



CITY OF KIRKLAND

City Attorney's Office
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www.kirklandwa.gov

MEMORANDUM

To: Kurt Triplett, City Manager

From: Oskar Rey, Assistant City Attorney

Date: May 6, 2016

Subject: Authorization to Use Eminent Domain for Fire Station No. 24 Property Acquisition

RECOMMENDATION:

It is recommended that the City Council adopt the attached Ordinance authorizing staff to proceed with acquisition of property by eminent domain for property commonly known as 9820 NE 132nd Street, Kirkland, Washington, ("Property") in connection with the Fire Station No. 24 Project.

BACKGROUND DISCUSSION:

The City annexed portions of the Juanita, Finn Hill and Kingsgate neighborhoods on June 1, 2011 ("Annexation"). Prior to Annexation, the City entered into an Interlocal Agreement ("Interlocal") with King County Fire Protection District No. 41 ("District"), which provided fire services in North Kirkland. The District was dissolved after Annexation, and the City agreed to continue and take over certain District projects intended to improve response times in North Kirkland.

One of those projects was construction of a new Fire Station No. 24 (at a new location) to replace the existing Fire Station 24. The Interlocal originally contemplated construction of a single fire station to replace Fire Station No. 24 and Fire Station No. 25. After Annexation, the City retained consultants to prepare a Fire Strategic Plan and a Standards of Coverage Study. After extensive study and public input, the City Council determined that the most effective way to increase service and reduce response times in North Kirkland is to retain existing Fire Station No. 25 and construct a new Fire Station No. 24 near Juanita Elementary School. The City Council also found that this approach was consistent with the purpose and intent of the District Interlocal through findings included in the adoption of Kirkland Resolution No. 5156.

The City Council initially authorized the use of eminent domain with respect to four residential parcels in the area through Kirkland Ordinance No. 4512. During due diligence, the City learned that those properties were burdened by a covenant restricting the properties to single-family residential use. As a result, the City elected to not proceed with siting Fire Station No. 24 at that location and now seeks to construct Fire Station No. 24 on the Property.

A site map and table identifying the property is attached hereto as Attachment A. The Property is currently used as a Rite Aid store and is located directly to the west of the Goodwill store. It is important to note that the Goodwill store is on a separate parcel. City staff anticipates that the City's acquisition of the Property will not adversely impact the operations of the Goodwill store.

City staff has commenced negotiations with the owner of the Property. The owner is receptive to having the City acquire the Property, but the existence of a long-term ground lease and sublease on the Property complicates the acquisition process. City staff will continue efforts to close this transaction on a negotiated basis. However, eminent domain proceedings may be necessary for the City to complete the acquisition of the Property.

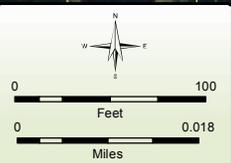
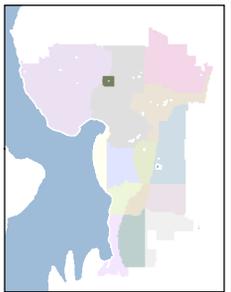
RCW 8.12 authorizes and empowers Cities to condemn land and property for improvements such as those proposed for this project. Condemnation authority is not granted to public entities as a coercive measure. Rather, it allows for the acquisition of property for projects deemed to be in the public's interest. The eminent domain statutes were written to prevent unreasonable demands from being placed on public entities and to afford property owners fair market value for their property.



Attachment A

Rite Aid Site Map

-  Buildings
-  Parks / Open Spaces
-  Schools
-  Parcels
-  Lakes




Author: Name In Map Doc Properties
 Name: OskarReyRequest-050616
 Date Saved: 5/6/2016 4:12:35 PM

ORDINANCE O-4519

AN ORDINANCE OF THE CITY OF KIRKLAND AUTHORIZING AND PROVIDING FOR THE ACQUISITION OF INTERESTS IN LAND FOR THE PURPOSE OF CONSTRUCTION AND OPERATION OF FIRE STATION NO. 24 WITHIN THE CITY OF KIRKLAND, PROVIDING FOR THE COST OF PROPERTY ACQUISITION, AND AUTHORIZING THE INITIATION OF APPROPRIATE EMINENT DOMAIN PROCEEDINGS IN THE MANNER PROVIDED FOR BY LAW.

1 WHEREAS, the City annexed portions of the Juanita, Finn Hill
2 and Kingsgate neighborhoods on June 1, 2011 ("Annexation"); and

3
4 WHEREAS, prior to Annexation, the City entered into an
5 Interlocal Agreement ("Interlocal") with King County Fire Protection
6 District No. 41 ("District") in which the City agreed to continue and take
7 over certain District projects intended to improve response times; and

8
9 WHEREAS, on October 20, 2015, the City Council adopted
10 Resolution No. 5156 in which it found that construction and operation
11 of a new Fire Station No. 24 to replace the existing Fire Station No. 24
12 was consistent with the purpose and the intent of the Interlocal; and

13
14 WHEREAS, the City previously identified a proposed site for Fire
15 Station No. 24, conducted negotiations with the owners of the four
16 properties that comprised the proposed site and authorized the City to
17 acquire the four properties in eminent domain pursuant to Ordinance
18 No. 4512; and

19
20 WHEREAS, the City subsequently determined that development
21 of the previous site as a fire station was not feasible; and

22
23 WHEREAS, the City has identified a new proposed site for Fire
24 Station No. 24; and

25
26 WHEREAS, the City has provided notice to the affected property
27 owner of this final action authorizing condemnation pursuant to RCW
28 8.25.290;

29
30 NOW, THEREFORE, the City Council of the City of Kirkland do
31 ordain as follows:

32
33 Section 1. The land and property rights within the City of
34 Kirkland, King County, Washington, described in Exhibit A to this
35 Ordinance and incorporated herein, which are necessary for the public
36 purpose of construction and operation of a fire station, are hereby
37 condemned, appropriated and taken for such public purposes, subject
38 to the making or paying of just compensation to the owners thereof in
39 the manner provided by law.

40 Section 2. The expense of acquiring said property rights shall
41 be paid for from the bond proceeds from the debt issued by the District
42 prior to Annexation.

43
44 Section 3. The City Attorney or designee is authorized and
45 directed to begin and prosecute legal proceedings in the manner
46 provided by the law to purchase, condemn, take, appropriate, and
47 otherwise acquire the land and other property rights and privileges
48 necessary to carry out the purposes of this Ordinance.

49
50 Section 4. This ordinance shall be in force and effect five days
51 from and after its passage by the Kirkland City Council and publication
52 pursuant to Section 1.08.017, Kirkland Municipal Code in the summary
53 form attached to the original of this ordinance and by this reference
54 approved by the City Council.

55
56 Passed by majority vote of the Kirkland City Council in open
57 meeting this ____ day of _____, 2016.

58
59 Signed in authentication thereof this ____ day of
60 _____, 2016.

MAYOR

Attest:

City Clerk

Approved as to Form:

City Attorney

EXHIBIT "A"
Legal Description

That portion of the south 495 feet in width of the southeast quarter of the southeast quarter of Section 19, Township 26 North, Range 5 East, Willamette Meridian, in King County, Washington, described as follows:

Commencing at the southeast corner of said section;
Thence North 88°50'28" West, along the south line thereof, 467.90 feet;
Thence North 0°45'11" East, parallel to the east line of said section 42.00 feet to the north margin of Northeast 132nd Street and the true point of beginning of this description;
Thence North 88°50'28" West, along said north margin 242.10 feet;
Thence North 0°45'11" East 453.01 feet to the south line of Sparkman & McLean No. 3, Div. No. 1, according to the plat thereof, recorded in Volume 89 of Plats, page 71, in King County, Washington;
Thence South 88°50'28" East, along said south line, 242.10 feet;
Thence South 0°45'11" West, 453.01 feet to the true point of beginning.

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PUBLICATION SUMMARY
OF ORDINANCE O-4519

AN ORDINANCE OF THE CITY OF KIRKLAND AUTHORIZING AND PROVIDING FOR THE ACQUISITION OF INTERESTS IN LAND FOR THE PURPOSE OF CONSTRUCTION AND OPERATION OF FIRE STATION NO. 24 WITHIN THE CITY OF KIRKLAND, PROVIDING FOR THE COST OF PROPERTY ACQUISITION, AND AUTHORIZING THE INITIATION OF APPROPRIATE EMINENT DOMAIN PROCEEDINGS IN THE MANNER PROVIDED FOR BY LAW.

SECTION 1. Authorizes condemnation of property necessary for the public purpose of construction and operation of a fire station.

SECTION 2. Provides that the expense of acquiring said property rights shall be paid for from the bond proceeds from the debt issued by King County Fire Protection District No. 41 prior to Annexation.

SECTION 3. Authorizes the City Attorney to initiate condemnation proceedings to acquire the property necessary for the public purpose.

SECTION 4. 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.

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 _____, 2016.

I certify that the foregoing is a summary of Ordinance _____ approved by the Kirkland City Council for summary publication.

City Clerk