secured grant** with no repayment, so long as affordability and target population is maintained, and the service/care providers have a contract with DDD for funds necessary to provide services to this population.

7. A covenant is recorded ensuring **affordability for at least 50 years**, with five beds for developmentally disabled individuals at or below 30% of King County median income at move in.

8. Unless otherwise approved by City staff the development budget shall include:

   - The development budget will include a **minimum of $16,200 of private sources** provided by the applicant.
   - $694,000, combined for acquisition and construction cost. In the event that total acquisition and rehab costs, including contingency, exceeds this amount, additional costs shall be covered by private sources from the applicant.
   - Developer fee shall not exceed $35,000 and Developer Consultant fee shall not exceed $25,000.

9. Residents referred from DDD will not receive Section 8 assistance.

10. All cash flow after payment of operating expenses shall be placed into a project reserve account that can be used by the applicant for project related operating, maintenance or services expenses. Any other use of these reserves funds must be approved by City staff.

11. In the event that any operating support funding levels will be reduced, the Agency shall inform City Staff about the impacts the proposed reduction will have on the budget and plan for services to the DD clients, and what steps shall be taken to address the impacts. A new budget or services plan must be approved by the City.

12. The Agency will notify the City when they enter into an option or purchase and sale agreement for any home, providing information on the location of the home and terms for acquiring the home. No home considered for acquisition will be within two blocks of another home owned by Agency unless otherwise approved by City staff. The option and purchase and sales agreement shall contain language that addresses federal funds' "choice-limiting" restrictions.

13. Prior to closing on a home, an individualized outreach plan will be submitted to City staff for review and approval. The outreach plan will include provisions such as:

    - Provide written notification to neighbors upon mutual acceptance of the Purchase and Sales Agreement to include CHI's intention to purchase the house, description of the project, and information regarding CHI and the service provider that will include the website and contact number;
    - Provide an opportunity for neighbors to individually and/or as a group to meet with CHI and the service provider regarding the project; such as having an Open House after the tenants move-in and include invitations to the neighbors.

14. Once each home is selected the Agency shall include City Staff in the inspection of the property and development of the final scope of work for the rehab. The final scope of work for the basic construction budget shall include, at a minimum, all work necessary for licensing of the home and correction of substandard health and safety

conditions. Prior to start of construction, the Agency shall submit the final scope of work for City Staff approval, along with evidence that construction costs have been confirmed by a qualified contractor and are within the basic construction budget. All uses of construction contingency funds must be approved by City staff prior to authorization to proceed with such work.

15. Prior to release of funds, the Agency shall submit to City staff for review and approval drafts of all documents related to the provision of services to residents and management of the property, including the Memorandum of Understanding with the service provider, form of lease agreement with residents, and services agreement between DDD and the Service Provider. These documents shall at a minimum address: tenant selection procedures through DDD; management procedures to address tenant needs; services provided for or required of tenants; management and operation of the premises; community and neighbor relations procedures; a summary of City's affordability requirements as well as annual monitoring procedure requirements. The plan shall also detail policies and procedures regarding resident turnover with the express purpose placing new residents in available beds and limiting vacancies.

16. With future applications for funding, Community Homes shall provide ARCH with an update on strategies towards a agency plan to address aging of residents.

17. With future applications for funding, Community Homes shall provide ARCH with an analysis of a Capital Needs Assessment for its properties, and strategies for addressing these capital needs long term through a combination of capital reserves and ongoing fundraising efforts.

<u>Standard Conditions:</u>

18. The Agency shall provide revised development and operating budgets based upon actual funding commitments, which must be approved by city staff. **The operating budget will include $2,500 for the first year with an annual increase of 3.5% per year for replacement reserves and $1,500 for the first year with an annual increase of 3.5% per year for operating reserves**. If the Agency is unable to adhere to the budgets, city staff must be immediately notified and (a) new budget(s) shall be submitted by the Agency for the City's approval. The City shall not unreasonably withhold its approval to (a) revised budget(s), so long as such new budget(s) does not materially adversely change the Project. This shall be a continuing obligation of the Agency. Failure to adhere to the budgets, either original or as amended may result in withdrawal of the City's commitment of funds.

19. The Agency shall submit evidence of funding commitments from all proposed public sources. In the event commitment of funds identified in the application cannot be secured in the time frame identified in the application, the Agency shall immediately notify city staff, and describe the actions it will undertake to secure alternative funding and the timing of those actions subject to city staff's review and approval.

20. In the event federal funds are used, and to the extent applicable, federal guidelines must be met, including but not limited to: contractor solicitation, bidding and selection; wage rates; and Endangered Species Act (ESA) requirements. CDBG funds may not be used to repay (bridge) acquisition finance costs.

21. The Agency shall maintain documentation of any necessary land use approvals and permits required by the city where the homes are located.

22. Submit monitoring reports quarterly through completion of the project, and annually thereafter. Submit a final budget upon project completion.

3. Friends of Youth – Youth Haven

Funding Request: $272,500 (Secured Grant)
10 beds (potential for 17)
plus land banking for 4 group homes

CAB Recommendation: $323,133 (Secured Grant) *
King County CDBG Funds

(* Increased recommendation offset by decreased funding award from King County. Done to allow CDBG funds allocated through ARCH to fully fund two projects, including this project.)

Project Summary:
Friends of Youth (FOY) is a local agency providing counseling and shelter to homeless youth. Their application is for funding a consolidation of its two homeless shelters for that population (Youth Haven program). One, a five bed staffed residential home for boys is located in Bellevue, and a second, a five bed facility for girls, is in Kenmore. Maintaining and staffing two separate facilities has an impact on operating costs and staffing needs for the organization. They are proposing the consolidation of their shelters as a part of their strategic plan and to preserve current capacity and potentially expand capacity for runaway and homeless youth on the East and North side of King County. The Youth Haven program operates at a deficit and FOY must reduce costs and find efficiencies to continue to provide this service for youth.

Their proposal is for the acquisition of a 1.7 acre former church property located in the Kingsgate area of Kirkland and converting the existing facility to administrative offices and building a new 2 story, 10 bed group home (with capacity to expand to 17 beds) with living area, recreation rooms/studies, kitchen and dining and supporting office spaces along with laundry and bathroom facilities. The property also affords the future opportunity to develop four additional single family homes which could serve as group homes for young adults or other affordable housing. Costs for the acquisition and renovation for the administration building are financed separately.

The design focuses on creating a home-like environment where homeless youth can feel safe, grounded and allows them to develop a sense of belonging. At the new facility, a Program Manager provides oversight and supervision of the program and a Therapeutic Case Manager provides on-site individual, group and family counseling services. Reunification of the youth with their family is a primary goal of the program. If reunification is not appropriate, then the case manager works closely with the youth to identify other safe, alternative housing options, including transitional living programs or job corps.

Funding Rationale:

The CAB supported the intent of this application for the following reasons:

- This acquisition would consolidate in one site, two interim residences for youth aged 11 through 17, allowing agency to save staffing and other operating costs
- Developer is experienced and successful in serving this population
- Provides housing for a population (Special Needs housing) that currently is below long term ARCH Trust Fund goals, and in particular a population group youth/young adult that have only funded on a limited basis in the past
- Location of proposed project has good access to public transportation, hospital, schools, library and employment opportunities nearby
- The site and proposed building offer potential for additional housing for youth and young adult
- Forwards overall organizational objectives to consolidate facilities while also providing opportunities for growth to meet needs in the community. Is also a proactive solution to containing costs in order to deal with constricting resources

Potential Conditions:

Special Conditions:

1. The funding commitment shall continue for **twelve (12) months** from the date of Council approval and shall expire thereafter if all conditions are not satisfied. An extension may be requested to City staff no later than sixty (60) days prior to the expiration date. City staff will consider an extension only on the basis of documented, meaningful progress in bringing the project to readiness or completion.

2. Funds shall be used by FoY (Agency) toward the acquisition. Funds may not be used for any other purpose unless city staff has given written authorization for the alternate use.

3. Funds will be in the form of a **secured grant** with no repayment, so long as affordability and target population is maintained, and the service funds necessary to provide services to this population are available.

4. A covenant is recorded ensuring affordability for ten (10) beds of homeless youth housing for at least fifty (50) years at 30% King County median income.

5. In the event that any operating support funding levels will be reduced, the Agency shall inform City Staff about the impacts the proposed reduction will have on the budget and plan for services to clients, and what steps shall be taken to address the impacts. A new budget or services plan must be approved by the City.

6. Site control cannot be entered into until the completion of the HUD required Environmental Assessment. The option agreement shall contain language that addresses federal funds' "choice-limiting" restrictions.

7. Prior to closing on the site, submit a community outreach plan to City staff for review and approval. The outreach plan will include provisions such as notification to neighbors and providing an opportunity for neighbors to individually and/or as a group to meet with FoY regarding the project; such as having an Open House.

8. The agency shall reserve future use of the undeveloped lots created through the development process for affordable housing. The intent is to utilize these parcels for additional housing for youth or young adult to be developed by FoY. In the event these parcels are not developed by FoY within 10 years, FoY shall consult with public funders regarding utilizing these parcels for other affordable housing that could be compatible with the other uses on the property. Assuming these parcels are developed with affordable housing, FoY shall make these parcels available as an equity contribution toward the overall budget. Sale of these parcels shall require approval from public funders, subject to some portion of any sale proceeds being returned to public funders.

9. Prior to release of funds, the Agency shall submit to City staff for review and approval drafts of all documents related to the provision of services to residents and management of the property, including any licensing-related management and service provider plans. These documents shall at a minimum address: management procedures to address tenant needs; services provided for or required of tenants; management and operation of the premises; community and neighbor relations procedures; a summary of City's affordability requirements as well as annual monitoring procedure requirements.

Standard Conditions

10. The Agency shall provide revised development and operating budgets based upon actual funding commitments, which must be approved by city staff. **The Operating budget will include $5,950 for the first year with an**

annual increase of 2.5% per year for replacement reserves and $2,000 for the first year with an annual increase of 2.5% per year for operating reserves. If the Agency is unable to adhere to the budgets, city staff must be immediately notified and (a) new budget(s) shall be submitted by the Agency for the City's approval. The City shall not unreasonably withhold its approval to (a) revised budget(s), so long as such new budget(s) does not materially adversely change the Project. This shall be a continuing obligation of the Agency. Failure to adhere to the budgets, either original or as amended may result in withdrawal of the City's commitment of funds.

11. Prior to the start of construction, the Agency shall submit evidence of funding commitments from all proposed public sources. In the event commitment of funds identified in the application cannot be secured in the time frame identified in the application, the Agency shall immediately notify city staff, and describe the actions it will undertake to secure alternative funding and the timing of those actions subject to city staff's review and approval.

12. Prior to acquisition, the Agency shall submit an appraisal by a qualified appraiser. The appraisal shall be equal to or greater than the purchase price.

13. In the event federal funds are used, and to the extent applicable, federal guidelines must be met, including but not limited to: contractor solicitation, bidding and selection; wage rates; and Endangered Species Act (ESA) requirements. CDBG funds may not be used to repay (bridge) acquisition finance costs.

14. The Agency shall maintain documentation of any necessary land use approvals and permits required by the city where the homes are located.

4. Sophia Way – Sophia's Place

Funding Request: $250,000 (Secured Grant)
20 beds

CAB Recommendation: $250,000 (Secured Grant)
See attached Funding Chart for distribution of City Funds

Project Summary:
The Sophia Way is the only organization in East King County that provides emergency shelter to unaccompanied adult women who are homeless. They focus on the chronically homeless, currently providing them with shelter at night and then moving them into permanent housing as quickly as possible and supporting them with case management and referrals to help them remain successful in that housing. Some of that permanent is also provided through the program in addition to the shelter. The Sophia Way started in December 2008, housed in First Congregational Church of Bellevue, and currently serves 10 women at a time and turns away persons regularly for lack of capacity. The women who come into the shelter are often dealing with the aftermath of domestic violence, have mental illness or physical disabilities, or are suffering from the ramifications of substance abuse and generally do not have any income when they come into the shelter. In the current shelter, the shelter is nights only (7 pm to 7 am). During the day on weekdays, the women may take advantage of the co-located YWCA day center which opens at 9 and closes at 3. Hence the women must be away for extended periods of time during the weekday as well as 12 hours on the weekend days. Currently the women sleep on pads on the floor and have to set up each night and break down each morning. There is no private space for the women.

The new project would double the capacity, and create the potential to extend the shelter to a 24 hour shelter, seven days a week. It involves building out the existing daylight basement of St. Luke's church with bathrooms, kitchen, laundry, dining area, day space and a sleeping area for 20 sleeping carrels (low partitions, yet affording privacy and place to permanently keep possessions)) along with office and meeting space. At a minimum, the property will operate at the same hours as the current shelter and drop in center. Sophia Way is pursuing funding options with the goal to have full time access for residents. Even operating on the current schedule, with the new space, residents will be allowed to keep their personal possessions in their personal spaces at all times. The YWCA will partner with The Sophia Way to provide services.

Site control will be in the form of a long-term lease (15 years with ability to automatically renew for an extended period). The space is being offered rent-free by the church with Sophia Way paying its share of utilities.

Funding Rationale:

The CAB supported the intent of this application for the following reasons:

- Doubles women's shelter capacity in the community and increases the quality of life with semi-private sleeping areas, and potential for 24/7 operations
- The public funds leverage a substantial amount of private funding and in-kind donations
- Group is respected, and has been successful over nearly three years of operation in serving this population
- Location of proposed project has good access to public transportation, shopping, and other community amenities nearby. With the program co-located at the church, Sophia Way will likely benefit from their ongoing support.
- Relatively low per unit capital and ongoing operating costs. Significant operating cost savings per person with the expanded capacity at the same level of service.

Potential Conditions:

Special Conditions:

1. The funding commitment shall continue for **six (6) months** from the date of Council approval and shall expire thereafter if all conditions are not satisfied. An extension may be requested to City staff no later than sixty (60) days prior to the expiration date. City staff will consider an extension only on the basis of documented, meaningful progress in bringing the project to readiness or completion.

2. Funds shall be used by Sophia Way toward the construction (including construction contingency and sales tax), environmental assessment, permits and hookups, insurance, development period utilities, replacement reserves and developer fee. Funds may not be used for any other purpose unless city staff has given written authorization for the alternate use.

3. In the final budget, a fixed amount will be identified for those costs to be paid from funds for non-construction related costs. Preliminarily, this figure is estimated to be $22,000. The balance of the commitment of funds from ARCH will be used for construction/improvement costs. Funding up to this amount will be available for construction costs in excess of costs covered through in-kind contributions and donations. The final funding award will be reduced to the extent all of these funds are not needed for construction costs.

4. Funds will be in the form of a **secured grant** with no repayment, so long as affordability and target population is maintained, and the service funds necessary to provide services to this population are available. At the sole discretion of the City, in the first 15 years, should the facility no longer be used as a continuous homeless shelter, funds are subject to being repaid in full; and if the facility stops serving as a shelter between years 15 and 30, funds shall be subject to repayment less $1/30^{th}$ the amount of the award for each year the shelter has operated. After 30 years, the entire obligation is forgiven.

5. A covenant is recorded ensuring affordability for twenty (20) beds of homeless housing for at least thirty (30) years at 30% King County median income.

6. In the event that any operating support funding levels will be reduced, the Agency shall inform City Staff about the impacts the proposed reduction will have on the budget and plan for services to clients, and what steps shall be taken to address the impacts. A new budget or services plan must be approved by the City.

Standard Conditions

7. The Agency shall provide revised development and operating budgets based upon actual funding commitments, which must be approved by city staff. The operating budget will include $8,000 for the first year with an annual increase of 2.5% per year for replacement reserves and $12,000 for the first year with an annual increase of 2.5% per year for operating reserves. If the Agency is unable to adhere to the budgets, city staff must be immediately notified and (a) new budget(s) shall be submitted by the Agency for the City's approval. The City shall not unreasonably withhold its approval to (a) revised budget(s), so long as such new budget(s) does not materially adversely change the Project. This shall be a continuing obligation of the Agency. Failure to adhere to the budgets, either original or as amended may result in withdrawal of the City's commitment of funds.

8. The Agency shall submit evidence of funding commitments from all proposed public sources. In the event commitment of funds identified in the application cannot be secured in the time frame identified in the application, the Agency shall immediately notify city staff, and describe the actions it will undertake to secure alternative funding and the timing of those actions subject to city staff's review and approval.

9. In the event federal funds are used, and to the extent applicable, federal guidelines must be met, including but not limited to: contractor solicitation, bidding and selection; wage rates; and Endangered Species Act (ESA) requirements. CDBG funds may not be used to repay (bridge) acquisition finance costs.

10. The Agency shall maintain documentation of any necessary land use approvals and permits required by the city where the homes are located.

11. Submit monitoring reports quarterly through completion of the project, and annually thereafter. Submit a final budget upon project completion. If applicable, submit initial tenant information as required by the City.

5. Low Income Housing Institute (LIHI) Bellevue Apartments

Funding Request:	$1,000,000 (Contingent Loan) Plus 8 Section 8 Certificates 56 affordable rental units
CAB Recommendation:	$1,000,000 (Contingent Loan) Plus 8 Section 8 Certificates See attached Funding Chart for distribution of City Funds

Project Summary:
The Low Income Housing Institute (LIHI) is proposing to build a 57-unit (56 affordable units, 1 unrestricted manager's unit) six story building on a quarter acre downtown Bellevue site which LIHI purchased in July of 2009. There will be five floors of residential above a ground level floor with common areas and underground parking for 23 cars.

The project targets households earning at 30%, 50% and 60% of median area income. Eight units at 30% of median will receive Section 8 assistance and are prioritized for homeless households supported with services through Sound Mental Health. In total 12 units will be set aside for households transitioning out of homelessness, and 12 units will be set aside for households with persons living with disabilities. Most of the units are studios or open one-bedroom units. This configuration was partly chosen to minimize the amount of required structured parking for the building. Common area features include a lobby, leasing office, computer room/library, community gathering room, children's play area and counseling offices.

Funding Rationale:

- The CAB supported this application for the following reasons:
- LIHI is an experienced developer and has capacity to front pre-development costs
- Developer owns the site
- The Project fits 9% Low Income Tax Credit criteria
- Project would provide new affordable units in Bellevue's downtown
- Project includes up to 12 homeless set-asides
- Project cash flows and could have ability to pay back public funds over time
- Site is near transit and downtown amenities
- ARCH request is relatively low per unit.

Recommended Conditions:

Special / Revised Conditions:

1. The funding commitment shall continue for twelve (12) months from the date of Council approval and shall expire thereafter if all conditions are not satisfied. An extension may be requested to City staff no later than sixty (60) days prior to the expiration date. At that time, the applicant will provide a status report on progress to date, and expected schedule for start of construction and project completion. City staff will consider an extension only on the basis of documented, meaningful progress in bringing the project to readiness or completion. At a minimum, the applicant will demonstrate that all capital funding has been secured or is likely to be secured within a reasonable period of time. City staff will grant up to a 12 month extension. If necessary a second extension of up to 6 months may be requested by following the same procedures as the first extension.

2. Unless otherwise approved by Bellevue staff, funding is conditioned on written confirmation by Sound Transit and City of Bellevue before June 1, 2011 that project site will not be physically impacted by Sound Transit Light Rail alignment.

3. Funds will be in the form of a deferred, contingent loan. Loan terms will account for various factors, including loan terms from other fund sources and available cash flow. Final loan terms shall be determined prior to

release of funds and must be approved by City Staff. Based on the preliminary development budget, it is anticipated that loan payments will be based on set payment schedule and begin approximately in Year 12 after the project is placed in service, with 1% simple interest. For the period 2023 to 2030 payment can be deferred in whole or in part to the extent required so that net cash flow (cash flow after operating, reserves and financing expenses) is not less than $10,000 (indexed for inflation) for an asset management fee to the Agency. After year 2030 at the sole discretion of the City, an annual repayment of City funds may be deferred, in whole or in part, if the economic vitality of the Project is threatened because annual project income is insufficient to pay all operating expenses, including reserves and pre-approved debt. Any deferred payment would be repaid from future cash flow or at the end of the amortization period.

4. Starting in the first year the project is placed in service; all cash flow will go towards paying the deferred developer fee. Once the deferred developer fee is paid off, all net cash flow after payment of operating and financing costs, including a $10,000 annual asset management fee to the Agency, will be placed into a separate reserve account (Stabilization Fund) controlled by the Public Funders. Those reserves may be used to cover unanticipated property operating or capital costs, increase project reserves, or other project related costs approved by public funders. Starting in Year 12, and occurring every two years thereafter, Public Funders will meet jointly to determine if there are sufficient reserves in this account to apply any of the reserve for repayment of loans made by the Public Funders or to release funds to the Agency for designated (e.g. capital repair to a specific property or undesignated purposes..

5. City Funds shall be used by the Agency toward construction and, architectural fees, as approved by City or ARCH Staff. Funds may not be used for any other purpose unless City or ARCH Staff has given written authorization for the alternate use.

6. A covenant is recorded ensuring affordability for at least 50 years. Unit mix and affordability shall be:

Affordability (Percent of Median)	**Studio**	**Studio+**	**2 Bedroom**	**3 Bedroom**	**Number of Units**
30%	**8***	**16**	**2***	**2***	**28**
50%	**2**	**15**	**0**	**0**	**17**
60%	**0**	**5**	**3**	**3**	**11**
Unrestricted (Manager Unit)		**1**			**1**
TOTAL	**10**	**37**	**5**	**5**	**57**

* 8 Section 8 Certificates to go to 4 30% AMI studio units and 2 each to the 30% AMI 2- and 3-Bedroom units. Proposed rental subsidies will go towards these units which are prioritized for those transitioning out of homelessness.

7. Based on the availability of adequate support services, up to 12 of the units will be set-aside for homeless, unless otherwise approved by City Staff.

8. Development costs and potential savings will be addressed as follows:
   - Unless approved by public funders, total construction costs, off-site improvements, environmental abatement, sales tax and equipment and furnishings shall not exceed $8,946,910.
   - All Change Orders, expenditures of contingency funds and final construction costs are subject to review and approval by project funders.
   - Any changes to individual line items in the development budget are subject to review and approval by public funders.

- Any savings in construction, contingency, or other costs shall be documented prior to completion of the Final Cost Certification. All or a portion of any cost savings will be used to reduce funding commitments by public funders as determined by the public funders.

9. LIHI shall submit a parking management plan for review and approval by the public funders prior to funding. The plan shall address management of limited parking capacity through mechanisms such as screening residents for car ownership and assigning spaces. If at any time in the future fees are considered for parking, LIHI will get approval from the County and ARCH related to how parking fees are accounted for in determining affordable rent levels. LIHI shall also investigate the feasibility of making this a "Zipcar" location.

10. LIHI shall prepare a marketing and management plan for review and approval by ARCH that includes addressing how the project can be staffed by an on-site property manager. Unless otherwise approved by public funders, the property shall have a resident manager. The Owner shall submit a complete management plan and updated operating budget for review and approval by Administering Agency or Designee staff. At a minimum the plan shall describe: (1) the physical plan including number and size of units, amenities, and accessibility; (2) the tenant population to be served; (3) description of housing programs and services available for residents, and a description of the relationship of residents to the program and services; (4) management and operation of the premises including description of management entity and staffing, tenant selection and eligibility determination, rules for operation of the premises, enforcement procedures, and maintenance and repair program; (5) An overall plan for marketing the units including local targeted marketing efforts to local businesses, community organizations and the broader community of prospective tenants, as well as a timeline for all marketing activities, including local outreach; (6) a short and long term strategy for covering operating expenses; (7) a summary of the ARCH annual monitoring procedures; and (8) a plan for initial outreach and ongoing communication with local residents (homeowner associations) and business groups. LIHI shall meet with the public funders to review the marketing and management plan before marketing activity commences.

<u>Standard Conditions:</u>

11. The Agency shall provide revised development and operating budgets based upon actual funding commitments, which must be approved by city staff. If the Agency is unable to adhere to the budgets, city staff must be immediately notified and (a) new budget(s) shall be submitted by the Agency for the City's approval. The City shall not unreasonably withhold its approval to (a) revised budget(s), so long as such new budget(s) does not materially adversely change the Project. This shall be a continuing obligation of the Agency. Failure to adhere to the budgets, either original or as amended may result in withdrawal of the City's commitment of funds.

12. The Agency shall submit evidence of funding commitments from all proposed public sources. In the event commitment of funds identified in the application cannot be secured in the time frame identified in the application, the Agency shall immediately notify city staff, and describe the actions it will undertake to secure alternative funding and the timing of those actions subject to city staff's review and approval.

13. In the event federal funds are used, and to the extent applicable, federal guidelines must be met, including but not limited to: contractor solicitation, bidding and selection; wage rates; and Endangered Species Act (ESA) requirements. CDBG funds may not be used to repay (bridge) acquisition finance costs.

14. The Agency shall maintain documentation of any necessary land use approvals and permits required by the city where the homes are located.

15. Submit monitoring reports quarterly through completion of the project, and annually thereafter. Submit a final budget upon project completion.

6. Imagine Housing– Totem Lake Senior Apartments

Funding Request: $0 and 8 Section 8 certificates
76 affordable rental units

CAB Recommendation: Welcome an application in a subsequent Funding Round for a project that addresses the issues listed below

Project Summary:

Imagine Housing (IH) is proposing a 76 unit new construction project adjacent to Francis Village (Phase 1) in the Totem Lake region of Kirkland. The building is four levels of wood construction over one level of structured parking and community, amenity and service space. It is designed to serve seniors, aged 55 or over, at 50%, 40% and 30% of King County Median Income. Twenty percent (15 units) will be restricted for seniors with disabilities and 6 units will be restricted to serve senior veterans who have faced homelessness.

The community space and residential units are designed according to the principles of universal design. It is intended that the residents will be able to continue living in the units even with physical deterioration and the units may be adapted (such as changing kitchen counter heights and adding grab bars) to meet their changing physical needs..The property will contain a rooftop garden that will provide passive recreational opportunities as well as gardening and educational opportunities.

Funding Rationale:

The CAB potentially supports the concept of the Imagine Housing proposal, it does not recommend making a funding recommendation at this time. The CAB acknowledges that the project would further advance city plans for residential development in Totem Lake, and the focus on seniors meets an area of need. The current proposal for this second phase at Totem Lake is structured on several funding sources for which the likelihood of being awarded funding at this point in time as currently proposed seems unlikely. The CAB would welcome an application in a future round. This would also provide an opportunity for Imagine Housing to further develop the proposal and address issues/questions raised with this application including the community life envisioned for this project. In the event Imagine Housing does provide an application to ARCH in the upcoming round, the application should address the following issues:

- Need to strengthen their concept of the community within the proposed building and across the two phases. Develop a strong logic for the population and proposed age levels of seniors that will be served with this building (i.e. age limit of 55 or 62).
- Further analysis and development of the building to ensure it is the best configuration for the targeted population mix of the entire project, including the use of rent subsidies
- What and how to pay for value of infrastructure improvements to the site provided through the public funding that went into the first phase
- On-site parking requirements and how parking will be managed

7. Foundations for the Challenged –Group Homes for Developmentally Disabled

Funding Request: $100,000 (Secured Grant)
4 beds in ARCH sphere (21 beds total)

CAB Recommendation: The project is not recommended for funding at this time.

Project Summary:
FFC is proposing to acquire and remodel 6 three- and four-bedroom houses over three counties (3 of the homes would be in King County) that will serve up to twenty one (21) low-income individuals with developmental

disabilities. One of the homes in the ARCH sphere will be identified once all funding is committed. Tenants will be referred by the Division of Developmental Disabilities (DDD).

The residents will live in a shared living arrangement, and each of the tenants will have their own bedroom. There is no live-in care provider. However, all the tenants will receive 24/7 support services through an agency providing awake staffing at the site to ensure their health and safety. The support services are funded by and contracted through DDD. FFC will only be the owner of the homes, and will use Scioto Management as property manager.

There currently is no site control but each house will be remodeled to include accessibility features necessary for the initial tenants and for future tenants. FFC will be looking to acquire rambler-style houses with a level lot and an open floor plan or a floor plan that can easily be modified for accessibility.

Funding Rationale:

The CAB potentially supports the concept of the FFC proposal; but does not recommend making a funding recommendation at this time. The current proposal is structured on receiving a challenging combination of funding from multiple local and state funders serving a wide geographic area. There are also some changes in approach to funding operating and services costs that do not appear possible at this time. In the event FFC does provide an application to ARCH in an upcoming round, the application should address the following issues:

- Funding strategies for operations and capital replacements that are sustainable and work over scattered properties over a range of jurisdictions.
- Improvements to community outreach and community relations

7. Imagine Housing – Barron Ridge Apartments

Funding Request:	$1,500,000 (Contingent Loan) and 8 Section 8 certificates 69 affordable rental units
CAB Recommendation:	The project is not recommended for funding

Project Summary:

Imagine Housing (IH) is proposing a 70 unit new rental housing project adjacent to its Andrew Heights project in the Factoria neighborhood of Bellevue. The proposed building is four levels of wood construction over one level of structured parking and community space. It will house persons at or below 30%, 40% and 50% of Median Income. Seventy-five percent of the units are set aside for persons transitioning out of homelessness. Twenty of those units would be for Veterans who have timed out of Imagine Housing's other Homeless Veterans units. .

The included community space will have a flexible design allowing rooms to be used to meet the shifting needs and interests of the population. The amenity space will have several meeting/class rooms for support activities or group interest functions. Residents will be able to update work or school skills at the computer/business center. In addition to these community based opportunities, the amenity space will include a community kitchen for community meals and special events and a roof top garden. There will be a play structure on site for resident children. Structured and on grade parking for 38 cars is provided.

Services to homeless residents will be provided by referring agencies. The operating budget does not include services delivery, however Imagine Housing will provide certain resident services funded outside of the operating budget.

Funding Rationale:

The CAB does not recommend making a funding recommendation at this time for the following reasons:

- Imagine Housing withdrew its application for funding with the Department of Commerce so would not have the necessary sources of funding to proceed
- The proposal had several zoning related issues including not zoned for the number of units proposed and less parking than required by zoning, with no provisions currently in City code to reduce parking requirements
- The operating budget did not include services in a building predominantly serving persons who had experienced homelessness

CITY OF KIRKLAND
Department of Planning and Community Development
123 Fifth Avenue, Kirkland, WA 98033 425-587-3225
www.kirklandwa.gov

MEMORANDUM

To: Kurt Triplett, City Manager

From: Dawn Nelson, Planning Supervisor

Date: January 3, 2012

Subject: ARCH 2012 WORK PROGRAM AND ADMINISTRATIVE BUDGET, FILE MIS12-00001

RECOMMENDATION

Staff recommends that the City Council approve the 2012 ARCH Work Program and Administrative Budget.

BACKGROUND DISCUSSION

The ARCH Executive Board has reviewed and approved the 2012 Work Program and Administrative Budget (see Attachments 1 and 2). Pursuant to the ARCH Interlocal Agreement, these are being forwarded to the member Councils for their review and approval.

This year, ARCH staff will assist the City of Kirkland with follow up work related to the priorities established by the City Council in 2008. This will include examining existing non-conforming multifamily densities and how that might relate to preserving existing affordable housing. They will continue to assist staff the development of the South Kirkland Park & Ride. They will also provide assistance with the housing portion of any neighborhood plan updates. Finally, they will prepare an updated Housing Needs Assessment in preparation of our next major Comprehensive Plan Amendment. A complete list of activities to be undertaken by ARCH in 2012 is contained in Attachment 1.

The proposed 2012 Administrative Budget for ARCH, which totals $521,167, is itemized in Attachment 2. A comparison with the 2011 Budget is provided and shows that the cost to each city remains the same as last year. The expenditure of $59,768 for Kirkland's share was approved as part of the City's budget for 2012.

Cc: Arthur Sullivan, ARCH, 16225 NE 87th Street, Suite A-3, Redmond, Washington 98052

12/15/11

ARCH WORK PROGRAM: 2012

I. PROJECT ASSISTANCE

A. Oversight of Local Monetary Assistance

ARCH Trust Fund. Review applications and make recommendations for requests of local monetary funds through the ARCH Housing Trust Fund process. Includes helping to coordinate the application process and use of funds for various programs.

Objective: Allocation of $1,000,000 or more through the ARCH Housing Trust Fund Process, and create or preserve a minimum of 50 units.

For the 'Parity Program', provide updated annual information to members, and achieve the base line goal for levels of direct assistance.

Provide a variety of types of affordable housing and that meet other funding priorities as specified in the ARCH Trust Fund Criteria.

Centralized Trust Fund System. Monitor centralized trust fund process including:

- Produce regular monitoring reports for the ARCH Trust Fund account.
- Work with Administrating Agency (Bellevue) to prepare contracts and distribute funds for awarded projects.
- Monitor funded projects including evaluating performance and tracking loan payments.

King County / State Funding Programs. Review and provide input to other funders for Eastside projects that apply for County (HOF, RAHP, HOME, etc) and State (Tax Credit, DOC) funds. Includes providing input to the King County Home Consortium on behalf of participating Eastside jurisdictions. Assist N/E consortium members with evaluating and making a recommendation to the County regarding CDBG allocations to affordable housing.

Objective: In consultation with County, local staff and housing providers, seek to have funds allocated on a countywide basis by the County and State allocated proportionately throughout the County including the ARCH Sphere of Influence.

B. Special Initiatives This includes a range of activities where ARCH staff assist local staff with specific projects. Activities can range from feasibility analysis, assisting with requests for proposals, to preparation of legal documents (e.g. contracts, covenants). Following are either existing initiatives or examples of initiatives likely to emerge:

Trust Fund Long Term Issues.

1. ARCH Trust Fund: Dedicated Funding Source. As follow up to the ARCH Workshops in 2007, explore and evaluate the feasibility of a dedicated funding source. Research and develop a menu of options for creating more sustainable funding source to supplement general fund contributions for the ARCH Trust Fund. Will require compiling variety of background information on different options (e.g. potential scale of impact for overall membership and range of impact for different members; legal/legislative constraints, etc). Convene members to evaluate options and consider next steps

2. Long Term Operation of Funded Projects. In the past few years, there has been one project funded through ARCH and other projects in the state funded by other public funders needing significant capital improvements or other needs for refinancing. Conduct a more thorough evaluation of projects funded in the past through ARCH, including convening panel of real estate experts to assess ongoing operation and long term health of projects. As necessary, develop strategies to address findings from this evaluation.

Objective: Develop a sustainable strategies for the HTF to meet local housing goals and preserve assisted affordable housing.

Surplus Property/Underdeveloped Property. Assist as needed member cities' evaluation of potentially surplus public property or underutilized private property (e.g. church properties) for suitability of affordable housing. Currently identified opportunities includes:

- Assist King County (Metro)and Kirkland (Metro) with using the South Kirkland Park n Ride site for a mix of market rate and affordable housing and expanded Park n Ride spaces.
- Assist Sammamish with making surplus city site available to Habitat for Humanity of East King County
- Explore opportunities for catalyst projects in transit oriented neighborhoods such as Bel-Red, Overlake and central Mercer Island.

As a subset of this item, convene members and other stakeholders to explore how to potentially work more proactively with faith based organizations to utilize their properties to assist with addressing affordable housing needs, especially for homeless populations.

Objective: Identify one or more specific sites in East King County to be made available for housing.

Eastside Homebuyer Assistance Program. In late 2005 the House Key Plus ARCH down payment assistance program was launched with funding from many East King County cities, King County and the Washington Housing Commission. Currently a third round of $800,000 of funding is being implemented bringing the total amount in the revolving fund to $2.4 million This round will include several updates to the program resulting from a review of the program.

Objective: Maintain operation of the Homebuyer Assistance Program and implement updates.

HUD Assisted Housing. Continue to monitor and actively pursue efforts to preserve existing HUD assisted affordable housing.

Objective: Preserve existing federally assisted affordable housing in East King County and prevent from converting to market rate housing.

II. HOUSING POLICY PLANNING

Work items in this section group into the following basic areas of activity:

- Work with individual members on local planning efforts.
- Efforts coordinated through ARCH that benefit multiple members of ARCH.
- Track legislation that increases tools available to cities to create affordable housing.
- Participation in regional workgroups that impact local housing efforts.

A. Local Planning Activities

ARCH Housing Strategy Program. ARCH members have identified a number of Priority Housing Strategies as well as an ongoing education program for members, several of which can impact local planning efforts, including:

- Ongoing education of staffs and officials through Housing 101 Workshops for staffs and new local officials; updating information in the Housing 101 Workbook, annual study sessions with member councils to review current issues and activities and materials profiling current programs and housing trends.
- Assist cities that incorporate priority strategies into their local work program (e.g. property tax exemption program in mixed use zones, regulatory incentive programs, regulations to increase housing diversity (mixed use, innovative housing, housing emphasis zones). (Note: See Local Housing Efforts below for specific activities by members.)

Housing Background Information. On an annual basis, ARCH will continue to provide updated housing data information as available. This updated housing information will be incorporated into the education fliers and Housing 101 report used as part of the ongoing Housing Education Program. In 2012 this will include outreach efforts targeted to newer council members.

Housing Needs Assessment In 2012 members will need Housing Needs Assessments as part of their updates to their Comprehensive Plans. Working with ARCH members, ARCH has developed an overall needs assessment covering East King County . As an initial part of each member's update of their Comprehensive Plan, ARCH will supplement the overall needs assessment with localized information.

Objective: Assist with preparation of Housing Needs Assessment for all members, and to do so through a coordinated effort in behalf of all members.

On a regular basis, conduct education sessions for new local officials and staffs on local housing conditions and programs (Housing 101 East King County, East King County Plan to End Homelessness), and hold annual discussion with member councils on recent housing trends and efforts.

Continue to keep member jurisdictions and the broader community aware of local housing conditions to assist in their efforts to evaluate current and future efforts to meet local housing objectives. Include research on recent housing trends, and responses to these trends,

Local Housing Efforts: ARCH jurisdictions are updating land use, zoning and other codes in order to implement policies identified in their Comprehensive Plans. ARCH staff will continue to assist local staffs in these efforts. Following are specifically identified areas that ARCH will assist local staff with accomplishing. For the coming year, ARCH staff expects to spend time assisting members updating local Housing Elements, with initial efforts focused on developing needs assessments for members.

Objective: Assist local staff with completion of the following updates of local codes and specific plans:

Bellevue

Assist City staff as needed with housing planning initiatives that may include review of ADU regulations

Assist City staff with developing and implementing administrative procedures for the Bel-Red land use incentive program.

Assist with Council evaluation of a MF Tax exemption program in the City. In the event Council provides direction to develop a program, assist City Staff to develop code language for a program.

Assist in identifying opportunities for affordable housing and implementation of affordable housing strategies in identified ST2 corridors where transit oriented housing and mixed income housing development is an important component of the initial planning work.

Bothell

Assist City staff with implementation of any housing strategies identified by City Council as part of the 2012 Docket process.

Work with City staff to explore opportunities for housing and affordable housing on city owned properties in the downtown revitalization area.

Clyde Hill

Assist City staff with update to the Comprehensive Plan Housing Element.

Assist City with rental of City's affordable rental unit.

Issaquah

Central Issaquah Plan: Continue work with City staff to refine housing parts of the Central Issaquah Plan as well as the related development standards and incentives. Participate in related presentations to the Planning Policy Commission and/or City Council at key milestones for assistance on affordable housing.

Issaquah Highlands: Monitor the implementation of the Issaquah Highlands affordable housing development agreement.

Kenmore

Housing Regulations: Assist city staff with their update of its zoning and subdivision codes as they relate to housing and housing affordability.

Kirkland

Continue to assist staff with local action related to the South Kirkland Park & Ride property (e.g. documentation to secure affordability requirements.)

Assist City staff with Council Housing Committee and resulting initiatives.

Assist City staff with the Housing portion of Neighborhood Plan updates.

Assist City staff with an examination of existing non-conforming multifamily densities and how that might relate to the preservation of existing affordable housing.

Mercer Island

Assist City staff with completion of administrative procedures and documents associated with the land use incentive and tax exemption programs for Town Center.

Assist City Staff and Planning Commission with updating the Housing Strategy Plan, and with initial implementation of high priority strategies.

Newcastle

Assist City staff with Council's review of affordable housing provisions for Community Business Center and other areas of the city. Assist with updating administrative procedures based on any final revisions by Council. Assist with agreements for any project that would include an affordable

housing requirement, including those related to the Community Business Center.

Assist staff with outreach effort related to ADU.

Redmond

Assist with further update of housing regulations as needed as follow up to the rewrite of the City's zoning code. Assist with the creation of user guides for implementing housing requirements

Assist with the development of a Strategic Housing Plan.

Continue to assist with negotiating and administering the provision of affordable housing in developments required to provide affordable housing units pursuant to city regulations.

Assist with the promotion of affordable housing and other programs available to Redmond residents and developers, e.g., Accessory Dwelling Units (ADUs).

Assist with carrying out implementation strategies that result from the investigation of emerging housing markets as described below under regional issues.

Assist City staff and Council with evaluating and, if appropriate, implementing a tax incentive program for affordable housing, as allowed under RCW 84.14.

Provide assistance as needed in updating neighborhood plans (e.g. Southeast Redmond) with respect to housing, including periodic attendance at Citizen Academy and CAC meetings to help identify housing issues and develop policy and regulatory responses.

Continue to work with City staff on a potential ordinance prohibiting tenant discrimination on the basis of Section 8 vouchers as a source of income.

Sammamish

Assist with update to Comprehensive Plan / Housing Element and Housing Strategy Plan.

Assist staff with making surplus site available to Habitat (see special projects).

Evaluate Strategy Plan to assess if work should commence on any median priority strategies (e.g. Senior Housing opportunities).

Woodinville

Assist with update to Comprehensive Plan / Housing Element and Housing Strategy Plan.

Review and strengthening of affordable housing and accessory dwelling unit programs and regulations.

Assist City staff and Planning Commission with evaluating and developing incentives for affordable housing as provided for in the Downtown/Little Bear Creek Master Plan area.

Yarrow Point

Assist Planning Commission and Council with a review and potential update of current ADU regulations, and assist with effort to increase public awareness of local provisions.

King County See Regional/Planning Activities below.

Complete standard covenants, and monitor the implementation of the Northridge/Blakely Ridge and Redmond Ridge Phase II affordable housing development agreements. This includes monitoring annual progress toward achieving affordability goals; and providing information to developers on details about how the program is implemented.

General Assistance. In the past, there have been numerous situations where members have had requests for support on issues not explicitly listed in the Work Program. Requests range from technical clarifications, to assisting with negotiating agreements for specific development proposals, to more substantial assistance on unforeseen planning initiatives. ARCH sees this as a valuable service to its members and will continue to accommodate such requests to the extent they do not jeopardize active work program items.

B. Regional/Countywide Planning Activities

PSRC – HUD Sustainability Planning Grant. PSRC in a partnership with public and private agencies from the Central Puget Sound region received a $5 million HUD Sustainable Communities Planning Grant. Continue to work on several housing components of the planning effort, including developing the East King County corridor planning implementation strategies, with ARCH focusing on housing components of these strategies; and participating in the regional affordable housing work group that will be researching and where feasible implementing new tools to support local efforts for affordable housing(e.g. property acquisition fund).

One particular interest in this work in better understanding emerging housing markets. This includes investigating how to encourage housing development in new or unproven markets. What are the barriers, and how can ARCH member jurisdictions address these

issues? Further, how can ARCH assist with familiarizing the development community about housing opportunities in these areas?

Objective: Obtain information that is applicable to ARCH member cities' housing development efforts.

Countywide Planning Policies (CPP) for Affordable Housing. The Growth Management Planning Council adopted updated CPPS for housing, which included a policy regarding evaluating the methodology used to establish affordable housing targets. ARCH staff will assist the regional work group on this task with the goal of presenting a report on findings and options to the GMPC by mid-year and leading to a potential updated policy for affordable housing targets in the County.

Legislative Items. ARCH staff will track state and federal legislative items that relate to affordable housing and could impact members' ability to address affordable housing. As needed, staff will report back to the Executive Board and members, and when directed coordinate with other organizations (e.g. AWC, Prosperity Partnership, WLIHA) to contact legislators regarding proposed legislation. For the upcoming legislative session, primary emphasis would be on assisting in efforts to modify legislation related to local waiver of Impact Fees. Goal of legislation is to provide discretion to cities to waive impact fees without replacing with other public funds. This legislation had been identified by the ARCH Housing Priority Strategies.

Committee to End Homelessness (CEH)/ Eastside Homeless Advisory Committee (EHAC). Anticipated work of the CEH in the coming year include: continued coordinated allocation of resources; and initiating several specific proposals (e.g. addressing homelessness for veterans and families). Role for ARCH staff is expected to include participating in the CEH Funders group and its efforts to coordinate funding, and inform ARCH members and the general public of CEH/EHAC activities. Also continue to participate in efforts to implement homeless efforts within East King County through EHAC.

Objective: Keep member jurisdictions informed of significant regional issues and pending legislation that could affect providing housing in East King County.

Ensure that perspectives of communities in East King County are addressed in regional housing activities, including the Committee to End Homelessness.

Have one or more specific local programs initiated as part of the 10 Year Plan to End Homelessness.

III. HOUSING PROGRAM IMPLEMENTATION

Monitoring Affordable Rental Housing. Administer ongoing compliance of affordability requirements. This includes affordable rental housing created through direct assistance (e.g. Trust Fund allocation, land donations) from member jurisdictions, and through land use incentives. Some Trust Fund projects also require monitoring of project cash flow related to loans made by jurisdictions to projects (see I Project Assistance).

Objective: Ensure projects are in compliance with affordability requirements which involves collecting annual reports from projects, screening information for compliance, and preparing summary reports for local staffs. To the extent possible this work shall:

- Minimize efforts by both owners and public jurisdictions.
- Coordinate ARCH's monitoring efforts with efforts by other funding sources such as using shared monitoring reports.
- Utilize similar documents and methods for monitoring developments throughout East King County.
- Ensure accurate records for affordable ownership units, including audit units for owner occupancy and proper recording of necessary documentation.
- Establish working relationship with other public organizations that can help assess how well properties are maintained and operated (e.g. code compliance, police, and schools).

Monitoring Affordable Ownership Housing. As more price restricted homes are created, monitoring of affordable ownership housing created through local land use regulations is becoming of increased importance. In addition, will continue to monitor general trends with ownership units, enforcement of covenant provisions (e.g. leasing homes, foreclosure), and as necessary evaluate and if warranted, complete revisions to the ownership covenants in order to better insure long term affordability of ownership units. Also continue to maintain a list of households potentially interested in affordable ownership housing.

Objective: Oversee resale of affordable ownership homes. Address issues related to ongoing compliance with program requirements (e.g. leasing homes, foreclosures).

Complete revisions to the affordability covenant and administrative procedures to better protect against potential loss of long term affordability.

Information for public on Affordable Housing. Maintain lists of affordable housing in East King County (rental and ownership), and making that available as needed to people looking for affordable housing.

Objective: Maximize awareness of affordable housing opportunities in East King County through the ARCH web site and other means to assist persons looking for

affordable housing.

Relocation Plans. Assist as necessary with preparing relocation plans and coordinate monitoring procedures for developments required to prepare relocation plans pursuant to local or state funding requirements.

Objective: Maximize efforts to ensure that existing households are not unreasonably displaced as a result of the financing or development of new or existing housing.

IV. SUPPORT/EDUCATION/ADMINISTRATIVE ACTIVITIES

Education/Outreach. Education efforts should tie into efforts related to public outreach/input on regional housing issues (see local planning activities). However, much of ARCH's outreach/education work will occur through work with individual members on local housing efforts. In addition to the Housing 101 workbook and related brochures, other outreach methods may include housing tours, a portfolio of successful projects, and short videos to be broadcast on local cable channels on local efforts.

Objective: Consistent with the Education program discussed at the ARCH Workshops, using input from the broader community, develop education tools to inform councils, staffs and the broader community of current housing conditions, and of successful efforts achieved in recent years.

Be a resource for members to assist with outreach and education activities on affordable housing associated with local planning efforts.

Create outreach tools/efforts that inform the broader community of affordable housing resources available to residents.

ARCH Web site. Update on a regular basis information on the ARCH website, including information related to senior housing opportunities. Add new section to the website that provides more details and administrative materials for affordable incentive programs available through ARCH members and fair housing information. .

Objective: Maintain the ARCH web site and update the community outreach portion by incorporating information from Housing 101 East King County, as well as updated annual information, and links to other sites with relevant housing information (e.g. CEH, HDC).

Make presentations, including housing tours, to at least 10 community organizations.

Media coverage on at least six topics related to affordable housing in East King County related to work done by Cities/ARCH and articles in local city

newsletters.

Advice to Interested Groups. Provide short-term technical assistance to community groups, faith communities and developers interested in community housing efforts. Meet with groups and provide suggestions on ways they could become more involved.

Objective: Increase awareness of existing funding programs by potential users.

Increase opportunities of private developers and Realtors working in partnership with local communities on innovative/affordable housing.

Assist community based groups who want to provide housing information to the broader community by assisting with preparing background information.

Administrative Procedures. Maintain administrative procedures that efficiently provide services to both members of ARCH and community organizations utilizing programs administered through ARCH. Prepare quarterly budget performance and work program progress reports, including Trust Fund monitoring reports. Prepare the Annual Budget and Work Program. Work with Executive Board to develop multi-year strategy for the ARCH Administrative Budget. Staff the Executive and Citizen Advisory Boards.

Objective: Maintain a cost effective administrative budget for ARCH, and keep expenses within budget. Administrative costs should be equitably allocated among ARCH's members.

Maintain membership on the ARCH Citizen Advisory Board that includes broad geographic representation and wide range of housing and community perspectives.

2012 ARCH Administrative Budget

I. ANNUAL OPERATING EXPENSES

Item	2011 Budget	2012 Budget	Change Budget	Percent Change
Staffing				
Sub-total *	$ 452,870	$ 474,265	$ 21,395	5%
Rent	$ 13,364	$ 18,000	$ 4,636	35%
Utlities	Incl^	Incl^	Incl^	Incl^
Telephone	$ 2,704	$ 2,704	$ -	0%
Operating				
Travel/Training	$ 2,000	$ 2,000	$ -	0%
Auto Mileage	$ 3,650	$ 3,500	$ (150)	-4%
Copier Costs	$ 2,750	$ 2,500	$ (250)	-9%
Office Supplies	$ 2,068	$ 2,068	$ -	0%
Office Equipment Service	$ 3,750	$ 1,500	$ (2,250)	-60%
Fax/Postage	$ 2,060	$ 1,200	$ (860)	-42%
Periodical/Membership	$ 3,588	$ 3,700	$ 112	3%
Misc. (e.g. events,etc.)	$ 1,680	$ 1,680	$ -	0%
Insurance	$ 8,741	$ 7,400	$ (1,341)	-15%
Reorganization Admin	$ 650	$ 650	$ -	
Sub-total	$ 30,937	$ 26,198	$ (4,739)	-15%
TOTAL	$ 499,875	$ 521,167	$ 21,292	4.26%

* Actual salary increases based on Bellevue's approved Cost of Living Adjustment
Salary of associate planner at .6FTE with balance paid seoparately from PSRC/HUD contract

II. ARCH ADMINISTRATIVE BUDGET: RESOURCE DISTRIBUTION

A. Cash Contributions	2011	2012	Change	Percent Change
Bellevue	$ -	$ -	$ -	
Bothell	$ 39,191	$ 39,191	$ -	0.00%
Issaquah	$ 14,698	$ 14,698	$ -	0.00%
King County	$ 43,466	$ 43,466	$ -	0.00%
Kirkland	$ 59,768	$ 59,768	$ -	0.00%
Mercer Island	$ 29,882	$ 29,882	$ -	0.00%
Newcastle	$ 9,960	$ 9,960	$ -	0.00%
Redmond	$ 59,768	$ 59,768	$ -	0.00%
Woodinville	$ 11,898	$ 11,898	$ -	0.00%
Beaux Arts Village	$ 1,569	$ 1,569	$ -	0.00%
Clyde Hill	$ 2,660	$ 2,660	$ -	0.00%
Hunts Point	$ 1,569	$ 1,569	$ -	0.00%
Medina	$ 2,660	$ 2,660	$ -	0.00%
Yarrow Point	$ 1,569	$ 1,569	$ -	0.00%
Sammamish	$ 46,188	$ 46,188	$ -	0.00%
Kenmore	$ 25,195	$ 25,195	$ -	0.00%
Other*	$ 9,500	$ 30,679	$ 21,179.00	
TOTAL	$ 359,542	$ 380,721	$ 21,179.00	

B. In-Kind Contributions	2011	2012	Change	Percent Change
Bellevue	$ 140,446	$ 140,446	$ (0)	0.00%
TOTAL	$ 140,446	$ 140,446	$ (0)	

C. Total Contributions				
Bellevue	$ 140,446	$ 140,446	$ (0)	0.00%
Bothell	$ 39,191	$ 39,191	$ -	0.00%
Issaquah	$ 14,698	$ 14,698	$ -	0.00%
King County	$ 43,466	$ 43,466	$ -	0.00%
Kirkland	$ 59,768	$ 59,768	$ -	0.00%
Mercer Island	$ 29,882	$ 29,882	$ -	0.00%
Newcastle	$ 9,960	$ 9,960	$ -	0.00%
Redmond	$ 59,768	$ 59,768	$ -	0.00%
Woodinville	$ 11,898	$ 11,898	$ -	0.00%
Beaux Arts Village	$ 1,569	$ 1,569	$ -	0.00%
Clyde Hill	$ 2,660	$ 2,660	$ -	0.00%
Hunts Point	$ 1,569	$ 1,569	$ -	0.00%
Medina	$ 2,660	$ 2,660	$ -	0.00%
Yarrow Point	$ 1,569	$ 1,569	$ -	0.00%
Sammamish	$ 46,188	$ 46,188	$ -	0.00%
Kenmore	$ 25,195	$ 25,195	$ -	0.00%
Other*	$ 9,500	$ 30,679	$ 21,179.00	222.94%
TOTAL	$ 499,988	$ 521,167	$ 21,178.81	4.24%
TOTAL COSTS	$ 499,875	$ 521,167	$ 21,291.55	4.26%
BALANCE	$ 113	$ 0		

* This is combination of administrative fee collected from Redmond Ridge East;
$10,000 from national grant; and admin reserve resulting from staff vacancy in previous year

CITY OF KIRKLAND
Department of Planning and Community Development
123 Fifth Avenue, Kirkland, WA 98033 425-587-3225
www.ci.kirkland.wa.us

MEMORANDUM

To: Kurt Triplett, City Manager

From: Dawn Nelson, Planning Supervisor

Date: January 3, 2012

Subject: BAYSHORE VISTA, LLC APPLICATION FOR CONDITIONAL CERTIFICATE FOR MULTIFAMILY PROPERTY TAX EXEMPTION, FILE MIS11-00024

RECOMMENDATION

Staff recommends that the City Council approve the enclosed resolution authorizing the Planning Director to:

- Enter into the contract included as Exhibit A with Bayshore Vista, LLC for a potential multifamily housing property tax exemption; and
- Issue a conditional certificate of acceptance of tax exemption.

BACKGROUND DISCUSSION

Chapter 5.88 KMC allows a multifamily housing property tax exemption for new multifamily residential improvements if the prescribed affordable housing is provided. In exchange for a twelve year exemption from property taxes on the value of the new improvements, 20% of the multifamily units on the property are required to be affordable. The prescribed affordability levels for rental projects in this situation are:

- 10% of the units at 50% of King County median income; and
- 10% of the units at 80% of King County median income.

The affordability provisions are required to remain in place for the life of the project and are secured by the agreement attached to the resolution.

The Bayshore Apartments project includes construction of a new 6-unit apartment building at 11615 91st Lane NE in the Juanita neighborhood (see Attachment 1). The property already contains a 14-unit apartment building (see Attachment 2). When the new building is complete, the property will contain a total of 20 residential units, including a mix of one- and two-bedroom apartments. The proposed affordable units are two one-bedroom units and two two-

bedroom units, all in the existing building (see Attachment 3). Three of the units will be affordable at 50% of King County median income and one of the units will be affordable at 60% of King County median income.

The process for approving a multifamily housing property tax exemption includes the following steps:

- Review and approval of application for conditional certificate for tax exemption by the Planning Director – *completed on December 23, 2011*

- Approval of resolution to enter into contract with City – *action by City Council scheduled for January 17, 2012*

Actions to occur following approval of the resolution:

- Execution of contract and issuance of conditional certificate of acceptance of tax exemption

- Recording of covenant that addresses long term affordability requirements (Exhibit D to contract)

- Completion of construction as provided in the contract within three years and issuance of a Certificate of Occupancy

- Submittal of request for final certificate for tax exemption and review by Planning Director

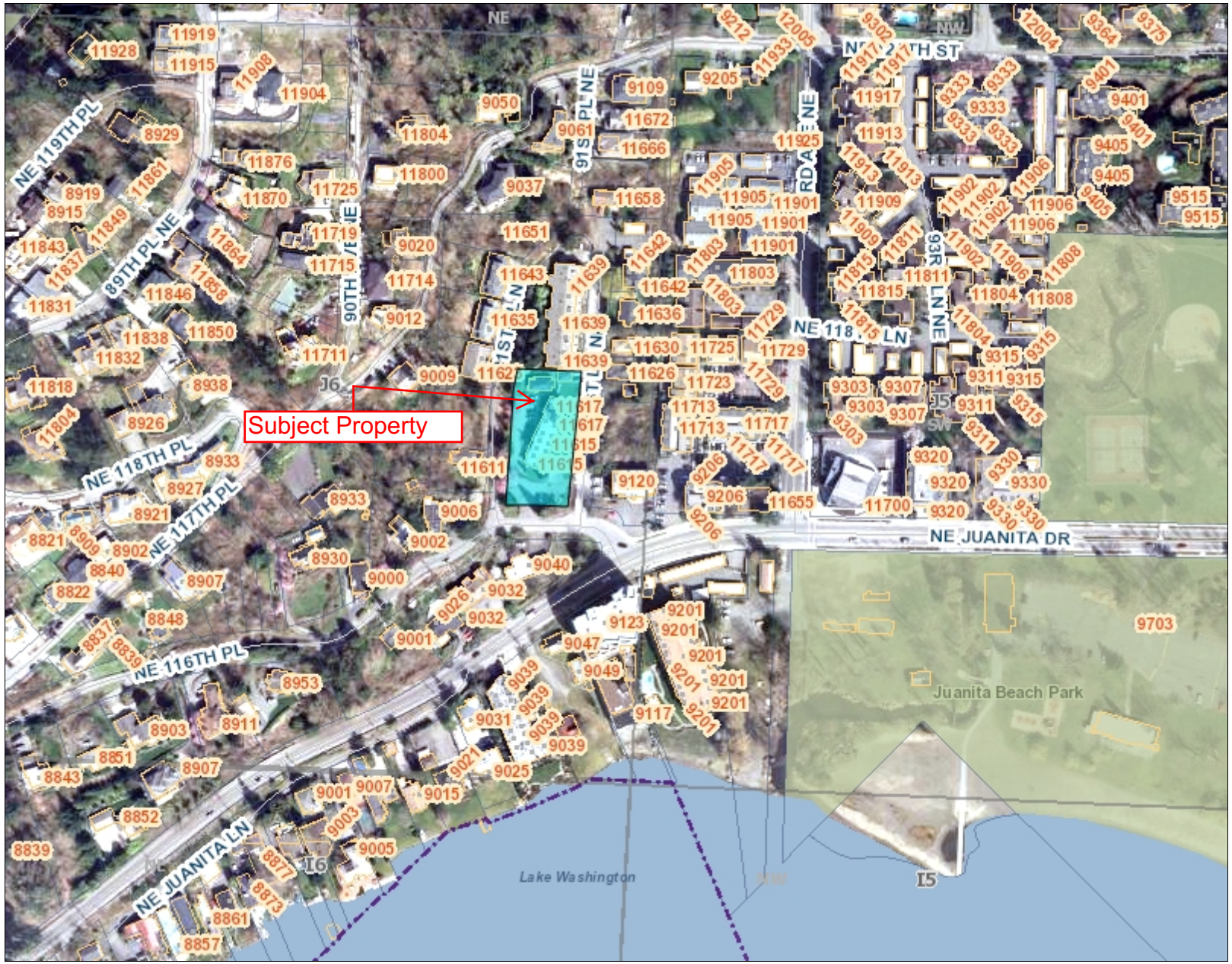
- Filing of final certificate of tax exemption with the King County Assessor

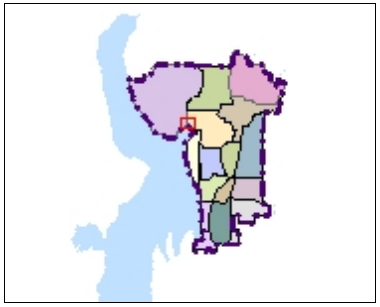
- Submittal of annual certification of compliance by property owner

ATTACHMENTS

1. Vicinity Map
2. Bayshore Apartments Site Plan
3. Bayshore Apartments Existing Floor Plans and Designation of Affordable Units

BAYSHORE APARTMENTS VICINITY MAP





Legend

- Address
- City Limits
- Grid
- QQ Grid
- Streets
- Parcels
- Buildings
- Lakes
- Parks
- Schools
- z_Image09
  - Red: Band_1
  - Green: Band_2
  - Blue: Band_3

1: 3,109

ATTACHMENT 1
BAYSHORE VISTA LLC

0.1 0 0.05 0.10 Miles

NAD_1983_StatePlane_Washington_North_FIPS_4601_Feet

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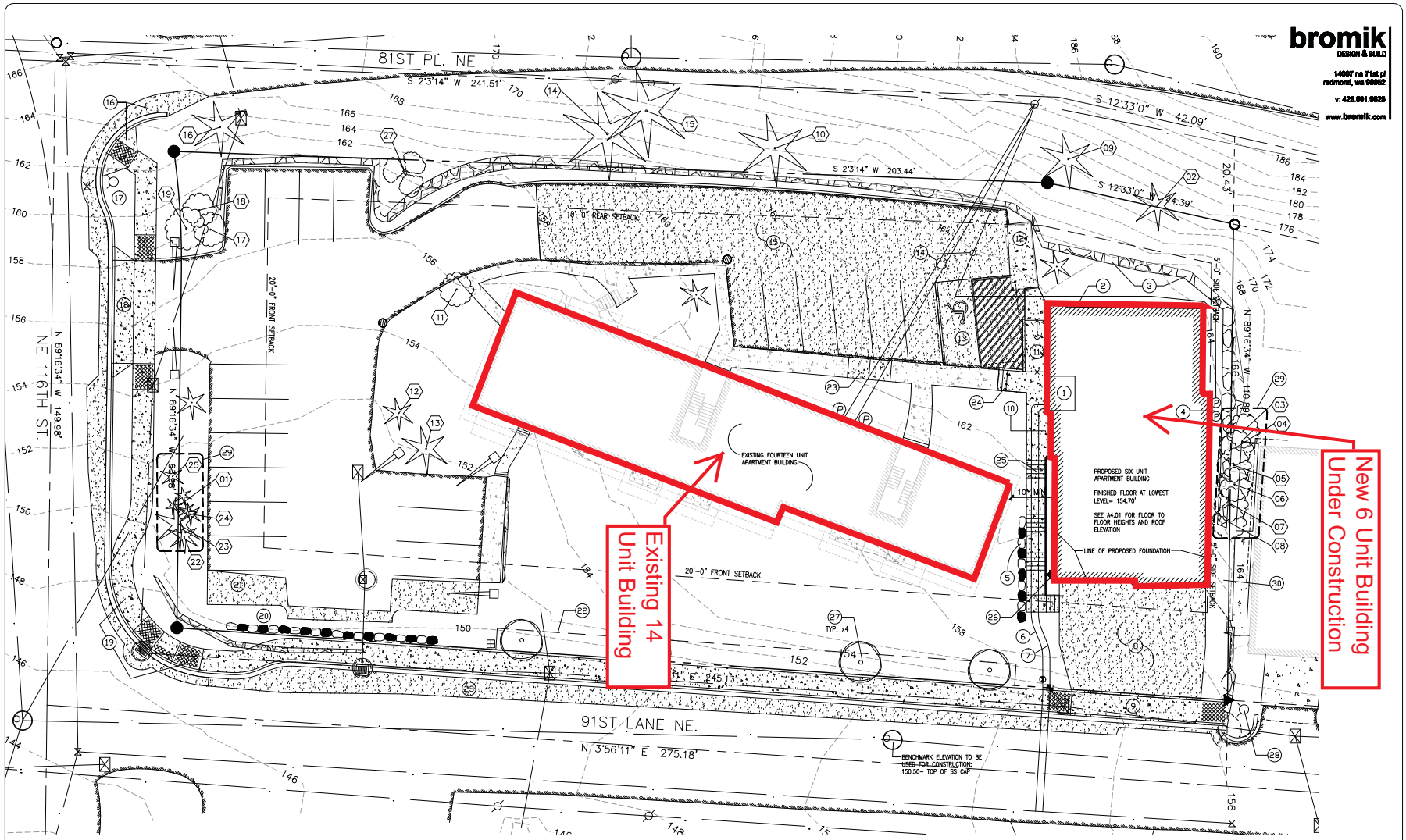
No warranties of any sort, including but not limited to accuracy, fitness or merchantability, accompany this product.

THIS MAP IS NOT TO BE USED FOR NAVIGATION

Notes

Vicinity Map



1 A1.02 **ARCHITECTURAL SITE PLAN**
3/32" = 1'-0"

****SEE COVER SHEET FOR SITE PLAN CALCULATIONS****

SYMBOLS

REFERENCED FROM SURVEY

- UTILITY POLE
- GUY WIRE
- FIRE HYDRANT
- WATER VALVE
- WATER METER
- POWER METER
- TELEPHONE VAULT
- LIGHT POLE
- 12" DRAIN

NOTES:

1. LOCATION OF RISER ROOM AT LOWER LEVEL (SEE A2.01). FIRE SPRINKLER AND DOMESTIC WATER LINES TO BE BROUGHT TO THIS ROOM.
2. LINE OF MAT FOUNDATION WALL DRAIN– SEE 1/C2.2 FOR DETAIL. SEE ALSO GEOTECHNICAL REPORT.
3. EXISTING ROCKERY AND TOE OF SLOPE TO REMAIN UNDISTURBED.
4. LOCATION OF POWER METERS FOR PROPOSED BUILDING. POWER LINES TO BE ROUTED UNDERGROUND TO EXISTING AND PROPOSED STRUCTURES.
5. PROPOSED ROCKERY– SEE DETAIL 2/C3.3.
6. FIRE SERVICE WATER LINE, INCLUDE POST INDICATOR VALVE. SERVICE LINE TO BE 4", PER SPRINX FIRE SYSTEMS.
7. DOMESTIC WATER LINE. INCLUDE WATER METER PER NORTHSHORE UTILITY DISTRICT REQUIREMENTS.
8. PERMEABLE ASPHALT DRIVEWAY. SEE CIVIL DRAWINGS FOR GRADING AND DETAILS.
9. PROPOSED CONCRETE CURB CUT PER COK STANDARDS. SEE CIVIL DRAWINGS FOR DETAILS AND DIMENSIONS. MAX 30' WIDE.
10. CONCRETE SLAB/SIDEWALK, ELEVATION AT THIS LEVEL TO BE 163.00 TO MEET 1:12 RAMP AT PARKING LOT AND AT BUILDING TO FIRST FLOOR.
11. ADA ACCESS RAMP TO BE 1:12. BOTTOM ELEVATION= 163.00; TOP ELEVATION= 164.00 AT PARKING LOT. INCLUDE GRAB RAIL ON BOTH SIDES OF RAMP.
12. CONCRETE SLAB FOR TRASH/RECYCLING BINS. PROVIDE WOOD FENCE ENCLOSURE ON THREE SIDES.
13. VAN ACCESSIBLE PARKING SPACE; SEE DETAIL 10/A6.01. PROVIDE PREFAB METAL COVER AT THIS SPACE PER IBC CODE.
14. RELOCATE EXISTING OVERHEAD POWER LINES TO UNDERGROUND. ROUTE LINES FOR PROPOSED BUILDING UNDERGROUND. SEE PSE GUIDLINES FOR TRENCHING.
15. PERMEABLE ASPHALT PAVEMENT. SEE DETAIL 1/C3.3.3. RETAIN ALL EXISTING DRAINS FOR OVERFLOW.
16. SIDEWALK AND STREET IMPROVEMENTS PER COK STANDARDS. SEE CIVIL DRAWINGS FOR DETAILS AND DIMENSIONS.
17. EXISTING FIRE HYDRANT TO BE RETAINED AT EXISTING LOCATION.
18. PROPOSED CONCRETE CURB CUT PER COK STANDARDS. SEE CIVIL DRAWINGS FOR DETAILS AND DIMENSIONS. MAX 30' WIDE.
19. SIDEWALK AND STREET IMPROVEMENTS PER COK STANDARDS. SEE CIVIL DRAWINGS FOR DETAILS AND DIMENSIONS.
20. PROPOSED ROCKERY– SEE DETAIL 2/C3.3.
21. PERMEABLE ASPHALT PAVEMENT EXTENSION TO EXISTING PAVEMENT. SEE DETAIL 1/C3.3. RETAIN ALL EXISTING DRAINS FOR OVERFLOW.
22. REPRESENTS LINE OF LANDSCAPE EASEMENT FOR STREET TREE REQUIREMENT.
23. REPLACE CONRECTE SIDEWALK SECTIONS AS NEEDED FOR UNDERGOUND POWER TRENCH TO EXISTING BUILDING.
24. CONCRETE STEPS, TOP ELEVATION= 164.00, BOTTOM ELEVATION= 163.00.
25. CONCRETE STAIRWAY AND LANDINGS. PROVIDE 1–1/2" ROUND PIPE HANDRAIL ON ONE SIDE. SEE CIVIL DRAWINGS FOR ELEVATIONS.
26. WALL MOUNTED FIRE DEPARTMENT CONNECTION PER COK FIRE DEPARTMENT STANDARDS.
27. PROPOSED STREET TREES PER COK GUIDELINES. TO BE SELECTED FROM COK APPROVED STREET TREE LIST.
28. PROVIDE 5" STORTZ FITTING ON EXISTING FIRE HYDRANT.
29. OWNER'S ARBORIST TO BE ON SITE FOR ANY ROOT PRUNING.
30. 5' LANDSCAPE BUFFER ALONG THIS PROPERTY LINE. MAINTAIN THE EXISTING TREES FOR VISUAL BARRIER. PROVIDE LANDSCAPE GROUND COVER TO COVER A MINIMUM OF 60% GROUND IN TWO YEARS.

bromik DESIGN & BUILD
14007 ne 71st pl
redmond, wa 98052
v: 425.891.8825
www.bromik.com

Rhodes ARCHITECTURE
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Bromik
Bayshore View Apartments
11615 - 91st Ln NE
Kirkland, WA 98034

REVISIONS:

CONTRACTOR SHALL VERIFY AND COORDINATE THE DIMENSIONS AND DETAILS AMONG ALL DRAWINGS PRIOR TO PROCEEDING WITH THE WORK, AND SHALL NOTIFY THE ARCHITECT OF ANY DISCREPANCIES OR VARIATIONS FROM CONDITIONS SHOWN. DO NOT SCALE DRAWINGS. THESE DRAWINGS ARE THE PROPERTY OF RHODES ARCHITECTURE. ALL DRAWINGS, DESIGNS AND OTHER INFORMATION ON THE DRAWINGS ARE FOR USE ON THE SPECIFIED PROJECT ONLY, AND SHALL NOT BE USED OTHERWISE WITHOUT THE EXPRESS WRITTEN PERMISSION BY RHODES ARCHITECTURE. ARCHITECT ACCEPTS NO LIABILITY AND SHALL BE HELD HARMLESS FROM ANY RESPONSIBILITY FOR DAMAGES RESULTING FROM REVISIONS, CHANGES OR ADAPTATIONS TO THESE DRAWINGS.

XREFS:
DRAWN BY: MJB DATE: 9/10/11
PROJECT NO.: 11-002
FILE NAME:

ARCHITECTURAL SITE PLAN

SHEET NO: A1.02

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ATTACHMENT 2
BAYSHORE VISTA LLC

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14007 ne 71st pl
redmond, wa 98052
v: 425.891.8825
www.bromik.com

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P.O. BOX 75431
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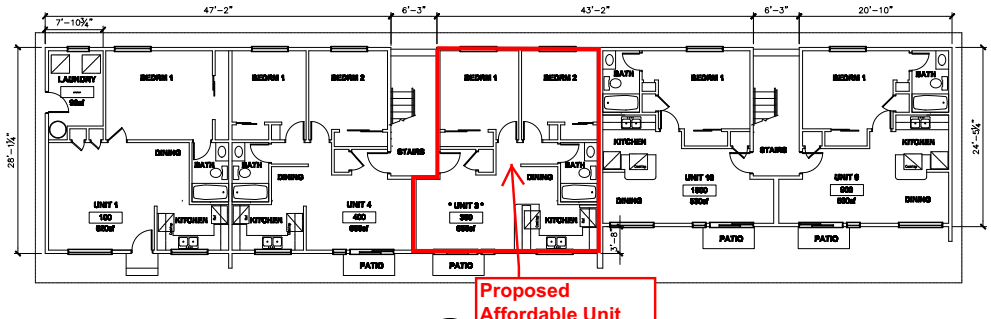
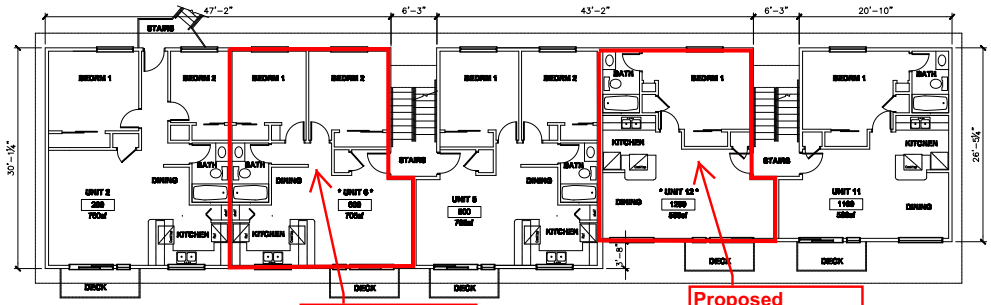


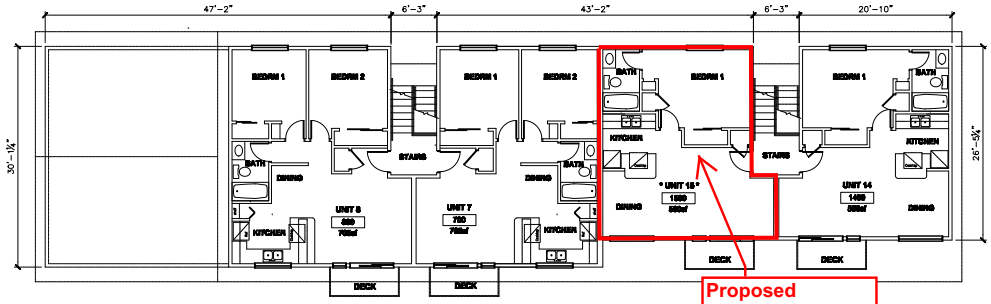
1 A1.00 EXISTING BUILDING- FIRST FLOOR PLAN
1/8" = 1'-0"

1. THESE PLANS ARE FOR REFERENCE ONLY, NOT FOR CONSTRUCTION PURPOSES**
2. THERE ARE 14 TOTAL EXISTING UNITS. THE UNIT NUMBERING SYSTEM SKIPS "13".
3. (*) REPRESENTS UNITS BEING PROPOSES TO BE USED FOR AFFORDABLE HOUSING REQUIREMENTS.



2 A1.00 EXISTING BUILDING- SECOND FLOOR PLAN
1/8" = 1'-0"

NOTES:
1. THESE PLANS ARE FOR REFERENCE ONLY, N
2. THERE ARE 14 TOTAL EXISTING UNITS. THE UNIT NUMBERING SYSTEM SKIPS "13".
3. (*) REPRESENTS UNITS BEING PROPOSES TO BE USED FOR AFFORDABLE HOUSING REQUIREMENTS.



3 A1.00 EXISTING BUILDING- THIRD FLOOR PLAN
1/8" = 1'-0"

NOTES:
1. THESE PLANS ARE FOR REFERENCE ONLY, NOT FOR CONSTRUCTION PURPOSES**
2. THERE ARE 14 TOTAL EXISTING UNITS. THE UNIT NUMBERING SYSTEM SKIPS "13".
3. (*) REPRESENTS UNITS BEING PROPOSES TO BE USED FOR AFFORDABLE HOUSING REQUIREMENTS.

Bromik
Bayshore View Apartments
11615 - 91st Ln NE
Kirkland, WA 98034

REVISIONS:
1 CITY COMMENTS
2
3

CONTRACTOR SHALL VERIFY AND COORDINATE THE DIMENSIONS AND DETAILS AMONG ALL DRAWINGS PRIOR TO PROCEEDING WITH THE WORK, AND SHALL NOTIFY THE ARCHITECT OF ANY DISCREPANCIES OR VARIATIONS FROM CONDITIONS SHOWN. DO NOT SCALE DRAWINGS. THESE DRAWINGS ARE THE PROPERTY OF RHODES ARCHITECTURE. ALL DRAWINGS, DESIGNS AND OTHER INFORMATION ON THE DRAWINGS ARE FOR USE ON THE SPECIFIED PROJECT ONLY, AND SHALL NOT BE USED OTHERWISE WITHOUT THE EXPRESS WRITTEN PERMISSION BY RHODES ARCHITECTURE. ARCHITECT ACCEPTS NO LIABILITY AND SHALL BE HELD HARMLESS FROM ANY RESPONSIBILITY FOR DAMAGES RESULTING FROM HIDDEN, CHANGES OR ADAPTIONS TO THESE DRAWINGS.

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DRAWN BY: MJB DATE: 9/10/11
PROJECT NO.: 11-002
FILE NAME:

EXISTING BUILDING FLOOR PLANS

SHEET NO: A1.00

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ATTACHMENT 3
BAYSHORE VISTA LLC

RESOLUTION R-4907

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND AUTHORIZING THE DIRECTOR OF PLANNING AND COMMUNITY DEVELOPMENT TO ENTER INTO A CONTRACT WITH BAYSHORE VISTA, LLC, REGARDING A POTENTIAL MULTIFAMILY HOUSING PROPERTY TAX EXEMPTION AND APPROVING THE ISSUANCE OF A CONDITIONAL CERTIFICATE OF TAX EXEMPTION

WHEREAS, Bayshore Vista, LLC, has applied for a limited property tax exemption as provided for in Chapter 84.14 RCW and Chapter 5.88 KMC for multifamily residential rental housing ("Multifamily Housing") in the Juanita Target Area, and the Director of Planning and Community Development has approved the application; and

WHEREAS, Bayshore Vista has submitted to the City preliminarily site plans and floor plans for new Multifamily Housing to be constructed as part of a twenty (20) unit multifamily residential property situated at 11615 91st Lane NE in Kirkland, Washington; and

WHEREAS, the Director has determined the multifamily housing will, if completed, occupied, and owned as proposed, satisfy the requirements for a Final Certificate of Tax Exemption,

NOW, THEREFORE, be it resolved by the City Council of the City of Kirkland as follows:

Section 1. The Director of the Department of Planning and Community Development is hereby authorized and directed to execute on behalf of the City of Kirkland, an agreement substantially similar to that attached as Exhibit "A", which is entitled "Multifamily Housing Limited Property Tax Exemption Agreement" and thereafter issue a Conditional Certificate of Acceptance of Tax Exemption

Passed by majority vote of the Kirkland City Council in open meeting this ____ day of _____, 2012.

Signed in authentication thereof this ____ day of _____, 2012

_____
MAYOR

Attest:

_____
City Clerk

MULTIFAMILY HOUSING LIMITED PROPERTY TAX EXEMPTION AGREEMENT

THIS AGREEMENT, entered into this _____ day of _____, 2012, between the City of Kirkland, a State of Washington municipal corporation ("City") and the Bayshore Vista, LLC ("Applicant"), and incorporated attachments and exhibits, contains all terms and conditions agreed to by the City and the Applicant to undertake the activities described herein.

RECITALS

1. Applicant has applied for a limited property tax exemption as provided for in Chapter 84.14 RCW and Chapter 5.88 KMC for multifamily residential rental housing ("Multifamily Housing") in the Juanita Residential Target Area, and the City's Director of Planning and Community Development ("Director") has approved the application; and

2. Applicant has submitted to the City preliminary site plans and floor plans for new Multifamily Housing to be constructed as part of a 20-unit project comprising 14 existing units and six newly constructed units ("Project") on property situated at 11615 91st Lane NE in Kirkland, Washington ("Property), and as more particularly described in **Exhibit A** which is attached hereto, and incorporated by reference herein; and

3. Applicant is the owner of the Property; and

4. No existing rental housing building that contained four (4) or more occupied dwelling units was demolished on the Property within 18 months prior to Applicant's submission of its application for limited property tax exemption; and

5. The City has determined that the Multifamily Housing will, if completed, occupied, and owned as proposed, satisfy the requirements for a Final Certificate of Tax Exemption.

6. This Agreement is entered into pursuant to City Council action taken on _____ _____.

NOW, THEREFORE, in consideration of the mutual promises herein, City and Applicant do mutually agree as follows:

1. Conditional Certificate of Acceptance of Tax Exemption.

City agrees, upon execution of this Agreement following approval by the City Council, to issue a Conditional Certificate of Acceptance of Tax Exemption ("Conditional Certificate"), which Conditional Certificate shall expire three (3) years from the date of approval of this Agreement by the Council, unless extended by the Director as provided in KMC 5.88.070.

2. Agreement to construct Multifamily Housing.

a. Applicant agrees to construct the Project on the Property, including the Multifamily Housing, substantially as described in the site plans, floor plans, and elevations attached hereto in **Exhibit B**, subject to such modifications thereto as may be required to comply with applicable codes and ordinances, including the design review process. In no event shall

Applicant provide fewer than four (4) new dwelling units designed for permanent residential rental or ownership occupancy, nor shall permanent residential housing comprise less than fifty percent (50%) of the gross floor area of the Project constructed pursuant to this Agreement.

b. Applicant agrees to construct the Project on the Property, including the Multifamily Housing, and to comply with all applicable zoning requirements, land use regulations, and building and housing code requirements contained in KMC Titles 21, 22, 23, and 25 or other applicable law. Applicant further agrees that approval of this Agreement by the City Council, its execution by the Director, or issuance of a Conditional Certificate by the City pursuant to KMC chapter 5.88.060 in no way constitutes approval of proposed improvements on the Property with respect to applicable provisions of KMC Titles 21, 22, 23, and 25 or other applicable law or obligates the City to approve proposed improvements.

c. Applicant agrees that the Multifamily Housing will be completed within three years from the date of approval of this Agreement by the Council, unless extended by the Director for cause as provided in KMC 5.88.070.

3. Agreement to provide affordable housing.

Applicant agrees to provide four (4) "Affordable Units" for rent, specifically available for Low and Moderate Income Households as shown in the following table, and affordable to households whose household annual income does not exceed the percent of the King County median household income given in the table, adjusted for household size, as determined by HUD, and no more than thirty percent (30%) of the monthly household income is paid for monthly housing expenses (rent and an appropriate utility allowance).

	Percent of King County Median Income		
	Income for Determining Maximum Housing Expense	Maximum Income at Initial Occupancy	Number of Affordable Units
Low Income, 2-bedroom	50%	50%	2
Low Income, 1-bedroom	50%	60%	1
Moderate Income, 1-bedroom	60%	60%	1
Total			4

4. Location and design of Affordable Units – Affordability Agreement – Conversion.

The Affordable Units shall be those units indicated in **Exhibit C**. The Owner may propose to change the particular units dedicated for the Affordable Units, provided that a total of four (4) units are designated for Affordable Units, and the same unit mix and minimum sizes of Affordable Units is maintained. The Owner shall request in writing the City's approval of any proposed change to the units dedicated for the Affordable Units. The City will review the proposed changes and shall base its approval or disapproval of the proposed changes upon the criteria set forth in this section.

The exterior designs of the Affordable Units are to be compatible and comparable with the market rate units. The interior finish of the Affordable Units shall at a minimum include standard features and result in a totally finished and livable home.

Prior to issuing a certificate of occupancy, an agreement in a form acceptable to the city attorney ("Affordability Covenant") and substantially in the form of **Exhibit D** that addresses price restrictions, eligible household qualifications, long-term affordability, and any other applicable topics of the Affordable Units shall be recorded with the King County department of records and elections. This agreement shall be a covenant running with the land and shall be binding on the assigns, heirs and successors of the Applicant. Affordable Units that are provided under this section shall remain as affordable housing for the life of the project.

In the event the Project is proposed for conversion to condominium, owner-occupied, or non-rental residential use, the Owner must submit to the City for its approval a plan for preserving the Affordable Units. The City can consider options which would convert the Affordable Units to owner occupancy Affordable Units. In the event a condominium conversion occurs during the period of the property tax exemption and owner-occupied Affordable Units are provided at the affordability levels as defined in Section 5.88.020(a) or that have such other comparable level of affordability as provided for in the city's affordable housing multifamily tax exemption incentive program, as regulated through Chapter 112 of the Kirkland Zoning Code, per Section 6 of this Agreement, the Affordable Units will continue to be eligible for the property tax exemption for the balance of the exemption period or for the period of time the conversion allows, whichever is appropriate. The balance of the Project would no longer be eligible for the exemption, and City will not cancel the Final Certificate of Tax Exemption as provided in Section 10 of this Agreement.

5. Requirements for Final Certificate of Tax Exemption.

Applicant may, upon completion of the Project and upon issuance by the City of a temporary or permanent certificate of occupancy, request a Final Certificate of Tax Exemption. The request shall be in a form approved by the city and directed to the City's Planning Department and at a minimum include the following:

a. A statement of expenditures made with respect to the overall Project and the residential and non-residential portions of the Project.

b. A description of the completed work, including floor area of residential and non-residential area, and a statement of qualification for the exemption.

c. Documentation that the Multifamily Housing was completed within the required three-year period or any authorized extension and in compliance with the terms of this Agreement.

d. Information regarding Applicant's compliance with the affordability requirements in KMC 5.88.090 and this Agreement, which shall include the following:

(1) Identification of all Affordable Units, whether rented or held vacant to be rented by Income Eligible Occupants, the size of the Affordable Units, and the maximum rents and household incomes for each affordable unit at time of initial leasing;

(2) Rents (or offering rents, as applicable) for all Affordable Units;

(3) A copy of the application and income verification form used for rental of Affordable Units; and

(4) A copy of the form of lease or rental agreement to be used for Affordable Units; and

e. Any such further information that the Director deems necessary or useful to evaluate eligibility for the Final Certificate of Tax Exemption.

6. Agreement to Issue Final Certificate.

The City agrees to file a Final Certificate of Tax Exemption, with an exemption period of twelve (12) years with the King County Assessor within forty (40) days of submission of all materials required by paragraph 5, if Applicant has:

a. Successfully completed the Multifamily Housing in accordance with the terms of this Agreement and KMC chapter 5.88;

b. Filed a request for a Final Certificate of Tax Exemption with the Director and submitted the materials described in Paragraph 5 above;

c. Paid to the City a fee in the amount of $150.00 to cover the Assessor's administrative costs; and

d. Met all other requirements provided in KMC chapter 5.88 for issuance of the Final Certificate of Tax Exemption.

7. Annual certification.

Within thirty (30) days after the first anniversary of the date the City filed the Final Certificate of Tax Exemption and each year thereafter for the term of the Affordability Covenant, Applicant agrees to file a certification or declaration with the Director, verified upon oath or affirmation, with respect to the accuracy of the information provided therein, containing at a minimum the following:

a. A statement of the occupancy and vacancy of the Multifamily Housing units during the previous year; and

b. A statement that the Multifamily Housing has not changed use since the date of filing of the Final Certificate of Tax Exemption; and

c. A statement that the Multifamily Housing continues to be in compliance with this Agreement and the requirements of KMC chapter 5.88; and

d. A description of any improvements or changes to the Project made after the filing of the Final Certificate or the previous certification; and

e. A statement of the change in ownership of all or any part of the property since the final certificate was filed; and

f. Information and documentation sufficient to demonstrate, to the satisfaction of the Director, compliance with the affordability requirements of KMC 5.88.090 and this Agreement, which shall, at minimum, include the following:

(1) Identification of each Affordable Unit, and any substitution of Affordable Units during the previous year and for each Affordable Unit, the current Household Income limits and maximum allowed rent.

(2) For each Affordable Unit that was initially occupied or that had a change of tenancy during the previous year, the date of each tenant's initial occupancy, the household size and Household Income of each tenant household at initial occupancy, and the rent charged at initial occupancy.

(3) For each Affordable Unit that was occupied by the current tenant prior to the previous year, the date of each tenant's initial occupancy, the tenant's current Household Income, the tenant's Household Income at initial occupancy, and current contract rent.

8. No violations for duration of exemption.

For the duration of the exemption granted under KMC chapter 5.88, Applicant agrees that the Project and that portion of the Property on which the Project is constructed will have no violations of applicable zoning requirements, land use regulations, and building and housing code requirements contained in KMC Titles 21, 22, 23, and 25 or other applicable law for which the Department of Planning and Community Development or its functional successor shall have issued a notice of violation, citation or other notification that is not resolved by a certificate of compliance, certificate of release, withdrawal, or another method that proves either compliance or that no violation existed, within the time period for compliance, if any, provided in such notice of violation, citation or other notification or any extension of the time period for compliance granted by the Director.

9. Notification of transfer of interest or change in use.

Applicant agrees to notify the Director within thirty (30) days of any transfer of Applicant's ownership interest in the Project or that portion of the Property on which the Project is constructed. Applicant further agrees to notify the Director and the King County Assessor within sixty (60) days of any change of use of any or all of the Multifamily Housing on the Property to another use. Applicant acknowledges that such a change in use may result in cancellation of the tax exemption and imposition of additional taxes, interest and penalties pursuant to State law.

10. Cancellation of exemption - Appeal.

a. The City reserves the right to cancel the Final Certificate of Tax Exemption if at any time the Multifamily Housing, the Project or that portion of the Property on which the Project is

constructed no longer complies with the terms of this Agreement or with the requirements of KMC chapter 5.88, or for any other reason no longer qualifies for an exemption.

b. If the exemption is canceled for non-compliance, Applicant acknowledges that state law requires that an additional real property tax is to be imposed in the amount of: (1) the difference between the tax paid and the tax that would have been paid if it had included the value of the non-qualifying improvements, dated back to the date that the improvements became non-qualifying; (2) a penalty of 20% of the difference calculated under paragraph (a) of this paragraph; and (3) interest at the statutory rate on delinquent property taxes and penalties, calculated from the date the tax would have been due without penalty if the improvements had been assessed without regard to the exemptions provided by Chapter 84.14 RCW and KMC chapter 5.88. Applicant acknowledges that, pursuant to RCW 84.14.110, any additional tax owed, together with interest and penalty, become a lien on that portion of the Property on which the Project is constructed and attach at the time the portion of the Property is removed from multifamily use or the amenities no longer meet applicable requirements, and that the lien has priority to and must be fully paid and satisfied before a recognizance, mortgage, judgment, debt, obligation, or responsibility to or with which the Property may become charged or liable. Applicant further acknowledges that RCW 84.14.110 provides that any such lien may be foreclosed in the manner provided by law for foreclosure of liens for delinquent real property taxes.

c. Upon determining that a tax exemption is to be canceled, the Director, on behalf of the City Council, shall notify the property owner by certified mail, return receipt requested. The property owner may appeal the determination in accordance with KMC 5.88.100(h).

11. Amendments.

No modification of this Agreement shall be made unless mutually agreed upon by the parties in writing and unless in compliance with the provisions of KMC 5.88.065.

12. Binding effect.

The provisions, covenants, and conditions contained in this Agreement are binding upon the parties hereto and their legal heirs, representatives, successors, assigns, and subsidiaries.

13. Audits and inspection of records.

Applicant understands and agrees that the City has the right to audit or review appropriate records to assure compliance with this Agreement and KMC chapter 5.88 and to perform evaluations of the effectiveness of the Multifamily Tax Exemption program. Applicant agrees to make appropriate records available for review or audit upon seven days' written notice by the City.

14. Notices.

All notices to be given pursuant to this Agreement shall be in writing and shall be deemed given when hand-delivered within normal business hours, when actually received by facsimile transmission, or two business days after having been mailed, postage prepaid, to the

parties hereto at the addresses set forth below, or to such other place as a party may from time to time designate in writing.

APPLICANT: Bayshore Vista, LLC
10304 NE 62nd St.
Kirkland, WA 98033
Attn: Robert R. Wright

CITY: City of Kirkland
Planning Department
City of Kirkland
123 Fifth Avenue
Kirkland, WA 98033
Attn: Planning Director

15. Severability.

In the event that any term or clause of this Agreement conflicts with applicable law, such conflict shall not affect other terms of this Agreement that can be given effect without the conflicting terms or clause, and to this end, the terms of the Agreement are declared to be severable. However, if the severable term prevents the City from receiving the benefits of having affordable housing as set forth in RCW Chapter 84.14 and KMC Chapter 5.88, then this agreement shall be deemed terminated, or may be terminated, as soon as possible in compliance with any applicable law.

16. Exhibits.

The following exhibits are attached to this Agreement and incorporated herein by this reference:

Exhibit A **Legal Description**
Exhibit B **Project Site Plan**
Exhibit C **Designation of Affordable Units**
Exhibit D **Regulatory Agreement and Affordability Covenant**

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the dates indicated below.

THE CITY OF KIRKLAND

_____
Eric R. Shields
Its: Planning Director

Approved as to Form

_____
City Attorney

APPLICANT

_____
Robert R. Wright
Its: Manager

EXHIBIT A

LEGAL DESCRIPTION

THAT PORTION OF GOVERNMENT LOT 5, SECTION 30, TOWNSHIP 26, RANGE 5 EAST, WILLAMETTE MERIDIAN, IN KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE EAST BOUNDARY LINE OF SAID GOVERNMENT LOT 5 WHICH POINT IS THE NORTHEAST CORNER OF THE PLAT OF JUANITA POINT, A RESIDENCE PARK, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 25 OF PLATS, PAGE 27, IN KING COUNTY WASHINGTON;

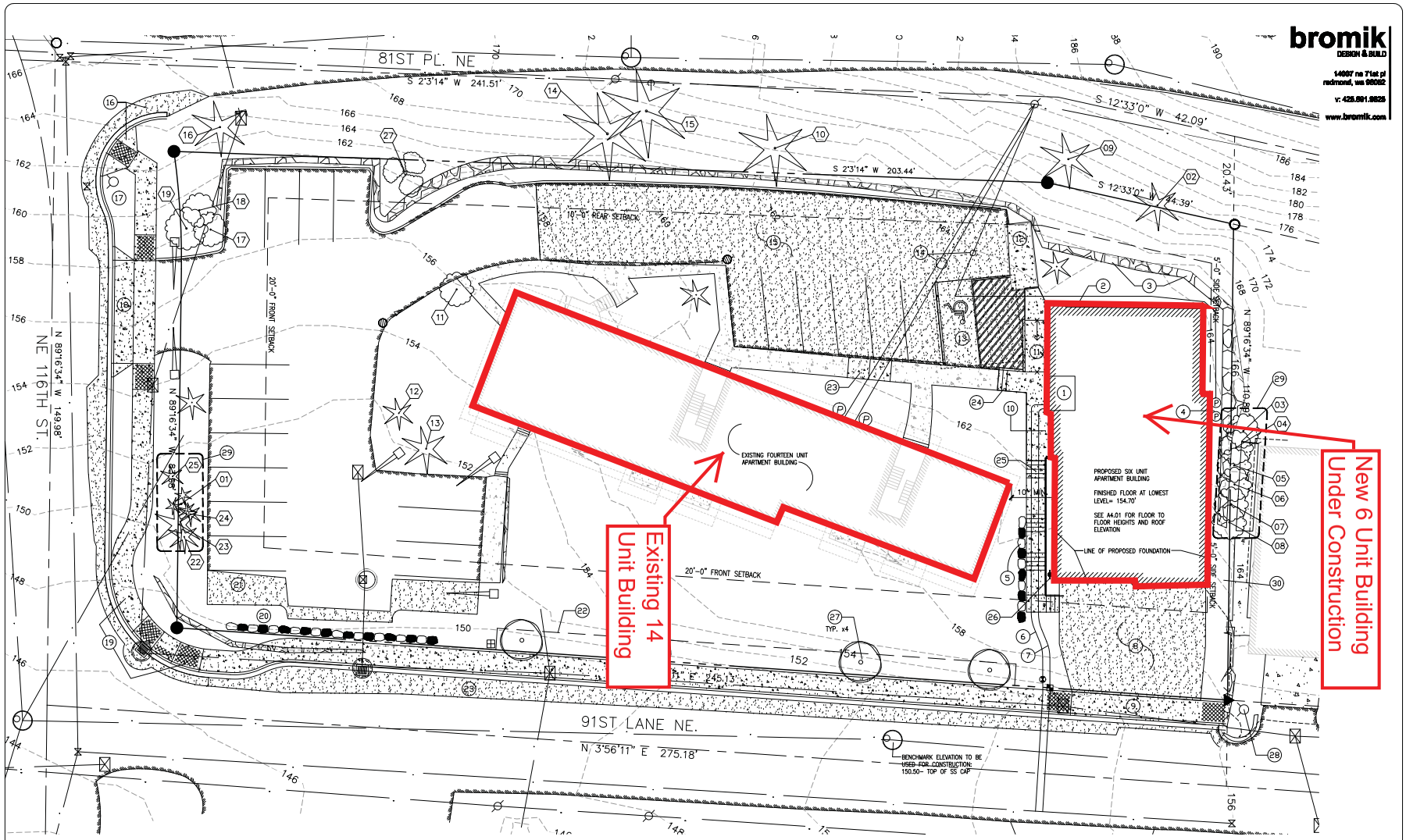
THENCE WEST ALONG SAID NORTH BOUNDARY LINE 118 FEET TO THE TRUE POINT OF BEGINNING;

THENCE NORTH 89°16'34" WEST 101.96 FEET TO POINT OF CURVE; THENCE CONTINUING ALONG SAID NORTH BOUNDARY LINE FOLLOWING A CURVE THE LEFT HAVING A UNIFORM RADIUS OF 150.78 FEET, A DISTANCE OF 49.06 FEET TO AN INTERSECTION WITH A LINE 120 FEET EASTERLY OF AN PARALLEL WITH THE EASTERLY BOUNDARY OF LOTS 20, 21 AND 22, BLOCK 11, JUANITA BEACH CAMPS, (MEASURED AT RIGHT ANGLE THERETO), PRODUCED SOUTHERLY; THENCE ALONG SAID PARALLEL LINE NORTH LINE OF TRACT CONVEYED TO SCHWENDT UNDER RECORDING NO. 3906479; THENCE SOUTH 89°16'34" EAST ALONG SAID NORTH LINE 151.32 FEET TO A POINT NORTH 3°56'11" WEST FROM POINT OF BEGINNING; THENCE SOUTH 3°56'11" WEST 275.18 FEET, MORE OR LESS, TO THE POINT OF BEGINNING;

EXCEPT THOSE PORTIONS THEREOF CONVEYED TO KING COUNTY FOR ROAD PURPOSES BY DEED RECORDED UNDER RECORDING NO. 3010969;

AND EXCEPT THOSE PORTIONS THEREOF RESERVED FOR ROAD PURPOSES BY DEEDS RECORDED UNDER RECORDING NOS. 3287579 AND 3906479;

(ALSO KNOW AS PORTIONS OF LOTS 2, 4, 6, 8, 10 AND 12, CARR'S PARK, ACCORDING TO THE UNRECORDED PLAT THEREOF).



1 A1.02 **ARCHITECTURAL SITE PLAN**
3/32" = 1'-0"

****SEE COVER SHEET FOR SITE PLAN CALCULATIONS****

SYMBOLS

REFERENCED FROM SURVEY

- UTILITY POLE
- GUY WIRE
- FIRE HYDRANT
- WATER VALVE
- WATER METER
- POWER METER
- TELEPHONE VAULT
- LIGHT POLE
- 12" DRAIN

NOTES:

1. LOCATION OF RISER ROOM AT LOWER LEVEL (SEE A2.01). FIRE SPRINKLER AND DOMESTIC WATER LINES TO BE BROUGHT TO THIS ROOM.
2. LINE OF MAT FOUNDATION WALL DRAIN– SEE 1/C2.2 FOR DETAIL. SEE ALSO GEOTECHNICAL REPORT.
3. EXISTING ROCKERY AND TOE OF SLOPE TO REMAIN UNDISTURBED.
4. LOCATION OF POWER METERS FOR PROPOSED BUILDING. POWER LINES TO BE ROUTED UNDERGROUND TO EXISTING AND PROPOSED STRUCTURES.
5. PROPOSED ROCKERY– SEE DETAIL 2/C3.3.
6. FIRE SERVICE WATER LINE, INCLUDE POST INDICATOR VALVE. SERVICE LINE TO BE 4", PER SPRINX FIRE SYSTEMS.
7. DOMESTIC WATER LINE. INCLUDE WATER METER PER NORTHSHORE UTILITY DISTRICT REQUIREMENTS.
8. PERMEABLE ASPHALT DRIVEWAY. SEE CIVIL DRAWINGS FOR GRADING AND DETAILS.
9. PROPOSED CONCRETE CURB CUT PER COK STANDARDS. SEE CIVIL DRAWINGS FOR DETAILS AND DIMENSIONS. MAX 30' WIDE.
10. CONCRETE SLAB/SIDEWALK, ELEVATION AT THIS LEVEL TO BE 163.00 TO MEET 1:12 RAMP AT PARKING LOT AND AT BUILDING TO FIRST FLOOR.
11. ADA ACCESS RAMP TO BE 1:12. BOTTOM ELEVATION= 163.00; TOP ELEVATION= 164.00 AT PARKING LOT. INCLUDE GRAB RAIL ON BOTH SIDES OF RAMP.
12. CONCRETE SLAB FOR TRASH/RECYCLING BINS. PROVIDE WOOD FENCE ENCLOSURE ON THREE SIDES.
13. VAN ACCESSIBLE PARKING SPACE; SEE DETAIL 10/A6.01. PROVIDE PREFAB METAL COVER AT THIS SPACE PER IBC CODE.
14. RELOCATE EXISTING OVERHEAD POWER LINES TO UNDERGROUND. ROUTE LINES FOR PROPOSED BUILDING UNDERGROUND. SEE PSE GUIDLINES FOR TRENCHING.
15. PERMEABLE ASPHALT PAVEMENT. SEE DETAIL 1/C3.3. RETAIN ALL EXISTING DRAINS FOR OVERFLOW.
16. SIDEWALK AND STREET IMPROVEMENTS PER COK STANDARDS. SEE CIVIL DRAWINGS FOR DETAILS AND DIMENSIONS.
17. EXISTING FIRE HYDRANT TO BE RETAINED AT EXISTING LOCATION.
18. PROPOSED CONCRETE CURB CUT PER COK STANDARDS. SEE CIVIL DRAWINGS FOR DETAILS AND DIMENSIONS. MAX 30' WIDE.
19. SIDEWALK AND STREET IMPROVEMENTS PER COK STANDARDS. SEE CIVIL DRAWINGS FOR DETAILS AND DIMENSIONS.
20. PROPOSED ROCKERY– SEE DETAIL 2/C3.3.
21. PERMEABLE ASPHALT PAVEMENT EXTENSION TO EXISTING PAVEMENT. SEE DETAIL 1/C3.3. RETAIN ALL EXISTING DRAINS FOR OVERFLOW.
22. REPRESENTS LINE OF LANDSCAPE EASEMENT FOR STREET TREE REQUIREMENT.
23. REPLACE CONRECTE SIDEWALK SECTIONS AS NEEDED FOR UNDERGOUND POWER TRENCH TO EXISTING BUILDING.
24. CONCRETE STEPS, TOP ELEVATION= 164.00, BOTTOM ELEVATION= 163.00.
25. CONCRETE STAIRWAY AND LANDINGS. PROVIDE 1–1/2" ROUND PIPE HANDRAIL ON ONE SIDE. SEE CIVIL DRAWINGS FOR ELEVATIONS.
26. WALL MOUNTED FIRE DEPARTMENT CONNECTION PER COK FIRE DEPARTMENT STANDARDS.
27. PROPOSED STREET TREES PER COK GUIDELINES. TO BE SELECTED FROM COK APPROVED STREET TREE LIST.
28. PROVIDE 5" STORTZ FITTING ON EXISTING FIRE HYDRANT.
29. OWNER'S ARBORIST TO BE ON SITE FOR ANY ROOT PRUNING.
30. 5' LANDSCAPE BUFFER ALONG THIS PROPERTY LINE. MAINTAIN THE EXISTING TREES FOR VISUAL BARRIER. PROVIDE LANDSCAPE GROUND COVER TO COVER A MINIMUM OF 60% GROUND IN TWO YEARS.

bromik DESIGN & BUILD
14607 ne 71st pl
redmond, wa 98052
v: 425.891.9825
www.bromik.com

Rhodes ARCHITECTURE
P.O. BOX 78431
Seattle, Washington 98178
Phone: (206) 448-2021
Fax: (206) 772-0429

Bromik
Bayshore View Apartments
11615 - 91st Ln NE
Kirkland, WA 98034

REVISIONS:

CONTRACTOR SHALL VERIFY AND COORDINATE THE DIMENSIONS AND DETAILS AMONG ALL DRAWINGS PRIOR TO PROCEEDING WITH THE WORK, AND SHALL NOTIFY THE ARCHITECT OF ANY DISCREPANCIES OR VARIATIONS FROM CONDITIONS SHOWN. DO NOT SCALE DRAWINGS. THESE DRAWINGS ARE THE PROPERTY OF RHODES ARCHITECTURE. ALL DRAWINGS, DESIGNS AND OTHER INFORMATION ON THE DRAWINGS ARE FOR USE ON THE SPECIFIED PROJECT ONLY, AND SHALL NOT BE USED OTHERWISE WITHOUT THE EXPRESS WRITTEN PERMISSION BY RHODES ARCHITECTURE. ARCHITECT ACCEPTS NO LIABILITY AND SHALL BE HELD HARMLESS FROM ANY RESPONSIBILITY FOR DAMAGES RESULTING FROM REVISIONS, CHANGES OR ADAPTATIONS TO THESE DRAWINGS.

XREFS:
DRAWN BY: MJB DATE: 9/10/11
PROJECT NO.: 11-002
FILE NAME:

ARCHITECTURAL SITE PLAN
SHEET NO: A1.02

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EXHIBIT C

DESIGNATION OF AFFORDABLE UNITS

Unit Number	Unit Type	Unit Size (sq ft)
3	Two-Bedroom	650
6	Two-Bedroom	705
12	One-Bedroom	580
15	One-Bedroom	580

EXHIBIT D

BAYSHORE VIEW APARTMENTS

REGULATORY AGREEMENT AND DECLARATION OF RESTRICTIVE COVENANTS

SECTION 1 — DEFINITIONS AND INTERPRETATION
SECTION 2 — RESIDENTIAL RENTAL PROPERTY
SECTION 3 — AFFORDABLE UNITS FOR ELIGIBLE HOUSEHOLDS
SECTION 4 — REPORTING REQUIREMENTS
SECTION 5 — SECTION 8 CERTIFICATE HOLDERS
SECTION 6 — LEASE PROVISIONS
SECTION 7 — SALE OR TRANSFER OF THE PROJECT
SECTION 8 — TERM
SECTION 9 — NO DISCRIMINATION
SECTION 10 — COVENANTS RUN WITH LAND
SECTION 11 — ENFORCEMENT
SECTION 12 — SUBORDINATION, TERMINATION, RIGHTS RESERVED BY HUD
SECTION 13 — ESTOPPEL CERTIFICATE
SECTION 14 — AGREEMENT TO RECORD
SECTION 15 — RELIANCE
SECTION 16 — GOVERNING LAW
SECTION 17 — NO CONFLICT WITH OTHER DOCUMENTS
SECTION 18 — AMENDMENTS
SECTION 19 — NOTICES
SECTION 20 — SEVERABILITY
SECTION 21 — CONSTRUCTION
SECTION 22 — TITLES AND HEADINGS

EXHIBITS

"A" LEGAL DESCRIPTION OF PROPERTY
"B" DESIGNATION OF AFFORDABLE UNITS
"C" CERTIFICATE OF HOUSEHOLD ELIGIBILITY
"D" ANNUAL PROJECT CERTIFICATION

REGULATORY AGREEMENT AND DECLARATION OF RESTRICTIVE COVENANTS

THIS REGULATORY AGREEMENT AND DECLARATION OF RESTRICTIVE COVENANTS (the "Agreement") is made and entered into as of this _____day of _____, 2012, by and between the CITY OF KIRKLAND, a Municipal Corporation of the State of Washington (the "City"); and BAYSHORE VISTA, LLC (the "Owner").

WITNESSETH:

A. This Agreement is predicated upon the following facts:

1) The Owner is the owner of property located at 11615 91st Lane NE, City of Kirkland. Owner intends to develop said property by constructing six housing units and renting a total of twenty (20) units, including 14 existing units, (the "Project") subject to City approval, and such other approvals by State and local agencies, as required.

2) The Owner's proposed Project shall include four (4) affordable rental units for Low and Moderate Income Households ("Eligible Households", as the term is defined below). Such affordable rental units shall be of such bedroom size and quality as are in proportion to the overall proportion of bedroom sizes and quality of all of the rental units in the project.

3) The City finds that the Project will benefit the City by providing rental housing for Eligible Households.

4) The Owner has indicated its willingness to accept certain conditions affecting the use of the Property. It is the purpose of this Agreement to set forth the conditions under which the City has approved the Project and to impose enforceable restrictions on the use and occupancy of the rental portion of the Project.

5) This Agreement is entered into pursuant to Chapter 112 of the Kirkland Zoning Code, which implements the Affordable Housing policies of the City of Kirkland.

6) Owner has applied for a limited property tax exemption for twelve years as provided for in Chapter 84.14 RCW and Chapter 5.88 KMC for multi-family residential rental housing ("Multifamily Housing") in the Juanita Residential Targeted Area, and the Director of Planning and Community Development has approved the application.

NOW, THEREFORE, for and in consideration of the mutual promises aforesaid and made and relied upon by the parties hereto, and for other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Owner and the City agree as follows:

SECTION 1 - DEFINITIONS AND INTERPRETATION

Capitalized terms used herein shall have the following meanings unless the context in which they are used clearly requires otherwise.

"Affordable Rents" means a monthly housing expense, including if applicable a Utility Allowance and parking for a minimum of one car, which is no greater than thirty percent (30%) of the monthly median income for Eligible Households within the Seattle Metropolitan Statistical

Area (Seattle MSA), as shown in the following table, as adjusted for Household Size. The maximum Affordable Rents shall be adjusted no more than once every 12 months and such adjustment shall be by a factor equivalent to adjustments in the Seattle MSA Median Income.

Applicable Median Income Level

Affordable Rent Level	
Low Income	50%
Moderate Income	60%

"Affordable Units" means the four (4) units in the Project as selected by the Owner and as approved by the City or its Designee, as set forth in Exhibit B, and reserved for occupancy by Eligible Households pursuant to Section 3, adjusted for household size.

"City" means the City of Kirkland.

"Completion Date" means the date of the completion of the acquisition, construction, purchase, reconstruction and equipping, as the case may be, of the Project, as that date shall be certified as provided in Section 4.

"Designee" means A Regional Coalition for Housing ("ARCH") or such other agency as may be designated by the City in writing to the Owner. The City shall notify the Owner of any determination not to utilize ARCH as its Designee for purposes of this designation.

"Eligible Household" means one or more adults and their dependents who certify that they meet the qualifications for eligibility set forth below in this definition, Section 3.F of this Agreement, and as set forth in the Certificate of Household Eligibility attached hereto as Exhibit C and incorporated by reference herein, and who certify that their incomes do not exceed the applicable percent of the median household income for the Seattle MSA, as set forth in this definition and Section 3.F of this Agreement, adjusted for household size, as published by the United States Department of Housing and Urban Development (HUD).

Maximum Percent of Median Income at Occupancy

Income Level	
Low Income, 2-bedroom	50%
Low Income, 1-bedroom	60%
Moderate Income, 1-bedroom	60%

"Household Income" means all income from all household members over the age of 18 residing in the household. Income consists of those items listed in Exhibit C, Certificate of Household Eligibility (e.g. wages, interest income, etc). Income of dependents who reside within a household for less than four (4) months of the year will not be counted toward Household Income.

"Household Size" means the average household size assumed for purposes of calculating Affordable Rents as follows:

UNIT TYPE	AVERAGE HOUSEHOLD SIZE
Studio	1 Person
1 Bedroom	2 Persons
2 Bedroom	3 Persons
3 Bedroom	4 Persons

"Lender" means HUD/FHA, Veterans Administration ("VA"), Federal National Mortgage Association ("FNMA"), Federal Home Loan Mortgage Corporation ("FHLMC"), or another party acquiring such loan upon foreclosure of a deed of trust or mortgage ("Deed of Trust")insured, made or held by HUD/FHA, VA, FNMA, FHLMC or an institutional third-party lender or investor.

"Median Income" means the median income for the Seattle MSA as most recently determined by the Secretary of Housing and Urban Development under Section 8(f)(3) of the United States Housing Act of 1937, as amended, or if programs under said Section 8(f)(3) are terminated, median income determined under the method used by the Secretary prior to such termination.

"Owner" means BAYSHORE VISTA, LLC, and its successors and assigns, and any surviving, resulting or transferee entity.

"Owner Representative" means the person or persons (who may be employees of the Owner) designated from time to time to act hereunder on behalf of the Owner in a written certification furnished to the City or its Designee, containing a specimen signature of such person or persons and signed by the Owner or on behalf of the Owner by a duly authorized representative of the Owner.

"Project" means the building, structures and other improvements to be constructed on the Property, and all equipment, fixtures and other property owned by the Owner and located on, or used in connection with, such buildings, structures and other improvements and all functionally related and subordinate facilities.

"Property" means the real property which will be devoted to the Project as more particularly described in Exhibit A which is attached hereto, and incorporated by reference herein, and all rights and appurtenances thereunto appertaining.

"Property Tax Exemption Agreement" means that agreement titled Multifamily Housing Limited Property Tax Exemption Agreement between the City and Owner dated _____ _____.

"Qualified Project Period" means for the life of the Project.

"Regulatory Agreement" or "Agreement" means this Regulatory Agreement and Declaration of Restrictive Covenants between the City and the Owner.

"Utility Allowance" means that portion of housing expenses for utilities. Therefore, Affordable Rents are calculated assuming payment of all utilities (not including phone or cable television) by the Owner. In the event gas and/or electric utilities, used for purposes of heating, cooking and/or lighting, are paid directly by the tenant, then the monthly Affordable Rent will be reduced by the following allowance:

Studio	$36
One Bedroom	$54
Two Bedroom	$72
Three Bedroom	$90

The base year for the ARCH utility allowance figures is 2011. The allowance figures will be adjusted annually based on changes in the Consumer Price Index-U.S. Cities Average-All Urban Consumers. If water, garbage and/or sewage are paid for directly by the tenant, the affordable rent levels will be further reduced by the typical cost to the tenant of such utilities, or a set allowance established by the City or its Designee.

SECTION 2 — RESIDENTIAL RENTAL PROPERTY

A. General Description. The Project will be acquired and constructed for purposes of providing multi-family rental housing for Eligible Households, and the Owner shall own, manage and operate (or cause the management and operation of) the Project to provide multiple family rental housing comprising a building or structure or several inter-related buildings or structures, each consisting of more than one dwelling unit and facilities functionally related and subordinate thereto, and no other facilities. As used herein "facilities functionally related and subordinate" to the Project shall include facilities for use by the tenants, including, for example, recreational facilities, parking areas, and other facilities which are reasonably required for the Project, for example, heating and cooling equipment, trash disposal equipment or units of resident managers or maintenance personnel.

B. Similar Quality Construction. All of the dwelling units in the Project shall be constructed of similar quality, and each dwelling unit in the Project shall contain facilities for living, sleeping, eating, cooking and sanitation for a single person or a household which are complete, separate and distinct from other dwelling units in the Project and will include a sleeping area, separate bathing facility, and a cooking range, refrigerator and sink.

C. Conversion to Condominium. In the event the project is proposed for conversion to condominium, owner-occupied, or non-rental residential use, the Owner must submit to the City for its approval a plan for preserving the Affordable Units. The City can consider options which would convert the Affordable Units to owner occupancy by Eligible Households and are consistent with the provisions of the Property Tax Exemption Agreement related to conversion to condominium use. This section does not waive the owner's obligations to comply with any other law or regulations pertaining to conversion to ownership use.

SECTION 3 — AFFORDABLE UNITS FOR ELIGIBLE HOUSEHOLDS

A. Number of Affordable Units. All of the Affordable Units in the Project shall be leased or rented, or available for lease or rental, to the general public, and, the Owner shall designate all of the Affordable Units, reserved for occupancy by Eligible Households, as follows:

	Number of Affordable Units
Low Income, 2-bedroom	2
Low Income, 1-bedroom	1
Moderate Income, 1-bedroom	1

Total	4

B. Designation/Re-designation of Affordable Units. Prior to issuance of a Building Permit, the Owner shall submit to the City or its Designee for the City's or its Designee's approval a certificate in writing of such designation of Affordable Units [See Exhibit B]. Units so designated shall have substantially the same equipment and amenities as other dwelling units in the Project with the comparable number of rooms. The Affordable Units shall be intermingled with all other dwelling units and shall be of a unit mix comparable to the overall mix of units in the Project and as specified in Exhibit B. The City or its Designee shall base its approval or disapproval of the proposed Affordable Units upon the criteria set forth in this section.

The Owner, from time to time, may propose to change the particular units declared as Affordable Units provided that at all times at least four (4) of all of the residential units are designated as Affordable Units, and provided that at all times the same unit mix is retained. The Owner shall notify the City or its Designee of the proposed change in writing for the City's or its Designee's approval. The City or its Designee will review the proposed changes and shall base its approval or disapproval of the proposed changes based upon the criteria set forth in this section.

C. Affordable Units Rent Level. The monthly rent for the Affordable Units occupied by Eligible Households shall not exceed the applicable Affordable Rents, and for each specific tenant, shall be adjusted no more than once every twelve (12) months, and in no event within the first twelve (12) months of occupancy.

D. Renting Affordable Units to Eligible Households. During the Qualified Project Period, the Owner shall rent or lease the Affordable Units to Eligible Households and, if at any time the Owner is unable to rent or lease the Affordable Units, the Affordable Units shall remain vacant pending rental or lease to Eligible Households.

E. Equal Access to Common Facilities. Tenants in the Affordable Units shall have equal access to enjoyment of all common facilities of the Project.

F. Qualifying Eligible Household Income for Affordable Units at Initial Occupancy and Recertification. Qualifying Eligible Household Income at time of occupancy may not exceed the applicable percent of Median Income set forth in the chart below, adjusted for Household Size, provided that households residing in existing units on the date of this Agreement may qualify as Eligible Households having incomes up to 70% of Median Income. If applicable pursuant to the provisions of Section 4.D, at time of annual recertification, a household will remain eligible for an Affordable Unit as long as Household Income does not exceed the Maximum Recertification Income set forth in the chart below, adjusted for Household Size. If at the time of recertification Household Income exceeds the Maximum Recertification Income limit for the income level initially qualified for by a household, then such household must within 90 days either pay market rent and the next available comparable market rate unit must be rented as an Affordable Unit; or vacate the unit, unless otherwise prohibited by law, to make it available for an Eligible Household.

Maximum Permitted Income Levels

	Maximum Initial Income	**Maximum Recertification Income**
Low Income, 2-bedroom	50%	70%
Low Income, 1-bedroom	60%	80%
Moderate Income, 1-bedroom	60%	80%

G. Household Size Limits for Affordable Units. The Owner shall utilize the following occupancy standards for Affordable Units:

Unit Size	Household Size
Studio	1-2 Persons
1 Bedroom	1-2 Persons
2 Bedroom	1-4 Persons
3 Bedroom	2-6 Persons

SECTION 4 — REPORTING REQUIREMENTS

A. Notice of Occupancy Permit. Within thirty (30) days of issuance of any final inspection, and if applicable occupancy permits, the Owner shall notify the City's Planning Department [Attn: Housing Planner] or its Designee, of receipt of the first occupancy permit for the project.

B. City Mailing List. The City maintains a mailing list of households interested in occupying Affordable Units. From time to time the City or its Designee will provide to the Owner the names of persons from the City's mailing list. In determining which eligible applicants shall be rented Affordable Units, the Owner shall, subject to Section 4.C below, reasonably consider persons on the City's mailing list, and when they were placed on the City's mailing list.

C. Completion of Certificate of Household Eligibility. In the event the Affordable Units are restricted to Eligible Households pursuant to Section 3.D of this Agreement, prior to allowing any household to occupy any Affordable Unit, the Owner shall require the prospective tenant to complete a Certificate of Household Eligibility that shall be substantially in the form set forth in Exhibit C. The Owner shall also undertake a good faith effort to verify the applicant's Household Income, as reported on the completed Certificate. The Owner's obligation to verify the reported Household Income shall be limited to requesting copies of and reviewing the applicant's federal income tax returns, unless the Owner has actual knowledge, or reason to believe, that the information provided by the applicant is materially inaccurate. In the event federal income tax returns are not available, Household Income shall be verified by wage or salary statements, or other income records that the City or its Designee may consider appropriate.

D. Annual Recertification of Residents. On an annual basis, the Owner shall require all households occupying an Affordable Unit to complete and return to the Owner an updated Certificate of Household Eligibility. The Owner shall undertake a good faith effort to verify the reported Household Income, as reported in the completed Certificate. The Owner's obligation to verify the Household Income shall be limited to obtaining a copy of and reviewing the tenant's federal income tax returns, unless the Owner has actual knowledge or reason to

believe that the information provided by the household is materially inaccurate. In the event federal income tax returns are not available, Household Income shall be verified by wage or salary statements, or other income records the City or its Designee may consider appropriate.

Such certifications shall be filed with the City or its Designee, by attachment to the Annual Project Certification required pursuant to Subsection 'E' and are subject to independent investigation and verification by the City or its Designee.

E. Annual Project Certification. After the Completion Date and until 90% of the rental units are occupied, the Owner shall, on a quarterly basis, file with the City or its Designee an Annual Project Certification, in substantially the form of Exhibit D. Thereafter, during the term of the Regulatory Agreement, such certification shall be filed annually on or before March 31st and shall set forth the required information for the preceding year.

F. Maintain Complete Records. The Owner shall maintain complete and accurate records pertaining to the Affordable Units, and shall permit any duly authorized representative of the City, including, without limitation, its Designee to inspect the books and records of the Owner pertaining to the Affordable Units, and if applicable, incomes of Eligible Households residing in the Project. Failure to maintain such records or failure to allow examination by the City or any duly authorized representative shall constitute a default hereunder.

G. Form of Certification. Notwithstanding anything in this Section to the contrary, all documentation required by this Section shall be submitted on the forms designated herein as such forms may be modified by the City or its Designee from time to time. Changes to forms by the City or its Designee shall not significantly enlarge the Owner's obligations hereunder.

SECTION 5 — SECTION 8 CERTIFICATE HOLDERS

The Owner shall accept as tenants for Affordable Units, on the same basis as all other prospective households, households who are recipients of Federal certificates for rent subsidies pursuant to the existing program under Section 8 of the United States Housing Act of 1937, as amended. The Owner shall not apply, or permit the application of, management policies or lease provisions with respect to the Project which have the effect of precluding occupancy of Units by holders of Section 8 certificates.

SECTION 6 — LEASE PROVISIONS

A. It is the Owner's responsibility to screen and select tenants for desirability and credit worthiness. Such selection is within the Owner's discretion. If written management policies exist, or exist in the future, with respect to the Project, the City or its Designee may review such written policies and may require changes in such policies, if necessary, so that they comply with the requirements of this Agreement.

B. In the event income certification are required pursuant to Section 4.C of this Agreement, all leases for Eligible Households shall contain clauses wherein each individual lessee: (i) certifies the accuracy of the statements made in the Certificate of Household Eligibility, (ii) agrees that the household income and other eligibility requirements shall be deemed substantial and material obligations of the tenancy, and (iii) agrees that

misrepresentation in the certification is a material breach of the lease, entitling the Owner to terminate the lease for the Affordable Unit.

SECTION 7 — SALE OR TRANSFER OF THE PROJECT

The Owner hereby covenants and agrees not to sell, transfer or otherwise dispose of the Project or any portion thereof without first providing a written notice from the purchaser stating that the purchaser understands, and will comply with the Owner's duties and obligations under this Agreement. Such notice must be received by the City or its Designee at least 10 days prior to the close of escrow.

SECTION 8 — TERM

This Regulatory Agreement shall become effective upon its execution and delivery, and shall continue in full force and effect throughout the Qualified Project Period, unless sooner modified or terminated in accordance with Section 12 hereof.

SECTION 9 — NO DISCRIMINATION

The Owner shall not discriminate on the basis of race, creed, religion, color, sex, sexual orientation, age, national origin, marital status, or presence of any mental or physical handicap as set forth in RCW 49.60.030, as now existing and as may be amended, in the lease, use, or occupancy of the Project or in connection with the employment or application for employment of persons for the operation and management of the Project.

SECTION 10 — COVENANTS RUN WITH LAND

The City and Owner hereby declare their understanding and intent that the covenants, conditions and restrictions set forth herein directly benefit the land (i) by enhancing and increasing the enjoyment and use of the Project by certain Eligible Households, and (ii) by furthering the public purposes of providing housing for Eligible Households.

The City and the Owner hereby declare that the covenants and conditions contained herein shall bind and the benefits shall inure to, respectively, the Owner and their successors and assigns and all subsequent owners of the Project or any interest therein, and the City and its successors and assigns, all for the Qualified Project Period. Except as provided in Section 12 of this Regulatory Agreement, each and every contract, deed or other instrument hereafter executed conveying the Project or any portion thereof or interest therein shall contain an express provision making such conveyance subject to the covenants and conditions of this Agreement, provided however, that any such contract, deed or other instrument shall conclusively be held to have been executed, delivered and accepted subject to such covenants and conditions, regardless of whether or not such covenants and conditions are set forth or incorporated by reference in such contract, deed or other instrument.

SECTION 11 — ENFORCEMENT

A. Enforcement Provisions. The Owner shall exercise reasonable diligence to comply with the requirements of this Agreement and shall correct any such noncompliance within sixty (60) days after such noncompliance is first discovered by the Owner or would have been

discovered by the exercise of reasonable diligence, or within 60 days after the Owner receives notice of such noncompliance from the City or its Designee; provided however, that such period for correction may be extended by the City if the Owner is exercising due diligence to correct the noncompliance. If such noncompliance remains uncured after such period, then the Owner shall be in default and the City on its own behalf may take any one or more of the following steps:

1) By any suit, action or proceeding at law or in equity, require the Owner to perform its obligations under this Regulatory Agreement or the Property Tax Exemption Agreement, or enjoin any acts or things which may be unlawful or in violation of the rights of the City hereunder; it being recognized that the beneficiaries of the Owner's obligations hereunder cannot be adequately compensated by monetary damages in the event of the Owner's default;

2) Have access to, and inspect, examine and make copies of, all of the books and records of the Owner pertaining to the Project. Provided, however, the City or its Designee shall not divulge such information to any third party unless required by law or unless the same is necessary to enforce the City's rights hereunder; and

3) Take such other action at law or in equity as may appear necessary or desirable to enforce the obligations, covenants, conditions and agreements of the Owner under this Regulatory Agreement.

4) The Owner hereby grants to the City or the Designee the option, upon Owner's default under this Regulatory Agreement, for the Qualified Project Period to lease up to four (4) of the units in the Project as mutually selected by the City or its Designee and the Owner for the purpose of subleasing such units to Eligible Households, but only to the extent necessary to comply with the provisions of this Agreement. The City or its Designee may lease from the Owner the units at the Affordable Rent level less a reasonable management fee to reimburse the City or its Designee for any expenses incurred in connection with such sublease. The City or its Designee may terminate its lease of the units in the Project upon determination that the Owner is no longer in default pursuant to this Agreement.

B. Hold Harmless. The Owner hereby agrees to pay, indemnify and hold the City and its Designee any other party authorized hereunder to enforce the terms of this Regulatory Agreement harmless from any and all costs, expenses and fees, including all attorneys' fees which may be incurred by the City or the Designee or any other party in enforcing or attempting to enforce this Regulatory Agreement following any default hereunder on the part of the Owner or its successors, whether the same shall be enforced by suit or otherwise; together with all costs, fees and expenses which may be incurred in connection with any amendment to this Regulatory Agreement or otherwise by the City at the request of the Owner.

SECTION 12 — SUBORDINATION, TERMINATION, RIGHTS RESERVED BY HUD

A. Notwithstanding any provision in this Agreement to the contrary, all of the provisions of this Agreement shall terminate and have no further force and effect upon the occurrence of one of the following events:

(1) Foreclosure of a HUD/FHA insured loan is initiated under which the subject property is held as a security.

(2) Title to the subject property is acquired by Lender or HUD/FHA by deed in lieu of foreclosure of the Deed of Trust.

(3) Title to subject project is acquired by HUD/FHA, Veterans Administration ("VA"), Federal National Mortgage Association ("FNMA"), Federal Home Loan Mortgage Corporation ("FHLMC") or another party upon foreclosure of a deed of trust or mortgage ("Deed of Trust") insured, made or held by HUD/FHA, VA, FNMA, FHLMC or an institutional, third-party lender or investor (collectively, "Lender").

(4) The Deed of Trust, if insured by HUD/FHA, is assigned to HUD/FHA.

Notwithstanding anything in this Agreement to the contrary, enforcement of this Agreement shall not serve as a basis for (i) default under the Deed of Trust insured by HUD/FHA or any other Lender, or (ii) an acceleration of the loan secured by the Deed of Trust ("Loan"), or result in any claim against the Project, the Loan proceeds, any reserve or deposit required by HUD/FHA or any other Lender in connection with the Loan transaction or the rents or other income from the subject project other than from available surplus cash as that term is defined by HUD/FHA or any other Lender.

B. Notwithstanding anything in this Agreement to the contrary:

(1) All of the provisions of this Agreement are subordinate and subject to the Deed of Trust, the Loan, and all documents relating to the Loan ("Loan Documents"), if any, as well as all applicable HUD/FHA mortgage insurance regulations, related HUD/FHA administrative requirements, Section 8 of the U.S. Housing Act of 1937, as amended and the regulations thereunder, as amended, and the rights of the Lender thereunder. In the event of any conflict between this Agreement and the provisions of any applicable HUD/FHA mortgage insurance regulations, related HUD/FHA administrative requirements, Section 8 of the U.S. Housing Act of 1937, as amended, and the regulations thereunder, as amended the applicable HUD/FHA mortgage insurance regulations, related HUD/FHA administrative requirements, Section 8 of the U.S. Housing Act of 1937, as amended, and the regulations thereunder, as amended will control.

(2) Lender shall take no role in monitoring compliance with state and federal use and occupancy requirements; nor shall Lender be required to provide notice to third parties of actions under the Deed of Trust, if any.

(3) No amendment to this Agreement will be effective without the prior written consent of Lender, if any.

(4) The Owner, its successors or assigns, will take all steps necessary to comply with this Agreement; provided that the Owner, its successors or assigns, shall not be required to take action prohibited by, or to refrain from action required by Lender, pursuant to the National Housing Act (as amended), applicable HUD/FHA mortgage insurance regulations, related administrative requirements, Section 8 of the Housing Act of 1937, as amended, and the regulations thereunder, as amended, or the Loan and the Loan Documents.

SECTION 13 — ESTOPPEL CERTIFICATE

The City agrees, upon the request of the Owner or its successor in interest, to promptly execute and deliver to the Owner or its successor in interest or to any potential or actual purchaser, mortgagor or encumbrance of the Project, a written certificate stating, if such is true, that the City has no knowledge of any violation or default by the Owner of any of the covenants or conditions of this Agreement, or if there are such violations or defaults, the nature of the same.

SECTION 14 — AGREEMENT TO RECORD

The Owner shall cause this Regulatory Agreement to be recorded in the real property records of King County, Washington. The Owner shall pay all fees and charges incurred in connection with such recording and shall provide the City or its Designee with a copy of the recorded document.

SECTION 15 — RELIANCE

The City and the Owner hereby recognize and agree that the representations and covenants set forth herein may be relied upon by City and the Owner. In performing its duties and obligations hereunder, the City may rely upon statements and certificates of the Owner and Eligible Households, and upon audits of the books and records of the Owner pertaining to occupancy of the Project. In performing its duties hereunder, the Owner may rely on the Certificates of Tenant Eligibility unless the Owner has actual knowledge or reason to believe that such Certificates are inaccurate.

SECTION 16 — GOVERNING LAW

This Regulatory Agreement shall be governed by the laws of the State of Washington, except to the extent such laws conflict with the laws of the United States or the regulations of federally insured depository institutions, or would restrict activities otherwise permitted in relation to the operation of federally insured depository institutions.

SECTION 17 — NO CONFLICT WITH OTHER DOCUMENTS

The Owner warrants that it has not executed and will not execute, any other agreement with provisions contradictory to, or in opposition to, the provisions hereof, and that in any event the requirements of this Regulatory Agreement are paramount and controlling as to the rights and obligations herein set forth and supersede any other requirements in conflict herewith except for the Multifamily Housing Limited Property Tax Exemption Agreement referenced in Section 21 herein.

SECTION 18 — AMENDMENTS

This Regulatory Agreement shall be amended only by a written instrument executed by the parties hereto or their respective successors in title, and duly recorded in the real property records of King County, Washington. Amendments to Exhibit B shall be considered to be approved in writing when the revised Exhibit B is signed by the Owner and the City and/or its Designee without the need for a further written document attaching the revised exhibit and

striking prior versions of the exhibit. In the event of conflict between versions of Exhibits B, the version maintained by the City or its Designee as the then-current version, signed by Owner and City or its Designee, shall prevail.

SECTION 19 — NOTICE

Any notice or communication hereunder, except legal notices, shall be in writing and may be given by registered or certified mail. The notice or communication shall be deemed to have been given and received when deposited in the United States Mail, properly addressed with postage prepaid. If given otherwise, it shall be deemed to be given when delivered to and received by the party to whom addressed. Such notices and communications shall be given to the parties hereto at their following addresses:

If to the City: Planning Department-Housing Planner
City of Kirkland
123 5th Avenue
Kirkland, WA 98033

With a copy to the Designee
A Regional Coalition for Housing (ARCH)
16225 NE 87th Street, Suite A-3
Redmond, WA 98052
Attn: Housing Planner

If to the Owner: Bayshore Vista, LLC
10304 NE 62nd St.
Kirkland, WA 98033
Attn: Robert R. Wright

SECTION 20 — FEE WAIVER REQUIREMENTS

Pursuant to KMC 5.74.070 and KMC Title 21, the Owner received fee waivers in the approximate amount of $7,248 as consideration for the provision of affordable units in the Project. In the event at any time during the term of this Agreement, the Affordable Housing is not provided pursuant to the provisions of this Agreement, the City retains the right to require the Owner to pay to the City all fees that were waived at the rate prevailing at the time the City determines the Project is no longer conforming to the affordability requirements of this Agreement. This provision shall survive termination of the Agreement prior to expiration of the Qualified Project Period.

SECTION 21 - MULTIFAMILY HOUSING LIMITED PROPERTY TAX EXEMPTION AGREEMENT

This Agreement is subject to the terms and conditions of the Limited Property Tax Exemption Agreement. In the event of any conflict between the terms of this section and the terms of the Property Tax Exemption Agreement, the terms of the Property Tax Exemption Agreement shall control. All amounts payable hereunder shall be paid without any set-off or deduction of any nature. This provision shall survive termination of the Agreement prior to expiration of the Qualified Project Period.

SECTION 22 — SEVERABILITY

If any provision of this Regulatory Agreement shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby.

SECTION 23 — CONSTRUCTION

Unless the context clearly requires otherwise, words of the masculine, feminine or neuter gender shall be construed to include each other gender when appropriate and words of the singular number shall be construed to include the plural number, and vice versa, when appropriate. All the terms and provisions hereof shall be construed to effectuate the purposes set forth in this Agreement and to sustain the validity hereof.

SECTION 24 — TITLES AND HEADINGS

The titles and headings of the sections of this Agreement have been inserted for convenience of reference only, are not to be considered a part hereof and shall not in any way modify or restrict any of the terms or provisions hereof or be considered or given any effect in the construing this document or any provision hereof or in ascertaining intent, if any question of intent shall arise.

IN WITNESS WHEREOF, the Owner and City have each executed the Regulatory Agreement and Declaration of Restrictive Covenants on the Date first above written.

Owners:

_____
Robert R. Wright
Its Manager

City:

_____
Kurt Triplett
Its: City Manager

Approved as to Form:

_____
City Attorney

STATE OF WASHINGTON }
} ss.
COUNTY OF KING }

On this _____ day of _____, 2012, personally appeared before me _____ known to me to be the _____ of the CITY OF KIRKLAND, who executed the foregoing document on behalf of said City, and acknowledged the said document to be the free and voluntary act and deed of said City, for the uses and purposes therein mentioned, and on oath stated that s/he was authorized to execute said document.

IN WITNESS WHEREOF I have given under my hand and official seal this ___ day of _____ of 2012.

_____
Notary Public in and for the State of Washington.

Print Name_____

Residing at_____

My commission expires _____

STATE OF WASHINGTON }
} ss.
COUNTY OF KING }

On this _____ day of _____, 2012, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared _____, to me known to be the _____ of _____, corporation, who executed the foregoing instrument on behalf of the said corporation, and acknowledged the said document to be the free and voluntary act and deed of said corporation for the uses and purposes therein mentioned, and on oath stated that's/he was authorized to execute said document.

IN WITNESS WHEROF I have given under my hand and official seal this ____ day of _____ of 2012.

_____
Notary Public in and for the State of Washington.

Print Name_____

Residing at_____

My commission expires _____

Council Meeting: 01/17/2012
Agenda: Other Business
Item #: 8. h. (4).

CITY OF KIRKLAND
Department of Public Works
123 Fifth Avenue, Kirkland, WA 98033 425.587.3800
www.kirklandwa.gov

MEMORANDUM

To: Kurt Triplett, City Manager

From: Dave Snider, P.E., Capital Projects Manager
Ray Steiger, P.E., Public Works Director

Date: January 5, 2012

Subject: UPDATE THE CITY RIGHT-OF-WAY ACQUISITION PROCEDURES

RECOMMENDATION:

It is recommended that City Council adopt the attached Resolution that updates the City's Right-of-Way Acquisition Procedures. It is further recommended that City Council authorize the City Manager to sign the attached Washington State Department of Transportation (WSDOT) Conformance Agreement.

BACKGROUND DISCUSSION:

For Kirkland projects to be eligible for federal funding the City must agree to conform to State and the Federal Highway Administration (FHWA) right-of-way acquisition procedures; such procedures are regulated under Chapter 8.26 RCW, WAC 468-100, WSDOT LAG Manual (M36-6), and Right-of-Way Manual (M26-01).

The City Right-of-Way Procedures were last updated on March 20, 2001 (Resolution 4286). Since that time the organizational structure of the Public Works Department, and the regulatory requirements of right-of-way acquisition have changed. Adoption of the updated procedures ensures compliance with the current regulations and protects the City's interest in securing federal funding.

The following must occur in order for the procedures to be approved by WSDOT:

- The City Manager signs the WSDOT Conformance Agreement stating the city's compliance with WSDOT Right-of-Way procedures (Attachment A).
- The City identifies the Public Works Director as responsible for administering the Process (Attachment A – Section 1).
- The City provides a list of personnel qualified for City's Right-of-Way Process (Attachment B).
- Establish a Waiver of Appraisal Process (Attachment C).
- Establish a policy for administrative settlements including the approving authority and process (Resolution Exhibit A).

With adoption of the Resolution and signing of the conformance agreement, staff will submit all documentation to the Washington State Department of Transportation for approval.

Attachments (4)

Right-of-Way Procedures Conformance Agreement

AGENCY: CITY OF KIRKLAND

The City of Kirkland ("AGENCY"), desiring to acquire Real Property in accordance with the state Uniform Relocation Assistance and Real Property Acquisition Act (Ch. 8.26 RCW) and state regulations (Ch. 468-100 WAC) and applicable federal regulations hereby adopts the following procedures to implement the above statutes and Washington Administrative Code. The Public Works Department ("DEPARTMENT") of the AGENCY is responsible for the real property acquisition and relocation activities on projects administered by the AGENCY. To fulfill the above requirements the DEPARTMENT will acquire right-of-way in accordance with the policies set forth in the Washington State Department of Transportation Right of Way Manual (M 26-01) and Local Agency Guidelines manual (M 36-6). The AGENCY has the following expertise and personnel capabilities to accomplish these functions:

1. Include the following as they relate to the AGENCY's request.
    a. List the functions below for which the agency has qualified staff and the responsible position. Attach a list of the individuals on the AGENCY staff who currently fill those positions and a brief summary of their qualifications. This list will need to be updated whenever staffing changes occur. An AGENCY will be approved to acquire based upon staff qualifications.
        (1) PROGRAM ADMINISTRATION
            Public Works Director with support from Project Engineer(s)
        (2) APPRAISAL
            WSDOT R/W Office or Approved Consultant
        (3) APPRAISAL REVIEW
            WSDOT R/W Office or Approved Consultant
        (4) ACQUISITION
            WSDOT R/W Office or Approved Consultant
        (5) RELOCATION
            WSDOT R/W Office or Approved Consultant
        (6) PROPERTY MANAGEMENT
            Public Works Director with support from Project Engineer(s)
    b. Any functions for which the Agency does not have staff will be contracted for with WSDOT, another local agency with approved procedures or an outside contractor. An AGENCY that proposes to use outside contractors for any of the above functions will need to work closely with the WSDOT Local Agency Coordinator and Highways and Local Programs to ensure all requirements are met. When the AGENCY proposes to have a staff person negotiate who is not experienced in negotiation for FHWA funded projects the Coordinator must be given a reasonable opportunity to review all offers and supporting data before they are presented to the property owners.
    c. An AGENCY wishing to take advantage of an Appraisal Waiver process on properties valued at $25,000 or less should make their proposed waiver process a part of these procedures. The process outlined in LAG manual appendix 25.176 has already been approved. The AGENCY may submit a process different than that shown and it will be reviewed and approved if it provides sufficient information to determine value.
    d. Attach a copy of the Agency's administrative settlement policy showing the approving authority(s) and the process involved in making administrative settlements.

2. All projects shall be available for review by the FHWA and the state at any time and all project documents shall be retained and available for inspection during the plan development, right-of-way and construction stages and for a three year period following acceptance of the projects by WSDOT.

3. Approval of the AGENCY's procedures by WSDOT may be rescinded at any time the Agency is found to no longer have qualified staff or is found to be in non-compliance with the regulations. The rescission may be applied to all or part of the functions approved.

_____ _____
Kurt Triplett, City Manager Date

WASHINGTON STATE DEPARTMENT OF TRANSPORTATION

Approved by: _____ _____
Real Estate Services Date

Right-of-Way Procedures Qualified Personnel

AGENCY: CITY OF KIRKLAND

The following personnel are qualified for the AGENCY's Right-of-Way Program Administration and Property Management in accordance with their identified job title responsibilities and as required by the WSDOT LAG manual.

Title	Personnel	Qualifications
PUBLIC WORKS DIRECTOR	Ray Steiger, P.E.	22 years experience that includes managing and directing all aspects of Public Works capital improvements construction and administration.
CAPITAL PROJECTS MANAGER	Dave Snider, P.E.	21 years experience that includes administration and management of municipal construction and other capital improvement projects from the conceptual planning phase to contract closeout.
PROJECT ENGINEER	Don Anderson, P.E.	8 years experience in managing municipal construction and other capital improvement projects from the conceptual planning phase to contract closeout.
PROJECT ENGINEER	Andrea Dasovich, P.E.	5 years experience in managing municipal construction and other capital improvement projects from the conceptual planning phase to contract closeout.
PROJECT ENGINEER	Gina Hortillosa, P.E.	10 years experience in managing municipal construction and other capital improvement projects from the conceptual planning phase to contract closeout.
PROJECT ENGINEER	Noel Hupprich, P.E.	8 years experience in managing municipal construction and other capital improvement projects from the conceptual planning phase to contract closeout.
PROJECT ENGINEER	Aaron McDonald, P.E.	3 years experience in managing municipal construction and other capital improvement projects from the conceptual planning phase to contract closeout.
PROJECT ENGINEER	Denise Pirolo, P.E.	8 years experience in managing municipal construction and other capital improvement projects from the conceptual planning phase to contract closeout.
PROJECT ENGINEER	Rod Steitzer, P.E.	8 years experience in managing municipal construction and other capital improvement projects from the conceptual planning phase to contract closeout.

Right-of-Way Procedures Waiver of Appraisal

AGENCY: CITY OF KIRKLAND

The City of Kirkland ("AGENCY"), desiring to acquire Real Property according to 23 CFR, Part 635, Subpart C and State Directives A and desiring to take advantage of the $25,000.00 appraisal waiver process approved by the Federal Highway Administration for Washington State, hereby agrees to follow the procedures approved for the Washington State Department of Transportation as follows:

Rules

A. The City of Kirkland ("AGENCY") may elect to waive the requirement for an appraisal if the acquisition is simple and the compensation estimate indicated on the Project Funding Estimate (PFE) is $25,000.00 or less including cost to cure items.
B. The Agency must make the property owner(s) aware that an appraisal has not been done on the property and one will be completed if they desire.
C. Special care should be taken in the preparation of the waiver. As no review is mandated, the preparer needs to assure that the compensation is fair and that all the calculations are correct.

Procedures

A. An administrative Offer Summary (AOS) is prepared using data from the PFE.
B. The AOS is submitted to the Public Works Director for approval.
C. The Public Works Director signs the AOS authorizing a first offer to the property owner(s).

BY:

_____
Ray Steiger, P.E.
City of Kirkland
Public Works Director

APPROVED:

_____
Real Estate Services
Washington State
Department of Transportation

RESOLUTION R-4908

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND ADOPTING RIGHT-OF-WAY ACQUISITION AND RELOCATION POLICIES AND PROCEDURES.

WHEREAS, on March 20, 2001 the City Council passed Resolution No. 4286 which adopted City Right-of-Way Acquisition and Relocation Policies and Procedures; and,

WHEREAS, those policies and procedures need to be updated to accurately reflect and comply with Chapter 8.26 RCW, Chapter 468-100 WAC, and other current applicable regulations; and

WHEREAS, for City projects to be eligible for federal funding on any part of the project, the project's right-of-way must be acquired in accordance with the WSDOT Local Agency Guidelines (M36-6 and the WSDOT Right-of-Way Manual (M26-01); and

WHEREAS, it appears desirable and in the best interest of the City that the new policies and procedures be adopted;

NOW, THEREFORE, be it resolved by the City Council of the City of Kirkland as follows:

Section 1. The Right-of-Way and Procedures adopted under Resolution 4286 are replaced by new Right-of-Way Policies and Procedures that are hereby adopted by the City of Kirkland as set forth in Exhibit A which by this reference is incorporated herein.

Section 2. The City agrees to conform to the WSDOT Right-of-Way Procedures as required for those projects that contain any portion of federal funding.

Passed by majority vote of the Kirkland City Council in open meeting this ____ day of _____, 2012.

Signed in authentication thereof this ____ day of _____, 2012.

_____
MAYOR

Attest:

_____
City Clerk

CITY OF KIRKLAND
RIGHT-OF-WAY ACQUISITION
AND RELOCATION ASSISTANCE PROCEDURES

I. CERTIFICATION AND SCOPE

The City of Kirkland certifies that it will comply with Chapter 8.26 RCW and WAC 468-100 in connection with the acquisition or real property, and relocation of persons displaced by its program or project.

For a project to be eligible for federal funding on any part of the project, the project's right-of-way must be acquired in accordance with the Washington State Department of Transportation (WSDOT) Local Agency Guidelines (LAG) Manual. For those projects the City of Kirkland will acquire right-of-way in accordance with the policies set forth in the WSDOT Right of Way Manual (M 26-01) and Local Agency Guidelines manual (M 36-6).

II. PERSONNEL

The City of Kirkland Public Works Department is responsible for real property acquisition and relocation activities on Public Works projects administered by the City. The Public Works Director (or designee) shall administer all aspects of right-of-way acquisition and relocation assistance on Public Works projects. This includes administration of appraisals, appraisal review, acquisition, relocation, and administrative settlements.

III. ADMINISTRATIVE SETTLEMENTS

The fair market value of any real property and relocation of persons resulting from right-of-way acquisition shall be determined by the required appraisal and appraisal review process and shall be the basis for the Just Compensation offer made on behalf of the City.

If during acquisition an agreement to purchase cannot be reached based on the original Just Compensation offer, the following parameters will serve as a guideline for an administrative settlement.

a. The Public Works Director is authorized to offer and approve for each individual parcel an administrative settlement up to $25,000 in excess of the amount of the Just Compensation offer.
b. The Public Works Director must submit administrative settlements in excess of the approval authority amount to the City Manager for review and approval.
c. The Public Works Director may submit proposed administrative settlements to the City Council for concurrence, even if such proposed settlement is within the Public Works Director's approval authority.

If a settlement cannot be reached within these guidelines, alternatives including condemnation will be discussed and considered by the City Council.

IV. APPRAISAL WAIVER PROCESS

In certain cases where the acquisition is uncomplicated the City of Kirkland may desire to take advantage of the $25,000 appraisal waiver process as outlined in the WSDOT LAG Manual. In such cases the City will comply with the procedures approved by the Federal Highway Administration for Washington State.

CITY OF KIRKLAND
Department of Public Works
123 Fifth Avenue, Kirkland, WA 98033 425.587.3800
www.kirklandwa.gov

MEMORANDUM

To: Kurt Triplett, City Manager

From: Tim Llewellyn, Fleet Supervisor
Ray Steiger P.E., Public Works Director

Date: January 6, 2012

Subject: SURPLUS EQUIPMENT RENTAL VEHICLES/EQUIPMENT FOR SALE

RECOMMENDATION:

It is recommended that the City Council authorize City staff to the surplus the Equipment Rental vehicles/equipment identified in this memo.

BACKGROUND DISCUSSION:

The surplusing of vehicles or equipment which have been replaced with new vehicles or equipment, or no longer meet the needs of the City, is consistent with the City's Equipment Rental Replacement Schedule Policy. The following equipment has been replaced by new equipment, and if approved by City Council, will be sold in accordance with the purchasing guidelines at public auction or to public agencies.

Vehicle	Year	Make	VIN/Serial Number	License #	Mileage
C-04X	1999	Ford Taurus SE	1FAFP52U4XG247029	26138D	32,448
PU-04X	1995	Ford F350 Utility Truck	2FDKF37H8SCA61415	16992D	68,873
PU-85	2001	GMC Sonoma Ext. Cab	1GTCS19W318213015	32440D	64,549
PU-14X	1991	Toyota Pickup	JT4RN81P3M5121360	10715D	113,764
T05-06	2005	Honda ST1300P Motorcycle	JH2SC51755M300231	2182EX	40,042

For clarification purposes, C-04X, a 1999 Ford Taurus Sedan, had completed its 8 year anticipated useful life with Parks Administration, and was assigned a second life for 5 years as a Pool Vehicle at City Hall. It will be replaced with a newer surplused vehicle.

PU-04X, a 1995 Ford F350 Utility Truck, completed its expected life of 8 years in 2003 as a Public Works O&M vehicle, and then was retained for an additional 8 years to serve as the Fleet "Road-Call" and "Generator Refueling" vehicle. The current Fleet Shop truck has been modified to perform these functions.

PU-85 is a 2001 GMC Sonoma Ext. Cab, assigned as a Building Inspector vehicle, that met its expected useful life of 8 years and was extended for an addition nal 3 years of service. It has been replaced by another small pickup.

PU-14X is a 1991 Toyota Pickup, originally assigned as a Public Works O&M vehicle, which reached its normal expected service of 8 years, and was extended an additional 12 years for primary use as a curb painting vehicle. It will be replaced by another surplused vehicle at the time the painting program resumes.

T05-06 is a 2005 Honda SP1300P Motorcycle assigned to Police Traffic. It has exceeded its normal anticipated useful life of 5 years by 1 additional year.

Cc: Donna Burris, Internal Services Manager

CITY OF KIRKLAND
Department of Finance & Administration
123 Fifth Avenue, Kirkland, WA 98033 425.587.3100
www.kirklandwa.gov

MEMORANDUM

To: Kurt Triplett, City Manager

From: Barry Scott, Purchasing Agent

Date: January 4, 2012

Subject: REPORT ON PROCUREMENT ACTIVITIES FOR COUNCIL MEETING OF JANUARY 17, 2012

This report is provided to apprise the Council of recent and upcoming procurement activities where the cost is estimated or known to be in excess of $50,000. The "Process" column on the table indicates the process being used to determine the award of the contract.

The City's major procurement activities initiated since the last report, dated November 30, 2011, are as follows:

	Project	Process	Estimate/Price	Status
1.	Construction Inspection and Admin Services for NE 85th Street Utility Underground Conversion Project	A&E Roster	$350,100	Contract awarded to Perteet based on qualifications and using A&E Roster process as provided for in RCW 39.80.
2.	Construction Inspection Services for 2012 Street Preservation Program	A&E Roster	$98,775	Contract awarded to Jennings Consulting Services based on qualifications and using A&E Roster process as provided for in RCW 39.80.
3.	Totem Lake Green Trip Outreach Consultant	Request for Proposals	$40,000 - $60,000	RFP released on 12/28 with proposals due on 1/13/2012.

Please contact me if you have any questions regarding this report.

CITY OF KIRKLAND
Planning and Community Development Department
123 Fifth Avenue, Kirkland, WA 98033
425.587-3225 - www.kirklandwa.gov

MEMORANDUM

To: Kurt Triplett, City Manager

From: Eric Shields, Planning Director

Date: January 6, 2012

Subject: Zoning Code Amendments for the Light Industrial Zones

RECOMMENDATION

Conduct a public hearing on the proposed amendments to the Light Industrial Technology (LIT) and Planned Area 6G (PLA 6G) Zones.

Adopt the attached ordinance enacting the proposed amendments.

BACKGROUND DISCUSSION

In response to a letter submitted to the City Council by Andy Loos of SRM Development, the City Council adopted Ordinance 4342 on December 12, 2011. The ordinance temporarily establishes the City Council as the hearing body for proposed zoning code amendments to the LIT and PLA 6G zones. At the meeting, the Council directed staff to draft proposed amendments for consideration at a public hearing on January 17. A link to the December 12 meeting packet LIT and PLA 6G zones agenda item is provided here.

Ordinance 4342 is an interim ordinance that is effective for only 60 days, but may be extended to six months following a public hearing. Because the City Council hearing on the proposed amendments will occur within 60 days, there is no need for the ordinance to be extended.

Zoning Code amendments are subject to Growth Management Act requirements that the Department of Commerce (DOC) be sent a draft of any amendment at least 60 days prior to its adoption. DOC was notified in early December, at which time an exemption from the 60 day wait for adoption was requested. Subsequently, DOC approved the request. Consequently the amendment may be adopted at any time following the public hearing.

Proposed Amendments: The following amendments to the LIT and PLA 6G zones are proposed for Council consideration:

1. Elimination of the two story height restriction. Currently, LIT and PLA 6G zoning regulations limit building height in two ways. First, there is a maximum height above average building elevation (ABE). In most places the maximum height is 35' above ABE, although a portion of the LIT zone in the Norkirk neighborhood has a maximum height of 40' above ABE. In addition, with the exception of the area in the Norkirk Neighborhood, the height is limited to two stories, exclusive of parking levels. The proposed

amendments would eliminate the two story restriction while maintaining the maximum 35' height limit.

2. Elimination of the 25' height limit adjoining low density zones containing institutional uses. The LIT and PLA 6G regulations limit building height to 25' within 100' of any low density zone. This restriction was adopted to limit the scale of development near single family neighborhoods. As currently written, this regulation applies regardless of the actual adjoining use. The proposed change would eliminate the 25' height restriction where the adjoining use is institutional. Currently, it appears that the only place where this would be applicable would be where Lakeview elementary School adjoins the PLA 6G zone.

A map showing the location of LIT and PLA 6G zones within the City is attached. The map also indicates the areas affected by the different height regulations.

Effect of the Amendments The proposed amendments would allow buildings to have more than two stories, thereby increasing the amount of floor area within a building. A 35' building could conceivably have three stories, so the net effect would be to add the potential for one additional story. Because the amendments will not increase the maximum height above ABE, they will not have the effect of allowing taller buildings.

For a number of years, the predominant type of development occurring in LIT zones has been offices. For the purpose of forecasting future land use, the Planning and Community Development Department assumes that all future development will be offices and that the office floor area built in the LIT and PLA 6G zones will occur at an average FAR (floor area ratio) of .65 of the land area. This means that for every 100 square feet of land area, the building(s) constructed will have 65 feet of building area. A recent development consistent with this assumption is the Google campus on 6th St. S. By allowing an additional story, the overall building area could be increased by up to 50% to an FAR of approximately 1.0.

While the proposed amendments will increase the capacity of the LIT and PLA 6G zones to accommodate development, it is very difficult to predict the net increase in development that will actually result. Development is primarily a function of regional and sub-regional economic conditions and real estate markets. For forecasting purposes, the Planning and Community Development Department assumes that development or redevelopment within the City is most likely to occur during the next 20 years on sites that are either vacant or have existing improvements valued equal to or less than 50% of the land value. There are 35 parcels in the LIT and PLA 6G zones that meet this description, as shown on the attached map. These are the parcels that are most likely to have increased development as a result of the proposed Zoning Code amendments. However, given current employment and development trends, redevelopment of all of these parcels in the foreseeable future is unlikely.

Attachments:

1. Ordinance 4342
2. LIT and PLA 6G Areas Affected by Proposed Zoning Changes
3. LIT and PLA 6G Sites Most Likely to Redevelop

ORDINANCE O-4342

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO LAND USE AND ZONING, ADOPTING INTERIM ZONING REGULATIONS FOR THE REVIEW PROCESS FOR CITY COUNCIL INITIATED AMENDMENTS TO THE ZONING CODE IN LIGHT INDUSTRIAL TECHNOLOGY (LIT) AND PLANNED AREA 6G (PLA 6G) ZONES.

WHEREAS, the City Council received a letter from the owner of property located within a Light Industrial Technology (LIT) Zone; and

WHEREAS, the letter states that the property owner is currently in discussions with its tenant in the LIT Zone about expanding the tenant's operations in the City; and

WHEREAS, the property owner is exploring the development potential for properties in the LIT and Planned Area 6G (PLA 6G) Zones that could meet the present and future needs of the tenant; and

WHEREAS, the ability to provide sufficient space to accommodate the tenant's growth could be critical to the tenant's near term decision to remain it in its current location as well as any future locations within the City; and

WHEREAS, the Economic Development Element of the Kirkland Comprehensive Plan contains numerous policies supporting economic development, including but not limited to the following:

- Policy ED-2.3, "Foster a culture of creativity and innovation."
- Policy ED-2.4, "Consider the economic effects on businesses and the economic benefit to the community when making land use decisions."
- Policy ED-3.3, "Encourage infill and redevelopment of existing commercial areas consistent with the role of each commercial area."
- Policy ED-4.1, "Enhance the competitive advantage of Kirkland businesses;" and

WHEREAS, the letter requests that the City review the current zoning regulations in the LIT and the PLA 6G Zones and consider whether Zoning Code amendments eliminating the restriction on the number of stories, while maintaining existing height limits, and eliminating the greater height restrictions adjoining institutional uses in low density zones should be adopted to encourage future high-technology development; and

WHEREAS, due to the workload of the Planning Commission and the time sensitivity created by the tenant's need to make a decision in two to three months, it would be beneficial to have the City Council conduct the review of any City Council initiated amendments to the Zoning Code without receiving a recommendation and report from the Planning Commission; and

WHEREAS, the City Council finds it in the public interest to adopt an interim zoning regulations which will enable the City Council to carefully and thoroughly review Council initiated amendments to the Zoning Code; and

WHEREAS, the City has the authority to adopt interim zoning regulations pursuant to RCW 35A.63.220 and RCW 36.70A.390;

NOW, THEREFORE, the City Council of the City of Kirkland do ordain as follows:

Section 1. Interim Zoning Regulations. As interim zoning regulations, for amendments to the Kirkland Zoning Code initiated by the City Council for Light Industrial Technology (LIT) and Planned Area 6G (PLA 6G) Zones, the City Council shall hold a public hearing using the process described in KZC 160.40 for notice; KZC 160.45 for staff report; KZC 160.55, 160.65 and 160.70 for public hearing; and KZC 160.90 for publication and effect. The Planning Official shall notify the Planning Commission in writing about the proposed amendment to the Zoning Code at least 14 days before the public hearing.

Section 2. Duration of Interim Regulations. The interim regulations imposed by this Ordinance shall continue in effect for a period of up to one hundred eighty (180) days from the effective date of this Ordinance, unless repealed, extended, or modified by the City council.

Section 3. Public Hearing. Pursuant to RCW 35A.63.220, the City Council shall hold a public hearing on these interim regulations within sixty (60) days of its adoption, or no later than February 10, 2012, to hear and consider public comment. Following such hearing, the City Council may adopt findings of fact and may extend the interim regulations for a period of up to six (6) months. If a period of more than six months is required to complete consideration of any amendments to the Zoning Code, the Council may extend this Ordinance after any required public hearing, pursuant to RCW 35A.63.220 and RCW 36.70A.390.

Section 4. Findings of Fact. The recitals set forth on page 1 above are hereby adopted as findings of fact.

Section 5. Severability. If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of the ordinance, or the application of the provision to any other persons or circumstances shall not be affected.

Section 6. Effective Date. This Ordinance shall be in force and effect five days from and after its passage by the Kirkland City Council and publication, as required by law.

Passed by majority vote of the Kirkland City Council in open meeting this 12th day of December, 2011.

Signed in authentication thereof this 12th day of December, 2011.

MAYOR

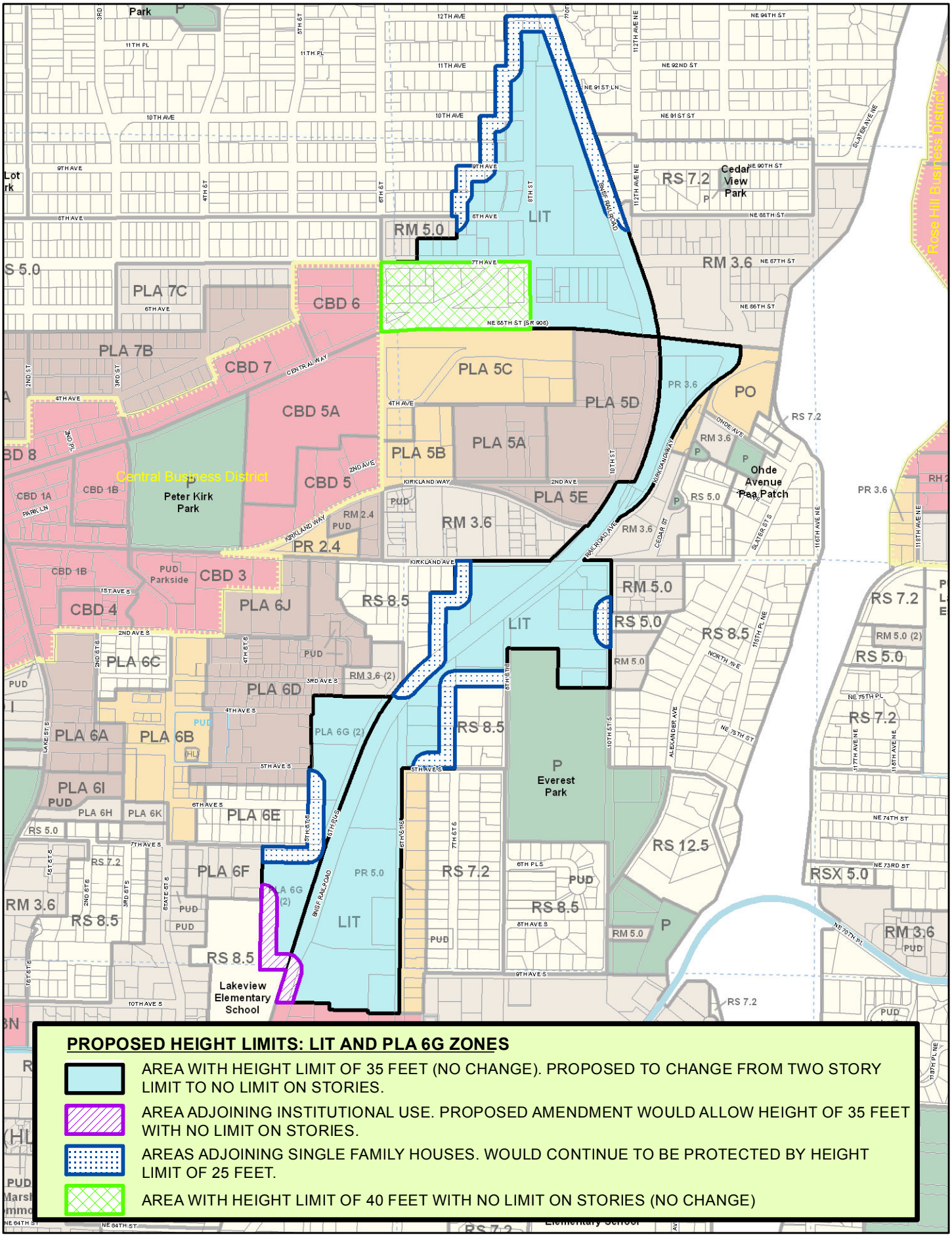
Attest:

City Clerk

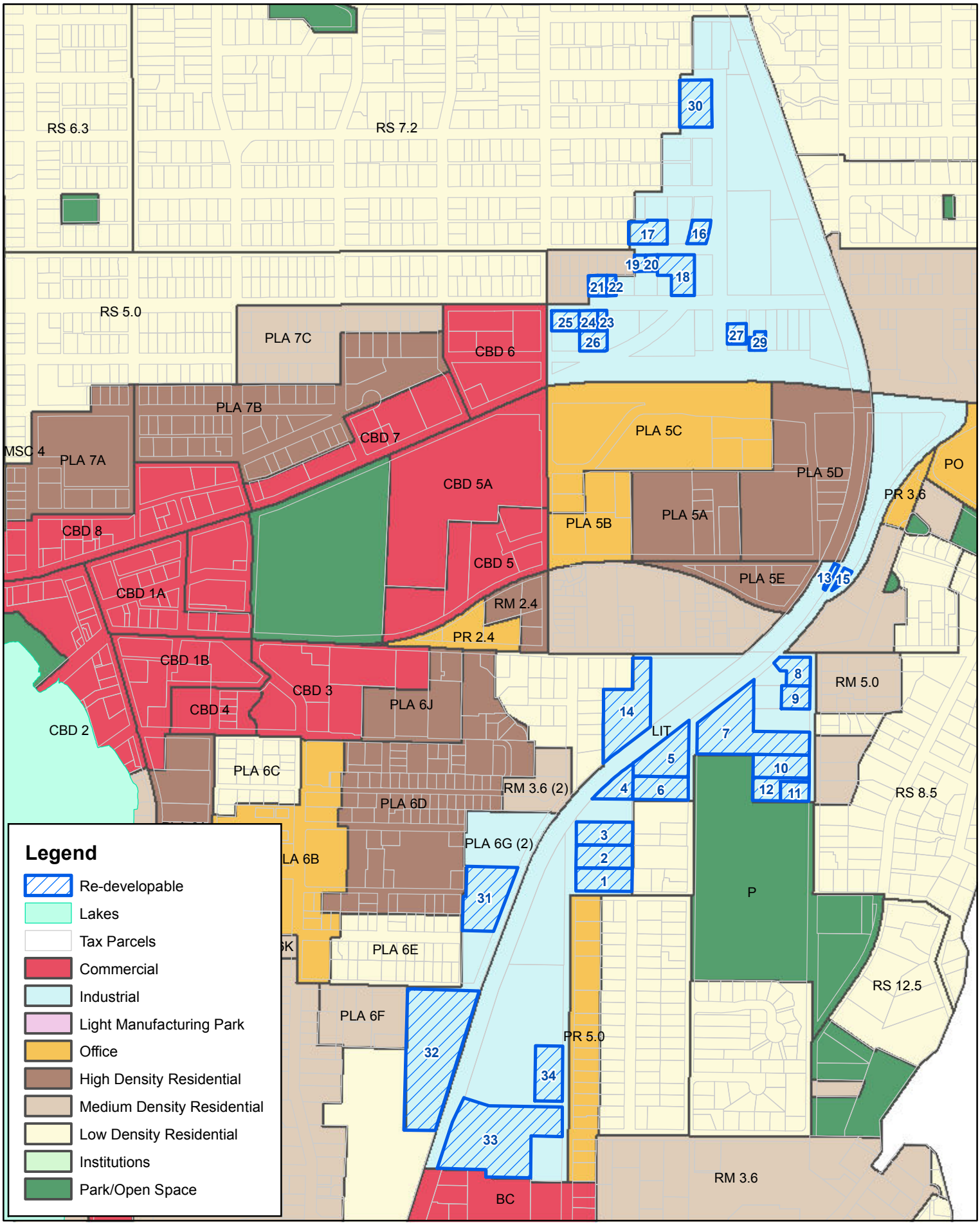
Approved as to Form:

City Attorney

PROPOSED LIGHT INDUSTRIAL ZONING CHANGES



LIT And PLA 6G Sites Most Likely To Redevelop



ORDINANCE O-4345

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO ZONING, PLANNING, AND LAND USE AND AMENDING ORDINANCE 3719 AS AMENDED, THE KIRKLAND ZONING ORDINANCE AND APPROVING A SUMMARY ORDINANCE FOR PUBLICATION, FILE NO. ZON11-00045.

WHEREAS, the City Council has received a recommendation from the Kirkland Department of Planning and Community Development to amend certain sections of the text of the Kirkland Zoning Code, Ordinance 3719 as amended, as set forth in a report and recommendation of the Department dated January 5, 2012, and bearing Kirkland Department of Planning and Community Development File No. ZON11-00045; and

WHEREAS, following notice thereof as required by RCW 35A.63.070, on January 17, 2012, the Kirkland City Council held a public hearing, on the amendment proposal and considered the comments received at said hearing; and

WHEREAS, pursuant to the State Environmental Policy Act (SEPA), there has accompanied the legislative proposal and recommendation throughout the entire consideration process, a SEPA Addendum to Existing Environmental Documents issued by the responsible official pursuant to WAC 197-11-625; and

WHEREAS, in regular public meeting the City Council considered the environmental documents received from the responsible official, together with the report and recommendation of the Department of Planning and Community Development;

NOW, THEREFORE, the City Council of the City of Kirkland do ordain as follows:

Section 1. Zoning text amended: The following specified sections of the text of Ordinance 3719 as amended, the Kirkland Zoning Ordinance, be and they hereby are amended to read as set forth in Attachment A attached to this ordinance and incorporated by reference."

Section 2. If any section, subsection, sentence, clause, phrase, part or portion of this ordinance, including those parts adopted by reference, is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 3. This ordinance shall be in full force and effect five days from and after its passage by the Kirkland City Council and publication, pursuant to Kirkland Municipal Code 1.08.017, in

the summary form attached to the original of this ordinance and by this reference approved by the City Council, as required by law.

Section 4. A complete copy of this ordinance shall be certified by the City Clerk, who shall then forward the certified copy to the King County Department of Assessments.

Passed by majority vote of the Kirkland City Council in open meeting this _____ day of _____, 2012.

Signed in authentication thereof this _____ day of _____, 2012.

_____
MAYOR

Attest:

_____
City Clerk

Approved as to Form:

_____
City Attorney

Chapter 48 – LIGHT INDUSTRIAL TECHNOLOGY (LIT) ZONES

48.05 User Guide. The charts in KZC 48.15 contain the basic zoning regulations that apply in the LIT zones of the City. Use these charts by reading down the left hand column entitled Use. Once you locate the use in which you are interested, read across to find the regulations that apply to that use.

Section 48.10

Zone LIT

Section 48.10 – 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 provision of this code may apply to the subject property.
2. If any portion of a structure is adjoining a low density zone, then either:
   a. The height of that portion of the structure shall not exceed 20 feet above average building elevation; or
   b. The maximum horizontal facade shall not exceed 50 feet in width.

   See KZC 115.30, Distance Between Structures/Adjacency to Institutional Use, for further details.
   (Does not apply to Hazardous Waste Treatment and Storage Facilities uses).
3. Except if adjoining a low density zone, structure height may be increased above 35 feet in height through a Process IIA, Chapter 150 KZC, if:
   a. It will not block local or territorial views designated in the Comprehensive Plan;
   b. The increased height is not specifically inconsistent with the applicable neighborhood plan provisions of the Comprehensive Plan; and
   c. The required yard of any portion of the structure may be increased up to a maximum of one foot for each foot that any portion of the structure exceeds 35 feet above average building elevation. The need for additional setback yards will be determined as part of the review of any request to increase structure height.

   (Does not apply to Hazardous Waste Treatment and Storage Facilities and Public Parks uses).
4. If the property is located in the NE 85th Street Subarea, the applicant shall install a through-block pedestrian pathway to connect an east-west pathway designated in the Comprehensive Plan between 124th Avenue NE and 120th Avenue NE pursuant to the through-block pathway standards in KZC 105.19(3) (See Plate 34K).
5. Retail uses are prohibited unless otherwise allowed in the use zone charts.

Zone LIT

USE ZONE CHART

Section 48.15	USE ⇩ / REGULATIONS ⇨	Required Review Process	MINIMUMS: Lot Size	MINIMUMS: REQUIRED YARDS (See Ch. 115) Front	Side	Rear	MAXIMUMS: Lot Coverage	Height of Structure	Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	(does not apply to institutional uses in low density zones) (See Ch. 105)	Special Regulations (See also General Regulations)
		DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
.010	Packaging of Prepared Materials Manufacturing See Spec. Regs. 1 and 2.	Within the NE 85th Street Subarea, D.R., Chapter 142 KZC. Otherwise, none.	None	20'	0'	0'	90%	If adjoining a low density zone other than RSX, then 25' above average building elevation. Otherwise, 35' above average building elevation ~~with a maximum of two stories, exclusive of parking levels.~~	A	C	1 per each 1,000 sq. ft. of gross floor area.	1. The following manufacturing uses are permitted: a. Food, drugs, stone, clay, glass, china, ceramics products, electrical equipment, scientific or photographic equipment, fabricated metal products; b. Fabricated metal products, but not fabrication of major structural steel forms, heavy metal processes, boiler making, or similar activities; c. Cold mix process only of soap, detergents, cleaning preparations, perfumes, cosmetics, or other toilet preparations; d. Packaging of prepared materials; e. Textile, leather, wood, paper and plastic products from pre-prepared material; and f. Other compatible uses which may involve manufacturing, processing, assembling, fabrication and handling of products, and research and technological processes. 2. May include as part of this use, accessory retail sales, office or service utilizing not more than 20 percent of the gross floor area. The landscaping and parking requirements for these accessory uses will be the same as for the primary use.
.020	A Retail Establishment providing storage services									E	See KZC 105.25.	1. May include accessory living facilities for resident security manager.
.030	Warehouse Storage Service									C	1 per each 1,000 sq. ft. of gross floor area.	1. May include, as part of this use, accessory retail sales, office or service utilizing no more than 20 percent of the gross floor area. The landscaping and parking requirements for these accessory uses will be the same as for the primary use.
.040	Wholesale Trade											
.050	Industrial Laundry Facility											
.060	Wholesale Printing or Publishing											

Section 48.15 Zone LIT USE ZONE CHART

Section 48.15	USE ⇩ / REGULATIONS ⇨	DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
		Required Review Process	MINIMUMS				MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
			Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage	Height of Structure				
				Front	Side	Rear						
.070	Wholesale Establishment or Contracting Services in Building Construction, Plumbing, Electrical, Landscaping, or Pest Control	Within the NE 85th Street Subarea, D.R., Chapter 142 KZC. Otherwise, none.	None	20′	0′	0′	80%	If adjoining a low density zone other than RSX, then 25′ above average building elevation. Otherwise, 35′ above average building elevation ~~with a maximum of two stories, exclusive of parking levels~~.	B	E	1 per each 1,000 sq. ft. of gross floor area.	1. Outdoor storage for this use must be buffered as established in Chapter 95 KZC for Landscape Category A.
.075	A Retail Establishment providing rental services											
.080	A Retail Establishment providing banking and related financial services										1 per each 300 sq. ft. of gross floor area.	1. This use is permitted if accessory to a primary use, and: a. It will not exceed 20 percent of the gross floor area of the building; b. The use is integrated into the design of the building; and c. There is no vehicle drive-in or drive-through.
.090	High Technology								A	D	If manufacturing, then 1 per each 1,000 sq. ft. of gross floor area. If office, then 1 per 300 sq. ft. of gross floor area. Otherwise, see KZC 105.25.	1. This use may include research and development, testing, assembly, repair or manufacturing or offices that support businesses involved in the pharmaceutical and biotechnology, communications and information technology, electronics and instrumentation, computers and software sectors. 2. May include as part of this use, accessory retail sales or service utilizing not more than 20 percent of the gross floor area. The landscaping and parking requirements for these accessory uses will be the same as for the primary use. 3. Refer to KZC 115.105 for provisions regarding outside use, activity and storage.

(does not apply to institutional uses in low density zones)

Zone LIT

USE ZONE CHART

Section 48.15	USE ⇩ / REGULATIONS ⇨	Required Review Process	MINIMUMS: Lot Size	MINIMUMS: REQUIRED YARDS (See Ch. 115) Front	Side	Rear	MAXIMUMS: Lot Coverage	MAXIMUMS: Height of Structure	Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regu	(does not apply to institutional uses in low density zones)
		DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS											
.100	Office Use	Within the NE 85th Street Subarea, D.R., Chapter 142 KZC. Otherwise, none.	None	20′	0′	0′	70%	35′ above average building elevation ~~with a maximum of two stories, exclusive of parking levels~~ except as specified in Spec. Reg. 2.	C See also Spec. Reg. 1a.	E	If a medical, dental, or veterinary office, then 1 per each 200 sq. ft. of gross floor area. Otherwise, 1 per each 300 sq. ft. of gross floor area.	1. The following regulations apply only to veterinary offices: a. If there are outdoor runs or other outdoor facilities for the animals, then use must comply with Landscape Category A. b. Outside runs and other outside facilities for the animals must be set back at least 10 feet from each property line and must be surrounded by a fence or wall sufficient to enclose the animals. See KZC 115.105, Outdoor Use, Activity and Storage, for further regulations. 2. a. If adjoining a low density zone other than RSX, then 25 feet above average building elevation; and b. In the Norkirk Neighborhood, south of 7th Avenue and west of 8th Street, maximum height is 40 feet above average building elevation, ~~with no limit on number of stories.~~	
.110	Auction House See Spec. Reg. 1.	Within the NE 85th Street Subarea, D.R., Chapter 142 KZC. Otherwise, none.	None	20′	0′	0′	80%	If adjoining a low density zone other than RSX, then 25′ above average building elevation. Otherwise, 35′ above average building elevation ~~with a maximum of two stories, exclusive of parking levels~~.	B	E	1 per each 300 sq. ft. of gross floor area.	1. Livestock auctions are not permitted. 2. Outdoor storage for this use must be buffered as established in Chapter 95 KZC for Landscaping Category A.	
.120	Kennel			20′	0′	0′ See Spec. Reg. 1.						1. Outside runs and other facilities for the animals must be set back at least 10 feet from each property line and must be surrounded by a fence or wall sufficient to enclose the animals. See KZC 115.105, Outdoor Use, Activity and Storage, for further regulations. 2. Must provide suitable shelter for the animals. 3. Must maintain a clean, healthful environment for the animals.	
.130	Day-Care Center See Spec. Reg. 1.	Within the NE 85th Street Subarea, D.R., Chapter 142 KZC. Otherwise, none.	None	20′	0′	0′	80%	If adjoining a low density zone other than RSX, then 25′ above average building elevation. Otherwise, 35′ above average building elevation ~~with a maximum of two stories, exclusive of parking levels~~.	D	B	See KZC 105.25.	1. This use is permitted if accessory to a primary use, and: a. It will not exceed 20 percent of the gross floor area of the building; b. The use is integrated into the design of the building. 2. A six-foot-high fence is required along the property lines adjacent to the outside play areas. 3. Hours of operation may be limited to reduce impacts on nearby residential uses. 4. Structured play areas must be set back from all property lines as follows: a. Twenty feet if this use can accommodate 50 or more students or children. b. Ten feet if this use can accommodate 13 to 49 students or children. REGULATIONS CONTINUED ON NEXT PAGE	

Section 48.15 Zone LIT USE ZONE CHART

Section 48.15	USE ⇩ / REGULATIONS ⇨	DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
		Required Review Process	MINIMUMS				MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
			Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage	Height of Structure				
				Front	Side	Rear						
.130	Day-Care Center (continued)											REGULATIONS CONTINUED FROM PREVIOUS PAGE 5. An on-site passenger loading area may be provided. The City shall determine the appropriate size of the loading areas on a case-by-case basis, depending on the number of attendees and the extent of the abutting right-of-way improvements. Carpooling, staggered loading/unloading time, right-of-way improvements or other means may be required to reduce traffic impacts on any nearby residential uses. 6. May include accessory living facilities for staff persons. 7. The location of parking and passenger loading areas shall be designed to reduce impacts on any nearby residential uses. 8. These uses are subject to the requirements established by the Department of Social and Health Services (WAC Title 388).
.140	Mini-Day-Care See Spec. Reg. 1.	Within the NE 85th Street Subarea, D.R., Chapter 142 KZC. Otherwise, none.	None	20'	0'	0'	80%	If adjoining a low density zone other than RSX, then 25' above average building elevation. Otherwise, 35' above average building elevation ~~with a maximum of two stories, exclusive of parking levels.~~	D	B	See KZC 105.25.	1. This use is permitted if accessory to a primary use, and: a. It will not exceed 20 percent of the gross floor area of the building; b. The use is integrated into the design of the building. 2. A six-foot-high fence is required along the property lines adjacent to the outside play areas. 3. To reduce impacts on nearby residential uses, hours of operation of the use may be limited and parking and passenger loading areas relocated. 4. Structured play areas must be set back from all property lines by five feet. 5. An on-site passenger loading area may be required depending on the number of attendees and the extent of the abutting right-of-way improvements. 6. The location of parking and passenger loading areas shall be designed to reduce impacts on nearby residential uses. 7. May include accessory living facilities for staff persons. 8. These uses are subject to the requirements established by the Department of Social and Health Services (WAC Title 388).

(does not apply to institutional uses in low density zones)

Zone LIT

USE ZONE CHART

(does not apply to institutional uses in low density zones)

Section 48.15	USE ⇩ / REGULATIONS ⇨	Required Review Process	MINIMUMS: Lot Size	MINIMUMS: REQUIRED YARDS (See Ch. 115) Front	Side	Rear	MAXIMUMS: Lot Coverage	Height of Structure	Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
.150	Recycling Center	Within the NE 85th Street Subarea, D.R., Chapter 142 KZC. Otherwise, none.	None	20'	0'	0'	80%	If adjoining a low density zone other than RSX, then 25' above average building elevation. Otherwise, 35' above average building elevation ~~with a maximum of two stories, exclusive of parking levels.~~	A	C	See KZC 105.25.	1. May deal in metal cans, glass, and paper. Other materials may be recycled if the Planning Director determines that the impacts are no greater than those associated with recycling metal cans, glass, or paper. The individual will have the burden of proof in demonstrating similar impacts.
.160	Public Utility								C See Spec. Reg. 1.	B		1. Landscape Category A or B may be required depending on the type of use on the subject property and the impacts associated with the use on the nearby uses.
.170	Government Facility Community Facility											
.180	Hazardous Waste Treatment and Storage Facilities	Within the NE 85th Street Subarea, D.R., Chapter 142 KZC. Otherwise, none.	None	30'	0'	0'	90%	35' above average building elevation ~~with a maximum of two stories, exclusive of parking levels~~. See Spec. Reg. 2.	A	C	1 per each 1,000 sq. ft. of gross floor area.	1. Must comply with the state siting criteria adopted in accordance with RCW 70.105.210. 2. Structure height may be increased above 35 feet in height through a Process IIA, Chapter 150 KZC, if: a. It will not block local or territorial views designated in the Comprehensive Plan; and b. The increased height is not specifically inconsistent with the applicable neighborhood plan provisions of the Comprehensive Plan; and c. The need for an increase in height is directly related to the hazardous waste treatment and/or storage activity; and d. The required yard of any portion of the structure may be increased up to a maximum of one foot for each foot that any portion of the structure exceeds 35 feet above average building elevation. The need for additional setback yards will be determined as part of the review of any request to increase structure height.
.190	Vehicle or Boat Repair, Services, Storage, or Washing			20'			80%	If adjoining a low density zone other than RSX, then 25' above average building elevation. Otherwise, 35' above average building elevation ~~with a maximum of two stories, exclusive of parking levels.~~		E	See KZC 105.25.	1. Outdoor vehicle or boat parking or storage areas must be buffered as required for a parking area in KZC 95.45. See KZC 115.105, Outdoor Use, Activity and Storage, for additional regulations. 2. Access from drive-through facilities must be approved by the Public Works Department. Drive-through facilities must be designed so that vehicles will not block traffic in the right-of-way while waiting in line to be served.

Section 48.15 Zone LIT **USE ZONE CHART**

Section 48.15	USE ⇩ / REGULATIONS ⇨	DIRECTIONS: FIRST [illegible] THEN, across for REGULATIONS										
		Required Review Process	MINIMUMS				MAXIMUMS					
			Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage	Height of Structure	Landscape Category (See Ch. [illegible])	Sign Category (See Ch. [illegible])	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
				Front	Side	Rear						
.195	Automobile Sales	Process I, Chapter 145 KZC	None	20'	0'	0'	80%	If adjoining a low density zone other than RSX, then 25' above average building elevation. Otherwise, 35' above average building elevation ~~with a maximum of two stories, exclusive of parking levels.~~	A	C See Spec. Reg. 7.	See KZC 105.25.	1. This use is permitted only on properties that adjoin 8th Street or 7th Avenue in the Norkirk Neighborhood. 2. Outdoor automobile sales, storage, and display are not permitted. 3. Outdoor sound systems are not permitted. 4. Outdoor balloons, streamers, and inflatable objects are not permitted. 5. Test drives must be accompanied by an employee through the LIT zone and limited to 8th Street, 7th Avenue, and either 6th Street or 114th Avenue NE enroute to Central Way/NE 85th Street. 6. Hours of operation are limited to 7:00 a.m. to 8:00 p.m. 7. Cabinet signs are not permitted. 8. This use primarily entails the sale of alternative fuel vehicles such as biodiesel, ethanol, and electric vehicles.
.200	Restaurant See Spec. Reg. 1.	Within the NE 85th Street Subarea, D.R., Chapter 142 KZC. Otherwise, none.							B	E	1 per each 100 sq. ft. of gross floor area.	1. This use is permitted if accessory to a primary use, and: a. It will not exceed 20 percent of the gross floor area of the building; b. The use is integrated into the design of the building; and c. There is no vehicle drive-in or drive-through.
.210	Public Park	Development standards will be determined on case-by-case basis. See Chapter 49 KZC for required review process.										

(does not apply to institutional uses in low density zones)

60.84 User Guide. The charts in KZC 60.87 contain the basic zoning regulations that apply in Planned Area 6G, including sub-zones. Use these charts by reading down the left hand column entitled Use. Once you locate the use in which you are interested, read across to find the regulations that apply to that use.

Section 60.85

Zone PLA6G

Section 60.85 – 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 provision 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. If any portion of a structure is adjoining a low density zone, then either:
   a. The height of that portion of the structure shall not exceed 20 feet above average building elevation, or
   b. The maximum horizontal facade shall not exceed 50 feet in width.
   See KZC 115.30, Distance Between Structures/Adjacency to Institutional Use, for further details.
   (Does not apply to Detached, Attached or Stacked Dwelling Units).

4. The required yard of any portion of the structure must be increased one foot for each foot that any portion of the structure exceeds 25 feet above average building elevation (does not apply to Detached, Attached or Stacked Dwelling Units, Assisted Living Facility and Public Park uses).

5. Except if adjoining a low density zone, structure height may be increased above 35 feet in height through a Process IIA, Chapter 150 KZC, if:
   a. It will not block local or territorial views designated in the Comprehensive Plan;
   b. The increased height is not specifically inconsistent with the applicable neighborhood plan provisions of the Comprehensive Plan; and
   c. The need for additional setback yards to compensate for the added height and bulk will be determined as part of the review of any request to increase structure height.
   (Does not apply to Detached, Attached or Stacked Dwelling Units, Assisted Living Facility and Public Park uses).

6. All vehicular access shall be from the east. The site access shall be configured to structurally prevent the use of 7th Avenue South or other residential streets (does not apply to Detached, Attached or Stacked Dwelling Units, Assisted Living Facility and Public Park uses).

Zone PLA6G

USE ZONE CHART

Section 60.87	USE ⇩ / REGULATIONS ⇨	Required Review Process	MINIMUMS: Lot Size	MINIMUMS: REQUIRED YARD (See Ch. 115) Front	Side	Rear	MAXIMUMS: Lot Coverage	Height of Structure	[illegible]	Si[illegible]ry [illegible]	[illegible]ed [illegible]g [illegible]s (See Ch. 105)	Special Regulations (See also General Regulations)
.010	Manufacturing See Special Regulation 1.	None	None	20′	0′	0′	90%	If adjoining a low density zone other than RSX, then 25′ above average building elevation. Otherwise, 35′ above average building elevation ~~with a maximum of two stories, exclusive of parking levels~~.	A	C	1 per each 1,000 sq. ft. of gross floor area.	1. The following manufacturing uses are permitted: a. Food, drugs, stone, clay, glass, china, ceramic products, electrical equipment, scientific or photographic equipment, fabricated metal products; b. Fabricated metal products, but not fabrication of major structural steel forms, heavy metal processes, boiler making, or similar activities; c. Cold mix process only of soap, detergents, cleaning preparations, perfumes, cosmetics, or other toilet preparations; d. Packaging of prepared materials; e. Textile, leather, wood, paper and plastic products from pre-prepared material; and f. Other compatible uses which may involve manufacturing, processing, assembling, fabrication and handling of products, and research and technological processes. 2. Prior to issuance of a development permit, documentation must be provided and stamped by a licensed professional verifying that the expected noise to be emanating from the site adjoining to any residential zoned property complies with the standards set forth in WAC 173-60-040(1) for a Class B source property and a Class A receiving property. 3. Outdoor storage and fabrication is not permitted. 4. May include as part of this use accessory wholesale, office or retail trade utilizing not more than 20 percent of the gross floor area. The landscaping and parking requirements for these accessory uses will be the same as for the primary use. 5. Use shall not create noise, glare, light, dust, fumes, and other adverse conditions which disrupt the residential character of the surrounding area. 6. Site and building design shall be complementary with surrounding residential, through use of design elements such as roof forms, building modulation, setbacks, and landscaping. The City may require revision of the building design, site plan or landscaping plan in order to minimize noise and enhance the visual character of the area. 7. The Planning Director may allow incidental visitor parking to access from 7th Avenue South; provided, that the applicant can demonstrate that the visitor parking will not adversely affect the residential character of the neighborhood, the parking will not be used by delivery vehicles, and the design precludes expanded use of this parking.
.020	Warehouse Storage Service											
.030	Wholesale Trade											
.040	Industrial Laundry Facility											
.050	Wholesale Printing and Publishing											
.060	Wholesale Establishment or Contracting Services in Building Construction, Plumbing, Electrical, Landscaping, or Pest Control											

(does not apply to institutional uses in low density zones)

Section 60.87 Zone PLA6G **USE ZONE CHART**

Section 60.87	USE ⇩ REGULATIONS ⇨	DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
		Required Review Process	MINIMUMS				MAXIMUMS					Special Regulations (See also General Regulations)
			Lot Size	REQUIRED YARD (See Ch. 115)			Lot Coverage	Height of Structure			(See Ch. 105)	
				Front	Side	Rear						
.070	Retail Establishment Providing Storage Services. See also Special Regulation 1.	None	None	20′	0′	0′	80%	If adjoining a low density zone other than RSX, then 25′ above average building elevation. Otherwise, 35′ above average building elevation ~~with a maximum of two stories, exclusive of parking levels~~.	A	E	See KZC 105.25.	1. May include accessory living facilities for resident security manager. 2. Site and building design shall be complementary with surrounding residential, through use of design elements such as roof forms, building modulation, setbacks, and landscaping. The City may require revision of the building design, site plan or landscaping plan in order to minimize noise and enhance the visual character of the area. 3. The Planning Director may allow incidental visitor parking to access from 7th Avenue South; provided, that the applicant can demonstrate that the visitor parking will not adversely affect the residential character of the neighborhood, the parking will not be used by delivery vehicles, and the design precludes expanded use of this parking.
.080	High Technology									D	If manufacturing then 1 per each 1,000 sq. ft. of gross floor area. If office then 1 per 300 sq. ft. of gross floor area. Otherwise, See KZC 105.25.	1. This use may include research and development, testing, assembly, repair or manufacturing or offices that support businesses involved in the pharmaceutical and biotechnology, communications and information technology, electronics and instrumentation, computers and software sectors. 2. Prior to issuance of a development permit, documentation must be provided and stamped by a licensed professional verifying that the expected noise to be emanating from the site adjoining any residentially zoned property complies with the standards set forth in WAC 173-60-040(1) for a Class B source property and a Class A receiving property. 3. Refer to KZC 105.115 for provisions regarding Outside Use, Activity and Storage. 4. The Planning Director may allow incidental visitor parking to access from 7th Avenue South; provided, that the applicant can demonstrate that the visitor parking will not adversely affect the residential character of the neighborhood, the parking will not be used by delivery vehicles, and the design precludes expanded use of this parking. 5. Use shall not create noise, glare, light, dust, fumes, and other adverse conditions which disrupt the residential character of the surrounding area. 6. Site and building design shall be complementary with surrounding residential, through use of design elements such as roof forms, building modulation, setbacks, and landscaping. The City may require revision of the building design, site plan or landscaping plan in order to minimize noise and enhance the visual character of the area.

(does not apply to institutional uses in low density zones)

Zone PLA6G

USE ZONE CHART

Section 60.87	USE ⇩ / REGULATIONS ⇨	DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
		Required Review Process	MINIMUMS				MAXIMUMS					
			Lot Size	REQUIRED YARD (See Ch. 115)			Lot Coverage	Height of Structure			(See Ch. 105)	Special Regulations (See also General Regulations)
				Front	Side	Rear						
.090	Office Use	None	None	20′	0′	0′	70%	If adjoining a low density zone other than RSX, then 25′ above average building elevation. Otherwise, 35′ above average building elevation ~~with a maximum of two stories, exclusive of parking levels~~.	C See Spec. Reg. 5.	D	If a Medical, Dental, or Veterinary office, then 1 per each 200 sq. ft. of gross floor area. Otherwise, 1 per each 300 sq. ft. of gross floor area.	1. The Planning Director may allow incidental visitor parking to access from 7th Avenue South; provided, that the applicant can demonstrate that the visitor parking will not adversely affect the residential character of the neighborhood, the parking will not be used by delivery vehicles, and the design precludes expanded use of this parking. 2. Use shall not create noise, glare, light, dust, fumes, and other adverse conditions which disrupt the residential character of the surrounding area. 3. Site and building design shall be complementary with surrounding residential, through use of design elements such as roof forms, building modulation, setbacks, and landscaping. The City may require revision of the building design, site plan or landscaping plan in order to minimize noise and enhance the visual character of the area. 4. Prior to issuance of a development permit, documentation must be provided and stamped by a licensed professional verifying that the expected noise to be emanating from the site adjoining any residentially zoned property complies with the standards set forth in WAC 173-60-040(1) for a Class B source property and a Class A receiving property. 5. The following regulations apply only to veterinary offices: a. If there are outdoor runs or other facilities for the animals, then use must comply with Landscape Category A. b. Outside runs and other outside facilities for the animals must be setback at least 10 feet from each property line and must be surrounded by a fence by a fence or wall sufficient to enclose the animals. See KZC 115.105, Outdoor Use, Activity and Storage, for further regulations.

(does not apply to institutional uses in low density zones)

Section 60.87 Zone PLA6G **USE ZONE CHART**

Section 60.87	USE ⇩ / REGULATIONS ⇨	DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
		Required Review Process	MINIMUMS				MAXIMUMS					Special Regulations (See also General Regulations)
			Lot Size	REQUIRED YARD (See Ch. 115)			Lot Coverage	Height of Structure	[illegible]	[illegible]	[illegible] (See Ch. 105)	
				Front	Side	Rear						
.100	Day-Care Center See Special Regulation 7.	None	None	20′	0′	0′	80%	If adjoining a low density zone other than RSX, then 25′ above average building elevation. Otherwise, 35′ above average building elevation ~~with a maximum of two stories. exclusive of parking levels~~.	D	B	See KZC 105.25.	1. A six-foot-high fence is required along the property lines adjacent to the outside play areas. 2. Hours of operation may be limited to reduce impacts on nearby residential uses. 3. Structured play areas must be setback from all property lines as follows: a. 20 feet if this use can accommodate 50 or more students or children. b. 10 feet if this use can accommodate 13 to 49 students or children. 4. An on-site passenger loading area must be provided if this use can accommodate five or more children. The City shall determine the appropriate size of the loading areas on a case-by-case basis, depending on the number of attendees and the extent of the abutting right-of-way improvements. Carpooling, staggered loading/unloading time, right-of-way improvements or other means may be required to reduce traffic impacts on any nearby residential uses. 5. May include accessory living facilities for staff persons. 6. These uses are subject to the requirements established by the Department of Social and Health Services (WAC Title 388). 7. This use is permitted if accessory to a primary use, and: a. It will not exceed 20 percent of the gross floor area of the building; and b. The use is integrated into the design of the building.
.110	Mini-Day-Care See Special Regulation 8.			30′					E			1. A six-foot-high fence is required along the property lines adjacent to the outside play area. 2. Hours of operation may be limited by the City to reduce impacts in nearby residential uses. 3. Structured play areas must be setback from all property lines by five feet. 4. An on-site passenger loading area may be required depending on the number of attendees and the extent of the abutting right-of-way improvements. 5. The location of parking and passenger loading areas shall be designed to reduce impacts on nearby residential uses. 6. May include accessory living facilities for staff persons. 7. These uses are subject to the requirements established by the Department of Social and Health Services (WAC Title 388). 8. This use is permitted if accessory to a primary use, and: a. It will not exceed 20 percent of the gross floor area of the building; and b. The use is integrated into the design of the building.

(does not apply to institutional uses in low density zones)

Zone PLA6G

USE ZONE CHART

Section 60.87	USE ⇩ / REGULATIONS ⇨	DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
		Required Review Process	MINIMUMS				MAXIMUMS					
			Lot Size	REQUIRED YARD (See Ch. 115)			Lot Coverage	Height of Structure				Special Regulations (See also General Regulations)
				Front	Side	Rear					(See Ch. 105)	
.120	Assisted Living Facility	None	3,600 sq. ft.	20′	5′, but 2 side yards must equal at least 15′	10′	60%	If adjoining a low density zone other than RSX, then 25′ above average building elevation. ~~Otherwise, 35′ above average building elevation~~.	D	A	1.7 per independent unit. 1 per assisted living unit.	1. A facility that provides both independent dwelling units and assisted living units shall be processed as an assisted living facility. 2. For density purposes, two assisted living units shall constitute one dwelling unit. Total dwelling units may not exceed the number of stacked dwelling units allowed on the subject property. Through Process IIB, Chapter 152 KZC, up to 1 1/2 times the number of stacked dwelling units allowed on the subject property may be approved if the following criteria are met: a. Project is of superior design, and b. Project will not create impacts that are substantially different than would be created by a permitted multifamily development. 3. A nursing home use may be permitted as part of an assisted living facility use in order to provide a continuum of care for residents. If a nursing home use is included, the following parking standards shall apply to the nursing home portion of the facility: a. One parking stall shall be provided for each bed. 4. The assisted living facility shall provide usable recreational space of at least 100 square feet per unit, in the aggregate, for both assisted living units and independent dwelling units, with a minimum of 50 square feet of usable recreational space per unit located outside. 5. Chapter 115 KZC contains regulations regarding home occupations and other accessory uses, facilities, and activities associated with this use. 6. Site design must provide for a bicycle and pedestrian path connection to Lakeview Elementary School and be available for public use. 7. All vehicular access shall be from 7th Avenue So. Access from 5th Place South is prohibited. 8. This use is permitted south of 7th Avenue South and only if the entire PLA 6G zone south of 7th Avenue South is included.

(does not apply to institutional uses in low density zones)

Section 60.87 Zone PLA6G **USE ZONE CHART**

Section 60.87	USE ⇩ / REGULATIONS ⇨	DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
		Required Review Process	MINIMUMS				MAXIMUMS					
			Lot Size	REQUIRED YARD (See Ch. 115)			Lot Coverage	Height of Structure	ape ry 95)	gory 100)	d g s 05)	Special Regulations (See also General Regulations)
				Front	Side	Rear						
.130	Detached, Attached or Stacked Dwelling Units. See Special Regulation 6.	None	3,600 sq. ft. per dwelling unit	20′	5′ for detached units. For attached or stacked units, 5′, but 2 side yards must equal at least 15′. See Spec. Reg. 7.	10′ See Spec. Reg. 8.	60%	If adjoining a low density zone other than RSX, then 25′ above average building elevation. Otherwise, 30′ above average building elevation. ~~See Spec. Reg. 9~~.	D	A	1.7 per unit.	1. Chapter 115 KZC contains regulations regarding home occupations and other accessory uses, facilities, and activities associated with this use. 2. Chapter 115 KZC contains regulations regarding common recreational space requirements for this use. 3. If any portion of a structure is adjoining a low density zone, then either: a. The height of that portion of the structure shall not exceed 15 feet above average building elevation, or b. The maximum horizontal facade shall not exceed 50 feet in width. See KZC 115.30, Distance Between Structures/Adjacency to Institutional Use, for further details. 4. Site design must provide for a bicycle and pedestrian path connection to Lakeview Elementary School and be available for public use. 5. All vehicular access shall be from 7th Avenue South. Access from 5th Place South is prohibited. 6. This use is only permitted south of 7th Avenue South and only if the entire PLA6G zone south of 7th Avenue South is included. 7. The side yard may be reduced to zero feet if the side of the dwelling unit is attached to a dwelling unit on an adjoining lot. If one side of a dwelling unit is so attached and the opposite side is not, the side that is not attached must provide a minimum side yard of five feet. 8. The rear yard may be reduced to zero feet if the rear of the dwelling unit is attached to a dwelling unit on an adjoining lot. ~~9. Where the 25-foot height limitation results solely from an adjoining low density zone occupied by a school that has been allowed to increase its height to at least 30 feet, then a structure height of 30 feet above average building elevation is allowed.~~

(does not apply to institutional uses in low density zones)

Zone PLA6G

USE ZONE CHART

Section 60.87	USE ⇩ / REGULATIONS ⇨	DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
		Required Review Process	MINIMUMS				MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
			Lot Size	REQUIRED YARD (See Ch. 115)			Lot Coverage	Height of Structure				
				Front	Side	Rear						
.140	Public Utility	Process IIA, Chapter 150 KZC.	None	20′	0′	0′	80%	If adjoining a low density zone other than RSX, then 25′ above average building elevation. Otherwise, 35′ above average building elevation, ~~exclusive of parking levels.~~	A	B	See KZC 105.25.	1. Landscape Category A or B may be required depending on the type of use on the subject property and the impacts associated with the use on the nearby uses. 2. Site and building design shall be complementary with surrounding residential through use of design elements such as roof forms, building modulation, setbacks, and landscaping. The City may require revision of the building design, site plan or landscaping plan in order to minimize noise and enhance the visual character of the area. 3. Prior to issuance of a development permit, documentation must be provided and stamped by a licensed professional verifying that the expected noise to be emanating from the site adjoining any residentially zoned property complies with the standards set forth in WAC 173-60-040(1) for a Class B source property and a Class A receiving property.
.150	Government Facility or Community Facility								C See Spec. Reg. 1.			
.160	Public Park	Development standards will be determined on a case-by-case basis. See Chapter 49 KZC for required review process.										

(does not apply to institutional uses in low density zones)

PUBLICATION SUMMARY
OF ORDINANCE O-4345

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO ZONING, PLANNING, AND LAND USE AND AMENDING ORDINANCE 3719 AS AMENDED, THE KIRKLAND ZONING ORDINANCE AND APPROVING A SUMMARY ORDINANCE FOR PUBLICATION, FILE NO. ZON11-00045.

SECTION 1. Amends Zoning Code Sections 48.15.010.195 and Sections 60.87.010.150 regarding the maximum height of structures in the Light Industrial Technology and Planned Area 6G zones. Eliminates the maximum height of two stories and the 25' maximum height adjoining an institutional use in a low density zone.

SECTION 2. Provides a severability clause for the Ordinance.

SECTION 3. Authorizes publication of the Ordinance by summary, which summary is approved by the City Council pursuant to Section 1.08.017 Kirkland Municipal Code and establishes the effective date as five days after publication of summary.

SECTION 4. Requests that the Ordinance be certified by the City Clerk and sent to the King County Department of Assessments.

The full text of this Ordinance will be mailed without charge to any person upon request made to the City Clerk for the City of Kirkland. The Ordinance was passed by the Kirkland City Council at its meeting on the ____ day of _____, 20__.

I certify that the foregoing is a summary of Ordinance _____ approved by the Kirkland City Council for summary publication.

_____
City Clerk

Council Meeting: 01/17/2012
Agenda: Unfinished Business
Item #: 10. b.

CITY OF KIRKLAND
Planning and Community Development Department
123 Fifth Avenue, Kirkland, WA 98033
425.587-3225 - www.kirklandwa.gov

MEMORANDUM

To: Kurt Triplett, City Manager

From: Janice Coogan, Senior Planner
Paul Stewart, AICP, Deputy Director
Eric R. Shields, AICP, Planning Director

Date: January 4, 2012

Subject: **STATUS OF THE TRANSIT ORIENTED DEVELOPMENT AT THE SOUTH KIRKLAND PARK AND RIDE**

RECOMMENDATION

City Council receives a briefing on the status of the proposed Transit Oriented Development at the King County Metro South Kirkland Park and Ride property at NE 38th Pl and 108th Avenue NE.

BACKGROUND DISCUSSION

At the December Housing Committee meeting, staff provided an update on the status of the South Kirkland Park and Ride project. The Housing Committee requested that the full Council receive a briefing.

Following an extensive process to request proposals for a developer of the site, King County selected Polygon Northwest and Imagine Housing (formerly St. Andrews Housing) as the developers for the site. Over the past several months Kirkland, Bellevue, King County and ARCH staff have been closely coordinating on the project and meeting with the developers on the proposed development. At the January 17th meeting staff will present an update to the Council and a representative from the project team will describe the project.

This memo provides an overview of the proposal by King County Metro for a mixed use Transit Oriented Development (T.O.D.) at the South Kirkland Park and Ride property. The Planning Department received an application for a Conceptual Design Conference for review before the Design Review Board in January.

The jurisdictional boundary between the City of Kirkland and Bellevue divides the property diagonally in half (Kirkland on the west/Bellevue on the east) (see Attachment 1, vicinity map). Policies in the Lakeview Neighborhood Plan within the Comprehensive Plan and Zoning Code regulations for YBD 1 support redevelopment of the property as a mixed use TOD.

Project Description

On the Kirkland portion of the property, the proposal includes two separate buildings with affordable and market rate housing and ground floor commercial uses over a shared parking garage. Metro King County proposes a new Park and Ride transit facility including changes to

the parking lot and waiting areas and construction of an above ground parking garage (on the Bellevue parcel) for transit users.

The three major project components are described in more detail below and in Attachment 2:

King County Metro parking garage and upgraded transit facility-

- **Parking garage**- A three story, 530 stall open air parking structure for transit riders is proposed in the northeast corner of the property. This location is preferred over earlier options, which located the garage on the Kirkland portion of the site, in order to better screen the garage on two sides by the hillside. In addition, this allows the parking garage to be built in the first phase which reduces the need for off-site replacement parking during construction of the housing units. It does, however, require close coordination with Bellevue on permitting and phasing.

  With the anticipated increased demand in parking stalls as a result of SR 520 tolling, the feasibility of a fourth story is being explored. Rooftop parking would be part of either option.

- **Transit and Surface Parking Lot Improvements**- The park and ride transit facility includes changes to the transit circulation, waiting areas and restriping of the existing parking lot to achieve 323 parking stalls.

  The combined surface parking lot and parking garage will expand the number of parking stalls for a total of 853 parking stalls for exclusive use of Metro park and ride users.

Affordable Housing Building- Along NE 38th Place, a four story building with approximately 58 affordable housing units will be constructed. The building will be owned and managed by Imagine Housing. The units will be apartments affordable for households with a range of 30-60 percent of area median income. 29 units will serve households earning 30% of the area median income, while the remaining units will be equally apportioned to households earning 40% and 60% of the area median income. Funding for the project comes from a variety of resources including Kirkland's contribution to ARCH.

Mixed Use Market Rate Housing and Commercial Building- Also along NE 38th Place will be a five story mixed use building containing approximately 177 apartments and 6,000 - 8,000 sq. ft. of commercial space.

Both buildings will be located above a two level parking garage podium containing 256 stalls shared by all uses within the buildings.

Pedestrian and Open Space Amenities- NE 38th Place is designated as a pedestrian oriented street requiring wide sidewalks with street trees and decorative lighting and an active pedestrian oriented building façades. Direct pedestrian access from the street

through the two buildings to the transit facility is planned. Open space will be provided along the pedestrian corridor between the two residential buildings. A gateway plaza is proposed at the southeast corner of the property at one of the entrances to the park and ride facility. A future connection to the Eastside Rail corridor for bikes and pedestrians is shown but unfunded as part of this project.

Green Building Techniques- The market rate mixed use building will target LEED Homes/Multi family Gold Level Certification. The affordable housing building will target the Evergreen Sustainable Development Standard. Both buildings will contain a percentage of green roof. The project team is working with the City of Kirkland "Green Building Team" to explore green building techniques that can be incorporated into the project.

Project Team

As a result of the RFQ/RFP process, Polygon Northwest was selected by King County Metro as the lead developer for the project. Gary Young, Vice President with Polygon is the project manager. Polygon will also develop the market rate and commercial portion of the project. The affordable housing portion of the project will be developed by Imagine Housing, a non-profit affordable housing developer located in Kirkland. Eric Evans is the Director of Housing Development for Imagine Housing. Both entities have built projects in Kirkland and are familiar with our process. Weber Thompson is the lead architect for the project and SMR Architects will design the affordable housing component.

Permit Process and Coordination

Because the proposed project involves the Cities of Bellevue, Kirkland, King County Metro, Imagine Housing and ARCH, close permit coordination will be essential. The Metro parking garage is scheduled for completion in 2013. State and federal funding demand a quick timeline to meet the scheduled completion of the affordable units by the end of 2014. Staff is committed to making sure we can meet these timelines.

Staff from the cities, organizations, agencies and the developer, meet on a regular basis to coordinate environmental review and development permit requirements. The permit review process will be conducted separately within each city and include design review, compliance with SEPA and NEPA, and land surface modification and building permits. King County Metro plans on selling portions of the property to the two developers and therefore the lot lines are proposed to be reconfigured, which will require some form of platting mechanism.

Tentative upcoming meetings scheduled in Kirkland:

January 9, 2012	Design Review Board Conceptual Design Conference
January 23, 2012	Houghton Community Council briefing
February 13, 2012	Design Review Board Design Response Conference
March 19, 2012	Design Review Board Design Response Conference

Public Outreach

To keep the public informed of the status of the proposed project a webpage is available through the Planning Department webpage at

http://www.kirklandwa.gov/depart/Planning/Development/TOD.htm

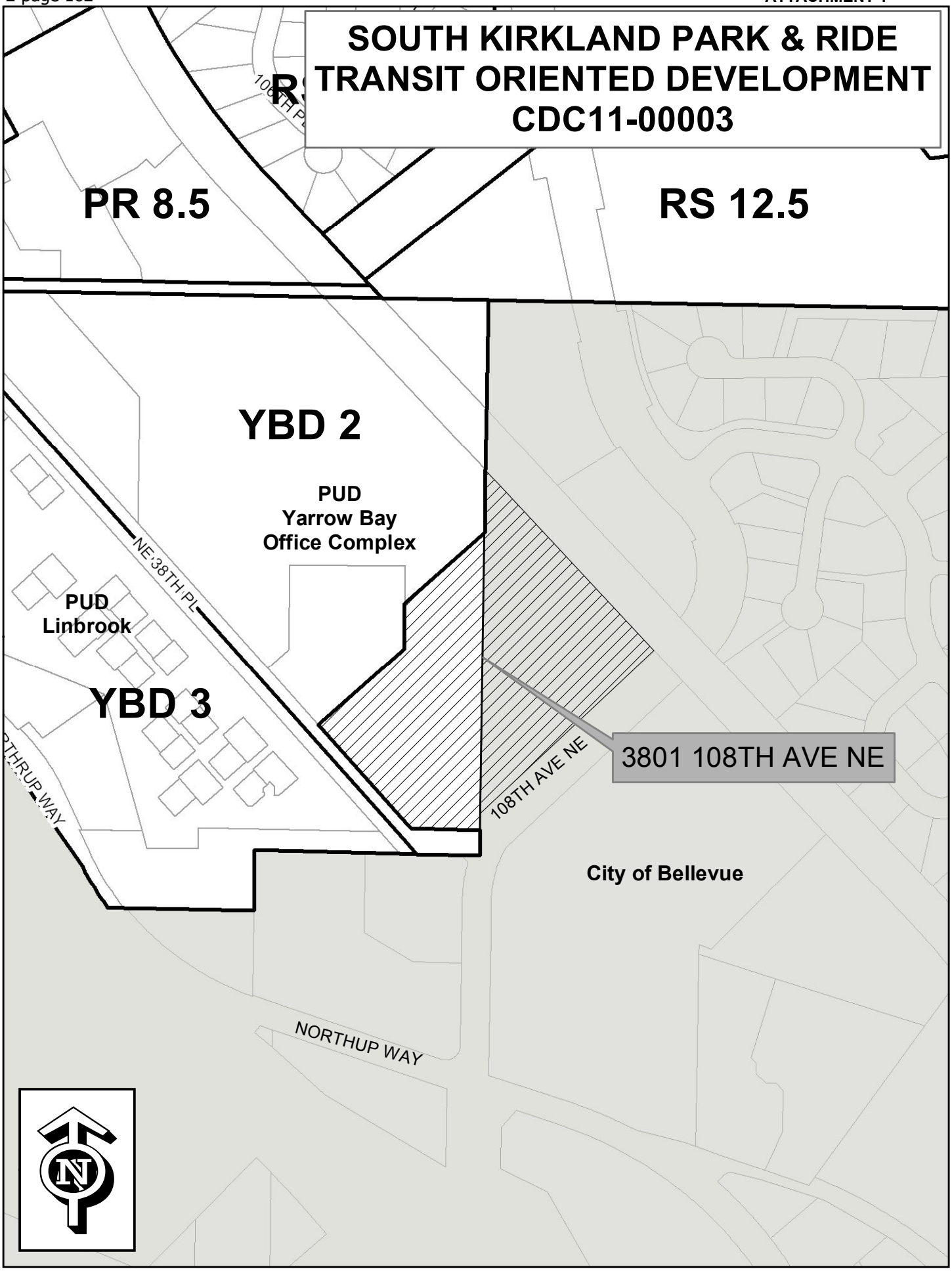
A list serv is available for people to sign up to receive announcements of upcoming meetings. A public open house will be jointly sponsored by the project team in early February. All DRB meetings are open to the public. Public comments will be received as part of the Design Response Conference review process.

ATTACHMENTS

1. Vicinity Map
2. Conceptual Plans

cc: Gary Young, Polygon NW
Mindy Black, Weber Thompson Architects
Holly Smith, Polygon NW
Eric Evans, Imagine Housing
Paul Hanson, SMR Architects
Arthur Sullivan, ARCH
Michael Paine, City of Bellevue
Toni Pratt, City of Bellevue
Sally Nichols, City of Bellevue

ATTACHMENT 1



ATTACHMENT 2

Imagine Housing
building eastside communities

POLYGON NORTHWEST

KIRKLAND TOD

City Council Briefing

JANUARY 17, 2012

SMR ARCHITECTS

WEBER THOMPSON

ATTACHMENT 2

PROJECT DESCRIPTION

The South Kirkland Park and Ride site is located at the southernmost end of the City, at the intersection of 108th Avenue NE and NE 38th Place. The property is about seven acres in size, with approximately equal portions of the site lying within the cities of Kirkland and Bellevue. It is bordered by NE 38th Place to the West, 108th Avenue NE to the South, the Rail Corridor to the East and the PACCAR Office complex to the North.

PARK AND RIDE FACILITY

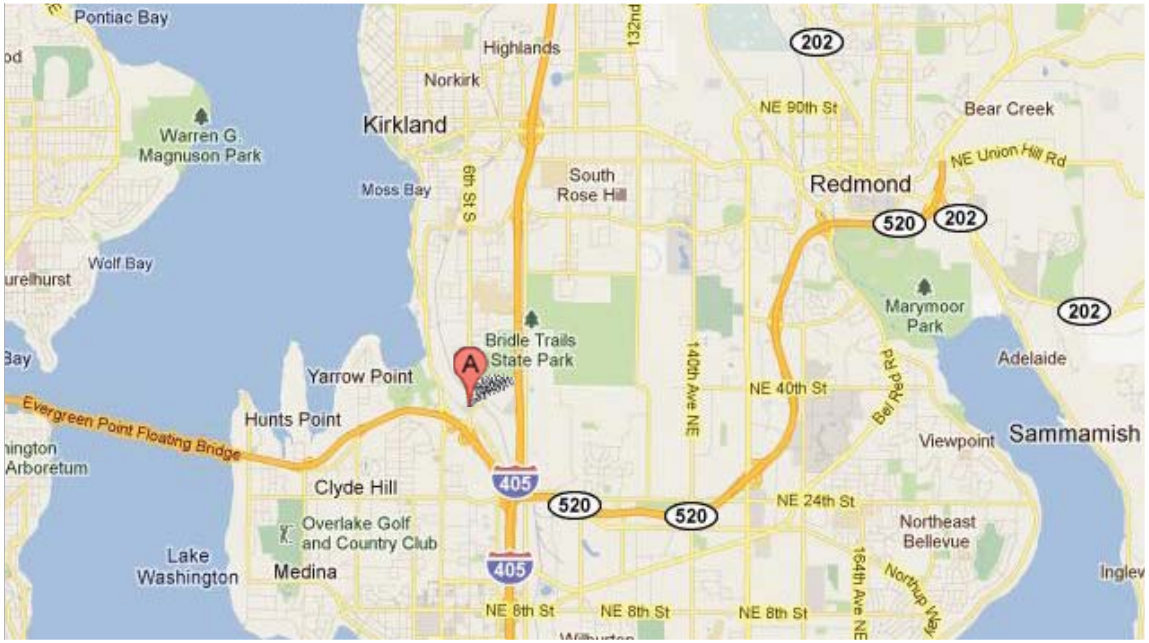
The proposed project concept consists of a 530 stall, three story, above-grade parking garage on the Bellevue parcel, improvements to the surface lot to achieve an additional 323 stalls, improvements to the transit facilities to improve bus loading and waiting areas, an affordable housing multi-family building containing approximately 58 units and a market rate mixed-use building containing approximately 177 apartment units and approximately 8,000 square feet of retail space. An optional 4th floor and additional parking stalls is being considered by Metro and will be confirmed in February. The freestanding parking garage combined with the 323 surface stalls will provide a total of 853 parking stalls for exclusive use of Metro park and ride users. This concept allows Metro to manage its own parking independently, simplifying the overall parking management strategy and reducing potential use conflicts.

Entitlement: October 2012
Construction: 6 months
Occupancy: March 2013

MARKET-RATE APARTMENTS, MIXED-USE BUILDING

Apartment units in the five floor market-rate, mixed-use building will contain a mix of studio, one bedroom and two bedroom units targeting a wide tenant demographic. The commercial space will target tenant uses such as a coffee shop, café, dry cleaner, and/or bike shop that will serve the park and ride users as well as the residential tenants. The market-rate, mixed-use building, including its two levels of sub-grade parking and commercial areas, will target LEED Homes / Multi-family Gold Level Certification while the above-grade parking structure will target Gold Level on the King County Sustainable Infrastructure Scorecard. Below the affordable housing building and the mixed use building there are two levels of parking below-grade for 256 stalls.

Entitlement: December 2012
Construction: March 2013
Occupancy: October 2014



AFFORDABLE HOUSING BUILDING

The 58 apartment residences in the four floor affordable housing building are being designed to complement the market-rate, mixed-use building and complete the transit orientated development campus. The affordable housing structure is anticipated to be supported by a variety of funding vehicles including CDBG, HOME and Section 8 and tax credit resources; the building will target the Evergreen Sustainable Development Standard. Consistent with market demand and the market-rate, mixed-use building, the affordable building residences will include a mix of studio, 1 bedroom, 2 bedroom and 3 bedroom residences. Of the 58 residences, 29 of the apartments have been allocated to serve individuals and households who earn 30% of the area median income with the remaining residences equally proportioned to individuals and households earning 40% and 60% of the area median income. In addition to a green roof top garden, the affordable housing building anticipates a variety of community amenity spaces for the residents to enjoy.

Entitlement: December 2012
Construction: March 2013
Occupancy: June 2014

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ATTACHMENT 2

SITE PLAN

- Buildings
- Seat Walls
- Bus Shelters
- Canopies

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ATTACHMENT 2

POLYGON NORTHWEST | Imagine Housing building eastside communities | KIRKLAND TOD | VIEW FROM 108TH | SMR ARCHITECTS | WEBER THOMPSON

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ATTACHMENT 2

POLYGON NORTHWEST | Imagine Housing building eastside communities | KIRKLAND TOD | VIEW EAST ON 38TH | SMR ARCHITECTS | WEBER THOMPSON

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ATTACHMENT 2

Campus plan

Site Section

PREFERRED MASSING OPTION

The primary goal of this option focuses on locating the commercial uses so they better address grade along the adjacent right-of-ways, connecting the open space of the market rate apartment building courtyard to the gateway corner and minimizing construction impact to and the visual impact of the transit parking garage and surface lot. The commercial use will be distributed between the transit plaza at 108th Avenue NE as well as along the NE 38th Place frontage activating both street frontages and a variety of public plazas. The transit parking garage is able to be better hidden against the steep slope along 108th Avenue NE. as well as act as a screen to the surface lot.

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CITY OF KIRKLAND
Public Works Department
123 Fifth Avenue, Kirkland, WA 98033 425.587-3800
www.kirklandwa.gov

MEMORANDUM

To: Kurt Triplett, City Manager

From: Ray Steiger, P.E., Public Works Director

Date: January 6, 2012

Subject: Transportation Benefit District Update

RECOMMENDATION:

It is recommended that the City Council:

- Reviews the public input received regarding the formation of a Transportation Benefit District (TBD);
- Receives a briefing and provides feedback on a focused "arterials first" proposal for a $20/vehicle TBD;
- Concurs with the staff recommendation that formation and implementation of a TBD be a significant element of the March Council retreat agenda;
- Provides final direction to staff regarding the formation of a TBD or an alternative street preservation funding strategy in April of 2012.

BACKGROUND DISCUSSION:

The issue of additional street preservation funding has been an on-going one for the past three years. As the 2013/2014 budget is developed, a final decision on whether to proceed with a Transportation Benefit District or some other voter-authorized funding option is necessary. What follows is a brief history of the discussion to set the stage for the current decisions facing the Council.

On February 14, 2009, Public Works staff presented the 2008 State of the Streets report to the City Council outlining the funding deficiencies in the Street Preservation Program and recommending several options to provide additional funding; one option was a TBD (Attachment A). After reviewing and discussing the Report, Council recommended that staff develop the options more fully and bring back more information regarding the various proposed fees and other options; follow up was presented to Council on February 16, 2010 and is summarized in the following narrative.

2009 Follow-up

Staff worked on developing the Street Preservation Program options throughout 2009, and in addition, presented draft proposals at three Transportation Commission meetings during 2009; each time staff was provided with useful feedback and direction. In July 2009, staff updated the City Council Finance Committee with information on the components and requirements of a TBD. At that time, the Finance Committee asked that staff wait and present the TBD option to the full Council in context of the full array of funding options. Staff was asked to continue to work with the Transportation Commission on developing the options.

The options were presented to the full Council at their February 2010 meeting. There were several recommendations the Transportation Commission noted which were incorporated into the report to Council including recommendations aligned with the Commission's 'Transportation Conversations' document and consideration of the Council goals of Financial Stability and Dependable Infrastructure.

Staff follow-up was summarized in tabular form with a number of discrete elements identified to increase the street preservation program to higher investment levels (Investment Alternatives). The following narrative is most easily understood read alongside Attachment B – Street Maintenance Strategy.

- The Annual revenue required to attain and sustain a PCI of 70, Council's adopted LOS since approximately 2006, is highly dependent upon the prevailing inflation rate. In general terms, staff estimates approximately $5-7 M/year, depending on the rate of inflation. Given the long-term nature of investment in the street network, the inflation rates dramatically change the annual cost requirements.
- Currently the City has $2.8 M available in annual preservation funds. This includes $2.0 M for the Annual Preservation Program, $400 K for the Street Maintenance Division's pavement program, and an estimated $400 from other various roadway restoration projects (i.e. grant projects).
- The funding gap, therefore, is between $2.2 M and $4.2 M/yr.
- It was assumed there will be no single source of revenue in the near future to close that gap.
- Staff developed a four-tiered strategy for increasing funding levels. The details of each tier are included in the attached spreadsheet. The Tiers are:
    - Efficiencies
    - Regulatory and Policy Changes
    - Partnerships
    - New Revenue Sources
- In addition, staff reviewed each of the strategies and placed them in four somewhat additive alternatives based on their relative ease of implementation. These are color-coded on the attached spreadsheet. The alternatives are:
    - Base Program (existing 2009-2014 CIP in the beige column)
    - Administrative Changes made with Council knowledge (recommended in the 2011-2016 CIP in the green column)
    - Changes requiring Council decisions and/or financial impacts to third parties (in the yellow column)

    - Changes requiring State Legislative Action or third party agreements (red column)
- At the February 2010 meeting, Staff recommended and Council approved proceeding with the administrative changes identified in Alternative 1 and of developing a community outreach/involvement strategy for pursuing Alternative 2 – namely the TBD. Input gained from the community outreach could also be applicable in the event legislation is passed for the Street Utility.

In June of 2010, after detailed information regarding the TBD and a recommended community outreach process was developed, staff presented the following proposal to Council.

Community outreach for the Transportation Benefit District

Kirkland City Councils have historically supported the preservation and maintenance of existing infrastructure with periodic increases in funding for the street preservation program. These values are reflected by the community in surveys and in various public forums. What had not yet been discussed directly with the Kirkland community however was the need for additional funding toward the preservation of the existing street system. As the decision to implement a TBD was being contemplated by the Kirkland City Council, informing the Community of this need was imperative for their understanding.

Staff proposed the following approach consistent with the "consult" level of Public Participation. This level would afford opportunities for the Community to engage, learn about the importance of the various street maintenance programs and the consequences of not investing in robust maintenance funding levels. It would also provide a sense of the level to which the Community was financially willing to participate in the maintenance of that infrastructure in the event a voted TBD was in Kirkland's future or in the event that state-wide legislation was approved to create Street Utilities. The recommended participation was as follows:

- Staff was to develop a community web page with information on the City's street preservation program:
    - Identify current funding strategies and history
    - Describe the nature of pavement degradation and its long term impacts to the community
    - Outline community surveys and feedback regarding street maintenance priorities
    - Describe the TBD mechanism and anticipated outcomes
- Address various stakeholders including neighborhood associations, Chamber of Commerce, others with public meetings/open house
- Assemble a public service message for the Kirkland TV channel
- Solicit additional feedback through list serve survey feedback

This outreach was to be undertaken with a goal of returning to the Council in the Fall of 2010 with recommendations on a funding level for the TBD. In the fall of 2010, during the final 2011-2012 Budget deliberations based on feedback from a struggling business community, concerns of a "tax weary" public, and the uncertainties associated with the upcoming annexation, the City Council concluded that proceeding with a Transportation Benefit District (TBD) was not appropriate at the

time. The Council removed the assumption of TBD revenues from 2010 and eventually 2011 but requested that staff return after annexation in order to allow them to reconsider the option of a TBD for supplemental transportation funding. Recall that the City Council may adopt a $20/vehicle license fee without a public vote; any amount over that, up to the statute authorized $100 license fee limit or 0.2% local sales tax option, requires a public vote. The TBD outreach was limited to a City web-page development; the presentation and survey were delayed until after the annexation results.

2011 Post Annexation

In July 2011, the City Council approved staff moving forward with remaining elements of the Community outreach, specifically addressing various stakeholders including neighborhood associations, the Chamber, and the general public. Staff presented to a number of groups and has received significant feedback as a result of a survey that was provided to those attending the meetings and for those visiting the City web-site (Attachment C). Due to scheduling conflicts, not all neighborhoods were able to participate in the presentation, however survey results have now been received and tabulated for nearly 90 participants. Additionally, editorial and specific comments collected from the stakeholders are now available and have been incorporated into Staff's recommendation to the City Council. In the fall of 2011, the Council also removed the assumption of TBD revenues from the 2012 budget.

Conclusions

Survey results indicate the respondents put a very high level of importance on maintaining the Street network; this confirms previous community surveys. Additionally, the feedback suggests that there is a high level of importance to seek new revenue dedicated to the Street Preservation Program. Many of the stakeholders were not convinced that the City had fully considered other efficiencies and utilization of existing funding prior to seeking additional "taxes" from the community; feedback suggests that, to some degree, priorities of the City should be reevaluated such that existing funds be spent on maintenance of existing facilities.

An additional theme that was raised (in particular by business groups) was to also consider maximum "bang for the buck" and show specific outcomes in any proposal. The concern expressed was that a $20 car tab spread throughout the entire city might be perceived to provide little real impact to the backlog and it would be more difficult to demonstrate what residents received for the money invested. The suggestion was to develop a specific project list with a sunset date that served the largest number of people.

Although a variety of responses were received, all 84 respondents provided responses to their level of support for various options. A $20 TBD received nearly 55% support when the survey was completed (Question 5 of the survey):

Figure A – TBD funding level support comparison

Support for increasing revenue levels beyond $20 fell appreciably, and correspondingly, the number of those that "do not support" the revenue grew.

When applied to the entirety of the "new" City, a $20 TBD is estimated to generate $1.1 million annually in revenue as it becomes fully implemented. Application of this revenue to the entire City roadway network is projected to maintain the overall PCI, however the deferred maintenance (the backlog) would grow from its current approximately $39 million to approximately $62 million (Figure B).

"Arterials First" Strategy

As a result of the public feedback and additional analysis, staff is proposing that if the Council proceeds with a $20 car tab, the additional $1.1 million should be focused on the arterials in Kirkland as part of a "restore and protect" strategy. The arterials currently have the lowest PCI in the "old" city and are the most heavily used roadways in both the old and new neighborhoods. Dedicating this new money to the arterials would dramatically increase the current PCI in the old city, protect and preserve the high PCI in the new neighborhoods and provide benefit to the largest number of users. Projects would be specific and residents and businesses could see the direct benefit of their fees. Local streets would continue to receive repair and replacement, but measures such as slurry seal would be more widely utilized. The

chart below shows the PCI impact on this investment for both arterials and local roads. Note that with an "arterials first" strategy, local roads would see a degradation in their overall condition. But success with an arterials strategy could set the stage for a second round of TBD investment in local roads.

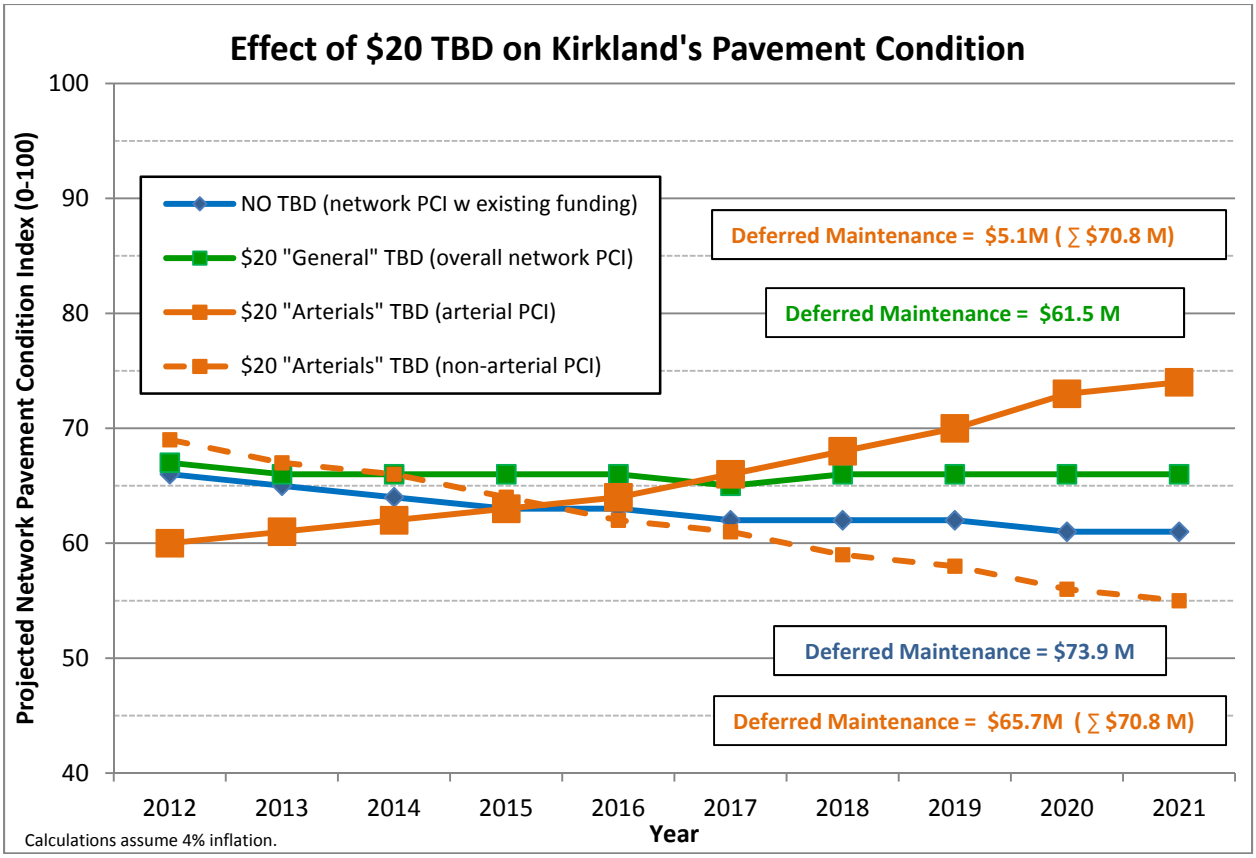


Figure B – Effect of $20 TBD

New revenues alone are not the only option. Based on feedback received from the community that includes maintaining the existing system, limiting the increased taxes to $20 (or not increasing them at all), and providing benefit for the largest number of users, a focus on Kirkland's arterial network over the next few years could be accomplished with several different options:

1. Reduce non-motorized funding (currently programmed at $750K annually) and reprioritize those funds to arterial street preservation;
2. Implement a $20 TBD and dedicate the funds for arterials only;
3. Implement up to a $20 TBD plus reprioritize funding for non-motorized improvements for a set period of time with all funds would be dedicated to arterials. This would allow the arterial strategy to be accomplished in a shorter period of time, but at the expense of sidewalks and other non-motorized projects.

These options would all generate somewhat different revenues, however under Option 2 it is likely that a 10-year Arterial TBD would provide sufficient funds to address many critical Kirkland arterials (Attachment D) while still preserving the non-motorized investments. Using King County pavement assessment data from 2009, likely JFK arterials that would be completed (not yet shown on Attachment D) are: 100th Ave from NE 132nd Street north to Juanita-Woodinville Road, Simonds Road NE, portions of 132nd Ave NE in Kingsgate, and Juanita-Woodinville Road north of NE 139th Place. The final scope of arterial improvements will be cost estimated and finalized before the final creation of the TBD.

Staff recommendation for a $20 car tab

Staff recommends proceeding with Option 2 if the Council chooses to implement a $20 car tab TBD. Under this scenario, in order to begin generation of revenue in 2013 (Attachment E), staff would begin the process needed to create the TBD as outlined below:

- Define the boundaries of the TBD; staff is proposing that the boundary be defined as the entire Kirkland City Limits;
- Define the transportation improvements; staff will develop language consistent with the RCW's and that used by other local Cities retaining flexibility within the City's current identified programs but focusing on the arterials;
- Define the sources of revenue that will be utilized to fund the improvements;
- By resolution, establish a date for a public hearing for the adoption of a TBD;
- Prepare notification at least 15 days in advance of the hearing;
- Conduct the public hearing;
- Adopt an ordinance creating the TBD;
- File notice with the Washington State DOL (collections will not start for 6 months after this notice and will then be monthly to the City);
- Amend the Municipal Code regarding creation of the TBD;

Street Preservation and the TBD at the Council Retreat

In addition to the $20 Council-enacted car tab TBD option, there are also several voter approved options under a TBD. Some members of the public and some Councilmembers have advocated that it is better to bring a larger package to the voters that fixes the entire roads maintenance problem, rather than only portions of it. Staff suggests that the Council should debate the merits of both the $20 car tab and the voter-approved options at the Council retreat in late March. This decision should be evaluated in the context of other potential 2012 ballot measures and the financial environment facing the City after the legislature adjourns.

Final Street Preservation Decision Timeline

Whether or not the Council takes up the issue of the TBD at the Council retreat, the 2013/2014 budget process and the implementation timeline for a TBD both require that a decision about whether to proceed with a TBD or a ballot measure be made sometime in April of 2012.

Under the 2013/2014 budget process, April is when the initial capital project list development occurs with the goal of finalizing the CIP in May to bring to the Council in the summer.

Currently there is still an assumption of car tab revenues in the CIP budget for 2013 and beyond. It will be important to know whether to confirm those revenues or remove them in order to properly prioritize the street maintenance projects with the revenue available.

In addition, the TBD Vehicle License fee is administered by the Washington State Department of Licensing (DOL) and cannot be collected until 6 months after the fee is authorized by the TBD governing board (Council). The fee is collected by DOL on vehicle renewals, remitted to the State Treasurer who will then remit the proceeds to the City (TBD) monthly. Therefore, in order to begin collecting revenues by January of 2013, the TBD would need to be established by June of 2012. Even with Council authorization in April it will be difficult to create and implement a TBD by June.

If a 2012 ballot measure is selected as the preferred path, staff would remove the revenue assumptions from the 2013/2014 CIP and would revise the CIP budget in December or January if the measure passes. If the measure were a property tax measure, revenue could be collected starting in 2013. If the ballot measure was for the creation of a TBD, implementation would not occur until mid-2013 and revenue would most likely not be collected until late 2013 or January of 2014.

Feedback and Direction from Council

- Does the Council have comments or input on the "arterials first" strategy?
- Does the Council need more information regarding the strategy?
- Should staff continue to refine the arterials strategy as the preferred option for a $20 car tab should the Council elect that option?
- Are there other projects or programs the Council would like to see evaluated in a $20 car tab proposal?
- Does the Council concur with the proposal to make street preservation a Council retreat topic?
- Does the Council concur with the April timeline for a final decision on street preservation revenues?

Transportation Benefit District

A Transportation Benefit District is one possible tool to improve the City of Kirkland's capacity to repair, maintain, and improve the City's roadway network to align with the Community's needs and goals.

Measuring Road Health

The following two measures taken together are an indication of the road system's health and are directly related to each other.

Pavement Condition Index (PCI)

The PCI classifies roads according to their condition either at the time of their visual survey or in the future as a result of the computer simulation. A few key PCI ratings are:

- PCI of 100: brand new asphalt road
- PCI of 85: ideal condition of an overall roadway network
- PCI of 70: Kirkland's current network goal based on available funds
- PCI less than 20: failed street

Level of Deferred Maintenance

The level of deferred maintenance is the amount of money it would require to return the overall street network to a PCI of 85. Often, the resources, funding, equipment, and manpower would not be available or able to complete the volume of work at one time to upgrade the entire road network. A deferred maintenance value of $0 would be the ideal condition of the roads.

The more roads are allowed to deteriorate by deferring their maintenance, the more expensive they are to repair. Lower PCIs correspond with higher repair costs and thus higher deferred maintenance. Inflation and the increased cost of asphalt, a petroleum based product, dramatically compound this issue.

Street Preservation in Kirkland

Since the mid 1990's, the City has used a computer based street pavement monitoring and rating system to prioritize road repairs and maintenance. The process consists of:

- Visual survey of road conditions are performed every three to five years to identify the type, extent, and severity of various key defects on the road network (250 miles);
- Rating roads based on their Pavement Condition Index (PCI), an industry standard index composed of the information gathered from the survey;
- Computer simulation of the impacts of degradation and various repair strategies;
- Prioritization of maintenance projects based on available funding, acceptable repair techniques, and coordination with other projects.

Roads are then repaired using the appropriate technique, ranging from a low-cost slurry seal to high-cost road reconstruction.

Slurry seal improves road conditions at a low cost per square yard

Deteriorated road in need of full reconstruction

Where are we now?

Kirkland currently has approximately $6 million/year for all transportation capital projects. Of that amount, $2.5 million is dedicated to the street preservation program; combined with $300,000 for day-to-day maintenance, the total budget for the annual street preservation program is $2.8 million/year. Based on existing funding levels, projections are that the road system will continue to degrade; the PCI will continue to decline. Increasing the annual street preservation budget will improve the PCI of Kirkland's road network and lengthen the life of our streets in a cost-effective way:

- No change (i.e. $2.8 million/yr) leads to a PCI near 60 in 2020
- $6 million/yr would bring Kirkland's streets to an average PCI of 70 in 2020
- $10 million/yr would bring Kirkland's streets to an average PCI of 85 in 2020

Implementing a Transportation Benefit District

What is a Transportation Benefit District (TBD)?

Local governments are authorized to raise revenue for transportation projects through Transportation Benefit Districts (TBD) in a number of ways:

Voter approval of sales tax levy of up to 0.2% (or 20 cents for every $100 purchase), or up to $100 annual vehicle license fee per vehicle

OR

City Council approval of annual vehicle license fee up to $20 per vehicle. There is no public vote required for this action.

What does a TBD do?

TBD's provide local revenue for essential transportation projects, which are locally identified to be funded based on a list of specific criteria:

- Improve safety
- Improve travel time
- Improve air quality
- Maintenance
- Improve connectivity for all modes (transit, bikes, cars, etc.)
- Cost effectiveness of investment
- Other criteria adopted by the local governing body

How might Kirkland use the TBD revenue?

Current planning is that ninety percent of revenue would go toward the annual street preservation program and 10% of the funds would go toward neighborhood traffic control, lighting and pedestrian crossings, projects that had to be cut in 2011-12 budget process. Public input on projects and priorities will help shape final proposals.

How could a TBD fee affect road conditions?

The effect of various TBD fees is shown below:

- $20 vehicle fee maintains PCI of 65
- $40 vehicle license fee would provide funding to achieve the current goal of 70
- $100 vehicle fee leads to PCI of 80

Public Feedback

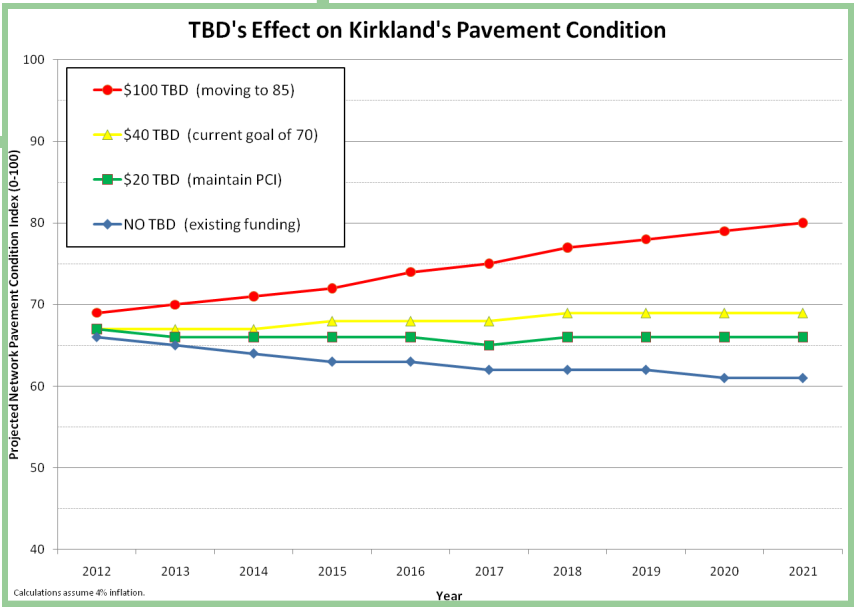
The City Council is looking for public feedback regarding the potential implementation of a local TBD.

The City will be hosting various information sessions at neighborhood meetings in September, October, and November.

The schedule of neighborhood meetings is available at kirklandwa.gov/neighborhoods.

The City will distribute surveys at the meetings to gather information regarding residents' opinions on creating a TBD in Kirkland.

Traffic Control along Market Street



To learn more about Kirkland's potential TBD, please visit our web site:

www.kirklandwa.gov and search "TBD"

Or feel free to contact:

Ray Steiger, P.E.,
Public Works Director
(425) 587- 3802
rsteiger@kirklandwa.gov

Attachment B

Street Maintenance Strategy

		Element	Annual Investment Alternatives				Annual cost or notes
			Base	1	2	3	
			2009-2014 CIP	Administrative changes (implement in 2011-2016 CIP)	Council decisions or potential impacts to other parties	State legislature or 3rd Party agreements required	
Current Budget							
		Overlay	$ 1,800,000	√	√	na	CIP - Phase I
		Preventative Maintenance (i.e. slurry seal)	$ 200,000	√	√	na	CIP - Phase II
		Operating Fund for Street Maint crews	$ 400,000	√	√	na	117
1. Efficiencies							
	a	More aggressive crack sealing		$ (10,000)	√	√	deprec., materials
	b	Increased utilization of Paver		$ (11,500)	√	√	deprec., materials
	c	Acquisition of Milling machine			$ (31,667)	√	deprec., materials
2. Regulatory and Policy Changes							
	a	Past Improvements to paving standards	$ 57,600	√	√	√	
	b	Utilize more CDF in backfill			$ 20,000	√	
	c	Expand standard street patch width			$ 20,000	√	
	d	Implement Street Cut Fee (researched other cities)			$ 98,000	$ 195,000	
	e	Water, Sewer, Storm contribution for pavement impacts		$ 190,000	√	√	
	f	Modify PCI from 70 to 70 for arterials and 65 for neighborhood streets		$ 50,000	√	na	
3. Be an active partner							
	a	Prior grants and 3rd party contributions	$ 350,000	√	√	√	
	b	Additional third party contributions beyond 3.a	$ 20,000	√	√	√	
	c	Eliminate studded tires				$ 100,000	$5000 for lobby
	d	Regional partnerships - efficiencies in joint contracts with other cities					
	e	Gas Tax Increase - statewide			$ 50,000	$ 50,000	
4. Pursue new revenues							
	a	Additional $500K in 2011					Milling machine?
	b	Reallocate funds from Capacity to Street Maintenance and Overlay			$ 50,000	na	
	c	Solid Waste haulers fee - new contract discussion				$ 300,000	(Bothell's #)
	d	Transportation Benefit District, 2011			$ 750,000	na	$20/vehicle/yr
	e	Proposed Street Utility Legislation				$ 4,700,000	$5/month/SF
Total Annual Funding Level			**$ 2,827,600**	**$ 3,067,600**	**$ 4,055,600**	**$ 6,400,600**	

			2008 #'s	Projected Road Health			
by end of 2020 @ 4% inflation	**PCI**	**Arterials**	**55 -**	**70 +**	**70 +**	**70 +**	**70 +**
		Non-arterials	**70 +**	**50 -**	**58 -**	**62**	**70 +**
	Optimum one time investment	**$ million**	**15.5**	**54.8 -**	**48.9**	**43.8 -**	**32.8 -**
			2008 #'s	**Projected Road Health**			
by end of 2020 @ 6% Inflation	**PCI**	**Arterials**	**55 -**	**68 +**	**70 +**	**70 +**	**70 +**
		Non-arterials	**70 +**	**47 -**	**54 -**	**60**	**70 +**
	Optimum one time investment	**$ million**	**15.5**	**69.1 +**	**62.1 +**	**57.1 +**	**39.3 -**

Notes:

- √ *Indicates that element is included in the Alternative*
- **na** *Indicates that element is not included in the Alternative*
- **-** *value is decreasing*
- **+** *value is increasing*

Attachment C

Street Preservation

Community Input Survey

(September 14 thru November 2, 2011)

Summary of survey respondents:
87 survey respondents (33 hard copy survey after meetings, 54 submitted online)
35 did not hear Street Preservation Presentation
49 did hear Street Preservation Presentation

Survey's submitted by neighborhood
8 Central Houghton
5 Bridle Trails
3 Everest
1 Finn Hill
4 Kingsgate
4 Highlands
11 Juanita
3 Lakeview
6 Market
18 Moss Bay
2 Norkirk
13 North Rose Hill
1 South Rose Hill
3 Totem Lake
5 Out of area, don't know, or didn't answer

Summary of Outreach Efforts:

Meetings Attended (approximate number of people attending)
September 14: Kirkland Alliance of Neighborhoods (8 people)
September 19: Moss Bay Neighborhood (50 people)
September 19: North Rose Hill Neighborhood (7 people)
September 21: Market Neighborhood (50 people)
September 21: Kingsgate Neighborhood (12 people)
September 27: Everest Neighborhood (11 people)
October 5: Central Houghton Neighborhood (15 people)
October __: Kirkland Chamber of Commerce (__ people)
October __: Kirkland Downtown Association Board Meeting (__ people)
November 8: South Rose Hill/Bridle Trails (10 people)
November 30: Kirkland Kiwanis (50 people)
January 18: Highlands Neighborhood (future meeting)

To be scheduled:
Finn Hill Neighborhood
Juanita Neighborhoods
Lakeview Neighborhood

Survey Questions:

1. How important is street preservation?

2. How well is Kirkland maintaining streets?

3. How important is it to seek additional revenues?

4. How supportive are you of each funding option?

5. How supportive are you of each funding source? (support|neutral|don't support)

6. If you support proposing a ballot measure for Kirkland citizens to vote on, what amount would you support?

7. If you do not support or are unsure about supporting a vehicle license fee, please explain. What additional information do you need to make a decision? *Verbatim Comments: grey background indicates comments sent online rather than after meeting hard copy.*

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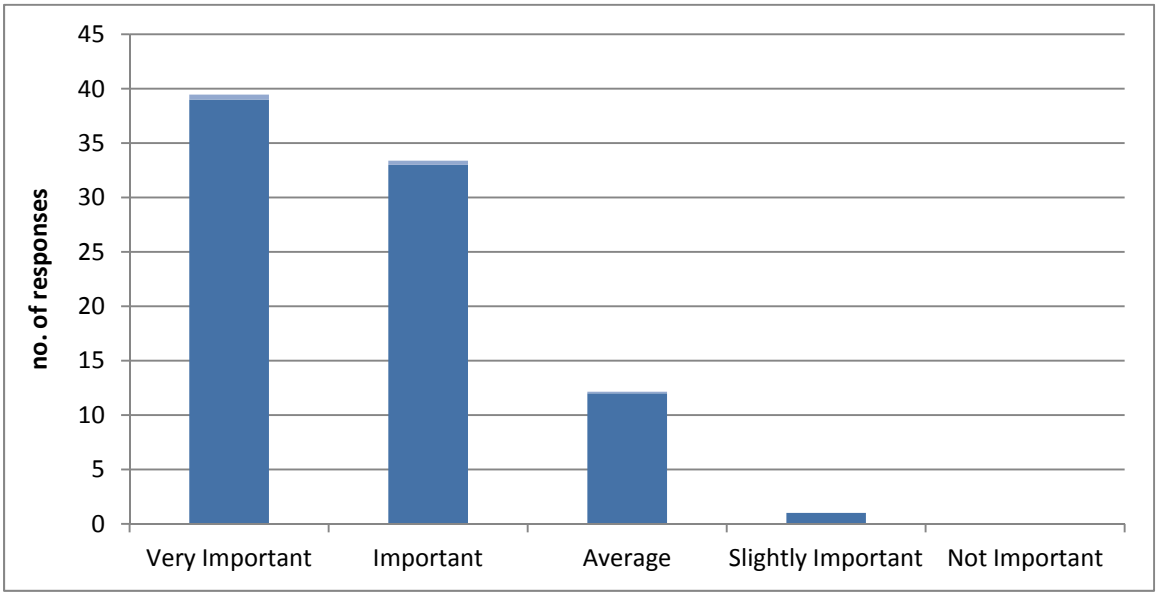
Data Comparison:

A. Those who watched a presentation and those who didn't: How supportive are you of each funding option? (combining support for all funding options: TBD, Sales Tax, and Property Tax).

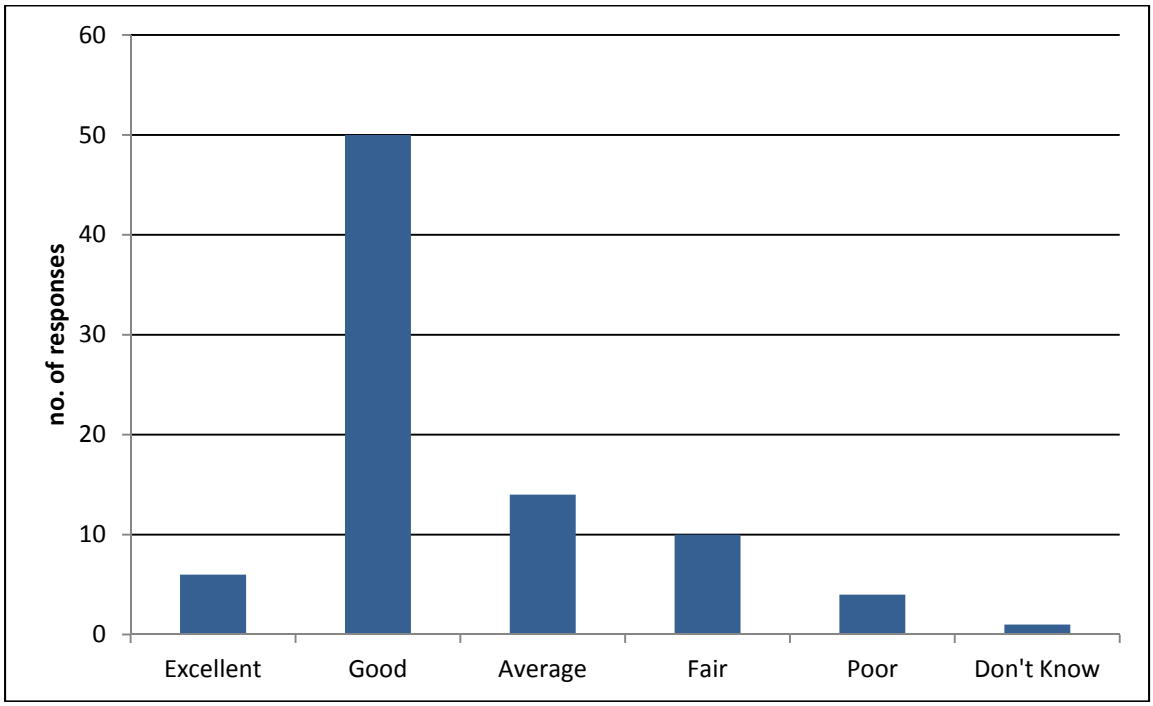
B. Those who did not watch the presentation: How supportive were they of each funding option?

C. Those who did watch a presentation: How supportive were they of each funding option?

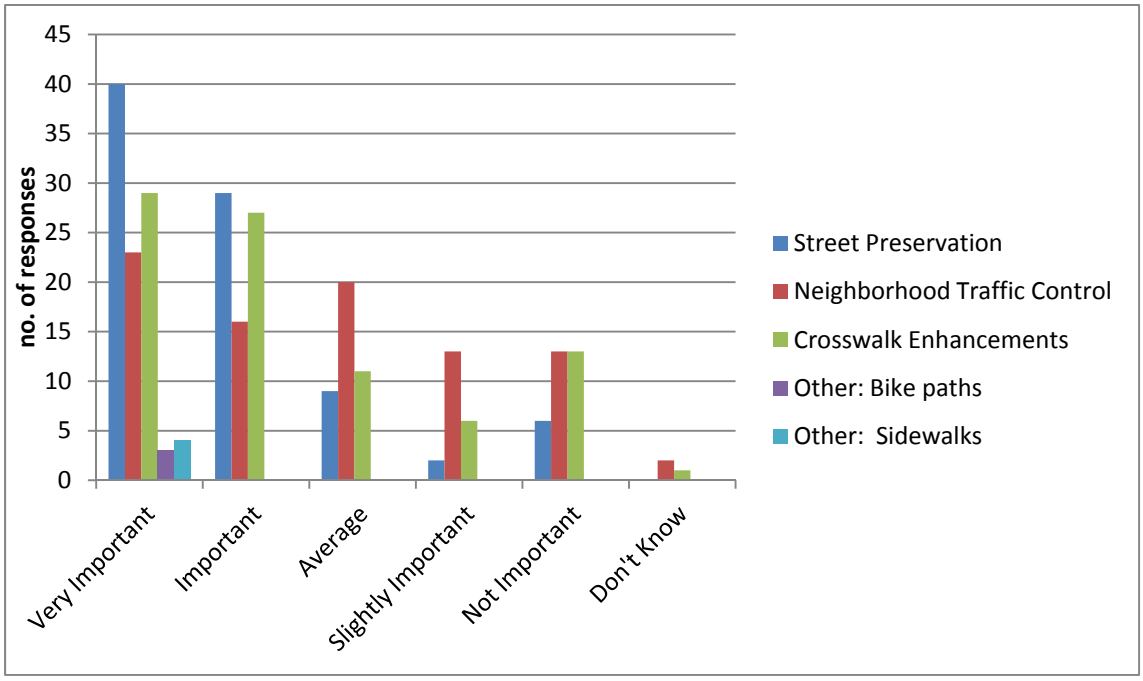
1. **How important is street preservation?**



2. **How well is Kirkland maintaining streets?**



3. How important is it to seek additional revenues?



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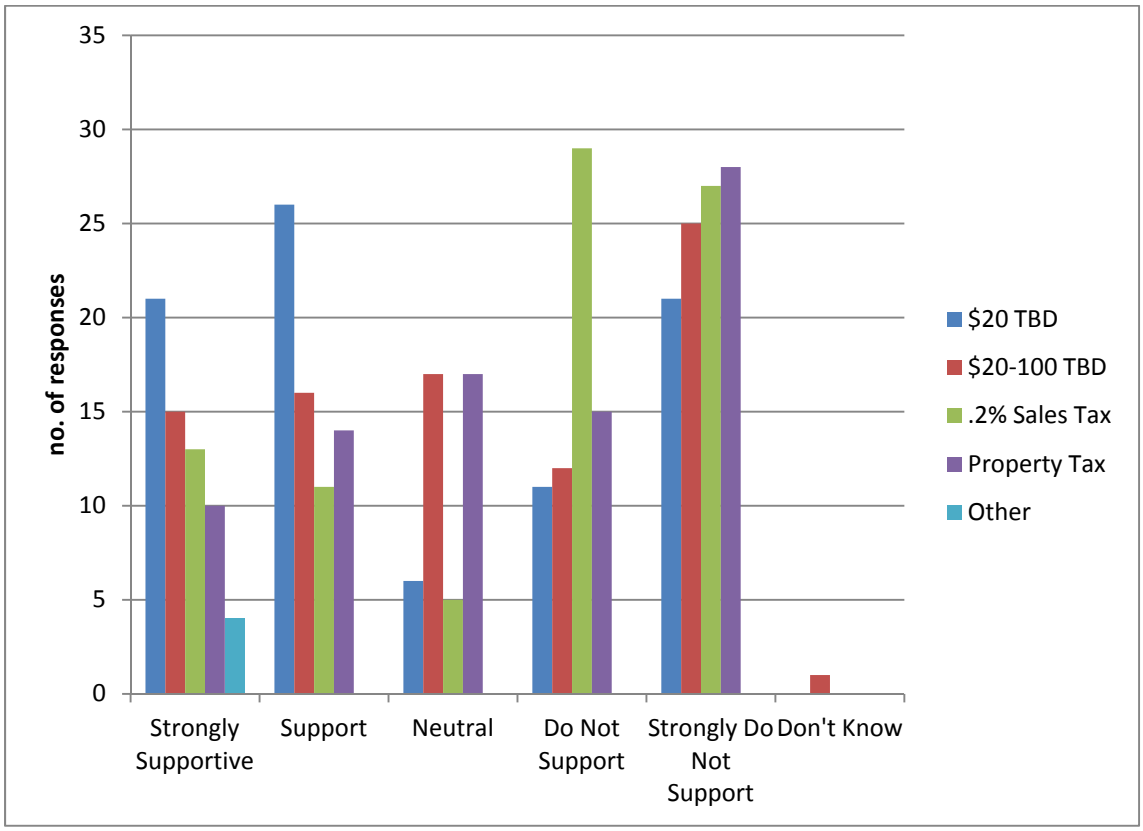

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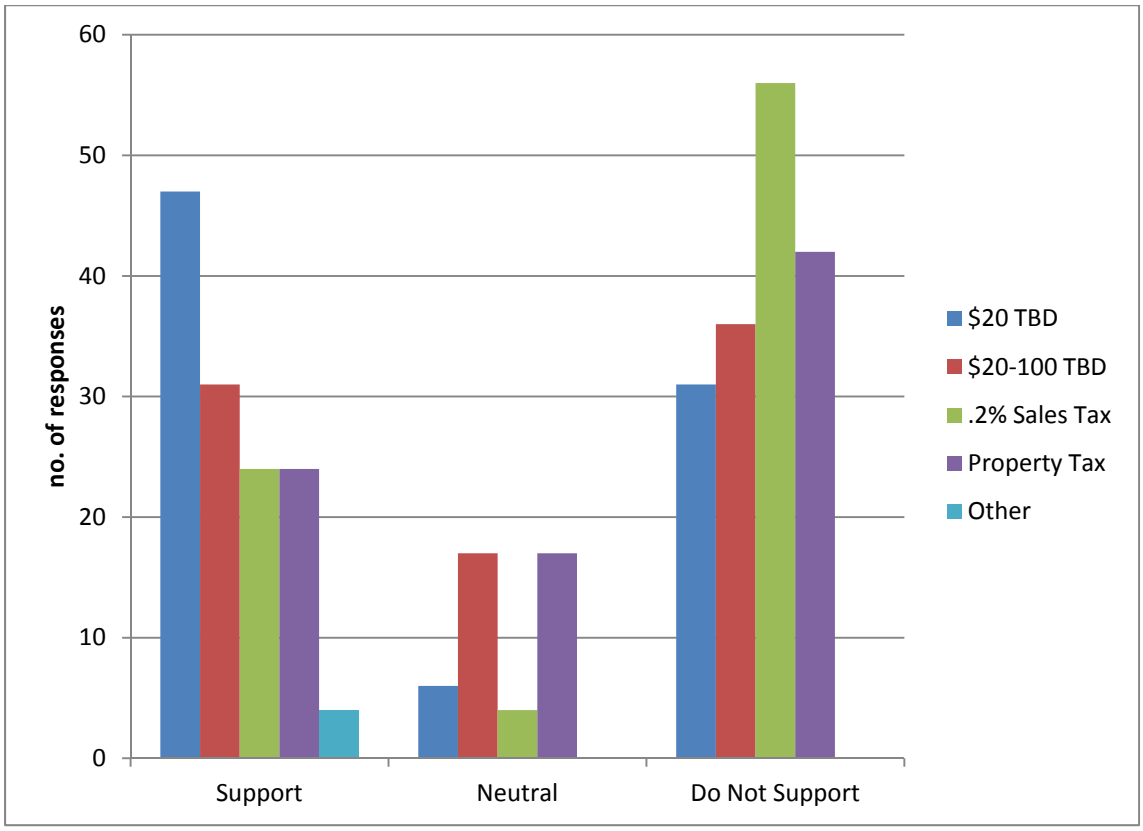

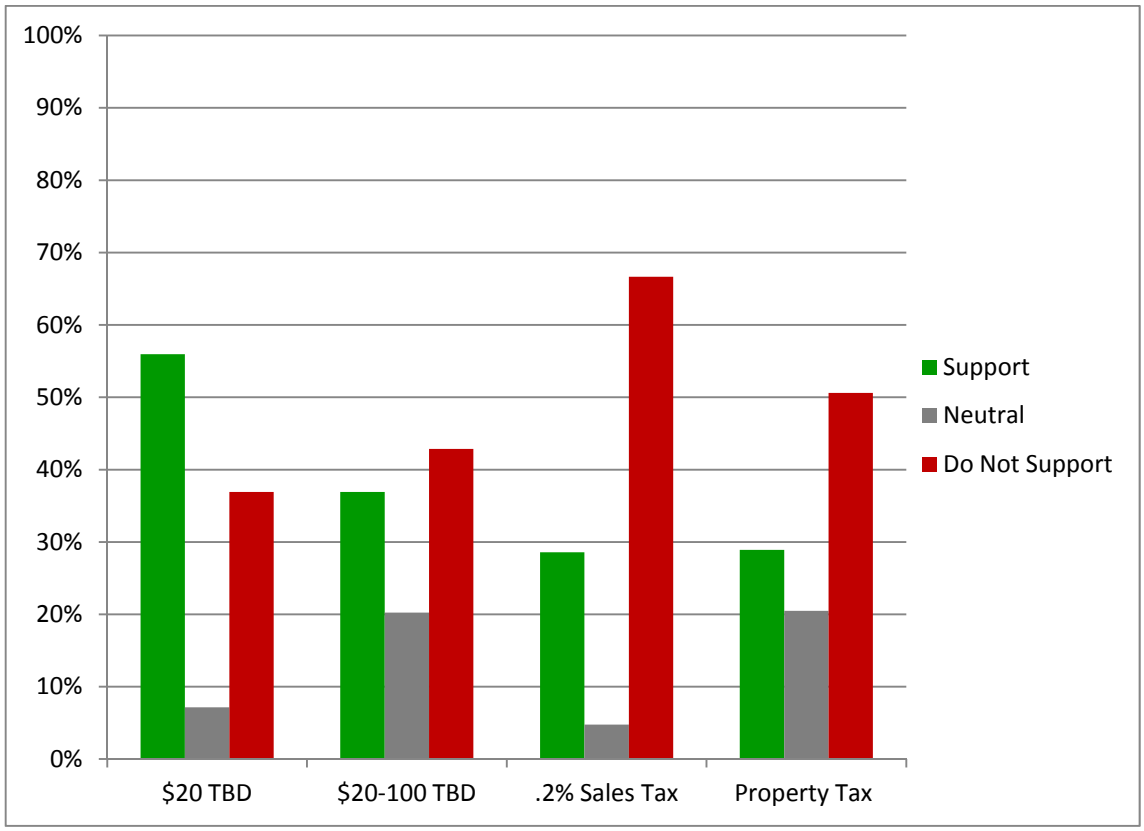

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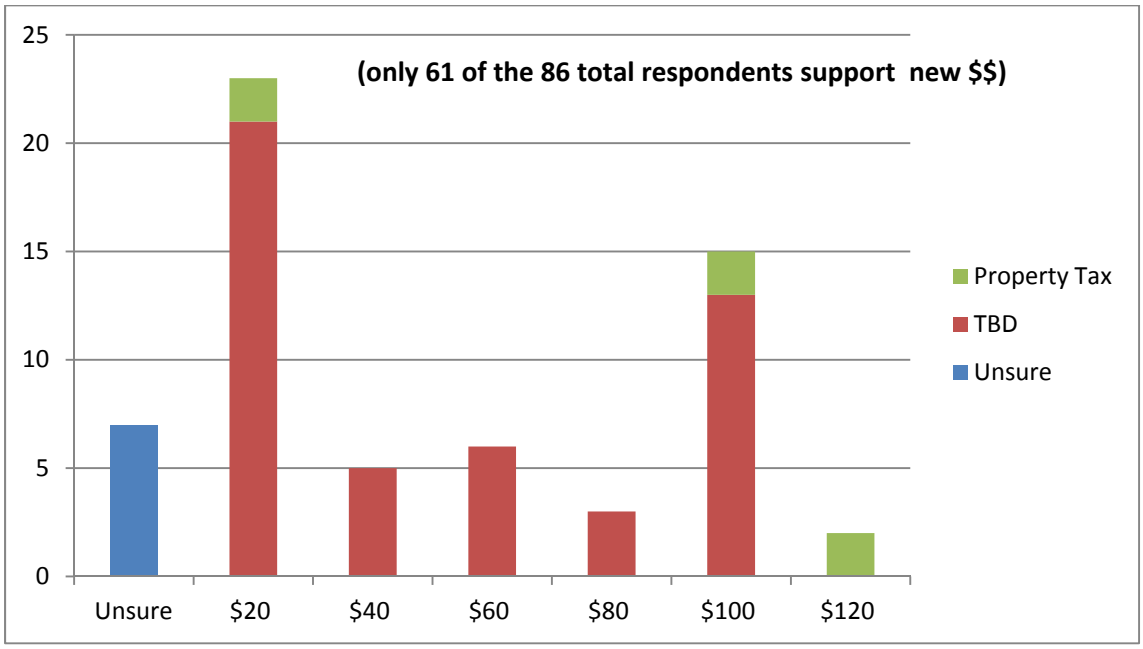


7. If you do not support or are unsure about supporting a vehicle license fee, please explain. What additional information do you need to make a decision? *Verbatim Comments: grey background indicates comments sent online rather than after meeting hard copy.*

How was it paid for before? Voters voted to lower vehicle registration fees; fees are slowly creeping up with local governments wanting to attach fees.
When do projects/fees start and end? What will be done to keep streets maintained and budget to maintain?
Make sure we have the people and equipment resources to match the fee
Afraid voters won't pass it so may require a compromise.
Vehicle license fee by itself does not impact people who do not drive. Property tax will impact everyone.
I'd prefer an income tax.
Concern if goes to vote, will cost $ for campaign and if at same time as park bond, could cause both to fail.
Feels like bait and switch. I was repeatedly promised taxes would be neutral, now water rate increase and this tax. Our roads are better maintained than those in the City.
I don't think people will vote for it

Need to understand where the money would go specifically. Currently there are extruded curbs along 84th Avenue NE in Finn Hill that are completely obliterated and a significant eye sore. These are along schooll walk routes. Would this fee fix those items? Why shouldn't existing funds be used to fix things that are in obvious disrepair and which are low cost?
I don't support any tax increases on residents without having big businesses contribute as well.
0.2% sales tax increase.
The City of Kirkland should prioritize its expenditures. If the proposed preservations and enhancements are deemed important, evaluate them against other project spending. This is not the time to burden residents with additional taxes
We all are hurting do to the poor state of our economy. Raising taxes is not the answer. Tighten your belts as the citizens have to. Things will improve and we will all have prosperity again. NO MORE TAXES!!!
Too many add-ons to vehicle licensing and too many attempts to increase taxes
I have not had a raise in over 5 years. My income has actually decreased dramatically, even though I work more hours at the same job. I don't have income for medical bills and other basic living. I don't spend what I don't have. What part of no new taxes is so hard to understand?
I strongly supported the King County additional vehicle license fee and will support Kirkland up to $40 (poor people need their cars the most). Prefer property tax. NO sales tax, it hurts the poorest most; NO BALLOT, it will eat up too much of the money you hope to raise.
You need to prioritize. Which is more important? A park or a road? And keep on going down the list. I absolutely will not support a tax or fee increase of any type in this economy. You haven't proven the case for it.
no other information is needed - reprioritize your spending - quit adding financial burdens on families who have cut back on their spending just so they stay in their homes - if you don't have it already, don't do it.

1st off, "license" is misspelled in the question This “TBD” scheme is nothing more than a way to circumvent current limits on taxation, fees, and revenue increases. It takes a great deal of effort to come up with yet another way to place an additional burden on the citizens of Kirkland, but the Council has once again succeeded. Not only is this scheme insulting, but it is one of the more underhanded and devious proposals the Council has come up with in some time. By actions such as this, one would think that members of the Council have no clue about finance. Here’s a bit of insight; Increasing fees, taxes, etc. will only serve to take more of the limited funds the citizens have. In turn, they will spend less money at local retailers thereby reducing sales tax revenue and causing the Council to come up with plans such as this. Let me provide an example of the frustration most of the citizens have that the Council either doesn’t know about or doesn’t care about. Due to this downturn, I’ve not received an increase in salary in three years. Still having a job is not to be taken lightly. Not only has the basic cost of living increased but at every turn some entity is raising a tax (property, utility, state & local sales taxes), adding a surcharge; my $30 car tab was $189 this year. With the added $20 King County fee and possibly a Kirkland $20+ fee my $30 car tab could be $229 (or more) next year. As I can’t just demand more income from my employer, my only option is to reduce discretionary spending, thus reducing the amount of tax revenue governmental agencies are receiving. This action from one person is not that big of a deal, however a majority of Kirkland residents are in the same position. Until the Council learns how to operate on a smaller budget and ends funding gratuitous and unnecessary projects (like the $90K on digital info signs, the proposed new median planters on 85th, park after park with no funding to maintain them, and striping only to repave then have to restripe), programs (how many marathons/races does Kirkland really need?) I will not support ANY fee, tax, or revenue increases.
King county has already raised car tabs. The people will not support another increase. It is a waste of time and money to have a special election for something that is bound to fail.
I would need total assurance that the city would not use the funds to install any more of the very unattractive speed display lights (such as the one on the west side of 112th Avenue in the Highlands neighborhood, heading north). These speed display lights take away from the overall aesthetics of our neighborhoods, giving our neighborhoods a 'Vegas-like' tacky bling. Such speed display lights are not present in aesthetically focused neighborhoods like Medina and Laurelhurst where traffic has been successfully calmed using traffic circles.
I want all vehicles that use roadways to support roadway maintenance - bikes, scooters, motorcycles, etc.
With all the Eyman rabble-rousers, I imagine voters would vote down a car-tab increase. Less obvious & hence more successful would prob(ably) be increased sales tax or property tax. Question: If $100/yr car tabs translates to a PCI of 85, what is projected PCI for the .20% sales tax and for the property tax (would these both also give a PCI of 85??). Need to compare apples & apples, not apples & oranges...
I think the vehicle fee should be on a sliding scale based on the age and/or value of the vehicle. People with a hummer can afford $100/year. People who are barely scraping by with a 1989 Corolla shouldn't have to pay anything more!

Is there a plan to ever get this to 85 or are we going to accept being deficient? That should at least be on the table and a goal for the City. Kirkland is a great town and we should not strive for/accept below standards.
Ballot measures are expensive. The city council should set the budget accordingly and institute the $20 fee if no other way for the need to be met. In general, I do support drivers bearing the cost of roads.
$10 max
Vehicle license fees are getting ridiculous, between the basic tab fee, King Co, Metro, Sound Transit, etc. It's already enough
Depends upon what the vehicle license fee will fund.
No new taxes or fee. Make do with what you have
I want to understand how the revenue is being spent today. I am not pleased by the fact that capital improvements seem to take more time and money, basic maintenance is not occuring, there is not proper oversight of work in the right-of-way by others, there lacks a customer service attitude in the department (this needs to start at the top). I think it looks bad having you come hat in hand when you have not proven that you are using our money wisely on basic maintenance items such as maintaining street and median vegetation. That should be the cheapest and most easy thing to do. Should the basic structure of the department be reorganized or reprioritized to accomplish the "basic" needs?
We all use roads, not just car owners.
I checked the sales tax increase box on the previous page.
The car tab fees are regressive. They are the same regardless if I own a $1,500 beater, or just bought a $125,000 Maserati. That is a problem in itself. Therefore, a property tax (although not a good solution either) is a better idea. Best would be a progressive income tax, or a sales tax targeted at the higher earners. But an income tax needs to be statewide - and will also lead to the abandonment (or should) of a lot of the "nitty-gritty" local taxes.
Prefer no license fee - but if forced to make a decision, want the least expensive option.
As stated previously, cut out non-essential "services" to fund essential services, prioritizing as required to live within the means of revenue collected.
I do not think a fee level that will require a ballot measure is worth the time, energy and uncertainly in terms of budget planning to be worthwhile. If the City Council chooses to pursue a $20 license fee, that seems reasonable.
Have a TOLL at Market Street pass thru to deter commuters
As mentioned previously, the timing for a ballot measure is poorly timed due the City's current lack of managing labor cost amongst its unionized employees.
I think our taxes are regressive and we need to consider a state income tax
Any proposed fees and/or taxes MUST have a time limit (expiration date) for me to support them. Also, see previous comment.

No new property taxes. No vehicle taxes. temporary sales tax or bond measure

8. In the interest of providing specific and usable information to our Citizens, please give us any feedback regarding this outreach process. What was the most useful information you heard or read about Street Preservation? What would you like to hear more about? Do you have any other comments? *Verbatim Comments: grey background indicates comments sent online rather than after meeting hard copy.*

Kirkland Views blog, Kirkland weblog
Should include in main or bill insert with City water/sewer bill. Start a blog or Facebook for updates and people to post comments. The curbs, medians and sidewalks look trashy and give a very bad vibe like rundown or abandoned neighborhoods. This should not be in Kirkland. City and property owners need to cleanup.
This is a wonderful way to reach out to our community - very clear presentation to support improvement and increased funding.
Two streets that are terrible: Market to 100th, 6th by Google.
Good presentation on a topic most people don't understand.
The slides were hard to read. The reasonable thing to do is maintain. The first question is do we do it now or too late? The second question is how do we pay for it as soon as possible. Jeanne Large 206-794-2900
I have a hard time putting this ahead of other issues such as housing, food for the needy even though preventive steps make sense.
Thank for this outreach! Would like to know more about how this impacts water runoff with current conditions and with options for street preservation/maintenance.
I don't believe there is no other money in PW or other City budget to put towards this!
I'd like explanation of how maintenance options relate to street condition. Allowed me to understand that a higher PCI would be worth investing in.
Have video shown on Kirkland video channel!
User fees for construction trucks seems logical. Presentation clear - could bring a specific neighborhood area when presenting to individual associations, move to "how" faster.
Would like to know more about funding issued - how Kirkland may differ from other WA cities. Put on website.
You need to do what's necessary to keep roads in good condition.
Good presentation. Well informed presenter.
Use the money you have for efficiency. No new taxes or fees; there is a recession on and many people are out of work.
Excellent presentation - well done but I'm still angry.
Appreciate the outreach. Suggest an online survey for broader feedback.
Ray is a good presenter, good material.

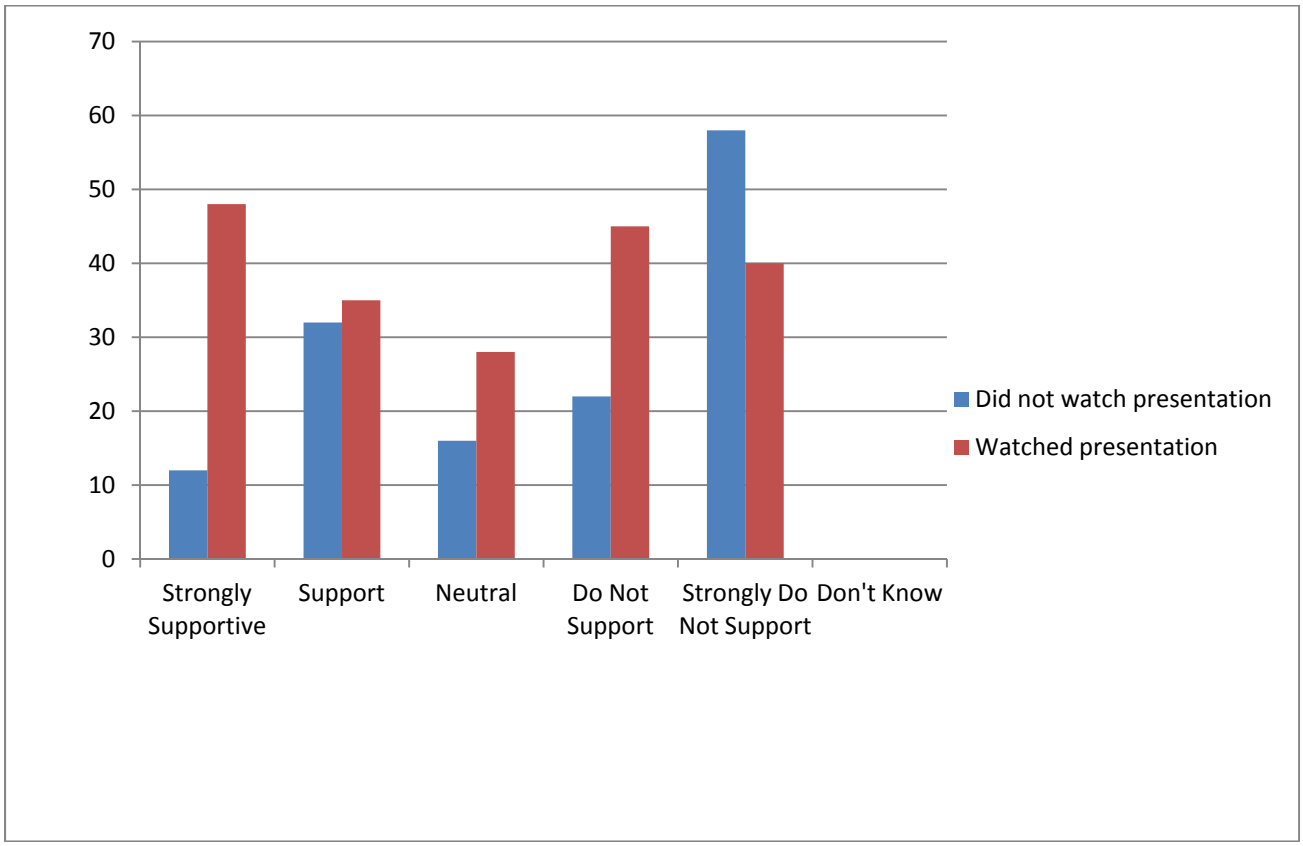
How do you prioritize where the money is spent. For example the money that goes towards fixing sidewalks, curb ramps, improving crosswalks, widening asphalt shoulders, improving lighting - in other words the smaller investments that do a lot. Give us an idea of how much of those things could be accomplished a year? Are we talking about one speed hump per neighborhood a year, one crosswalk, etc? You clearly identify the improvement in PCI, how about all the other things that people actually see? How can you involve the neighborhood better in these decisions?
Thank you for reaching out. Please also help increase bike lane safety - a line on the road is Not a bike lane and not safe.
Review ALL projects currently in progress and see if the projects can be stopped and the money re-directed to the streets. Why are we installing sidewalks to schools when that money could go to our streets? Someone make a difficult decision please. Come on and make the right call here. Save our city.
your survey form does not work correctly. The first question on page 4 asks "if i support" a ballot measure what should the amount be. I don't support a ballot measure. You shouldn't force respondents to select a value, or add $0 as an option.
This is an excellent way to get citizen feedback, especially on taxing issues.
Only if the city publishes the results - send the results to everyone who takes the survey
Apparently you refuse the principle of staying within a budget. Asking me 50 different ways to spend money I don't have is not going to change my answer. Don't spend money we don't have. As a city we can't afford our previously committed obligations or you wouldn't be asking for more money. People are going hungry, going without medical care, and are homeless. Kirkland is becoming La La Land -- and both need to use common sense. "Double Dip Recession" is an empty laugh for those of us who can't tell that the first one was over.
Excellent way to educate citizens on the City's needs and plans. Need to do a better job of making citizens aware of your outreach efforts. In my condo, where everyone is online, only two other people were subscribed to any of the various city emails. The rest didn't know about them.
Real numbers. How much do you spend and percentages of the budget compared to similar sized cities in the area. Could municipalities combine services to gain scales of economy saving?
I live in QUEENSGATE - which is nowhere near Kingsgate or Evergreen - I am disenfranchised via the City of Kirkland. Thanks for being so inclusive in this process.
This format of loaded questionnaire is ludicrous. By the conspicuous lack of a "no additional taxes/fees" selection, it is clear the Council cares little for what the citizens think. The format of these questions is akin to asking someone "What limb do you want removed? A.) right arm B.) right leg C.) left arm D.) left leg E.) unsure" How about "None!"
The video was very informative and well done. It makes the case for continued and increased funding for preventative street maintenance. The piece that is missing is where is the other $3.8 million for transportation capital projects going and what percentage of the total city budget is being used for transportation. It seems that everything presented is one sided and the world as we know it will end if taxes are not raised and there is no other possible solution. There must have been other options that the city has looked into besides raising taxes. What were these options and why will they not work? Please be honest and present the whole story next time.

I would need total assurance that the city would not use the funds to install any more of the very unattractive speed display lights (such as the one on the west side of 112th Avenue in the Highlands neighborhood, heading north). These speed display lights take away from the overall aesthetics of our neighborhoods, giving our neighborhoods a 'Vegas-like' tacky bling. Such speed display lights are not present in aesthetically focused neighborhoods like Medina and Laurelhurst where traffic has been successfully calmed using traffic circles.
You've got lots of money in other places, why don't you use other funds to pay for the street upkeep? What would have to be cut? After 10 years, where will the money come from to keep the improved pavement condition? How long have we been on this deteriorating trend? How did we used to take care of it?
* I loved the video - topic well explained & logical; liked the graphs (PCI). I learned more about the nuts & bolts of what needs to happen to preserve our infrastructure. As condo Board member, helps me know how to maintain our own private driveway, too. * I like that you solicit info from citizens (via online survey). Also, the survey was well-designed & asked for specific, meaningful info. * I'd like: specific success stories of Kirkland condos recycling food scraps. It seems like it'd be really messy - & it's hard enough to get our condo dwellers to flatten boxes for recycle, much less handle food scraps appropriately. I want to get folks inspired.
The fact sheet was excellent. But I would like to know more about the accelerating causes of street degradation--what shortens a street's lifespan most, by time and frequency.
I appreciate the clear presentation of current and projected street condition. I guess I need to dig into the city budget to satisfy myself that the fund-raising measures presented are necessary. The survey did not mention importance of sidewalks (other than crosswalks) or bike lanes.
Maximum speed limit signs on Lake Wa Blvd 30 mph from 35mph (minimal expense to city); enormous benefits to pedestrians! Discourage speeding, by enforcement! Additional calming islands along LWB Anything to discourage speeding, passing in turning lane along LWB Crosswalk overhead signs in both directions (take advantage of back of signs already posted) make it very clear to drivers beware of pedestrians crossing LWB. Keep crosswalks clearly painted on the ground.
I want to hear more about how the department is adapting to these times. What have you done to become more efficient, where exactly is the current money going? I want to see a breakdown of what is being spent on administration and operations. Are you meeting performance targets? What are the priorities of Public Works? Why is the traffic control program and street maintenance the first services to cut? Those should be the top priorities. I want to see a commitment to general street and ROW upkeep, and re-engagement into neighborhood and school zone traffic issues. In other words, the small things.
Money increase should be dedicated to roads, sidewalks, crossings and temporary.

The meeting with Ray was great but few attended in our neighborhood. I now understand that more money is needed, but you will have to do a fantastic job of educating the public on the dire consequences of not supporting the TBD. Kirkland has a huge annual budget--roads should have always been near the top of the priority funding list. The annexation area is going to roll its collective eyes at the idea of Kirkland coming at them for more $$ already. Demonstrate where the county got its money and why Kirkland needs more to maintain the higher quality of roads they have up there. In 'old' Kirkland, explain how roads were allowed to get to 64. Make sure everyone understands the progressive worsening of the system if we continue on our same path. The current $6 million/yr seems spartan in the scheme of things. What was the most useful information? That the $100 car tab is the one that gets us to an 80 PCI and that it will be sunsetted, at which time the system will have a better condition with a lower maintenance cost. Keep hammering home that paying now will save later.
I would rather that the head of Public Works spent his time working in the office, planning and overseeing projects rather than going around to all the many neighborhoods doing presentations. For the information presented, it really was not necessary to have someone of that high of a level there. Also, he knew nothing about specific projects in our neighborhood and their execution. I think it would have been more efficient and useful to have someone at a lower level in public works attend that would have been more familiar with our specific area and the work that is going on and is planned here. Those were the areas that people had the most questions and issues with, and he really couldn't speak to any of them. It is also people's experiences with the streets in their local area that will most clearly define their thoughts about them.
Consider deferring OTHER city funding to our streets. This is a BASIC Commerce need and needs to be done NOW..Take from public safety and move it to Roads for a couple years until roads are at 85%. Our Police investment is outsized for its value to our citizens!
Appreciate the outreach. Better understanding of the problem.
the most useful was knowing how it is tiered: what needs to be done on the regular maintenance level in order to avoid getting to the point of no return where the whole street has to be ripped up. I would have missed this presentation if I wasn't at a meeting about another issue Most people are too busy to want to find out what the city is doing
Perhaps putting the message on the reader sign at the rose hill fire station would have made the sign useful and gotten the information out. Instead I heard about it from the newspaper. That is hardly my definition of a good outreach program. The newspaper was the most useful source of information I have found. I even had trouble finding this page on the city website. I had to search for words used in the news story. Times are tough. Our roads are adequate. I'm more interested/worried in keeping my job and home right now. Gas prices are killing me. Food prices have gone up. Roads are not my priority.

DATA COMPARISON:

- Those who watched a presentation and those who didn't: How supportive are you of each funding option? (combining support for all funding options: TBD, Sales Tax, and Property Tax).



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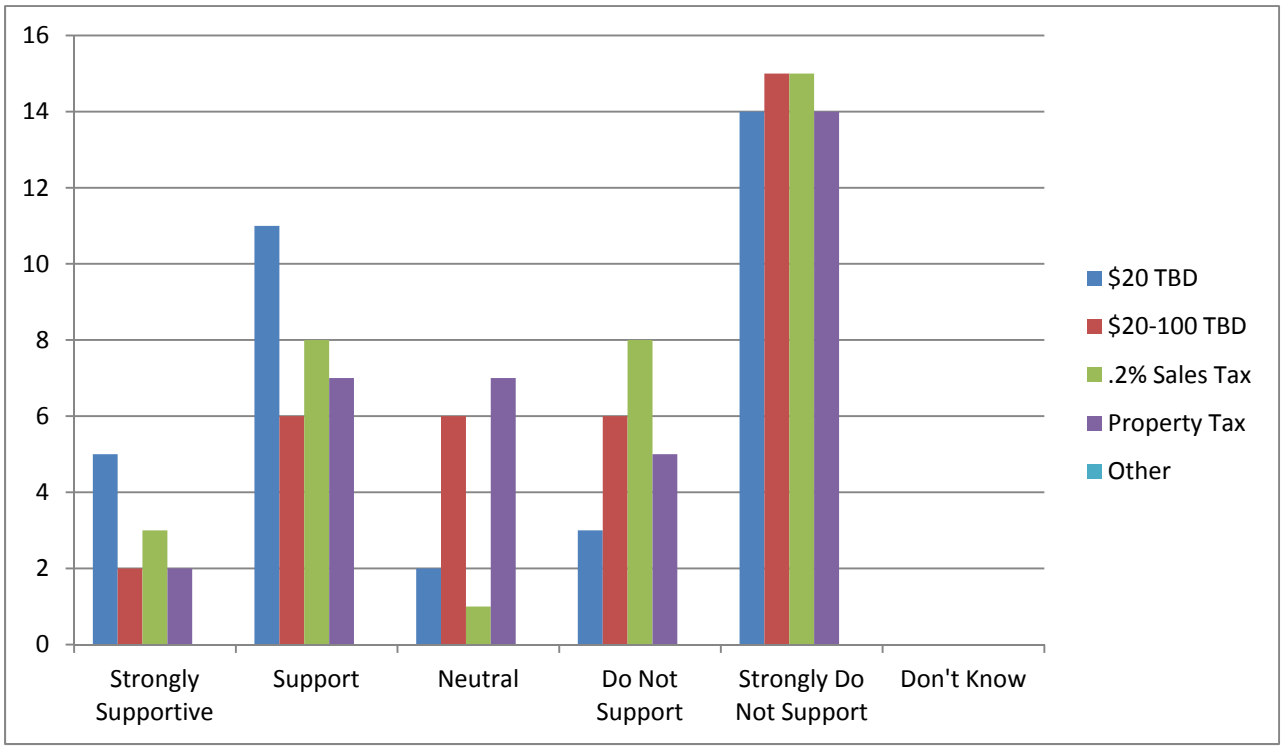

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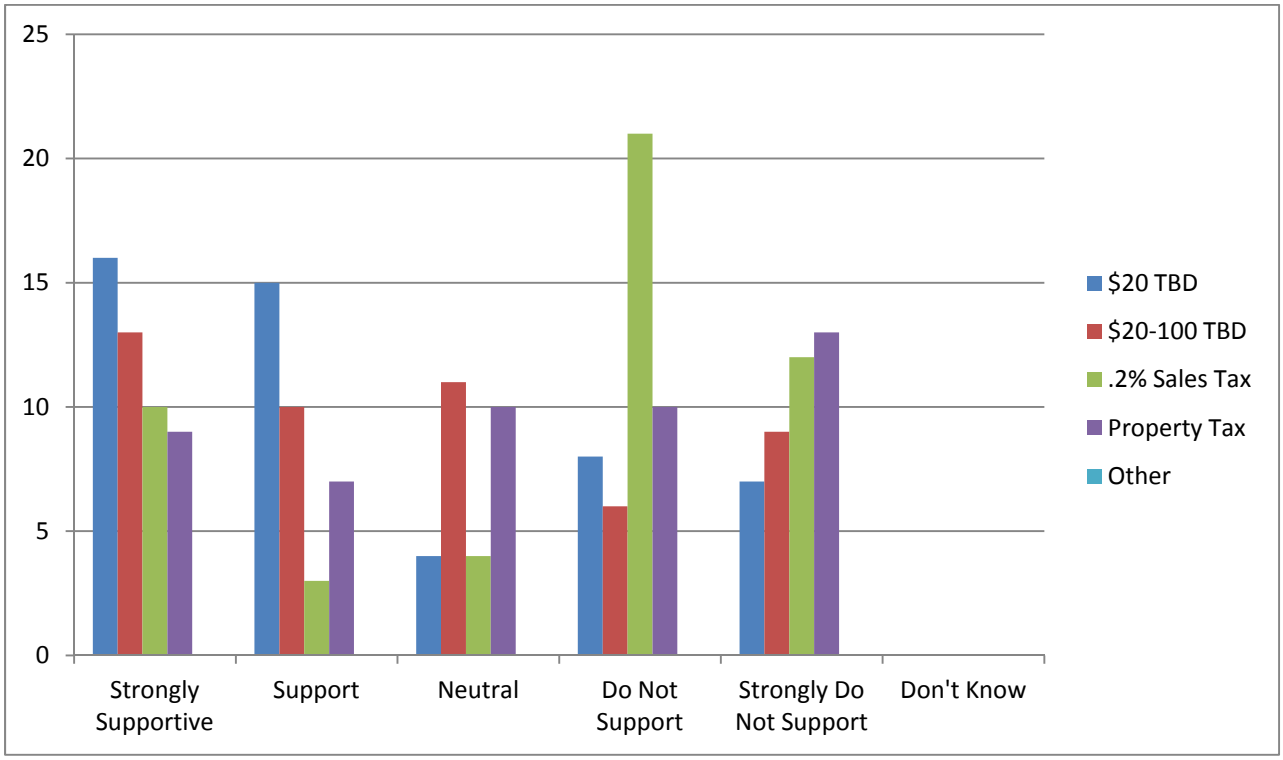
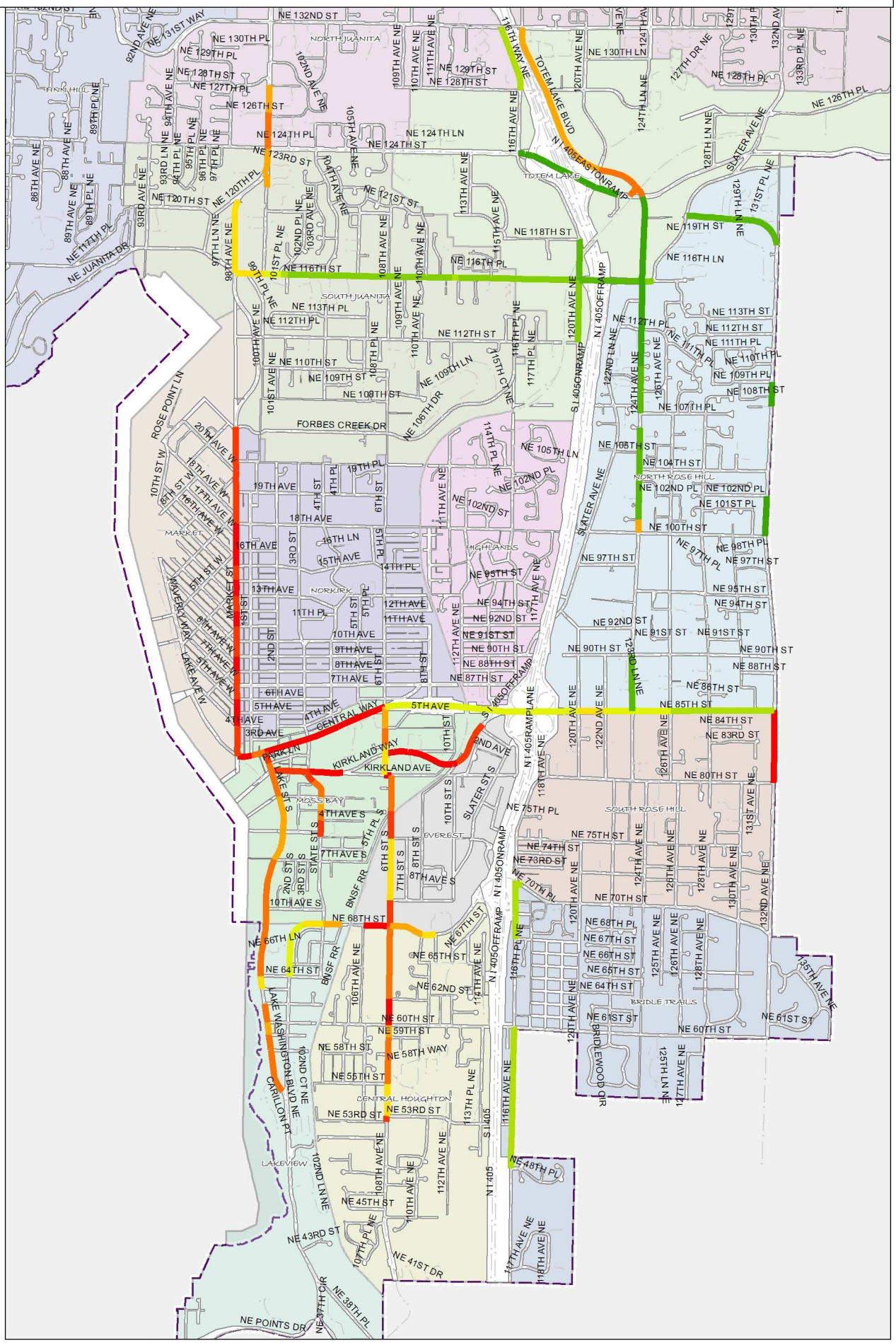
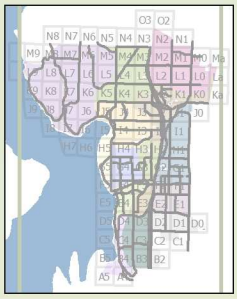


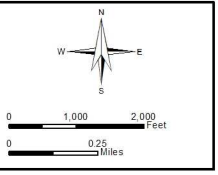
$3M/Year on Arterials (Old Kirkland)



Note: This map only includes streets recommended for Overlay and Reconstruction and does not include streets recommended for

Vicinity Map





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Author: adasovic
Name: $3M-YR on Arterials
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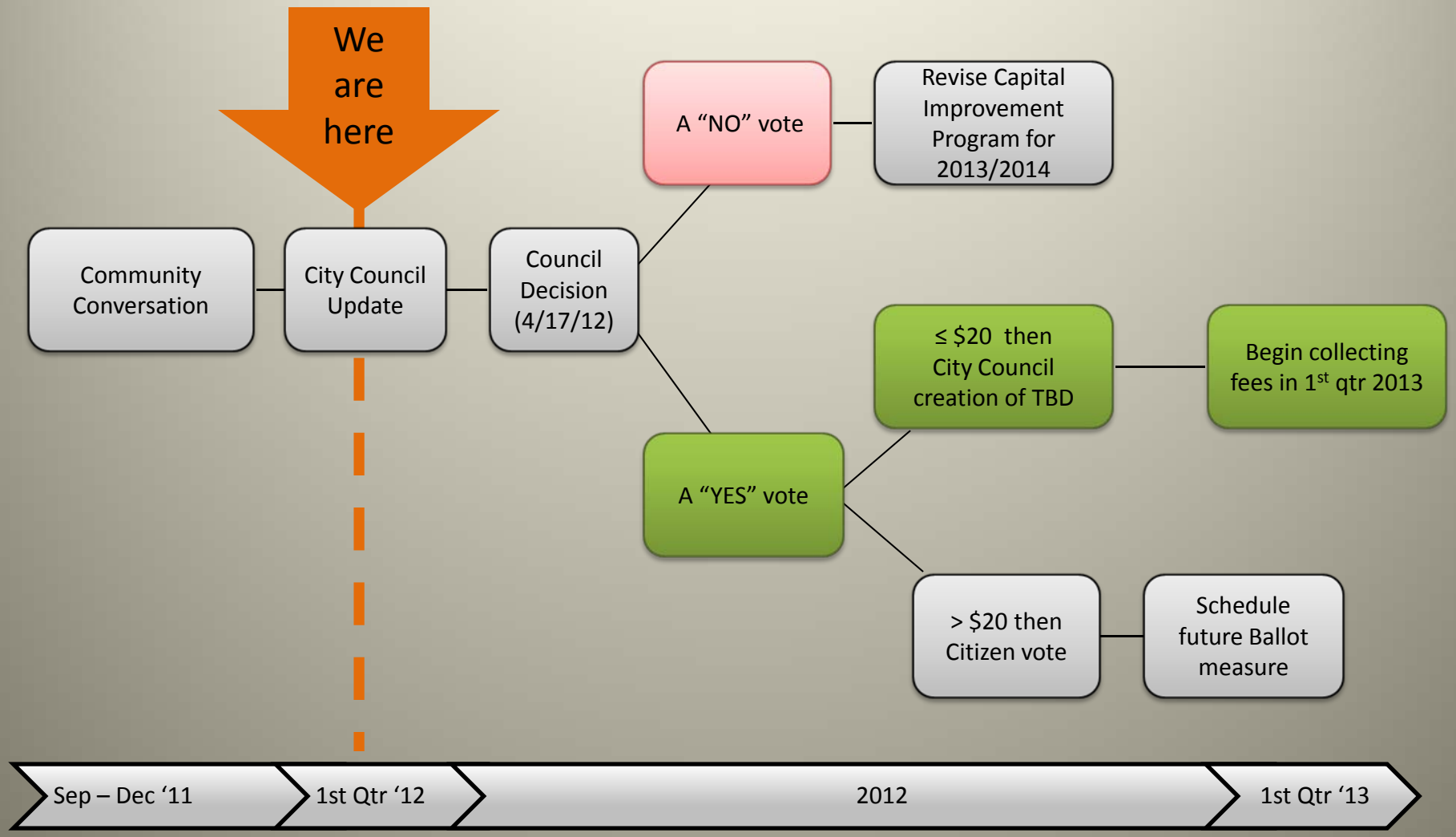
Where do we go from here?



CITY OF KIRKLAND
Department of Public Works
123 Fifth Avenue, Kirkland, WA 98033 425.587.3800
www.kirklandwa.gov

MEMORANDUM

To: Kurt Triplett, City Manager

From: Stacey Rush, P.E., Senior Surface Water Engineer
Ray Steiger, P.E., Public Works Director

Date: January 5, 2012

Subject: REVISED 2013 WESTERN WA PHASE II MUNICIPAL STORMWATER PERMIT

RECOMMENDATION:

It is recommended that City Council authorize the Mayor to sign a cover letter and allow staff to submit comments to the Washington State Department of Ecology regarding proposed changes to the City's municipal stormwater permit. The letter first asks that Ecology delay implementation of the new permit regulations until the economy recovers but continues with additional comments in the event the new regulations are imposed.

BACKGROUND DISCUSSION:

The State Department of Ecology (Ecology) will issue a revised 5-year Western WA Phase II Municipal Stormwater Permit for the National Pollutant Discharge Elimination System (NPDES permit) that will become effective in 2013. Ecology has provided the draft 2013 NPDES permit which increases regulations of stormwater and has asked jurisdictions and the public for comments prior to the permit being finalized and issued.

What is the NPDES Permit?

Ecology, under authority delegated to it by the U.S. Environmental Protection Agency, pursuant to the Federal Clean Water Act (CWA) issued the current NPDES permit in 2007. Local agencies must seek coverage under the NPDES Permit or be subject to possible third-party lawsuits, fines, or other penalties under the CWA. The NPDES permit regulations are designed to create better water quality in our streams, lakes, and wetlands by compelling jurisdictions to take steps to reduce the discharge of pollutants into stormwater. Stormwater has been identified as a major contributor of toxic pollutants entering our local waterways and Puget Sound.

The City of Kirkland is covered by and in compliance with the current NPDES permit (http://www.ecy.wa.gov/programs/wq/stormwater/municipal/PermitsPermittees.html) which went through a similar public comment period prior to its 2007 issuance, and Kirkland comments on the draft 2013 NPDES permit will be addressed and incorporated through this process (Attachment 1).

How are other jurisdictions responding to the proposed revisions?

There are over 100 jurisdictions in Washington State (including Kirkland) that will be subject to the same revised NPDES permit. The Association of Washington Cities (AWC) has been following the proposed permit changes closely, and similar to Ecology, has requested comments but only from its members. AWC will compile comments from Kirkland and other cities into one general letter and send them to Ecology at the end of January (prior to the Ecology deadline). Attachment 2 is AWC's request letter to its members, and they anticipate completing the collection of agency comments on January 9th. Kirkland's letter joins the call for a delay in implementing the new permit regulations, but our comments go beyond those being submitted by AWC. What follows is that discussion.

How will the proposed revisions effect permit regulations?

The proposed revised 5-year NPDES permit for 2013 through 2018 contains increased stormwater regulations, which will likely lead to increased development costs. The increased regulations are proposed due to the continued decline in salmon populations over the last decade and a continued push by the environmental community to better mitigate the impacts of new development on the environment. Ecology and the recent Legislature did recognize that increased regulations can be a hardship to public jurisdictions and private development, and in deference to that, mutually authorized the extension of the existing NPDES permit for one additional year (interim NPDES permit 2012-2013).

The current proposal however is to implement the revised NPDES permit with its new requirements in August 2013; an allowance for certain permit requirements will be delayed until 2015 and 2016. A full copy of the revisions is included on the Ecology website at:

http://www.ecy.wa.gov/programs/wq/stormwater/municipal/2012draftMUNIcom.html

Staff has now had the opportunity to review all of the proposed revisions for the NPDES permit and assembled comments for the applicable changes. In developing comments, a number of current City policies, objectives and community goals were considered. Comments were developed by surface water staff considering the following in no priority order:

- The City has a limited amount of staff and budget available to implement increase regulations.
- Are the new regulations necessary and realistic?
- Will the regulations be effective ?
- Are the regulations clear, specific, and enforceable?
- Protection of surface water and the environment in our community is a high priority.
- The realization that stormwater is a large contributor of pollutants to the environment.
- Will the regulation increase capital and private development costs?

Below are some of the proposed regulatory changes, followed by Public Works staff comments:

- *Additional requirements for the development of smaller sites.* The current 2007 NPDES permit requirements focus on the development of sites that are one acre or larger. The revised NPDES permit threshold for requirements is reduced to projects with 5,000 square feet of new or replaced hard surfaces.

  Staff comment: Most development projects in Kirkland involve sites less than one acre. The lower threshold will likely translate to higher development costs for smaller projects and increased staff time for reviewing and inspecting smaller projects; review and inspection fees will need to be adjusted to account for the increase in staff time.

- *Low Impact Development (LID) requirements.* The revised NPDES permit will require installation of stormwater LID techniques. All projects will be required to install LID for as much runoff as feasible.

  Staff comment: Requiring LID on all projects requires additional soil and geotechnical information that is not currently required for all projects. This will be an increased development expense.

- *LID code-related requirements.* Under the revised NPDES permit, the City must review and revise our development-related codes and rules to require LID principles and to make LID the preferred and commonly used approach to site development.

  Staff comment: The City's Green Building Team has already taken steps to change zoning and municipal codes to encourage sustainable development through the current Green Codes project, but there is a concern that under the revised permit the stormwater codes are controlling land use instead of the Growth Management Act or other land use regulations.

- *New Stormwater Design Manual.* The revised NPDES Permit requires the City to adopt a new stormwater manual for development by December 31, 2015. Ecology recently released the draft 2012 Stormwater Manual, and the City will need to adopt this manual or an equivalent. It is anticipated King County will issue an equivalent manual before the 2015 adoption date, and we may choose to adopt their manual instead.

  Staff comment: The City currently uses the 2009 King County Surface Water Design Manual, which does not meet the revised 2013 permit requirements. Adopting a new manual requires a significant amount of staff time preparing for new regulations and educating the development community (we went through this in 2009, creating template documents and holding public workshops).

- *Monitoring requirements.* The revised permit will require the City to perform water quality monitoring to assess the impacts and effectiveness of stormwater management practices.

  Staff comment: New monitoring requirements will mean an increased cost to the City and an increase in staff time, but will also provide us more information about our surface water systems. The revised permit does give the City the option to pay into a collective fund for monitoring at the regional level. The collective fund option would cost significantly less than City staff performing the monitoring and analysis, but Kirkland may not directly benefit from regional monitoring as much as monitoring our surface water systems. Either option is still an increased cost.

A full copy of comments regarding the proposed permit requirements are listed in Attachment 3.

Next Steps

Staff requests input from Council regarding the NPDES permit process and the permit comments and will incorporate them in with the submittal to Ecology by the February 3, 2012 deadline.

Attachment 1: NPDES Timeline
Attachment 2: Draft comments from AWC (12/21/11)
Attachment 3: Staff Comments on Draft NPDES WW Phase II Municipal Stormwater Permit
Attachment 4: Letter to Ecology

Timeline for the Western WA Phase II Municipal Stormwater Permit

National Pollutant Discharge Elimination System (NPDES)

Issued by the State of WA Department of Ecology

PERMIT GUIDE

Current NPDES permit defines level of stormwater requirements

Interim NPDES permit with same as current level of stormwater requirements

Revised NPDES permit with increased stormwater requirements

- 2007
  - Current NPDES permit issued 01-17-2007 (expires 2012)
  - Permit effective date 02-16-2007
- 2009
  - Permit modified 06-17-2009
  - COK implemented new stormwater design manual 01-01-2010
- 2011
  - Legislature authorizes one yr extension "interim" permit (expires 2013)
  - COK applied for coverage under interim permit 08-19-2011
- 2012
  - Draft Revised NPDES permit open for comment 10-19-2011
  - Deadline for permit comments 02-03-2012
  - Current NPDES permit expires 02-15-2012
  - Interim NPDES permit effective 08-01-2012
- 2013
  - Interim NPDES permit expires 07-31-2013
  - Revised NPDES permit effective 08-01-2013
- 2015
  - COK implement new stormwater regulations/design manual 2015 - 2016
- 2018
  - Revised NPDES permit expires 07-31-2018

Draft Comment Letter: Draft 2013 – 2018 Western WA Phase II Municipal Stormwater Permit

On behalf of Washington's cities and towns, we appreciate the opportunity to provide comments on the draft Western Washington Phase II municipal stormwater permit. We fully support the need to provide for clean water across the state, and recognize the role that city stormwater management plays in reaching that goal. Cities have been leading the way in investing in fighting stormwater pollution, and we will continue to do so. We raise and spend more money on stormwater management than the state and counties combined. Our serious concerns about this draft permit do not mean that we do not support strong and effective stormwater management.

Washington's cities have borne the full weight of the Great Recession for several years now. Our staffs are shrinking at the same time that service needs are rising across city government. We are asking for recognition of our financial and technical capacities at this time.

Although we raise many distinct issues below, our concerns primarily come down to resources and timing. In many instances we are struggling to meet existing permit requirements, and the additional cost drivers proposed in this draft permit may make that challenge impossible. In addition to a lack of financial resources, we do not currently have the informational and technical resources necessary to implement this permit as written. For instance, we do not have sufficient information from our leading jurisdictions on exactly when low impact development is feasible, and when it isn't. We do not have successful long-term examples of legal structures that would provide for perpetual maintenance of private stormwater facilities and access for local government inspectors on private property. We do not have the maintenance tools to manage permeable pavement deployment to the degree that this permit requires.

We believe that these resources can be brought to bear, but not on the timeline proposed by this draft permit.

Below are our specific areas of concern with the proposed draft permit:

Low Impact Development:

We welcome the opportunity to continue to learn from the jurisdictions that have been able to implement LID requirements at the local level. Some Phase IIs have the geography to easily adapt to LID requirements, and others don't. We believe it is premature to extend these requirements to every Phase II city. Without more time to gather experience from our innovators, it is difficult for cities to comment on whether the feasibility criteria are appropriate or not. As an example, we are hearing concerns about whether the "competing needs" criteria is sufficient to cover conflicts with other regulatory responsibilities. Cities continue to feel that permit requirements around Low Impact

Development are best phased in slowly and gradually. We would again request that Ecology consider other opportunities to move the ball forward on LID without jumping to require it of all jurisdictions at this point.

The LID requirements in the new permit around permeable pavement are of particular concern. Cities are worried that requiring permeable pavement on city roads will drive costs in two specific ways: costs of cleanup, and increased repair costs. Cleaning and maintaining the permeability of this pavement will require expensive equipment that cities do not currently have access to. And perhaps more concerning is the potential loss of maintenance tools like chip seals and refinishing that currently extend the useful life of our traditional roads by many years. Without these tools we may see an increased replacement schedule for our neighborhood streets – without the revenue to pay for it.

Inspections of stormwater treatment and flow-control facilities:

Many cities have expressed concerns about the new responsibility to provide for annual and twice-annual inspections of all stormwater treatment and flow-control facilities. Many jurisdictions expect that these new responsibilities will require the hiring of dedicated staff in a time of declining resources. In addition to the financial and staffing resources needed to meet these proposed inspection requirements, there are also concerns about legal and technical resources.

Jurisdictions will need to develop sophisticated and legally sound mechanisms to meet this responsibility. We need to ensure access to facilities on private property. We also need to develop mechanisms to ensure that property owners or groups of property owners have the resources to operate and maintain these facilities. Although the responsibility is on the property owner to maintain these facilities, ensuring that they are organized in such a way as to have permanent capacity to pay is the local government's responsibility.

We only have a handful of years of experience with the Phase I requirement to develop legal mechanisms to enforce inspection and maintenance responsibilities on new development and redevelopment. Ideas are being considered, such as potentially requiring new development of the size to trigger these requirements to have homeowners associations with sufficient annual assessments. This is new ground with serious property rights and community development ramifications. Substantial work must be done to understand how this will work on the ground.

We need more time to ensure that there are workable mechanisms for smaller Phase II jurisdictions to follow. Smaller cities have neither the legal expertise to develop these mechanisms from whole cloth, nor the financial capacity to gamble with tools that haven't been proven over time.

Watershed-scale planning:

Our cities that are potentially covered by the watershed-scale planning requirements of Phase I permittees want more information about their role. Affected cities are unclear about the potential impact of this requirement and need to know what "participate and cooperate" means before they can assess the potential impacts.

Vesting:

The vesting language in the permit is problematic – we believe that permit requirements cannot create or change vesting laws in the state. Should we be asked to enforce these requirements, we are concerned about legal liabilities.

Permit Timelines:

The timelines contemplated in the permit are viewed by many cities as too aggressive. Timelines are both too short for cities to change all of the necessary codes and, with concerns about what's required, believe that it is too soon to require all of this within the 5-year permit horizon. In many instances, the same staff will be overseeing both the necessary code changes to implement the LID requirements and the broader-scale code review to incorporate LID principles in the broader regulatory environment. This is on top of other mandated code reviews and updates – all at a time when staff resources are reduced. The one-year gap between these requirements does not provide the necessary staging to ensure that limited staff can adequately address both requirements and their other mandated workload.

One-Acre Threshold:

For several cities, the expansion of permit responsibilities to below one acre is a problem – they are still struggling to staff the existing permit. Although many cities extend at least a portion of their stormwater regulations to projects below a one-acre size, on the whole this is a large expansion of responsibilities for cities.

Monitoring:

Cities support some level of monitoring to ensure that permit requirements are effective in managing stormwater flows and pollution. We are concerned that the opt-out option that has been provided is not likely to be workable for many jurisdictions that have made investments in their own monitoring programs. Given the economic situation facing cities, the assumption that cities can pay for enhanced monitoring absent state financial assistance is not one we're willing to support, especially considering the scale of new financial responsibilities that are embedded in other areas of the permit.

Increased Liability:

Requiring changes to local land use codes and regulations in and of itself increases liability exposure. Doing so to include LID requirements that by their very nature have a range of applications, increases the risk of potential litigation. Litigation has been widespread on NPDES stormwater issues. It's costly and time-consuming. These new requirements add a layer of litigation exposure to cities beyond those already present when they review and update local land use regulations under GMA. For instance, the broad-scale regulatory review of non-development codes that may present an opportunity to promote LID could open a wide swath of city codes to third-party challenge under the Clean Water Act. That is a major concern. We would request that the Department take specific and proactive steps to limit litigation exposure in this permit.

City of Kirkland Comments on the Western WA Phase II Municipal Stormwater Permit, 01/2012

General Comments

1		The Stormwater Manual for Western Washington has not gone through a formal rulemaking process. As a result, it has not had the review of a science panel. Appendix 1 essentially requires city to adopt this manual, so it should go through the rulemaking process.
2		This permit includes surface water requirements for new and re-development, but does not require retro-fitting of existing development. New development cannot be expected to repair an entire watershed.

Section-Specific Comments

Section Citation	Title	Page Number	Comment
S2B.2	Authorized Discharges	12	"The discharge occurred during emergency fire fighting activities…" In a large MS4, discharge from the MS4 may occur some time after emergency fire fighting activities have ceased. Having the previous language made it clear that discharges caused by emergency fire-fighting are in compliance. This altered language implies that there is some time limit or other type of limit on when firefighting discharges are in compliance and when they are not. The fact sheet states that the intent is to require control and cleanup of materials discharged during cleanup activities associated with a fire, but there is no definition of what is cleanup and what constitutes the actual fire. Seems like this brings greater liability without clear instruction as to what is the desired outcome. We agree with the goal of preventing discharge from fire-fighting activities from the MS4 as much as possible, but this language does not clarify expectations.
S5.A.1	Stormwater Management Program for Cities, Towns and Counties	16	Include the acronym "SWMP" in the section title or define it in this section (Stormwater Management Program).
S5.A.3.a	Stormwater Management Program for Cities, Towns and Counties	17	Further guidance is needed on cost-tracking. This is a potentially time-consuming process, and it is unclear how Ecology is using the information that was gathered during the first permit cycle. Knowing how the information is used would help jurisdictions gather and share the information more efficiently.
S5A.5.b	Stormwater Management Program for Cities, Towns and Counties	18	Clarify whether the organizational chart should include names of individuals or position titles.

S5.C.1.a.iii	Public Education and Outreach	19	Add LID facility maintenance
S5.C.1.c	Public Education and Outreach	20	Requiring evaluation of a "NEW targeted audience in at least one NEW subject area", could pose a problem in established cities that are covering most of the targeted audiences. Support the allowance for regional evaluation.
S5.C.1.c	Public Education and Outreach	20	Recommend changing language to "understanding and/or adoption of targeted behaviors."
S5.C.2.a	Public Involvement	20	What are applicable State public noticing requirements with regards to this permit?
S5.C.3	Illicit Discharge Detection and Elimination	21	Consider adding the phrase "designed to" so the first sentence reads "The SWMP shall include an ongoing program **designed to** identify, detect, and prevent…." The MS4 jurisdiction can't be held accountable for preventing all illicit discharges - it can only be held accountable for putting together a program that has the intent of doing this.
S5.C.3.a.iii	Illicit Discharge Detection and Elimination	21	The fact sheet states the intent is for Permittees to map in greater detail areas where the risk of harm is greater, but this is not reflected in the Permit requirements.
S5.C.3.a.v	Illicit Discharge Detection and Elimination	22	It does not seem appropriate to include suggestions (i.e. items that are not required) in the permit language. Although the goal of pro-active business visits is laudable, these should either be required, or should not be discussed in the Permit. The same applies to private maintenance inspections.
S5.C.3.c.i	Illicit Discharge Detection and	25	Strongly support the increased flexibility for pro-active screening for detection of illicit
S5.C.3.c.i	Illicit Discharge Detection and Elimination	25	Clarify "conveyance" to prioritize (for example, conveyance 12" diameter or greater, or other criteria.
S5.C.3.c.i	Illicit Discharge Detection and Elimination	25	What does it mean to "... field screening for at least 40% of the MS4 within the Permittee's coverage area…"? Does 40% of the MS4 apply to conveyances? If so, how?
S5.C.3.c.iii	Illicit Discharge Detection and Elimination	26	The training requirements are vague. It is hard to document when the expectation is not stated. Perhaps change this to some sort of certification on the part of the jurisdiction that staff are properly trained and educated based on standards of care for the profession?
S5.C.3.c.iv	Illicit Discharge Detection and Elimination	26	the fact sheet states this section is retained in the IDDE portion because the intent is to require education regarding the dangers and importance of preventing illicit discharges. This seems inconsistent with flexibilty provided regarding other education topics.

S5.C.4	Controlling Runoff from New Development Redevelopment and Construction Sites	29	In proposing to eliminate the 1-acre threshold, Ecology needs to recognize the paperwork burden currently required of large sites is unreasonable for small sites. Specifically, the current requirements include development of a Stormwater Pollution Prevention Plan for sites over an acre. Erosion control plans are already required for most sites in Kirkland, but the SWPPP is a large document, much of which may not be practical for small sites.
S5.C.4.a	Controlling Runoff from New Development Redevelopment and Construction Sites	29	We are concerned that the provision that "….projects approved prior to January 1, 2016, which have not started construction by January 1, 2021" may conflict with State vesting laws.
S5.C.4.a	Controlling Runoff from New Development Redevelopment and Construction Sites	29	Definition of "started construction" is fuzzy - this is discussed in the fact sheet, but needs to be further clarified in the permit itself. Does, for example, placement of erosion control fencing count as starting construction?
S5.C.4.g	Controlling Runoff from New Development Redevelopment and Construction Sites	34	This section requires that LID principles be incorporated into local codes. This is essentially controlling land use via stormwater requirements.
S5.C.4.g	Controlling Runoff from New Development Redevelopment and Construction Sites	34	Timeline is tight for implementation of the findings of the LID code review, especially for larger jurisdictions. It often takes more time to alter land use codes that impact LID than it does to alter stormwater regulations.
S5.C.4.h	Controlling Runoff from New Development Redevelopment and Construction Sites	35	Watershed planning as required in the Phase I Permit will run into significant conflicts with the Growth Management Act, regardless of what jurisdiction performs the analysis. This puts jurisdictions in the position of having to decide whether to meet GMA goals or Permit requirements.
S5.C.5.c	Municipal Operations and Maintenance	36	spot checks should be eliminated from the Permit if no definition of the event size at which they are required is included. This is extremely vague, and cannot be checked.
S5.C.5.d.ii	Municipal Operations and Maintenance	37	Clarify conveyance systems to be cleaned, like pipe diameter 12" and greater or other criteria.
S5.C.5.d.ii	Municipal Operations and Maintenance	37	Instead of "clean all conveyance systems", change to "inspect all conveyance systems and clean as needed."

Appendix 1	3.1 Thresholds - Figure 3.2	9	Clarify vegetation. You are removing "native" from vegetation, so does that mean any vegetation, including grass or invasive species converted to lawn / pasture / landscape would be considered PGPS?
Appendix 1	4.1 Minimum Req #1: Preparation of Stormwater Site Plans	13	"...site-appropriate development principles to retain native vegetation and minimize impervious surface". What criteria does a city use when reviewing if an applicant has done this? What enforcement does a city have to say the applicant did not do this?
Appendix 1	4.2.SWPP, 12.d.	21	Typo - Change "on" to "one" in the sentence "The CESCL …(sites less than **on** acre) must…".
Appendix 1	4.5 Minimum Req #5: On-site Stormwater Management	25	Under Mandatory List #1, change "BMP's" in the first sentence to "BMPs".
Appendix 1	4.5 Minimum Req #5: On-site Stormwater Management	25	Are LID BMPs supposed to be used for 100% of runoff, or some other percent? A lower percent, like 50%, would be more realistically feasible than 100%.
Appendix 1	4.5 Minimum Req #5: On-site Stormwater Management	25	Requiring stormwater LID on all projects requires additional soil and geotechnical information that is not currently required for small projects. The required soil information will be an additional expense for developers, will require additional city staff review time, and will require cities to have staff with geotechnical knowledge.
Appendix 1	4.5 Minimum Req #5: On-site Stormwater Management	26	Under Mandatory List #2, change "BMP's" to "BMPs" in the following places: in the first sentence, and both items 3 "Bioretention BMPs" under "roofs" and "other hard surfaces".
Appendix 1	4.5 Minimum Req #5: On-site Stormwater Management	26	Clarify the "cost analysis" necessary to claim infeasibility of a vegetated roof. For example, if the cost analysis shows the vegetated roof will cost 50% or more than a traditional roof, then it is infeasible. The city needs criteria or a threshold to review a cost analysis.
Appendix 1	4.6 Minimum Req #6: Runoff Treatment	27	Typo in first bullet point, change acronym from "PGIS" to "PGHS" for pollution generating hard surface.
Appendix 1	8.I.A.	37	change "BMP's" in the first sentence to "BMPs".
Appendix 1	8.I.C.	40	Include and clarify the "cost analysis" for infeasibility of a vegetated roof referenced in section 4.5 (Min Req #5). For example, if the cost analysis shows the vegetated roof will cost 50% or more than a traditional roof, then it is infeasible. The city needs criteria or a threshold to review a cost analysis.

ATTACHMENT 4

January 17, 2012

D R A F T

Municipal Permit Comments
WA Department of Ecology
Water Quality Program
P.O. Box 47696
Olympia, WA 98504-7696

RE: City of Kirkland Comments
On Draft Western WA Phase II Municipal Stormwater Permit

Dear Permit Coordinator:

Thank you for accepting comments on the draft revised NPDES Western WA Phase II Municipal Stormwater Permit. Kirkland agrees with many of the proposed changes and understands the need to protect our valuable surface water resources, but also does not want to over burden projects with excessive standards.

Our City's first and foremost concern is that the challenging economic conditions that we are in continue to hamper local agencies and the communities that they serve. Regulations and oversight that are perceived to be added barriers to economic recovery are not in Kirkland's interest at this time, and our request is that Ecology acknowledges this and, similar to the delays authorized in the 2011 legislative session, recommends delaying adoption of these new regulations. As the economy gains strength, regulations that serve to improve our environment will become more important to implement.

In the event that the regulations do proceed, a list of Kirkland's additional comments, citing permit section and page number, prepared by City of Kirkland staff is attached. Below are general comments relating to the proposed changes:

Low Impact Development

- Requiring LID on all sites requires additional soil and geotechnical information that is not currently required on smaller projects. The required soil information will be an additional expense for developers, will require additional city staff review time, and will require cities to have staff with geotechnical knowledge.

- Are LID BMPs intended to be used for 100% of runoff, or some other percent? A lower percent, like 50%, would be more realistically feasible than 100%. Kirkland has been requiring LID BMPs for 10-20% as required in the 2009 King County Surface Water Design Manual, and that has been achievable on most development projects in Kirkland.

- Clarification is needed for the "cost analysis" option for infeasibility of a vegetated roof referenced in the permit section 4.5. Jurisdictions need criteria or a threshold to review a cost analysis.

Inspections of Stormwater Treatment and Flow Control Facilities

Clarification is needed regarding the requirement to inspect and clean all conveyance systems. Is there a minimum pipe diameter (like 12”), or minimum length, or only conveyance on a road with a specific ADT level, or some other threshold?

Vesting

The vesting language in the permit is problematic, and may conflict with State vesting laws.

One-Acre Threshold

Proposing to eliminate the 1-acre threshold requires a significant increase in paperwork that may not be reasonable for small sites. The lower threshold will likely translate to higher development costs for smaller projects and increased staff time for reviewing and inspecting smaller projects.

Increased Liability

We are concerned the revised permit stormwater codes are controlling land use instead of the GMA or other land use regulation.

Cost Tracking

Further guidance is needed on the cost-tracking requirement. This is a potentially time consuming process, and it is unclear how Ecology is using the information that was gathered during the first permit cycle. Knowing how the information is used would help jurisdictions gather and share the information more efficiently.

As stated above, the full list of comments from the City of Kirkland is attached. If you have any questions regarding our comments, please contact Jenny Gaus, Environmental Services Supervisor, at (425) 587-3850. Thank you again for accepting our comments.

Sincerely,
Kirkland City Council

by Joan McBride, Mayor

Attachment: Kirkland Staff Comments on Draft WW Phase II Municipal Stormwater Permit

Council Meeting: 01/17/2012
Agenda: New Business
Item #: 11. b.

CITY OF KIRKLAND
City Manager's Office
123 Fifth Avenue, Kirkland, WA 98033 425.587.3001
www.kirklandwa.gov

MEMORANDUM

To: City Council

From: Kurt Triplett, City Manager

Date: January 11, 2012

Subject: 2012 City Council Retreat Draft Agenda

The March 23-24, 2012 City Council Retreat draft agenda will be distributed at the January 17 City Council meeting.

Council Meeting: 01/17/2012
Agenda: New Business
Item #: 11. c.

CITY OF KIRKLAND
Planning and Community Development Department
123 Fifth Avenue, Kirkland, WA 98033
425.587-3225 - www.kirklandwa.gov

MEMORANDUM

To: Kurt Triplett, City Manager

From: Eric Shields, Planning Director
Nancy Cox, Development Review Manager

Date: January 5, 2012

Subject: Land Use Permit Fee Schedule Changes

RECOMMENDATION

Staff recommends that the City Council approve Planning Department fee schedule changes by adopting an ordinance amending Chapter 5.74.070 of the Kirkland Municipal Code.

BACKGROUND DISCUSSION

The proposed changes to the fee schedule fall into the following categories:

Format/Typographical errors

- Move Noise Variance fee from Planning Director Decisions to Planning Official Decisions to more accurately reflect the decision-maker.
- Reformat "Other Process I" fees like the "Other Process IIA" and "Other IIB fees." This change makes the format of the fee schedule consistent.
- In the Process I Review list, move Home Occupation and Historic Residence Designation fees to be clear they are separate from Other Process I Fees.
- Add the Subdivision Alteration fee to the Process IIA list. Change the Subdivision Vacation or Alteration title under Process IIB to just Subdivision Vacation. These changes reflect the correct process for each.
- Delete any mention of Process III. Process III permits were deleted from the Zoning Code in 2011.

Clarifications

- Add a note under Planning Official decisions that Public Works may have additional costs for parking modifications per KMC 5.74.040 ($75.00 per hour). The City's Transportation Engineer reviews most all parking modifications already

and this puts applicants on notice that there may be additional hourly charges.

- Add a note that there is no fee for code enforcement hearings. The previous language, "No fee for appeals of Notice of Civil Infraction or Order to Cease Activity" is deleted because of code changes in 2011.

Affordable Housing related

- Add a Planning Director Decision fee of $1,049.00 for Additional Affordable Housing Incentive – Density Bonus. The current fee schedule does not have fees for Section 112.25.2 related to the Additional Affordable Housing Incentive – Density Bonus. This section allows an applicant to request more than the standard density bonus allowed and was changed from a Process IIA decision to a Planning Director decision when the code was amended to make the affordable housing incentives mandatory. A fee was not added to the fee schedule when the change was made which was an oversight. Staff is recommending the same fee as several other Planning Director decisions.

Homeless Encampment related

- Add a Process I Review fee of $424.00 for Homeless Encampment Temporary Use with Modifications. Homeless encampment applications that meet the code standards in Chapter 127 Temporary Use Permits have a discounted fee of $212.00. KZC 127.43 requires a Process I permit if applicants seek to modify one of the code standards. A fee has never been established for this type of permit. Presuming a discounted fee is again appropriate; staff is recommending simply doubling the basic fee.

Integrated Development Plan (IDP) related – The IDP* was incorporated into KZC Chapter 95 - Tree Management and Required Landscaping in 2010. The City has not seen interest in IDP's from the development community until recently. Now that they are being used, staff has become aware that there are gaps in the fee schedule.

- Clarify that there is no charge for a second pre-submittal meeting if it is for an IDP. Two pre-submittal meetings are generally required for an IDP project. The fee schedule should note that there is no charge for the second pre-submittal for an IDP.

- IDP modifications:
    - Add Planning Official fee of $525.00 when minimum tree density credits are not decreased per KZC 95.30.6.b.1);
    - Add Planning Official fee of $828.00 when requesting a decrease in the number of tree density credits per KZC 95.30.6.b.2);
    - Add Hearing Examiner fee of $1,049.00 per KZC 95.30.6.b.3).

  To consider modifications to an IDP after approval requires increasingly careful consideration as described in the code excerpt below. The proposed fees are

reflective of the additional time required to consider the modification requests as the project progresses.

95.30.6.b. Modifications to Tree Retention Plan for Short Plats and Subdivisions. A Tree Retention Plan modification request shall contain information as determined by the Planning Official based on the requirements in subsection (5) of this section, Tree Retention Plan. The fee for processing a modification request shall be established by City ordinance.

For Tree Retention Plans approved during the short plat or subdivision review process that established the location of all proposed improvements, including the building footprint, utilities, and access, a modification to the Tree Retention Plan may be approved as follows:

1) Modification – General. The Planning Official may approve minor modifications to the approved Tree Retention Plan in which the minimum tree density credits associated with trees identified for retention are not decreased.

2) Modification Prior to Tree Removal. The Planning Official may approve a modification request to decrease the minimum number of tree density credits associated with trees previously identified for retention if:

   a) Trees inventoried in the original Tree Retention Plan have not yet been removed; and

   b) The Planning Official shall not approve or deny a modification pursuant to this section without first providing notice of the modification request consistent with the noticing requirements for the short plat.

3) Modification after Tree Removal. A modification request is required to decrease the minimum number of tree density credits associated with trees previously identified for retention after which trees inventoried in the original Tree Retention Plan have already been removed. Such a request may be approved by the Hearing Examiner only if the following are met:

   a) The need for the modification was not known and could not reasonably have been known before the tree retention plan was approved;

   b) The modification is necessary because of special circumstances which are not the result of actions by the applicant regarding the size, shape, topography, or other physical limitations of the subject property relative to the location of proposed and/or existing improvements on or adjacent to the subject property;

c) There is no practicable or feasible alternative development proposal that results in fewer additional tree removals;

d) The Hearing Examiner shall not approve or deny a modification pursuant to this section without the Planning Official first providing notice of the modification request consistent with the noticing requirements for the short plat and providing opportunity for comments for consideration by the Hearing Examiner; and

e) Said comment period shall not be less than 14 calendar days.

*****An IDP is a copy of the plat map that includes the topography and the footprints of each home, and shows how each home will be accessed and served by utilities. The IDP also shows the tree retention plan information specified in Kirkland Zoning Code Chapter 95 (KZC 95.30) and includes an arborist report. Once approved along with the short plat application:

1) the Land Surface Modification (LSM or grading) permit can authorize all of the site preparations including utility and road work, home site grading, and clearing of all trees approved for removal under the IDP;

2) the successive applications (i.e. demolition or building permit applications) can be reviewed faster through consolidation of Planning and Urban Forestry reviews; and

3) the LSM and building permit applications can be submitted prior to short plat or subdivision recording. Building permits can be issued once the short plat or subdivision records.

cc: File MIS11-00023
Alphabetical file

ORDINANCE O-4346

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO PLANNING DEPARTMENT FEES AND AMENDING KMC 5.74.070 BY CORRECTING FORMAT/TYPOGRAPHICAL ERRORS, ADDING CLARIFICATIONS, ADDING AN AFFORDABLE HOUSING INCENTIVE FEE, HOMELESS ENCAMPMENT WITH MODIFICATION FEE AND ADDING FEES FOR INTEGRATED DEVELOPMENT PLAN MODIFICATIONS. FILE MIS11-00023.

The City Council of the City of Kirkland do ordain as follows:

Section 1. The schedule contained in KMC 5.74.070 is hereby amended to read as follows:

5.74.070 Fees charged by planning department.
(a) The schedule below establishes fees charged by the planning department. The entire fee must be paid before the review or processing begins, except as otherwise specified.

FEE TYPE	FEE AMOUNT
Preliminary Project Review	
Pre-submittal Meeting, Integrated Development Plan, and/or Pre-design Conference Note: Fee subtracted from the application fee if the application is submitted within six months of the date of the preliminary project review meeting date. Credit does not apply to subsequent meetings related to the same project. No charge for second pre-submittal meeting if for Integrated Development Plan.	$504.00
Planning Official Decisions	
Accessory Dwelling Unit (not required if reviewed concurrently with a building permit)	$414.00
Personal Wireless Service Facility Planning Official Decision	$8,352.00
Personal Wireless Service Facility Subsequent or Minor Modification	$828.00
Parking Modification (additional Public Works fees may be required per KMC 5.74.040)	$525.00
Sensitive Area Planning Official Decision	$2,071.00
Administrative Design Review If application involves new gross floor area (new buildings or additions to existing buildings)	$2,071.00

No new gross floor area	$0.00
Master Sign Plan Approval Modification	$828.00
Off-Site Directional Sign Approval Modification	$525.00
Design Review Approval Modification	$1,049.00
Design Review Approval Extension	$414.00
Historic Residence Alteration	$828.00
Rooftop Appurtenance Modification	$828.00
Multiple Private or ROW Tree Removal Permit	$200.00
Forest Management Plan	$300.00
Shoreline Area – Alternative Options for Tree Replacement or for Vegetation Compliance in Setback	$200.00
Shoreline Substantial Development Exemption	$200.00
Noise Variance	$525.00
Integrated Development Plan modification per KZC 95.30.6.b.1)	$525.00
Integrated Development Plan modification per KZC 95.30.6.b.2)	$828.00
Planning Director Decisions	
Temporary Use Permit	$212.00
Variance Exception	$1,049.00
Off-Site Directional Sign	$1,049.00
Master Sign Plan	$2,927.00
Short Plat or Subdivision Approval Modification	$828.00
Process I Approval Modification	$828.00
Process IIA, IIB or III Approval Modification	$1,049.00
Lot Line Alteration	$1,049.00
Binding Site Plan	$2,085.00
Multifamily Housing Property Tax Exemption Conditional Certificate	$1,049.00
Multifamily Housing Property Tax Exemption Contract Amendment	$525.00
Multifamily Housing Property Tax Exemption Conditional Certificate Extension	$525.00
~~Noise Variance~~	~~$525.00~~
Additional Affordable Housing Incentive – Density Bonus	$1,049.00
Process I Review	
Short Subdivision	

Base Fee	$4,141.00
Fee per lot	$966.00
Innovative Short Subdivision	
Fixed Fee	$6,764.00
Fee per lot	$966.00
Substantial Development Permit	
Piers and Docks Associated with Multifamily Development and Marinas and Moorage Facilities Associated with Commercial Uses	$10,436.00
Other Shoreline Improvements	$4,473.00
Historic Residence Designation	$1,062.00
Home Occupation	$1,062.00
Homeless Encampment Temporary Use with Modifications	$424.00
Personal Wireless Service Facility Process I Review	$10,436.00
~~Other Process I Review~~	
~~Residential~~	
~~Base Fee~~	~~$4,141.00~~
~~Fee per new residential unit~~	~~$483.00~~
~~Nonresidential~~	
~~Base Fee~~	~~$4,141.00~~
~~Fee per square foot new GFA~~	~~$0.29~~
~~Mixed Use~~	
~~Base Fee~~	~~$4,141.00~~
~~Fee per new unit~~	~~$483.00~~
~~Fee per square foot new GFA~~	~~$0.29~~
Other Process I	
Base Fee	$4,141.00
Fee per new residential unit	$483.00
Fee per sq. ft. new non-residential GFA	$0.29
~~Home Occupation~~	~~$1,062.00~~
~~Historic Residence Designation~~	~~$1,062.00~~

Process IIA Review	
Preliminary Subdivision	
Fixed Fee	$8,711.00
Fee per lot	$1,049.00

Innovative Preliminary Subdivision	
Fixed Fee	$10,795.00
Fee per lot	$1,049.00
Subdivision Alteration	$8,945.00
Personal Wireless Service Facility Process IIA Review	$20,210.00
Other IIA	
Base Fee	$7,303.00
Fee per new residential unit	$414.00
Fee per sq. ft. new non-residential GFA	$0.41
Process IIB ~~& Process III~~ Review	
Subdivision Vacation ~~or Alteration~~	$8,945.00
Historic Landmark Overlay or Equestrian Overlay	$1,049.00
Personal Wireless Service Facility Process IIB Review	$29,156.00
Other IIB ~~or III~~	
~~Residential (including Short Subdivisions reviewed through Process IIB per Section 22.28.030~~)	
Base Fee	$11,265.00
Fee per new residential unit (including Short Subdivisions reviewed through Process IIB per KMC 22.28.030)	$414.00
Fee per sq. ft. new non-residential GFA	$0.41
Hearing Examiner Review	
Integrated Development Plan Modification per KZC 95.30.6.b.3)	$1,049.00

Design Board Review	
Design Board Concept Review	$1,427.00
Design Board Design Response Review	
Base Fee	$4,371.00
Fee per new unit	$201.00
Fee per sq. ft. new GFA	$0.20
State Environmental Policy Act (SEPA)	
Review of Environmental Checklist	

Base Fee	$552.00
Estimated Number of PM Peak Trips	
Less than 20 trips	$903.00
21—50 trips	$1,805.00
51—200 trips	$3,610.00
Greater than 200 trips	$7,221.00
Applications involving sensitive areas (streams and/or wetlands only)	$552.00

Preparation of Environmental Impact Statement (EIS)	
* The cost of preparing an EIS is the sole responsibility of the applicant. Kirkland Ordinance No. 2473, as amended, establishes the procedures that the city will use to charge for preparation and distribution of a draft and final EIS. The applicant is required to deposit with the city an amount not less than $5,000 to provide for the city's cost of review and processing an EIS. If the anticipated cost exceeds $5,000, the city may require the applicant to deposit enough money to cover the anticipated cost.	

Miscellaneous	
Appeals and Challenges	
Appeals	$207.00
Challenges	$207.00
Note: No Fee for ~~appeals of Notice of Civil Infraction or Order to Cease Activity~~code enforcement hearings	
Sidewalk Cafe Permits	
Fixed Fee	$654.00
Fee per sq. ft. of cafe area	$0.73
Street Vacation	
Fixed Fee	$8,352.00
Fee per sq. ft. of street	$0.41
Final Subdivision	
Fixed Fee	$2,071.00
Fee per lot	$207.00
Review of Concurrency Application—Estimated Number of PM Peak Trips	
Less than 20 trips	$531.00
21—50 trips	$743.00
51—200 trips	$1,487.00
Greater than 200 trips	$1,911.00
Fees for Comprehensive Plan and Zoning Text Amendment Requests	

Request for property-specific map change	
Initial request	$319.00
If request is authorized by city council for review	$319.00
Request for city-wide or neighborhood-wide policy change	No charge

General Notes:

1. Fee Reduction for Applications Processed Together: When two or more applications are processed together, the full amount will be charged for the application with the highest fee. The fee for the other application(s) will be calculated at 50% of the listed amount.
2. Projects with greater than 50 dwelling units or 50,000 sq. ft. nonresidential GFA: The per unit and per sq. ft. fee for all units above 50 and all GFA above 50,000 sq. ft. shall be reduced by one-half.
3. Note for Sensitive Areas permits:

a. In cases where technical expertise is required, the Planning Official may require the applicant to fund such studies.

b. Voluntary wetland restoration and voluntary stream rehabilitation projects are not subject to fees.

4. Construction of affordable housing units pursuant to Chapter 112 of the Kirkland Zoning Code: The fee per new unit and fee per square foot new GFA shall be waived for the bonus or additional units or floor area being developed.
5. Note for Historic Residence permits: An additional fee shall be required for consulting services in connection with designation and alteration of historic residences.

(b) The director is authorized to interpret the provisions of this chapter and may issue rules for its administration. This includes, but is not limited to, correcting errors and omissions and adjusting fees to match the scope of the project. The fees established here will be reviewed annually, and, effective January 1st of each year, may be administratively increased or decreased, by an adjustment to reflect the current published annual change in the Seattle Consumer Price Index for Wage Earners and Clerical Workers as needed in order to maintain the cost recovery objectives established by the city council.

(c) MyBuildingPermit.com Surcharge. In addition to the fees listed in this section there shall be a one and three-tenths percent surcharge collected to pay for the city's MyBuildingPermit.com membership fees.

Exception: The MyBuildingPermit.com surcharge does not apply to the fees for comprehensive plan and zoning text amendment requests.

Section 2. This ordinance shall be in force and effect on February 1, 2012, after its passage by the Kirkland City Council and publication pursuant to Section 1.08.017, Kirkland Municipal Code in the summary form attached to the original of this ordinance and by this reference approved by the City Council.

Passed by majority vote of the Kirkland City Council in open meeting this _____ day of _____, 2012.

Signed in authentication thereof this _____ day of _____, 2012.

_____
MAYOR

Attest:

_____
City Clerk

Approved as to Form:

_____
City Attorney

PUBLICATION SUMMARY
OF ORDINANCE O-4346

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO PLANNING DEPARTMENT FEES AND AMENDING KMC 5.74.070 BY CORRECTING FORMAT/TYPOGRAPHICAL ERRORS, ADDING CLARIFICATIONS, ADDING AN AFFORDABLE HOUSING INCENTIVE FEE, AND ADDING FEES FOR INTEGRATED DEVELOPMENT PLAN MODIFICATIONS. FILE MIS11-00023.

SECTION 1. Amends KMC 5.74.070 relating to Planning Department fees and adds an affordable housing incentive fee and fees for integrated development plan modifications.

SECTION 2. Authorizes publication of the ordinance by summary, which summary is approved by the City Council pursuant to Section 1.08.017 Kirkland Municipal Code and establishes the effective date as February 1, 2012, after publication of summary.

The full text of this Ordinance will be mailed without charge to any person upon request made to the City Clerk for the City of Kirkland. The Ordinance was passed by the Kirkland City Council at its meeting on the ____ day of _____, 2012.

I certify that the foregoing is a summary of Ordinance _____ approved by the Kirkland City Council for summary publication.

_____
City Clerk