
CITY OF KIRKLAND

CITY COUNCIL



Joan McBride, Mayor • Penny Sweet, Deputy Mayor • Dave Asher • Jessica Greenway
Doreen Marchione • Bob Sternoff • 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 • TTY 425.587.3111 • www.ci.kirkland.wa.us

AGENDA

KIRKLAND CITY COUNCIL MEETING

City Council Chambers

Tuesday, July 6, 2010

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.ci.kirkland.wa.us, 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 (587-3190) or the City Manager's Office (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 587-3190, or for TTY service call 587-3111 (by noon on Monday) if we can be of assistance. If you should experience difficulty hearing the proceedings, please bring this to the attention of the Council by raising your hand.

1. *CALL TO ORDER*
2. *ROLL CALL*
3. *STUDY SESSION, Peter Kirk Room*
 - a. 2010 Annexation Quarterly Update 2
4. *EXECUTIVE SESSION*
 - a. To Discuss Labor Negotiations
 - b. To Discuss Pending Litigation
5. *OATH OF OFFICE*
 - a. City Manager Kurt Triplett
6. *HONORS AND PROCLAMATIONS*
 - a. July 2010 Park and Recreation Month Proclamation
7. *COMMUNICATIONS*
 - a. *Announcements*
 - b. *Items from the Audience*

EXECUTIVE SESSIONS may be held by the City Council to discuss matters where confidentiality is required for the public interest, including buying and selling property, certain personnel issues, and lawsuits. An executive session is the only type of Council meeting permitted by law to be closed to the public and news media

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.

P - denotes a presentation from staff or consultant

c. Petitions

8. *SPECIAL PRESENTATIONS*

a. Green Tips

9. *CONSENT CALENDAR*

a. *Approval of Minutes:* June 15, 2010

b. *Audit of Accounts:*

Payroll \$

Bills \$

c. *General Correspondence*

(1) Dale Knapinski, Regarding Ford of Kirkland

d. *Claims*

(1) Leslie Osborn

e. *Award of Bids*

f. *Acceptance of Public Improvements and Establishing Lien Period*

(1) Park Lane (Phase One) Improvements, Pacific Northwest Earthworks, LLC, Fall City, Washington

g. *Approval of Agreements*

h. *Other Items of Business*

(1) Resolution R-4823, Approving a Waiver of Competitive Bidding for Contracting with Interact Soft, Inc., dba iCarpool, to Develop a Commute Management System for the City and Authorizing the City Manager to Execute Said Contract

(2) Resolution R-4824, Notice of Hearing for the Vacation of a Portion of Waverly Way Right-of-Way, (File No. VAC10-00001)

(3) Ordinance No. 4244 and its Summary, Relating to Street Cut Fees and Amending Sections 5.74.040 and 19.12.090 of the Kirkland Municipal Code

(4) Report on Procurement Activities

10. *PUBLIC HEARINGS*

a. Ordinance No. 4249, Relating to Land Use and Zoning, Providing Interim Official Controls Regarding the Zoning Review Process for "School or Day-Care Center" and "Government Facility/Community Facility" Uses in the RSA Zone

GENERAL CORRESPONDENCE

Letters of a general nature (complaints, requests for service, etc.) are submitted to the Council with a staff recommendation.

Letters relating to quasi-judicial matters (including land use public hearings) are also listed on the agenda. Copies of the letters are placed in the hearing file and then presented to the Council at the time the matter is officially brought to the Council for a decision.

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.

11. UNFINISHED BUSINESS

- a. City Council Meetings with Boards and Commissions
- b. Proposal for Event Pay Parking

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.

12. NEW BUSINESS

- a. City Interests in a Development Agreement for Parkplace
- b. Municipal Court Staffing
- c. Holy Spirit Lutheran Church Electronic Readerboard
- d. Ordinance No. 4250 and its Summary, Relating to Zoning and Land Use, Amending Portions of the Following Chapters of Ordinance 3719 as Amended, the Kirkland Zoning Ordinance; Chapter 17 – RSX Zones; Chapter 50 – CBD Zones; Chapter 53 – RH 5C Zones; Chapter 105 – Parking Areas, Vehicle and Pedestrian Access, and Related Improvements; Chapter 115 Miscellaneous Standards; and Chapter 142 – Design Review; and Approving a Summary Ordinance for Publication, File No. ZON 10-00002

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.

13. REPORTS

- a. City Council
 - (1) Regional Issues
- b. City Manager
 - (1) Calendar Update

14. ITEMS FROM THE AUDIENCE

15. ADJOURNMENT



CITY OF KIRKLAND
City Manager's Office
123 Fifth Avenue, Kirkland, WA 98033 425.587.3001
www.ci.kirkland.wa.us

MEMORANDUM

To: Marilynne Beard, Interim City Manager
From: Erin Leonhart, Intergovernmental Relations Manager
Date: June 25, 2010
Subject: 2010 ANNEXATION QUARTERLY UPDATE 2 – JULY 6TH STUDY SESSION

RECOMMENDATION

It is recommended that the City Council receive an update on the following annexation-related subjects:

1. Annexation Area Police Recruitment
2. City TV Channel in Annexation Area
3. Facilities
4. Fireworks in Annexation Area
5. Finn Hill Fire Station Property
6. Annexation Neighborhood Boundaries
7. Development Services Issues
8. Impact Fees
9. GIS Vendor Selection
10. Quarterly Meeting with King County Executive Dow Constantine

BACKGROUND

This is the second quarterly report about the variety of activities underway in advance of the annexation effective date. Specifically, this report focuses on activities since the April report and certain items will be presented at the July 6th Study Session.

ANNEXATION AREA POLICE RECRUITMENT (CONTACT: CAPTAIN GENE MARKLE, POLICE DEPARTMENT)

The Police Department has completed the first round of Police Training Officer (PTO) training with the second group to be completed later this fall. These are the officers and supervisors that will be the PTO trainers for the new officers as they are hired and complete the academy. The PTO program is a nationally recognized police training program that is designed on adult problem solving learning. The police department currently has two in-house PTO trainers that allowed us to complete this training without outside assistance.

Annexation staffing status – We have one new hire (no experience) who will graduate from the academy in July and four new hire officers who started the academy May 24th. We are still experiencing issues with the academy canceling classes due to cuts in academy budget. The

four officers that were to be hired in June to attend the academy in June have been pushed back to the July academy because of the cancelation of the June academy.

You may have seen a couple of new faces around the police department. Lateral Officer (previous experience) Tiffany Seimears is now a member of the Kirkland PD. Her previous experience is working with Des Moines Police where she worked for two years before being laid off due to budget cuts. Lateral Officer Emily DePauw came to Kirkland PD by way of Decatur Illinois Police Department where she has worked for the past two years.

We continue to have a strong candidate pool and have suspended interviews for now. We currently have approximately 85 candidates on our new hire list and approximately 15 lateral officers on our lateral candidate list. We currently have 13 people in background testing and these candidates would be scheduled for hiring over the next year.

Also if you haven't seen the recruiting ads in the May, June and July Seattle Women's magazine with our Sergeant Lisa Brouelette, Corporal Deb McGuire and Officer Audra Weber putting on their recruiting hat you can go to the attached website (page 25) <http://www.seattlewomamagazine.com/june2010sec.pdf> . We're hoping this will lure some more quality female officers to our police department.

The temporary police department remodel is still underway and scheduled to be completed in a two to three months.

CITY CABLE TV SERVICES IN ANNEXATION AREA (CONTACT: JANICE PERRY, MULTIMEDIA COMMUNICATIONS MANAGER)

City Council asked staff to determine whether Kirkland could offer cable TV services (the City's two public channels) to the annexation area prior to June 2011. Janice Perry, Multimedia Communications Manager, was able to speak with Roger Kiroriac in the King County Executive's Office who explained that King County is currently in complex negotiations with Comcast to renew their franchise and discussions with Verizon have halted. The County believes Kirkland's request would complicate their negotiations.

A follow-up conversation with Comcast's Franchising and Government Affairs Director indicated that Comcast will likely be able to air the City channel to Annexation Area residents before the annexation effective date. Kirkland staff hopes to have more information about this opportunity for the study session.

FACILITIES (CONTACT: DONNA BURRIS, INTERNAL SERVICES DIVISION MANAGER)

Staff is proceeding with Council-approved direction related to facilities. A timeline for the next three months is included below as Table 1. The task numbers correspond to this list:

1. Complete feasibility study and due diligence on the 11831 120th Avenue NE – Proposed Public Safety Building by August 1, 2010.
 - a. Phase 1 Environmental Assessment
 - b. Third-party Building Inspection
 - c. Appraisal
 - d. Supplemental Geotechnical Report
2. Complete purchase of property. Closing date for 11831 120th Avenue NE scheduled for no later than September 1, 2010.

3. Research architects for Public Safety Building
4. Schedule pre-submittal meeting to discuss feasibility of proposed options for the Maintenance Center
5. Continue seeking off-site property for potential satellite yard space for Operations & Maintenance
6. Initiate RFP process for local architect

**TABLE 1 – FACILITIES TIMELINE
 JUNE 30, 2010 – SEPTEMBER 30, 2010**

TASK	6/30					7/31					8/31					9/30
1																
a																
b																
c																
d																
2											◆					
3																
4																
5																
6																

FIREWORKS (CONTACT: WILLIAM EVANS, ASSISTANT CITY ATTORNEY)

As a general rule, Kirkland’s laws will become applicable in the Kirkland Annexation Area on the effective date of annexation, June 1, 2011. However, as to fireworks regulations, RCW 70.77.250(4) provides that more restrictive laws cannot go into effect for one year after their adoption. Because Kirkland’s fireworks laws are more restrictive than King County’s, they would not be applicable in the annexation area until one year after their adoption.

Therefore, at the City’s request, King County Councilmember Jane Hague introduced County legislation on June 10th that would ban the discharge of fireworks in the Kirkland Annexation Area. The Ordinance number is 2010-0350 and it can be found in Legisearch on the King County Council web site: <http://mkcclegisearch.kingcounty.gov/custom/king/legislation.htm>

This legislation was voted on at the June 23rd Committee of the Whole, which Councilmember Hague chairs, and expedited out of committee for final action at Council on June 28th. Because it is an emergency Ordinance, a positive vote on the 28th would make it effective that day with no need for the Executive to sign. The ban would go into effect one year after, in time to ensure a consistent ban throughout the City of Kirkland before the July 4th holiday in 2011.

FINN HILL FIRE STATION PROPERTY (CONTACT: JACK HENDERSON, DEPUTY FIRE CHIEF)

Fire District 41 and the City of Kirkland signed a letter of intent with King County specifying that, in exchange for provision of 20 parking spaces for park users, the County would allow Fire District 41 to build a fire station on a parcel of Big Finn Hill Park. As of this memorandum, King County has not signed the letter of intent. Fire District 41 Commissioner Toby Nixon is attempting to schedule a meeting with King County Deputy Executive Fred Jarrett to discuss the specifics of the letter of intent.

ANNEXATION NEIGHBORHOOD BOUNDARIES (CONTACT: JEREMY MCMAHAN, PLANNING SUPERVISOR)

Staff is working on review and potential adjustments to the boundaries of the annexation area neighborhoods as part of the 2010 Comprehensive Plan amendments. Staff conducted a series of meetings with identified community leaders from the annexation area, the Denny Creek Neighborhood Alliance (DCNA), the Juanita and Totem Lake Neighborhood Associations, and the Kirkland Alliance of Neighborhoods.

Following these meetings, staff reported to the Planning Commission on what was heard (see Attachment A) and presented a range of options based on the following community feedback.

General

- As noted by some attendees at community meetings, the question of neighborhood boundaries seems abstract with all of the other changes coming to residents of the annexation area. Make minimal adjustments now and allow boundaries to evolve over time (e.g. – with neighborhood plans).

Kingsgate

- Keep Kingsgate as one neighborhood vs. dividing it in two – perhaps along 124th Ave. NE.
- Incorporate northerly residential portions of Totem Lake into Kingsgate.

Totem Lake

- Extend the Totem Lake neighborhood to include annexed commercial and industrial area.
- Divide Totem Lake into the four adjacent neighborhoods by freeway quadrant, maintaining a separate Totem Lake Business District Plan (similar to the 85th Street Corridor).

North Juanita

- Merge the annexation North Juanita neighborhood and Kirkland's North Juanita neighborhood - or merge all three Juanita neighborhoods.
- Move the boundary of the annexation North Juanita neighborhood to include areas west of 100th (some portion of the eastern Finn Hill slope).
- Move Goat Hill from the Finn Hill to the South Juanita neighborhood.

Finn Hill

- Keep Finn Hill as one neighborhood vs. dividing it in two or possibly three neighborhoods.
- Perhaps Juanita Drive is a boundary.

Attendees at meetings have requested that staff prepare some maps of potential boundaries for residents to respond to. To that end, staff is hosting a workshop with annexation area leaders and representatives from the boundary neighborhoods of Juanita and Totem Lake on June 29th.

The workshop will be a hands-on session for residents to review a range of boundary options (see Attachment B) and to suggest their own. Staff can report on the results of that workshop at the July 6th City Council meeting.

Following the neighborhood workshop, staff will report back to the Planning Commission on August 12th and the Commission will hold a public hearing on October 14th. The Planning Commission will forward a recommendation to Council in late fall.

DEVELOPMENT SERVICES ISSUES (CONTACT: ERIC SHIELDS, PLANNING DIRECTOR)

City review of development applications prior to annexation – City staff has considered two alternative approaches to starting the development review process prior to the effective date of annexation. The first would involve having the King County Council adopt Kirkland codes and delegate to Kirkland the authority to issue permits under those codes prior to the effective date of annexation. It is not certain that the County would be able to adopt this approach, but discussions with officials suggest a genuine willingness to consider this option. However, Kirkland staff is not confident that we will be ready to assume full permit review responsibilities until close to the date of annexation. Of particular concern is the need to get our new permit tracking system in place and fully operational. We are also concerned that we will be unable to increase staff in time to handle a sudden increase in work load.

As an alternative, we have discussed with several potential permit applicants the possibility of starting the permitting process prior to annexation with the understanding that we would be unable to issue permits until the annexation effective date. This is the approach we have discussed with the Lake Washington School District. If the City Council adopts the interim ordinance to eliminate the required zoning review process for new schools in the annexation area (scheduled on the July 6 regular meeting agenda), we will be able to initiate a phased review process for reconstruction of Keller and Sandburg elementary schools. We have also discussed this concept with several other interested parties and expect that this will be a feasible option for a number of developers beginning in the first quarter of 2011.

Interim regulations for cell towers and billboards – The King County Code provides that the County and the City may enter into an interlocal agreement pursuant to which the County could apply City cell tower standards to applications received for cell tower facilities in the Annexation Area. County and City staff are in the process of developing the necessary interlocal agreement. With respect to billboards, current County regulations prohibit the installation of new billboards but the regulations do allow existing billboards to be relocated. County staff has indicated that it will recommend that the County Council amend County regulations to prohibit the relocation of existing billboards to the Annexation Area. For both cell towers and billboards, the necessary actions should be complete before the end of summer.

Request for information about permit and enforcement activity – In order to better anticipate the likely increase in workload for land use and building permits and code enforcement, Kirkland staff requested information from the County about current permit and enforcement cases in the annexation area. We have received such information and have asked for regular updates prior to annexation. The latest information suggests that we can expect a 38% increase in building permits and a 25% increase in land use permits. The County enforcement case load is 55% of that in Kirkland.

Interlocal agreement for transfer of permits – An interlocal agreement is necessary to specify the terms and responsibilities regarding land use and building permits that are active on the date of annexation. County officials have suggested using an agreement similar to that used with the City of Burien. Kirkland staff reviewed the agreement, submitted comments and proposed changes, which are now under review by the County.

In general, Kirkland staff has agreed with the County's proposal that permits already issued by the County before the effective date of annexation be completed by the County through project completion. However, we have asked that in cases where a permit application has been submitted to the County but a permit has not been issued by the date of annexation, the County continue to review the application only up to the point where a permit is ready to issue. At that point, the application would be transferred to the City for permit issuance and subsequent processing and inspection. Initial feedback from the County suggests that our proposal will be viewed favorably, but the final word is not yet in.

IMPACT FEES (CONTACT: PAUL STEWART, DEPUTY PLANNING DIRECTOR)

The current impact fee systems for parks and transportation are based on the City's adopted level of service standards and capital facilities needs. State law authorizes local governments to assess impact fees on new growth and development in order to pay a proportionate share of the costs of new facilities to ensure that the city's level of service is met. The City adopted its program in 1999. Since then, impact fees have been part of the ongoing revenue base for the City's Capital Improvement Program. Impact fees cannot be used for existing system deficiencies – only for new capacity projects to support growth.

In the annexation area, King County assesses impact fees for transportation and schools (not parks). Kirkland collects fees for transportation and parks and has had previous requests by the Lake Washington School District for schools.

The City's concurrency system for vehicular level of service is based on two tests. One is a maximum allowable v/c ratio¹ at key traffic signal controlled intersections and the other is an average v/c ratio based on performance of traffic signals in each of four zones. Development projects must pass concurrency before moving forward. The maximum standard is set at 1.4 and the average standards are set based on forecast performance of signals in 2022.

The Transportation Commission is planning to re-evaluate the way that concurrency is calculated. Changes would be put in place as a part of the Comprehensive Plan update scheduled for 2012 through 2014 and would likely be dependent on the land use and capital facilities plans developed at that time. It is also likely that the new Concurrency system will be quite different from the existing system.

Until this updating work can be completed, data necessary to calculate the subarea average standard is not available. Staff is proposing to use a single measure in the annexation area, namely the 1.4 maximum v/c ratio currently used in Kirkland. In order to use this measure, traffic counts at existing signals in the annexation area are needed. Such counts are not available from King County and will need to be collected by Kirkland prior to June, 2011. The cost of the counts is estimated at \$3,000.

¹ V/C ratio is a measure of traffic volume to intersection capacity and a measure how congested an intersection is. The higher the ratio the more congested the intersection.

At some point the City will need to update its rate studies for parks and transportation to account for the annexation area. The rate studies form the basis for the impact fee calculation by land use type. Rate studies will require funding for consulting services. However, prior to undertaking the rate studies, the City will need to reconsider its level of service standards, other funding sources and its capital facility projects in order to set the framework for the analysis. This would occur as part of the overall Comprehensive Plan update that is scheduled to begin in 2012 and to be completed by 2014.

Until such time that these steps occur, staff is proposing to apply the same impact rate schedule to the annexation area as currently in place. Staff would recommend that at a future meeting, the City Council adopt a resolution of intent committing the City to undertaking the rate study at the appropriate time and applying the current rate schedule.

GIS VENDOR SELECTION (CONTACT: XIAONING JIANG, GIS ADMINISTRATOR)

Following a standard RFP procurement process, the city has signed an agreement with Integrated Desktop Solutions, Inc. to complete GIS parcel mapping in the annexation area. A local survey firm, David Evans and Associates, is on the team as well. City staff and the consultant team held a kickoff meeting during the week of June 14th and work is underway. Initial mapping deliverables, primarily covering the lakefront properties where the Department of Planning and Community Development has begun shoreline master planning, are expected during the month of July. Additional GIS data tasks will be deferred until progress on the parcel mapping can be assessed.

QUARTERLY MEETING WITH KING COUNTY EXECUTIVE DOW CONSTANTINE (CONTACT: ERIN LEONHART, INTERGOVERNMENTAL RELATIONS MANAGER)

Mayor McBride, Councilmember Sternoff and Kirkland staff met with King County Executive Constantine, Deputy Executive Jarrett and King County staff on March 11th to discuss annexation. At that meeting, both parties agreed to quarterly meetings leading up to the annexation effective date in 2011. The City Manager's Office has contacted King County staff multiple times to schedule the next quarterly meeting. King County staff has yet to provide date options and we will continue to work with County staff to schedule a meeting. At that meeting, we can have further discussions with the County regarding outstanding issues such as the Finn Hill fire station property.

Direction Needed and Next Steps

Council direction is needed regarding whether to bring a resolution back to the City Council regarding impact fees.

Staff continues to conduct transition planning and review of interlocal agreements. Some of the outstanding issues that will come before Council before the end of 2010 include:

- Interlocal agreement with Woodinville Fire and Life Safety District regarding transition of services
- Transition plans for solid waste collection and recycling services

Juanita Neighborhood Association – 3/25/2010 (18 attendees, 1 from AA North Juanita)

- Meeting space is important for Neighborhood, Holy Spirit lets them use space for \$5 month
- Merge North Juanitas into one North Juanita
- Consider leaving Juanita Neighborhoods as one and keep the annexation area's North Juanita as a separate neighborhood called North Juanita
- Please change North and South Juanita in the Comprehensive Plan to Juanita Neighborhoods so maps and plans align with the association's boundaries and name. Association has legally registered name and boundaries with State for non-profit
- Annexation area neighborhoods will have a unifying issue (newly annexed into the City of Kirkland) for the next decade. Perhaps this is reason to keep them unified and not merged them into Kirkland's existing neighborhoods.
 - On the other hand, would this alienate those newly annexed areas?
- Existing N/S Juanita division is artificial, association is one unit and personalities that divided the neighborhood are gone
- Be cautious about breaking up AA neighborhoods, smaller not necessarily better for meeting attendance and representation
- One Juanita (North, North & South) – all Juanita, people don't think of it as three
- AA North Juanita should include areas at base of slope on the west side of 100th
- AA North Juanita seems divided by Juanita Woodinville Drive
- Consider moving Norkirk up to 116th and Juanita could be everything to north
- Bigger planning units are ok. Planning area boundaries do not have to be the same as the Neighborhood Association boundaries
- Juanita Neighborhoods Association will continue to be the place to come for area AA residents (Goat Hill residents often attend)
- Don't forget about the history of the areas. Invite the historical perspective into the planning of neighborhood boundaries.
- Don't forget Totem Lake's potential for high density residential areas which could change the demographics over time

Annexation Area Neighborhood Leaders – 4/13/2010 (14 attendees, 1 from KAN)

- Kingsgate Neighborhood Associations are strongly identified with their community parks and pools
- Upland Green Neighborhood Association is strongly identified with its community open space and tennis courts
- Kingsgate is one cohesive area
- Neighborhood boundaries should consider potential long term inclusion of the portion of the Queensgate neighborhood within Bothell's annexation area
- North Juanita is identified with the Juanita Woodinville Way and an access, Edith Moulton park, and Helen Keller school
- North Juanita needs to be activated – no current organizations
- Juanita should include those areas on the west side of 100th due to topography and access
- The North Juanita neighborhoods should be combined

- Areas without homeowners associations need to be integrated into neighborhood structure
- Finn Hill is strongly identified with the Denny Creek Neighborhood Alliance and the Finn Hill Parks and Recreation District (as well as the public parks)
- Areas of Finn Hill have divided physically by slopes and access – some areas are too steep for frequent pedestrian connections or don't have pedestrian linkages
- Finn Hill is too big, Juanita Drive forms a logical division of the neighborhood
- Holmes Point, Champagne Point, and Goat Hill may identify less strongly with the Finn Hill neighborhood
- Snow routes may be a dividing point
- Does Metro have names for service areas?
- Neighborhoods of equal size should be created
- Residential areas in the northern portion of the Totem Lake Neighborhood should become part of adjoining neighborhoods
- Kingsgate is not an appropriate name because that name is associated with specific subdivisions and homeowners associations and much of the area is not within those subdivisions. Should research historic place name (Totem Ridge?).
- It would be difficult to divide Kingsgate into more than two neighborhoods
- Dividing Kingsgate along 124th would split the active homeowners associations from the areas without homeowners associations
 - Advantage – associations would be grouped in one neighborhood
 - Disadvantage – areas without associations would have a more difficult time organizing without the existing communication networks
- Need to engage more residents and PTA's in the decision process
- Not enough City grant money for big neighborhoods
- Finn Hill is identified with its access and access constraints in addition to the topographic breaks
- Resolving Totem Lake boundaries is not pressing this year
- Don't divide the annexation neighborhoods at all. Leave it as one area and see what evolves
- Send invitation to the May Planning Commission meeting to attendees
- Meeting with PTA's and publications in upcoming school newsletter would be a good way to get the word out
- Prepare a written explanation of neighborhood boundaries that group can share with their constituents
- Consider an online survey asking people their address, what they consider their neighborhood, and what they consider the boundaries to be

Totem Lake Neighborhood – 4/21/2010

(11-12 attendees, 1 from Totem Lake, 2 from Juanita, remainder from Kingsgate)

- It would be nice if neighborhoods related to legislative districts
- Analysis map should show the few residential properties on the north side of Totem Lake
- Could divide Kingsgate along 124th Ave.
- Only difference between east and west part of Kingsgate is the elementary schools, everything else is in common

- Lifestyles are different with the multifamily on the south of 132nd Avenue and single family to the north (but probably not significant enough to be in a different neighborhood entirely)
- It has proven difficult to get apartment residents involved in the neighborhood
- Keep in mind the neighborhood plan calls for more residential development in the Totem Lake Neighborhood
- When talking about where they live to others, some say “north of Totem Lake” rather than Kingsgate.
- History of the area should be considered (see Juanita “Remember When” map). Note the area used to be called Juanita (*however it's difficult to tell how far east the map actually goes*)
- **Consensus points:**
 - The Totem Lake neighborhood could be divided into quadrants along 124th St and I-405 with each quadrant going to adjoining neighborhood
 - Totem Lake is a business district like 85th St Corridor and could retain that designation (rather than being defined as a separate neighborhood)
 - Businesses within Totem Lake have different interests than residents. Businesses will always identify with Totem Lake
 - May want to check in with Juanita and North Rose Hill to see if they want the quadrants of Totem Lake in their neighborhoods.
 - Redefining neighborhood boundaries may be too much for annexation neighborhoods to deal with right now. Let boundaries evolve after annexation changes have been processed and residents see what it means to be part of Kirkland.
 - Include the residential (both single and multi family) neighborhoods south of NE 132nd Street into the “Kingsgate Neighborhood” to the north

Kirkland Alliance of Neighborhoods (KAN) – 4/12/2010

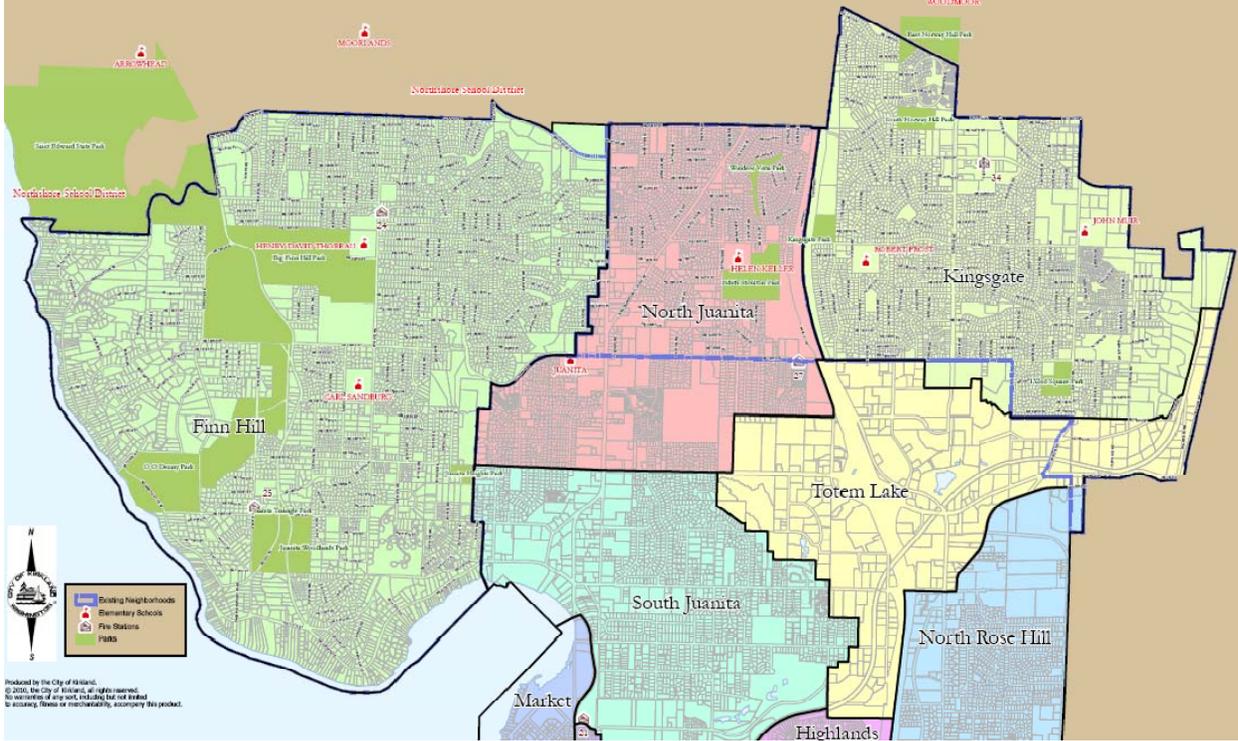
- Don't call it proposed annexation area. Maybe the “new Kirkland?” or “annexation area” for now
- Some people in the annexation area don't know it is passed or the effective date. Need to publicize in the annexation area.
- Bring together Kirkland and “new Kirkland” area leaders to discuss boundaries, benefits of organizing, and how to get things done in Kirkland (learn from each other)
- Hold a Neighborhood U – in September with a panel discussion or workshop
 - Food (donated by local grocery or Costco)
 - Location: McAuliffe Park (maybe too small?) Peter Kirk Community Center?
 - Welcome annexation area people – bring everyone together
 - Possible panels:
 - What is working in Kirkland neighborhoods and what isn't
 - Neighborhood picnics
 - Writing by Laws
 - Neighborhood Matching Grants
 - Neighborhood Connection Program
 - Working with Kirkland City Council
 - Neighborhood Planning

- Possibly ask neighborhood leaders to speak (why did they get involved, what it means to be involved, how they benefit, how the community benefits)
 - Subcommittee to work on this over the summer: Lynda Haneman, Anna Rising, Karen Tennyson (Let Kari know if you are interested)
- Have open houses over the summer – bringing existing and annexation area residents together
- Suggest boundaries – then people will come – need something specific to bring people out
- Distribute and post a fact sheet about considerations for neighborhood boundaries
 - Functions of a neighborhood
 - Reasons for defining boundaries
 - Things to consider
 - How neighbors view a neighborhood (related to Neigh. Plan Updates)
- Finn Hill needs to be reduced in size –it's too big.
- Let KAN know when Kirkland Planning is going to annexation area for meetings – they may want to come

Miscellaneous E-mail Comments

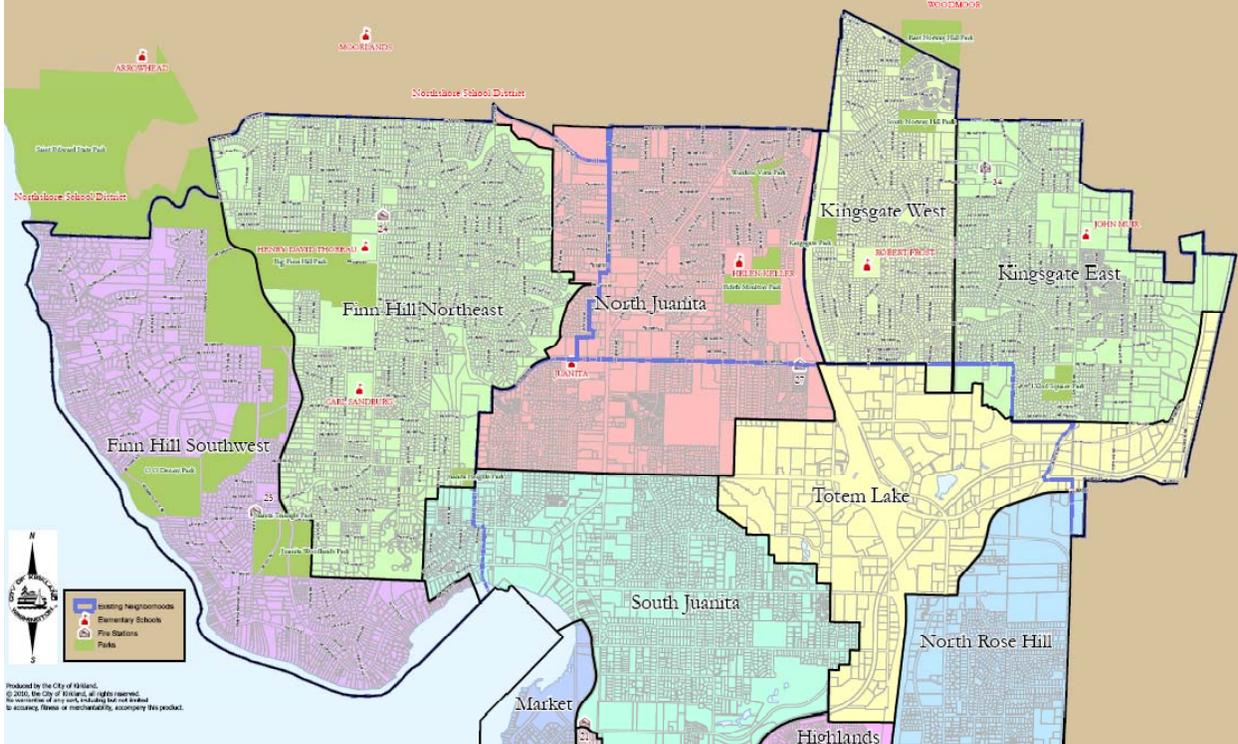
- From the Finn Hill perspective (or at least my own perspective) there isn't too much that brings the residents together, at this point. As we move into a possible neighborhood planning effort, the issues could be drawn out from the residents, however, they could be quite disparate (is that even the right term? I mean very different.) I don't support any subdivision of the Finn Hill neighborhood at this point - and without clear issues or planning purpose, there may be no need, either, for sub-sets.
- I basically think the residential areas of Kingsgate east of I-405 are all so similar that it should be all in one association, including the residential areas currently south of NE 132nd St but on top of the hill. I think the Totem Lake association should be modified to cover primarily the business areas and exclude the residential areas. I think the North Juanita area should be in one association as well, from I-405 to the base of Finn Hill, but it's hard to know where the southern boundary should be or if it should just be part of the existing Juanita association. The more complicated area is Finn Hill, which has some pretty distinct areas. My gut feel is that the waterfront/slope areas (Holmes Point, Champagne Point, Goat Hill) probably have a lot in common and should be considered one area, although Denny Park is a natural break if they were to be divided. The areas on top of Finn Hill are all pretty similar, and probably ought to be in one association. If we divided it that way, we'd have four associations (Kingsgate, North Juanita, Finn Hill, and Holmes Point/Champagne Point/Goat Hill).

Annexation Area Neighborhood Analysis: Option A



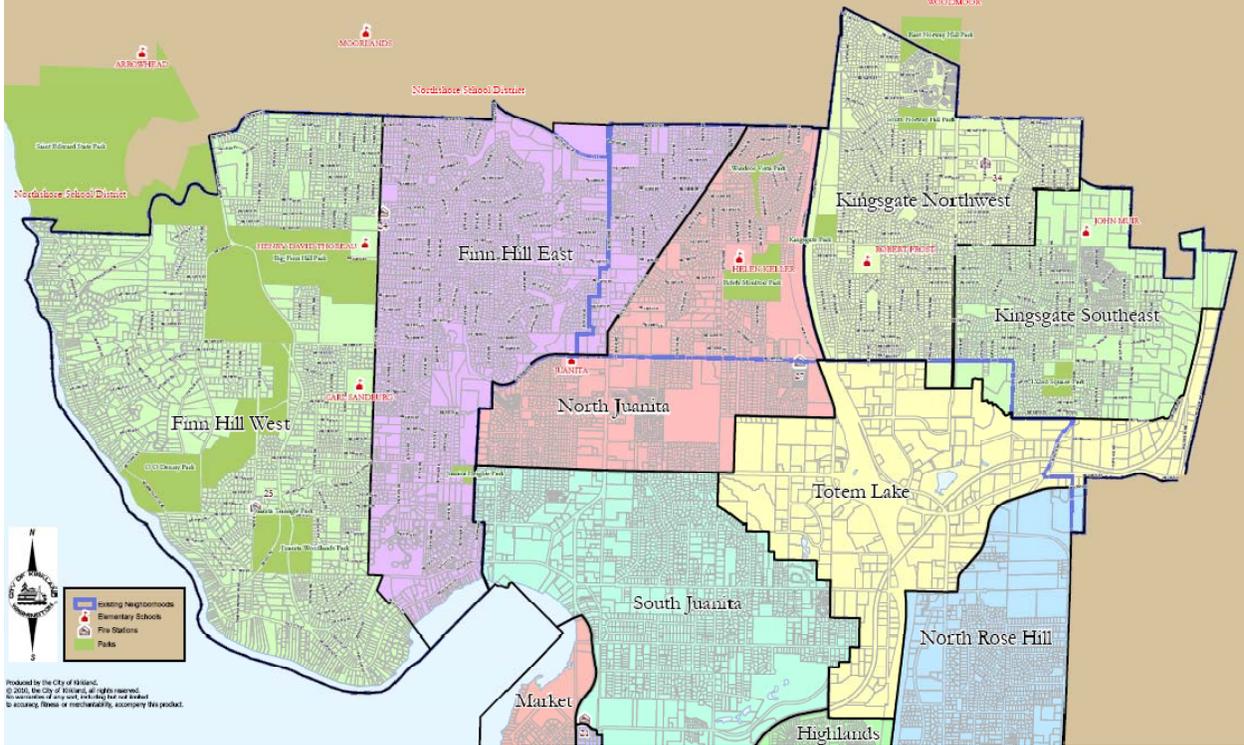
Option A – “Light Touch Boundaries”

Annexation Area Neighborhood Analysis: Option B



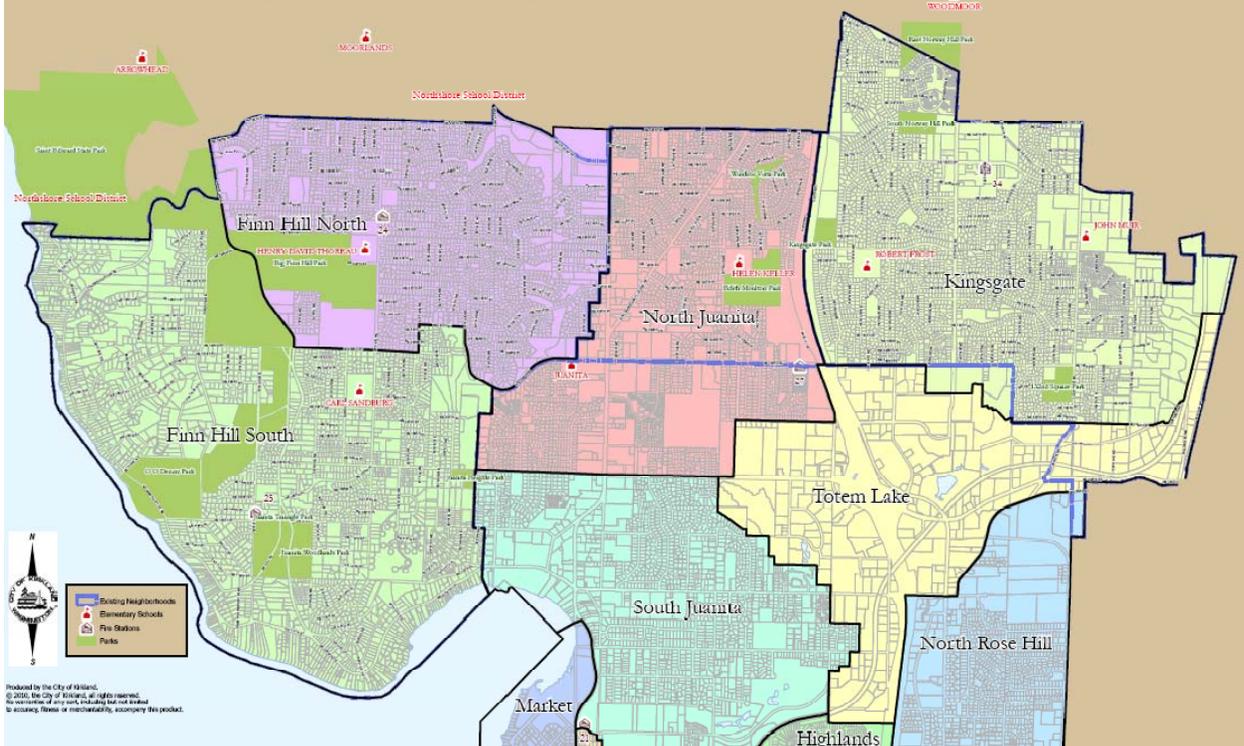
Option B – “North/South Boundaries”

Annexation Area Neighborhood Analysis: Option C

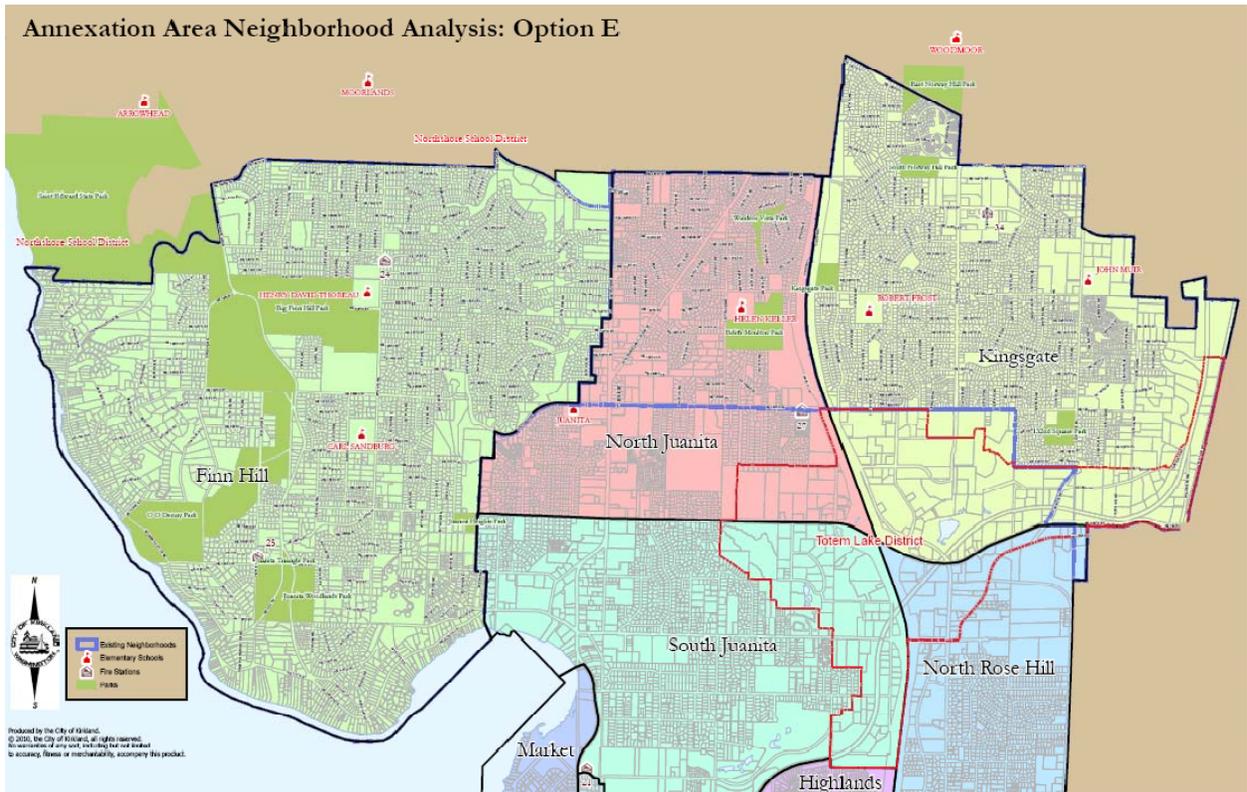


Option C – “Diagonal Boundaries”

Annexation Area Neighborhood Analysis: Option D



Option D – “Finn Hill East/West Boundaries”





CITY OF KIRKLAND

Department of Parks & Community Services

505 Market Street, Suite A, Kirkland, WA 98033 425.587.3300

www.ci.kirkland.wa.us

MEMORANDUM

To: Marilynne Beard, Interim City Manager

From: Jennifer Schroder, CPRP, Director of Parks and Community Services

Date: July 6, 2010

Subject: Park and Recreation Month Proclamation

RECOMMENDATION:

It is recommended that Mayor Joan McBride proclaim the month of July "*Park and Recreation Month.*"

BACKGROUND DISCUSSION:

Since 1985, the National Recreation and Park Association has designated the month of July as "*Park and Recreation Month.*" Recreation facilities and parks across the country annually use July to celebrate the kick-off of summer programming as well as a time to pull their communities together to volunteer, get involved in outdoor physical activities and advocate for parks and recreation.

As part of this month's celebration, Kirkland Parks and Community Services is planning activities to keep the community active and involved including the Kirkland Steppers, Juanita Bay wildlife tours, learn to swim classes, fitness opportunities, a variety of youth day camps, sports leagues and many more programs and classes!

Bob Kamuda, Chair of the Kirkland Park Board, will accept the proclamation.



A PROCLAMATION OF THE CITY OF KIRKLAND

Designating July, 2010 as "Park and Recreation Month" in the City of Kirkland, Washington

WHEREAS, the City of Kirkland's parks, natural areas, playgrounds, playfields, recreation programs and community and cultural centers make Kirkland an attractive and desirable place to live, work, play, and visit while contributing to its ongoing economic vitality; and

WHEREAS, the City of Kirkland Parks and Community Services Department's programs touch the lives of individuals, families, and groups which positively impacts the social, economic, health, and environmental quality of the community; and

WHEREAS, parks, recreation activities, and leisure experiences provide opportunities for young people to live, grow and develop into contributing members of society and creates lifelines and continued life experiences for older members of our community; and

WHEREAS, recreation programs provide safe and enjoyable activities promoting and developing healthy lifestyles, strong minds, and fit bodies; and

WHEREAS, parks, greenways, natural areas, and open spaces provide a welcome respite from our fast-paced, high-tech lifestyles while protecting and preserving our natural environment; and

WHEREAS, since 1985, the National Recreation & Park Association has designated the month of *July as Park and Recreation Month*; and

WHEREAS, the Kirkland City Council recognizes the vital contributions of the City of Kirkland's dedicated parks and recreation employees and volunteers;

NOW, THEREFORE, I, Joan McBride, Mayor of Kirkland, do hereby proclaim July as "*Park and Recreation Month*" and encourage all citizens to celebrate by participating in their choice of recreation and leisure activities with family, friends and neighbors.

Signed this 6th day of July, 2010

Joan McBride, Mayor



KIRKLAND CITY COUNCIL REGULAR MEETING MINUTES
June 15, 2010

1. CALL TO ORDER

2. ROLL CALL

ROLL CALL:

Members Present: Councilmember Dave Asher, Councilmember Jessica Greenway,
Councilmember Doreen Marchione, Mayor Joan McBride, Councilmember
Bob Sternoff, Deputy Mayor Penny Sweet, and Councilmember Amy Walen.

Members Absent: None.

3. STUDY SESSION

a. Joint Meeting with Transportation Commission

Joining Councilmembers for this discussion in addition to Interim City Manager Marilynne Beard were Interim Public Works Director Ray Steiger, Transportation Engineering Manager Dave Godfrey, Transportation Commission members Tom Neir, Michael Snow, Carl Wilson, Vice Chair Joel Pfundt and Chair Don Samdahl.

b. Joint Meeting with Parking Advisory Board

Joining Councilmembers for this discussion in addition to Interim Manager Marilynne Beard were Interim Public Works Director Ray Steiger, Parking Coordinator Tami White, Parking Advisory Board members Kenneth Dueker, Jennifer Lindsay, A. Liengboonlertchai, Andy Loos, Glenn Peterson, and Chair Jack Wherry. Also joining the discussion was police Lieutenant Mike Murray.

4. EXECUTIVE SESSION

a. To Review Qualifications of an Applicant for Public Employment

The Council returned from Executive Session at 7:28 p.m. and reconvened the meeting in open session at 7:32 p.m.

Resolution R-4822, Approving an Employment Agreement Between the Kirkland City Council and Kurt Triplett, its City Manager

Motion to approve Resolution R-4822, entitled "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND APPROVING AN EMPLOYMENT AGREEMENT BETWEEN THE KIRKLAND CITY COUNCIL AND KURT TRIPLETT, ITS CITY MANAGER."

Moved by Councilmember Dave Asher, seconded by Councilmember Amy Walen
Vote: Motion carried 7-0

Yes: Councilmember Bob Sternoff, Councilmember Doreen Marchione, Councilmember Jessica Greenway, Mayor Joan McBride, Deputy Mayor Penny Sweet, Councilmember Dave Asher, and Councilmember Amy Walen.

Ordinance No. 4248, Relating to the Salary for the City Manager

Motion to approve Ordinance No. 4248, entitled "AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO THE SALARY FOR THE CITY MANAGER."

Moved by Councilmember Dave Asher, seconded by Councilmember Doreen Marchione
Vote: Motion carried 7-0

Yes: Councilmember Bob Sternoff, Councilmember Doreen Marchione, Councilmember Jessica Greenway, Mayor Joan McBride, Deputy Mayor Penny Sweet, Councilmember Dave Asher, and Councilmember Amy Walen.

Following remarks by the Mayor and City Council, newly selected City Manager Kurt Triplett expressed his gratitude and anticipation for his new role with the City.

5. HONORS AND PROCLAMATIONS

- a. Battalion Chief David Kryger, Thirty Year Service Award Firefighter Steven Karthas, Thirty Year Service Award Retired Firefighter Arthur Hill, Twenty Five Year Service Award Volunteer Lieutenant Dave Lee, Twenty Five Year Service Award Lieutenant Gregory Picinich, Twenty Year Service Award Volunteer Firefighter Randall Maes, Twenty Year Service Award

6. COMMUNICATIONS

- a. Announcements
- b. Items from the Audience
Dave Jansons
- c. Petitions

7. SPECIAL PRESENTATIONS

None.

8. CONSENT CALENDAR

- a. Approval of Minutes: June 1, 2010
- b. Audit of Accounts:
Payroll \$ 2,069,824.72
Bills \$ 2,083,066.24
run # 921 checks # 517754 - 517755

run # 922 checks # 517756 - 517882
run # 923 checks # 517908 - 518033

c. General Correspondence

d. Claims

(1) Brett and Wendy Alston

(2) Aziz I. Jivani

(3) Charles Shields

e. Award of Bids

(1) The 2010 Annual Striping Program contract was awarded to Stripe Rite, Inc., of Auburn, Washington in the amount of \$183,677.45.

(2) the contract for the 2010 Street Overlay Project (Phase I) was awarded to Watson Asphalt Paving Company of Redmond, Washington in the amount of \$1,444,139.74.

(3) The Emergency Management Digital Message Display Signs contract was awarded to The Sign Factory of Kirkland, Washington in the amount of \$90,542,00.

f. Acceptance of Public Improvements and Establishing Lien Period

g. Approval of Agreements

(1) Resolution R-4817, entitled "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND REGARDING HOME ENERGY REPORTS FOR KIRKLAND RESIDENTS."

(2) Resolution R-4818, entitled "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND APPROVING A WATER FACILITY AGREEMENT WITH LUNA SOL AND AUTHORIZING THE CITY MANAGER TO SIGN SAID AGREEMENT ON BEHALF OF THE CITY OF KIRKLAND."

(3) Resolution R-4819, entitled "A RESOLUTION AUTHORIZING THE DULY-APPOINTED ADMINISTERING AGENCY FOR 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."

(4) Resolution R-4820, entitled "A RESOLUTION OF THE CITY

COUNCIL OF THE CITY OF KIRKLAND AUTHORIZING THE CITY MANAGER TO ENTER INTO AN ANIMAL SERVICES INTERLOCAL AGREEMENT WITH KING COUNTY."

h. Other Items of Business

(1) 2009 Annual Transportation and Park Impact Fees Report

(2) Terry Coonan was appointed to the Civil Service Commission for the remainder of a six-year unexpired term ending December 31, 2012.

(3) Resolution R-4821, entitled "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND RELINQUISHING ANY INTEREST THE CITY MAY HAVE IN AN UNOPENED RIGHT-OF-WAY AS DESCRIBED HEREIN AND REQUESTED BY PROPERTY OWNERS ROBERT M. AND VIERA H. LEE."

(4) Report on Procurement Activities

Motion to Approve the Consent Calendar.

Moved by Councilmember Dave Asher, seconded by Councilmember Doreen Marchione

Vote: Motion carried 7-0

Yes: Councilmember Dave Asher, Councilmember Jessica Greenway, Councilmember Doreen Marchione, Mayor Joan McBride, Councilmember Bob Sternoff, Deputy Mayor Penny Sweet, and Councilmember Amy Walen.

9. PUBLIC HEARINGS

None.

10. UNFINISHED BUSINESS

- a. Ordinance No.4245 and its Summary, Authorizing and Providing for the Acquisition of Interests in Land for the Purpose of Construction of the NE 85th Street Corridor Improvements Projects, Within the City of Kirkland; Providing for the Acquisition of Necessary Land and Property Rights, Providing for the Cost of Property Acquisition and Authorizing the Initiation of Appropriate Proceedings in the Manner Provided by Law

Interim Capital Projects Manager Dave Snider and Interim Public Works Director Ray Steiger responded to Council questions.

Motion to approve Ordinance No.4245 and its Summary, entitled "AN ORDINANCE OF THE CITY OF KIRKLAND, WASHINGTON, AUTHORIZING AND PROVIDING FOR THE ACQUISITION OF INTERESTS IN LAND FOR THE PURPOSE OF CONSTRUCTION OF THE NE 85TH STREET CORRIDOR IMPROVEMENTS PROJECTS, WITHIN THE CITY OF KIRKLAND; PROVIDING FOR THE ACQUISITION OF NECESSARY LAND

AND PROPERTY RIGHTS, PROVIDING FOR THE COST OF PROPERTY ACQUISITION AND AUTHORIZING THE INITIATION OF APPROPRIATE PROCEEDINGS IN THE MANNER PROVIDED BY LAW."

Moved by Councilmember Jessica Greenway, seconded by Deputy Mayor Penny Sweet

Vote: Motion carried 6-1

Yes: Councilmember Bob Sternoff, Councilmember Doreen Marchione, Councilmember Jessica Greenway, Mayor Joan McBride, Deputy Mayor Penny Sweet, and Councilmember Amy Walen.

No: Councilmember Dave Asher.

b. Transportation Benefit District Process

Interim Public Works Director Ray Steiger reviewed the staff recommendation for a public process to discuss a TBD with the community. Council directed staff to begin the outreach process, and come back with a schedule for a public hearing and an ordinance for consideration.

11. NEW BUSINESS

a. Ordinance No. 4246 and its Summary, Relating to Modifications to Title 21 of the Kirkland Municipal Code Regarding Building and Construction

Building Services Manager Tom Phillips provided updated information and responded to Council questions.

Motion to approve Ordinance No. 4246 and its Summary, entitled "AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO MODIFICATIONS TO TITLE 21 OF THE KIRKLAND MUNICIPAL CODE REGARDING BUILDING AND CONSTRUCTION."

Moved by Councilmember Dave Asher, seconded by Councilmember Jessica Greenway

Vote: Motion carried 5-2

Yes: Councilmember Doreen Marchione, Councilmember Jessica Greenway, Mayor Joan McBride, Councilmember Dave Asher, and Councilmember Amy Walen.

No: Councilmember Bob Sternoff, and Deputy Mayor Penny Sweet.

b. Ordinance No. 4247, Amending the Biennial Budget for 2009-2010

Following introductory remarks by Interim City Manager Marilynne Beard, Financial Planning Manager Sri Krishnan reviewed the core services exercise to be discussed at Council's special study session on August 4, 2010. Finance and Administration Director Tracey Dunlap also responded to Council questions.

Motion to approve Ordinance No. 4247, entitled "AN ORDINANCE OF THE CITY OF KIRKLAND AMENDING THE BIENNIAL BUDGET FOR 2009-2010."

Moved by Councilmember Dave Asher, seconded by Councilmember Jessica

Greenway

Vote: Motion carried 7-0

Yes: Councilmember Bob Sternoff, Councilmember Doreen Marchione, Councilmember Jessica Greenway, Mayor Joan McBride, Deputy Mayor Penny Sweet, Councilmember Dave Asher, and Councilmember Amy Walen.

12. REPORTS

a. City Council

(1) Regional Issues

Councilmembers shared information regarding a recent Jail Oversight Assembly meeting; Suburban Cities Association Public Issues Committee meeting; Alliance for Eastside Agencies luncheon; June 26, 2010 Bridle Trails Foundation Party in the Park; ARCH Stakeholder Input on Strategic Use of Trust Funds; Metropolitan Solid Waste Advisory Committee meeting; Cascade Water Alliance retreat; Lodging Tax Advisory Committee meeting; Mayor and Deputy Mayor meeting with A.G. Bell Elementary third graders studying government; Celebrate Kirkland 4th of July activities; Kirkland Park Place Health Fair; King Conservation District meeting; and a recent police recruitment advertisement in Seattle Woman magazine.

b. City Manager

(1) Calendar Update

A special study session was scheduled for August 4, 2010 and the regularly scheduled meeting of September 7, 2010 was rescheduled to September 1, 2010.

13. ITEMS FROM THE AUDIENCE

Arijo Chen

14. ADJOURNMENT

The Kirkland City Council regular meeting of June 15, 2010 was adjourned at 9:22 p.m.

City Clerk

Mayor



CITY OF KIRKLAND
Planning and Community Development Department
123 Fifth Avenue, Kirkland, WA 98033 425.587-3225
www.ci.kirkland.wa.us

MEMORANDUM

To: Marilynne Beard, Interim City Manager
From: Eric Shields, Planning Director
Date: June 24, 2010
Subject: Complaint about Ford of Kirkland submitted by Dale Knapinski

RECOMMENDATION

Review and approve the draft response letter to Mr. Knapinski.

BACKGROUND DISCUSSION

On June 8, 2010, Mr. Knapinski filed a complaint with the Department of Planning and Community Development about activities conducted in the 124th Ave. NE right of way abutting the Ford of Kirkland dealership (attachment 1). On the same date, he sent an e-mail message to the City Council (although addressed to me) expressing his concerns about this issue (attachment 2). Prior to filing a formal complaint, Mr. Knapinski presented his concerns to Public Works via e-mail (attachment 3). Mr. Knapinski later forwarded a letter from Mr. Frederick Ockerman attached to which were aerial photos of the Ford of Kirkland site in 2002 and 2007 (attachment 4). More recently, he has discussed his concerns with Marie Stake, Communications Program Manager, who serves as the City's ombudsman, and forwarded to her a blog posting on this topic (attachment 5).

Mr. Knapinski has raised several concerns about the parking of vehicles by Ford of Kirkland in the unimproved right of way next to the dealership. Public Works staff responded to concerns about safety impacts to pedestrians and drivers by directing Ford to park vehicles away from the sidewalk and away from areas that would block the visibility of drivers exiting driveways onto 124th Ave. NE. Ford has complied with these requirements.

Mr. Knapinski has indicated that these restrictions do not go far enough and has asked that all vehicles be removed from the right of way, citing Municipal Code Section 19.04.050 which states:

19.04.050 Private use of street right-of-way or fairway without permit prohibited.

It is unlawful for any person to either temporarily or permanently use or utilize any portion of a street right-of-way (whether or not improved and including sidewalk or walkway) or fairway, as defined in Section [14.16.020\(b\)](#), for personal use, place of business or other private use, without first obtaining from the city a street use permit; provided, however, that this section shall not be construed to prohibit the incorporation of the unused right-of-way portion of an improved street into the landscaping design of the abutting private property. (Ord. 3840 § 7, 2002; Ord. 3761 § 1 (part), 2000; Ord. 2725 § 1, 1983)

Vehicles associated with the current and previous automobile dealerships have been parked in the right of way for many years, though apparently not continuously. The aerial photos included in the letter from Mr. Ockerman show cars in the right of way in 2007, but not in 2002 (attachment 4). A City aerial photo from 1985, prior to the annexation of the dealership, shows cars in the right of way in 1985 (attachment 6).

Parking of the cars in the "landscape design" of the unused right of way may be construed to comply with KMC 19.04.050, particularly given the historical use of the property.

Mr. Knapinski also brought to the City's attention the display of several portable "A-board" signs in the unopened right of way along the frontage of the Ford of Kirkland site. The City allows only one portable sign per block per business, and they may be located on-site or in the landscape strip located on either side of the sidewalk.¹ Staff is in the process of working with Ford to achieve compliance.

Footnote:

1. The Department of Planning and Community Development has been enforcing portable signs consistent with the Zoning Code regulations for "off-site real estate signs," based on state and federal first amendment case law stating that cities may not regulate signs based on the message of the signs, except in narrow circumstances. The Kirkland Zoning Code, however, does contain some regulations that differentiate portable signs based on the message or purpose of the sign. Consequently, to be consistent with the court rulings on the topic, City staff has been enforcing the code consistently for all signs, regardless of the message displayed, using the off-site real estate sign regulations, which are generally more liberal than the regulations for other portable signs.

From: City Webmaster [mailto:ironpointadmin@ci.kirkland.wa.us]
Sent: Tuesday, June 08, 2010 9:06 PM
To: PCDcomplaints
Subject: Complaint Investigation Request (response #369)

Complaint Investigation Request (response #369)

Survey Information

Site:	City Website
Page Title:	Complaint Investigation Request
URL:	http://www.ci.kirkland.wa.us/depart/Planning/Code_Enforcement/Complaint_Investigation_Request.htm
Submission Time/Date:	6/8/2010 9:05:57 PM

Survey Response

IDENTIFICATION OF PROBLEM	
Address: (Specific address needed in order to investigate complaint)	11800 124th Avenue NE
Occupant/Business:	<input type="text" value="Business"/>
City/State/Zip:	Kirkland, WA 98034
Phone Number:	
Does this complaint involve a permit or license issued by the City of Kirkland?	<input type="text" value="No"/>
If yes, please specify permit number and type.	
Details of Complaint (Be specific as to time, duration, location of violation,	Vehilces owned by the Ford dealership are parked in the right-of-way and on the sidewalk in such a manner as to impede

identities of responsible parties, actions of parties, and nature of complaint, continue on back if needed).

pedestrian traffic and violate the sight distance standards for driveways. See Kirkland Municipal Code 19.04.010 Obstructions in right-of-way and 19.04.050 Private use of street right-of way. Ford of Kirkland is using the right-of-way as a sales and display floor, which is a practice banned by the city except for two specific uses, both of which require a permit, and neither permitted use provides for running a used car lot. Use of the right-of way by a private party was never a legal use prior to annexation of the dealership location. Use of the right-of-way for the display and sale of vehicles by the Ford dealership did not begin prior to annexation. No agreement between King County and the Ford dealership allowing use of the right-of-way for a car lot exists. Parking vehicles in the right-of-way negates the usefulness of the required 5 foot buffer between parking areas and the right of way. Use of the right-of-way as a sales floor and display area puts the city at risk of lawsuits. The dealerships use of the right-of-way as a sales floor does not seem to fit even the most elemental requirements for non-conforming use.

COMPLAINANT

Name:

Dale Knapinski

Phone Number:

206-715-5200

Address:

18803 156th Avenue NE

City/State/Zip:

Woodinville, WA, 98072

E-mail Address:

khsinc@verizon.net

Has this complaint been reported previously?

Yes

<p>If yes, by whom and to whom specifically was the complaint reported?</p>	<p>Complaint was sent via e-mail to Kirkland Police Department and Public Works. Complaint was forwarded to Eric Shields and was reviewed by the city attorney per e-mail response by Public Works.</p>
<p>What action resulted from the complaint?</p>	<p>My complaint was forwarded to the business owner Amy Walen in some manner and Amy contacted me to say that the city told her that the vehicles could stay. A meeting was scheduled with the public works department and the dealership to discuss sight distance issues but I haven't received a statement regarding the outcome of the meeting yet. I was sent an email by public works but the initial city response regarding my complaint was confusing, incomplete, and based on a very liberal, if not totally incorrect, interpretation of city codes and regulations. The city response included a reference to "Research" of past use of the right-of-way that isn't supported by fact or evidence.</p>
<p>Would you like to be contacted to know the kind of action that will be taken?</p>	<p><input type="text" value="Yes"/></p>
<p>Have you or your neighbors spoken with the individual(s) in question in order to resolve the problem?</p>	<p><input type="text" value="Yes"/></p>
<p>This complaint will constitute a public record upon submittal to the City and may be subject to disclosure under the public records act (RCW 42.56)."</p>	

From: khsinc@verizon.net [mailto:khsinc@verizon.net]
Posted At: Tuesday, June 08, 2010 8:41 AM
Posted To: Kirkland Council
Conversation: Ford of Kirkland
Subject: Fw: Ford of Kirkland

Eric:

Please add the attached photos to my complaint file regarding Ford of Kirkland. These photos were taken in the last few weeks. Note that the vehicles are blocking the sidewalk and block the view of pedestrians on the sidewalk.

You may also want to review a previous complaint that was made in about 2001 regarding the dealership installing 3 gravel parking strips in the right of way near the north entrance. When the dealership had the grass removed from the hill to the east of the sidewalk and began parking 3 vehicles there, I called the city and the vehicles were promptly removed. There are now additional gravel parking strips in the right of way. As my previous photos indicate, those parking spots were installed after 2002.

If our codes allow a business to take over city property for use as an auto sales floor and display center based on your interpretation of KMC 19.04.050 "...the incorporation of the unused right-of-way portion of an unimproved street into the landscaping design of the abutting private property" we need to change the code. Your assertion that this practice has been going on since prior to annexation is not supported by hundreds of existing photographs, and even if your research did support your claim, the practice was illegal and does not qualify as a legal non-conforming use as you indicated.

I did speak to the dealership owner, Amy Walen, to try to resolve this issue. Amy indicated that this case was resolved and the city is allowing the vehicles to remain based on your statements.

We need a review of this complaint by city staff and the codes need to be examined to determine if changes need to be made so that Kirkland doesn't end up with an auto row that looks like the one on Highway 99.

Thank you,
Dale Knapinski



















From: khsinc [mailto:khsinc@verizon.net]
Sent: Monday, May 17, 2010 10:19 PM
To: David Godfrey
Subject: Ford of Kirkland

Hello David:

Kindly fill me in on a few things regarding the parking of vehicles near the Ford dealership.

Are the vehicles that are parked between the east side of sidewalk on 124th Avenue NE and the dealership lot parked on any portion of the public right of way? From the eastern edge of the SIDEWALK, how far does the public right of way extend eastward?

Are the vehicles parked in the described area in violation of 12.45.160 which states "It is a civil infraction to park a vehicle upon any roadway, public right of way, publicly owned and operated parking facility, or other public property for the principle purpose of: (1) Displaying such vehicle for sale or for advertizing services for vehicles;" If this is not a violation, please direct me to the exemption to the rule. I understand that the City has the option of not enforcing certain restrictions on parking, but can you explain why the rule is selectively enforced with regard to private citizens?

If the described area is public property, does the Ford dealership enjoy exclusive rights to use the property for their own purpose? If so, how did they obtain that right? Can the right of way be used by any citizen? I have an old car that I would like to sell. Is there any reason that I would be prevented from using that area for my personal vehicle?

I was told that there has been at least one pedestrian that was hit by a vehicle exiting the Ford dealership at the north entrance in the past. Having vehicles parked so close to the entrance blocks the veiw of people on the sidewalk. It seems that there should be a reasonable sight distance maintained for public safety. Vehicles are being driven on the sidewalk to access the parking spaces adjacent to the sidewalk. There is no other way to get the vehicles up the hill and onto the grass. It doesn't seem safe to have vehicles sharing the sidewalk with pedestrians. Does the Kirkland Building Code allow businesses to use public property for a sales floor?

I believe this situation is a safety issue. In addition to that, there needs to be some clarification as to how the city allows public property to be used.

Thank you in advance for responding to each of my concerns and questions.

Dale Knapinski

Frederick H. Ockerman
Attorney at Law
9757 NE Juanita Dr. #100
Kirkland, WA 98034

Email: ockermanlaw@yahoo.com

(p) 425-820-6658
(f) 425-823-9860

RECEIVED

JUN 21 2010

CITY OF KIRKLAND
CITY MANAGER'S OFFICE

June 18, 2010

By Email

khsinc@verizon.net

Mr. Dale Knapinski
18803 – 156th Ave NE
Woodinville, WA 98072

Re: **History of use of Right of Way NE 124th (Ford of Kirkland)**

Dear Mr. Knapinski;

In the early 1990's I represented the United Consumer League of Washington which was engaged in picketing at the then Thomason Ford Toyota on NE 124th. There were a number of incidents that occurred during the picketing that resulted in the Hon. Jim Bates issuing contempt orders against the Thomason dealership and its employees. One of those issues related, tangentially, to the **right of way adjacent to the sidewalk.**

I think you remember that Alan Jobes was one of the individuals picketing the dealership and that he was struck by a vehicle driven by one of the dealership's employees while Mr. Jobes was on the sidewalk at one of the entrances of the dealership. This was partially the result of the dealership placing vehicles on the right of way so as to obscure the picketers and their signs from any customers on the dealership property. Because it was unsafe and because **the right of way could not be used by the dealership to park vehicles, the Kirkland Police ordered the dealership to remove the vehicles from the right of way.** The Kirkland City Police officer involved was Chuck Lackey.

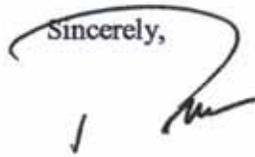
After Mr. Thomason sold the dealership, the new dealer put in three gravel pads on the right of way and began to park vehicles there in approximately 1994. My understanding is that an adjacent owner complained and, again, the vehicles were removed. As I drive by that location frequently, I noted that only within the past few years has a subsequent dealer began parking vehicles on the right of way. Frankly, this surprises me as given the past history, should a pedestrian being struck by an exiting vehicle again, I would think the City would have the **potential of liability for failing to keep the right of way clear.**

Letter to Mr. Knapinski
June 18, 2010
Page Two

I have looked to see if I have any photographs of the time but have been unable to located any. Ms. Teri Worley, past VP of the United Consumer League, may have some photographs or video of the area and I have contacted her to request her assistance on your behalf. You can reach Teri at 503-267-1597. Mr. Jobs now lives in Arizona. His phone number is 623-879-0408. Although I have not talked with him in about a year, I think this number is still a good number.

I hope this answers your questions and provides you the information you need as to the history of this location. If you have any further questions, please feel free to call me.

Sincerely,

A handwritten signature in black ink, appearing to be 'F. Ockerman', written over the word 'Sincerely,'.

Frederick H. Ockerman

FHO:ro

iMAP

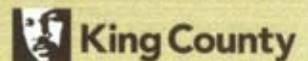


(C) 2010 King County

COMMENTS: 2007 iMAP King County

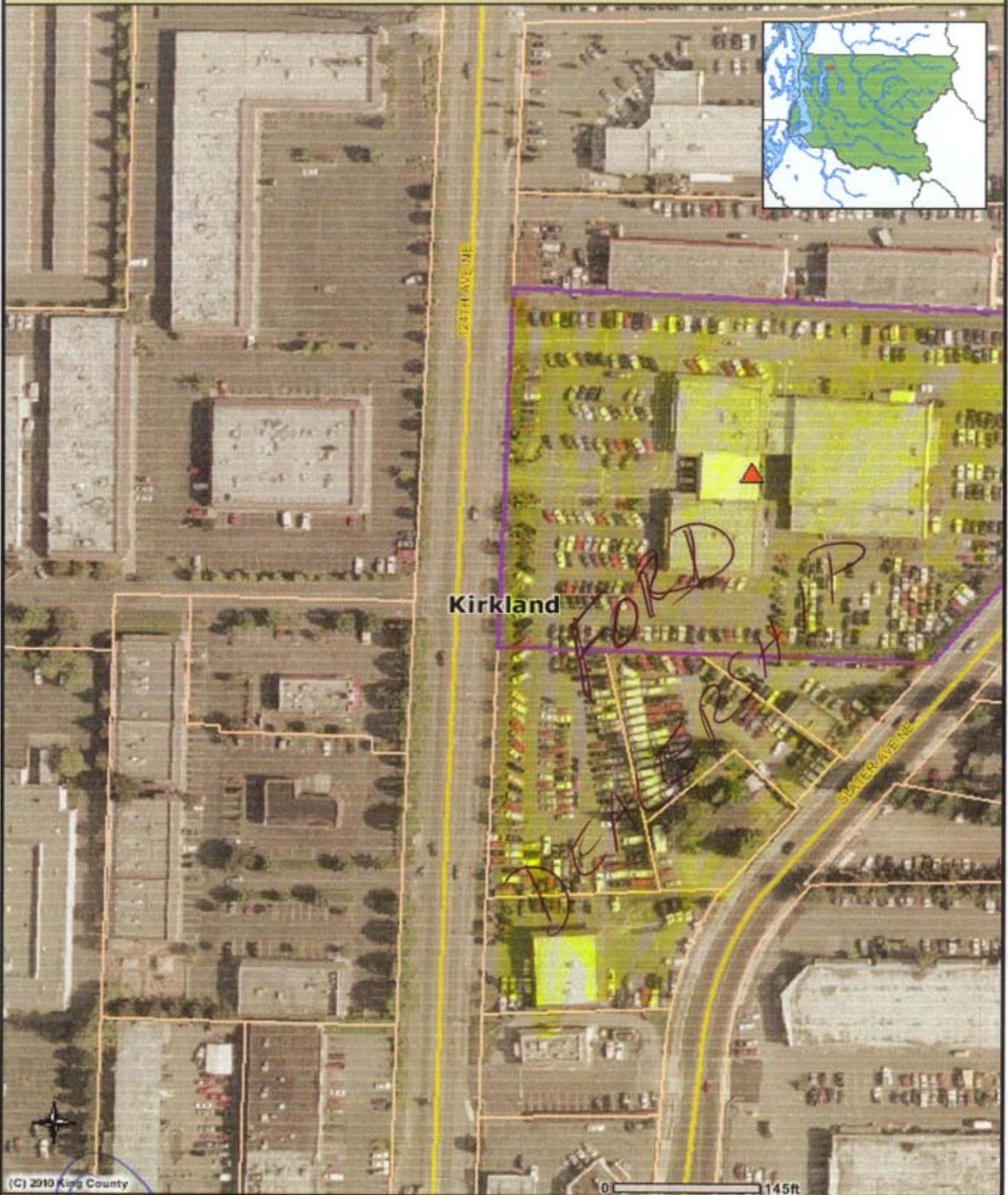
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Date: 6/15/2010 Source: King County iMAP Property Information (<http://www.metrokc.gov/GIS/iMAP>)



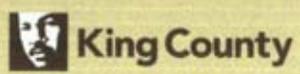
2007 Photos show multiple vehicles parked in the right of way.

iMAP



(C) 2010 King County
 COMMENTS: 2002 iMAP King County

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Date: 6/15/2010 Source: King County iMAP - Property Information (<http://www.metrokc.gov/GIS/iMAP>)

2002 Photo shows no vehicles parked in the right of way

RECEIVED

JUN 22 2010

CITY OF KIRKLAND
CITY MANAGER'S OFFICE

Are these your unclaimed comments? **Claim this profile** in order to verify and manage these comments, including the ability to edit or delete them.



anonymous

Guest

Names Used

anonymous

Poster

Dale Knapinski

Subscribe to feed

Comments

Comments with Replies

Letter | Totem Lake business crosses the line

31 minutes ago

Tax money needed...ask your council to change the rules!

Kirkland businesses are suffering due to the bad economy. In order to improve sales that bring tax dollars to the city, businesses need to request the council to:

1. Change Kirkland Municipal Code 19.04.050. This code prevents businesses from using the publically owned right of way like streets, sidewalks, and adjacent areas, for private business.
2. Clarify KMC 19.04.050 with respect to allowing abutting businesses to use publically owned right of ways. The code now only allows the right of way to be used only as an extension of the landscaping design of an abutting business. The wording needs to be changed so that it clearly states that the right of way can be used for anything that an abutting business wants to use it for.
3. Eliminate the requirement for buffer zones. It is much more important for businesses to be visible from the street than for businesses to display trees, bushes, grass, and aesthetic screening. If people want to see trees they can go to a park, or to Molback's in Woodinville.
4. Change the definition of "Non-conforming use" so that it includes city owned property. It seems fair that if a private business has been violating the law for a long enough period of time by using public property as though they owned it, surely the city should allow the business some sort of "Ownership" interest in the property for the exclusive use of the lawbreaker.
5. Change Kirkland's tree preservation rules. Providing a display area for vehicles that need to be sold to generate tax revenues is more important than protecting tree roots from damage due to leaking oil, grease, and compaction damage to the soil.
6. Eliminate KMC 12.45.160 This code is just stupid. It was intended to prevent people from displaying "For sale" vehicles on city owned property. Since this rule would make it difficult for car dealers to use city owned and maintained property for a display area, and given the fact that it isn't enforced, except of course if you park your own private car on the right of way, we should just eliminate the rule.
7. Change the sign code. The best place for businesses to place advertizing signs is...on the sidewalk, of course! Businesses should be allowed to place as many signs as they want, anywhere they want to install them. Sidewalks are rarely used for their "Intended" purpose anyhow.
8. Disband the Design Review Board. Why not just allow business owners to do their own design? Business owners know what works best. Citizen involvement is not needed and is a waste of time.
9. Finally, we need to eliminate one Kirkland code enforcement officer. That would save the city some money, and would allow businesses to operate more freely without government interference.

RETURNING?

Login



ORTHOPHOTOMAP
of
Section 28
T26N R5E

July 6, 2010

D R A F T

Dale Knapinski
18803 156th Avenue NE
Woodinville, WA 98072

RE: Ford of Kirkland Complaints

Dear Mr. Knapinski;

Thank you for your email to the Kirkland City Council of June 8, 2010 concerning activities on and adjacent to the Ford of Kirkland property on 124th Avenue NE. This letter has been drafted by staff in response to the email to the City Council and other electronic correspondence you've sent to several city staff members. In your correspondence to the City you have raised issues concerning the use of public right-of-way, sight distance, and A-board signs.

Right-of-Way: Kirkland Municipal Code Section 19.04.010

In your correspondence to the City, you express that the manner in which vehicles are parked on the property violates Kirkland Municipal Code Section 19.04.010 that prohibits anything in a right of way "which obstructs or tends to obstruct vehicles or persons traveling upon a street or sidewalk." In response to your concerns, Public Works Neighborhood Traffic Safety Control Program staff has discussed these concerns with Ford of Kirkland and has directed that the vehicles be parked back from the sidewalk so as not to in any way block pedestrian movement along the sidewalk. The vehicles have been moved in compliance of this provision and Ford of Kirkland has agreed to maintain compliance.

Sight Distance Concerns

You also expressed a concern that display vehicles were parked in such a location as to block the sight line of vehicles exiting driveways along 124th Ave. NE. Public Works Engineering staff has also addressed this issue with Ford of Kirkland and has required vehicles blocking such sight lines be removed. Ford of Kirkland has now met this requirement.

Unused Right-of-Way: Kirkland Municipal Code Section 19.04.050

Kirkland Municipal Code Section 19.04.050 provides that unused right of way may be incorporated into the landscaping of the abutting private property. The unused right of way abutting Ford of Kirkland has been incorporated into the landscaping for Ford of Kirkland. Ford of Kirkland uses the landscaped area in the unused right of way to display vehicles for sale. There is no provision in the Kirkland Municipal Code which prohibits the use of the landscaping area for the display of vehicles. Therefore, no violation of this provision exists.

Historical Use

Ford of Kirkland and its' predecessors in interest have made a long-standing use of unused right of for the display of vehicles. An aerial photo pre-dating the 1988 annexation of the subject property into the City of Kirkland demonstrates this use. In the zoning context, the general rule

is that a zoning ordinance may not operate to immediately suppress or remove from a particular district an otherwise lawful business for a use already established and maintained. A copy of the photo is available for your review from Judd Tuberg Code Enforcement Officer in the Department of Planning and Community Development.

A-Board Signs

You also raised the issue of the display of numerous A-board signs on and adjacent to the Ford of Kirkland premises. Investigation has confirmed that Ford of Kirkland is displaying more of these signs than the Zoning Code allows (one per block). A code enforcement officer has already been in contact with Ford of Kirkland to bring those signs into compliance.

The City Council appreciates your bringing your concerns to our attention. Should you have further concerns you would like the City to investigate regarding this property, please contact Marie Stake, Communications Program Manager, 425-587-3021 or mstake@ci.kirkland.wa.us.

Sincerely,
KIRKLAND CITY COUNCIL

by Joan McBride
Mayor



CITY OF KIRKLAND
Department of Finance and Administration
123 Fifth Avenue, Kirkland, WA 98033 425.587.3100
www.ci.kirkland.wa.us

MEMORANDUM

To: Marilynne Beard, Interim City Manager
From: Kathi Anderson, City Clerk
Date: June 17, 2010
Subject: CLAIM(S) FOR DAMAGES

RECOMMENDATION

It is recommended that the City Council acknowledge receipt of the following Claim(s) for Damages And refer each claim to the proper department (risk management section) for disposition.

POLICY IMPLICATIONS

This is consistent with City policy and procedure and is in accordance with the requirements of state law (RCW 35.31.(040).

BACKGROUND DISCUSSION

The City has received the following Claim(s) for Damages from:

- (1) Leslie Osborn
12939 196th Court NE
Woodinville, WA 98077

Amount: \$1,196.13

Nature of Claim: Claimant states damage to vehicle resulted from being struck by a City vehicle.



CITY OF KIRKLAND
Department of Public Works
 123 Fifth Avenue, Kirkland, WA 98033 425.587.3800
www.ci.kirkland.wa.us

MEMORANDUM

To: Marilynne Beard, Interim City Manager

From: Dave Snider, Interim Capital Projects Manager
Ray Steiger, P.E., Interim Public Works Director

Date: June 28, 2010

Subject: Park Lane (Phase One) Improvements – Accept Work

RECOMMENDATION:

It is recommended that City Council accepts the construction of the Park Lane (Phase One) Improvements (the Project), as constructed by Pacific Northwest Earthworks, LLC, of Fall City, WA and establish the statutory 45 day lien period.

BACKGROUND AND DISCUSSION:

The Project consisted of addressing potential tripping hazards and infrastructure damage. This was accomplished with the installation of approximately 2,400 square feet of Terrawalk[®] rubber sidewalks, root pruning, removal and replacement of two trees, and the installation of two Silva Cell[®] units. The improvements addressed immediate maintenance needs along the corridor between Lake Street and Park Lane that was primarily a result of the significant tree root systems. Phase Two of the Park Lane improvements, completing the "Flexible Festival Street" concept, is in the CIP as an unfunded (\$1.3 million) project to be programmed at a future date; Phase Two will complete the corridor street design adopted by the Council in February, 2009.

The Engineer's Estimate for construction of the Project was \$93,895, and on March 2, 2010, the City received seven bids with Pacific Northwest Earthworks (PNE) providing the low bid of \$48,152.50; at their regular meeting of March 16, 2010, Council awarded the contract. The total amount paid to the Contractor was \$73,568.69 that included three change orders to the contract.

After exposing the roots of the existing Norway Maple in front of the Jalisco Restaurant, staff learned that the roots were located at an elevation that prevented them from being root pruned as originally intended without creating long-term stability issues for the tree. In consultation with the City's Urban Forester and the onsite consultant certified arborist, it was decided that the tree should be removed. The tree was replaced with a 3" diameter *Parrotia* tree that is notorious for beautiful fall colors with minimal maintenance needed. In keeping with the long term vision for the Park Lane corridor, an additional Silva Cell[®] unit was also installed with the tree at this location to allow the new



New *Parrotia* (Jalisco Restaurant)

tree sufficient root area in order to prevent future sidewalk impacts. The added tree and Silva Cell[®] installation increased the Project cost by approximately \$15,000.

In addition to the additional tree and Silva Cell[®], a manufacturing problem with the City provided Terrawalk[®] product resulted in late delivery of the Terrawalk[®] panels and lead to a compensatory delay claim by PNE; this claim was paid. The delay also required the use of temporary cold-mix asphalt (extra costs) in order to keep the sidewalks open to the public. Staff renegotiated the final cost of the Terrawalk[®] panel material with the manufacturer and received an approximate \$3,000 credit to partially offset PNE's extra costs (this was a direct contract between the City and the vendor). The Terrawalk[®] delays added approximately \$4,000 to the construction contract.

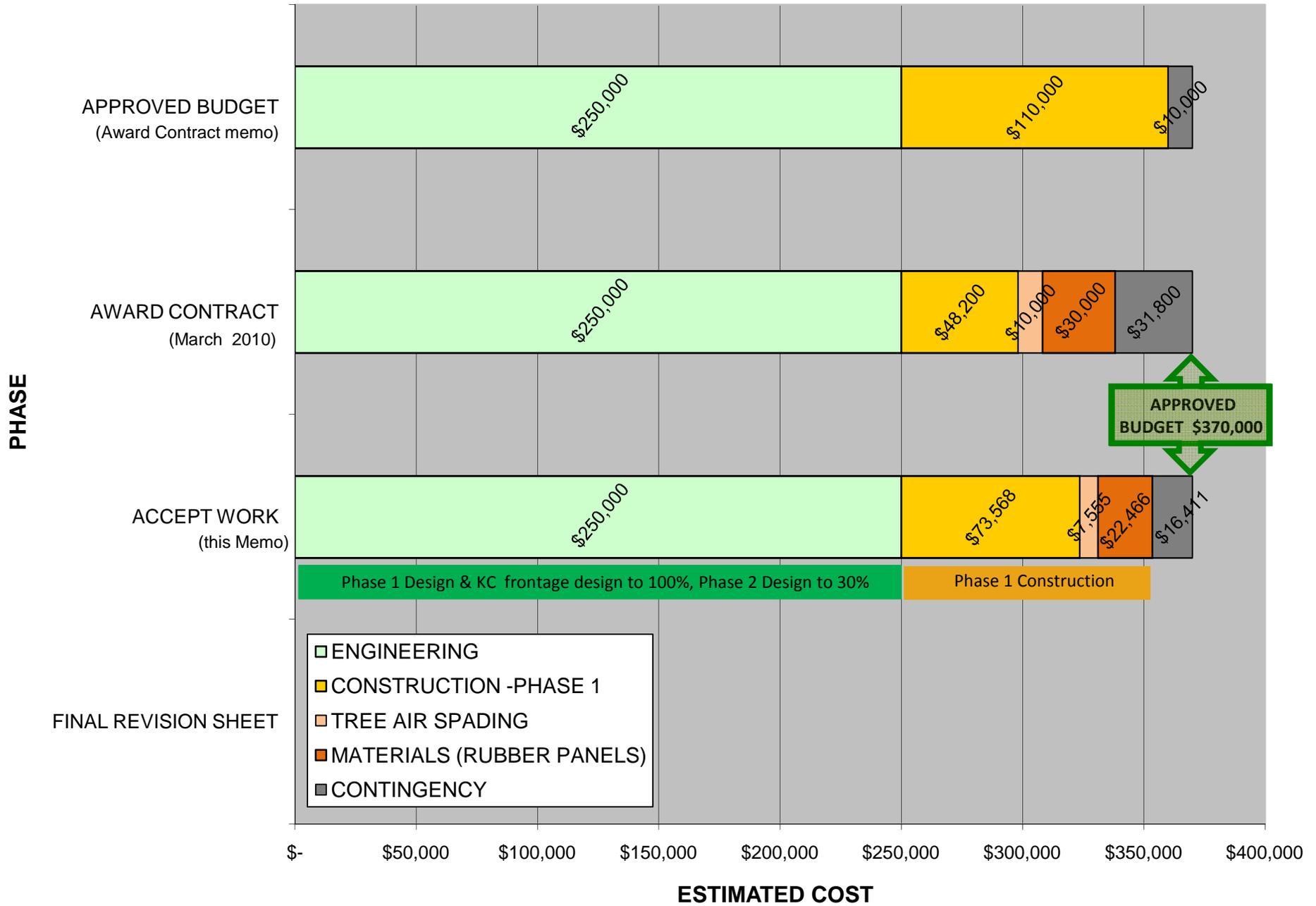
Finally, additional old and decaying wood expansion joint material within the existing concrete sidewalks were removed and replaced with new wood at appropriate locations and additional refinements to the layout of sidewalk along the corridor between Lake Street and Park Lane added approximately \$6,000 in materials and labor to the contract.

The construction, including punch list items, was completed on May 24, 2010 approximately three weeks behind the originally anticipated completion date. The total Project cost, including the phase one design/inspection, the phase two design (currently on-going), and other construction administration services are within the total Project budget of \$370,000 (Attachment A).

The Phase Two design (funded within the \$370,000) is being completed to a level such that frontage improvements to the proposed King County Pump Station at the intersection of Park Lane and Third Street can be constructed to match the overall Park Lane vision. The Pump Station upgrade project begins in 2011 and will be completed by the end of 2012.

Attachments (2)

Park Lane Phase 1 Improvements (CNM 0064) Project Budget Report





Before (Simply Decor)



After (Simply Décor)



Before (Cactus Restaurant)



After (Cactus Restaurant)



CITY OF KIRKLAND
Department of Finance & Administration
123 Fifth Avenue, Kirkland, WA 98033 425.587.3100
www.ci.kirkland.wa.us

To: Marilynne Beard, Interim City Manager

From: Tracey Dunlap, Director of Finance & Administration
Barry Scott, Purchasing Agent

Date: June 29, 2010

Subject: REQUEST FOR WAIVER OF COMPETITIVE PROCESS– Consultant for Web-based Commute Management System

RECOMMENDATION:

It is recommended that the City Council pass a resolution to authorize a waiver of competitive purchasing process requirements and authorize the City Manager to execute a contract with Interact Soft, Inc., DBA iCarpool, to develop a Web-based Commute Management System.

BACKGROUND DISCUSSION:

Thang T. Nguyen, Transportation Engineer, has requested (Attachment A) that the City forego using the Request for Proposal process and contract with iCarpool of Issaquah, WA to develop a commute management system for the City.

iCarpool is the company that developed the RideshareOnline.com system for the Washington State Department of Transportation. RideshareOnline is being used by a number of cities, counties and other government agencies in the Puget Sound area. Our contract with iCarpool would be to develop enhancements to the existing RideshareOnline system to make it a more valuable tool for use by the City of Kirkland, as well as other current and future RideshareOnline users.

As iCarpool is the developer of the RideshareOnline system, they are the only firm that can legally alter the code to make the enhancements that we are seeking. (See attachment B.)

Federal grant funds are being used for this project and the estimated cost is \$160,000 - \$220,000.

This request is consistent with KMC 3.85.210, which allows for the purchase of goods or services in excess of \$50,000 without using a competitive process if the "purchase is clearly and legitimately limited to a single source or supply."



CITY OF KIRKLAND
123 Fifth Avenue, Kirkland, WA 98033 (425) 587-3000
www.ci.kirkland.wa.us

Attachment A

To: Barry Scott, Purchasing Agent

From: Thang T. Nguyen, Transportation Engineer

Date: July 17, 2010

Subject: GTEC- Totem Green Trip Project Contracting for Web-based Commute Management System

This memo describes the contracting process for selecting a consultant to develop and host a web-based commute management system for the Totem Green Trip (TGT) Project that includes ride-matching, commute tracking calendar, alternative mode suggestions, and incentive fulfillment and distribution in an integrated system of semi-independent modules.

Background

In 2006, the Washington State Legislature passed the Commute Trip Reduction Efficiency Act to update the CTR law that has been in effect since 1991. This action required local jurisdictions to update their CTR ordinances and it offered the opportunity to create optional Growth and Transportation Efficiency Centers (GTEC) to aggressively reduce commute trips. The City Council designated the Totem Lake Urban Center as a GTEC in 2007 and it was approved by the Puget Sound Regional Council (PSRC) and the Washington State Department of Transportation (WSDOT) that same year.

At the direction of the City Council and working from the Totem Lake GTEC Plan, staff developed a transportation demand management (TDM) program for Totem Lake called the Totem Green Trip Project (TGT). Using the \$50,000 as leverage, staff was able to secure STP/CMAQ funding with a grant amount of \$686,000 in 2009. The grant provides funds to implement the TGT for the 2010/2011 bi-annual cycle.

Web-based Commute Management System

The TGT project will utilize a web-base commute management system to manage ride-matching, commute tracking calendar, alternative mode suggestions, and incentive fulfillment and distribution in an integrated system of semi-independent modules.

Kirkland has three options in developing a web-based commute management system:

1. Solicit a consultant to develop an independent system from the ground up.
2. Contract with the consultant that developed the system for the City of Redmond's R-trip program.
3. Use the free RideshareOnline.com system available from WSDOT and adding functionalities for Kirkland. RideshareOnline.com will have the largest carpool and vanpool database for the Puget Sound region.

Options 1 is the most costly, requires the most time to develop and additional time to test and implement. Furthermore, it will be independent of RideshareOnline.com and will not be able to share the same carpool and vanpool database that the rest of jurisdictions in the Puget Sound region is and/or will be using.

Option 2 is less costly than Option 1 and most likely cost a little more than Option 3. Similar to Option 1, this option will not have the ability to share the same carpool and vanpool database for the Puget Sound region. It will only share the same database with the City of Redmond. However, the City of Redmond is likely to convert to RideshareOnline.com in the near future.

Option 3 is the least costly and will give Kirkland the ability to share the largest carpool and vanpool database for the Puget Sound area. WSDOT currently provide all jurisdictions without cost accessibility to their web-based commute management system (RideshareOnline.com) that includes ride matching, commute tracking calendar, alternative mode suggestions, and incentive fulfillment and distribution.

- This system provides a single database repository for ride-matching, calendaring, incentive management, commute management and standardized reporting services. RideshareOnline.com is currently being used by transportation agencies throughout the region and state including King, Snohomish and Pierce County; the States of Washington; neighboring cities (including Bellevue) and key employers such as Microsoft and Boeing.
- No other system on the market is currently poised to provide the same level of functionality or has the ability to access the database provided via the RideshareOnline.com application.
- It would not be in the best interest of Kirkland's employees, customers or employers to utilize a separate transportation management system given that the City of Kirkland, its residents, employees and its employers would still need to use RideshareOnline.com to participate in vanpool services, incentive programs, guaranteed ride home programs, etc. that are managed and provided through partners participating in the RideshareOnline.com application. The use of a different system would mean that City of Kirkland employees, customers and employers would be required to register, log trips, manage accounts and request incentives in two systems to get the best ride-match services, access all incentive opportunities, and participate in programs in neighboring cities, the county and/or throughout the state. By utilizing RideshareOnline.com, this additional effort and associated expenses would be eliminated.
- The State of Washington plans on using the RideshareOnline.com database to help track and monitor progress related to Commute Trip Reduction programs. If City of Kirkland's data were split from the rest of the database, Kirkland would likely still be required to provide data compatible with State reporting needs that will be achieved seamlessly via the RideshareOnline.com software for partners. Functionality has been built to capture baseline data, and track commuters efforts related to Commute Trip Reduction laws in affected areas. By utilizing RideshareOnline.com, this additional effort and expense to create and transmit compatible data outside the system would be eliminated.
- Administration, communication and outreach would be required to be done twice not only by the City of Kirkland but also employers in the City of Kirkland, if they wish to participate in programs/services provided in RideshareOnline.com as well as another system should it be

developed. By utilizing RideshareOnline.com, this additional effort and expense would be eliminated.

- Per trends - ridesharing is poised to play an important role in the future for emergencies and transit outage (e.g. snow storm, flooding). If users are split, emergency outreach and “quick match” mechanism will pose challenges. RideshareOnline.com would be the tool of choice for King County, the State of Washington and partnering agencies, cities and employers.

RideshareOnline.com’s main goal is to provide carpool and vanpool ride matching with little or no functionality for promoting and local branding of local programs and incentive management. As proven by the City of Redmond’s R-trip program, the local branding and incentive management is the most important strategies to make a local trip reduction program a success.

However, RideshareOnline.com does provide the vast majority of functionality/feature that Kirkland needs to manage its transportation management program. With a few functionalities added to the RideshareOnline.com, Kirkland will have access to one of the most robust commute management system available. The additional functionalities needs to be implemented together with the RideshareOnline.com system will cost approximately \$220,000. Once those functionalities are developed all jurisdictions within the RideshareOnline.com system will be able to use those functionalities. In addition, Kirkland will not have to pay for the base architecture of the system since WSDOT has already paid for it and will add additional functionality in the future that Kirkland can use for free.

Consultant Selection Process

A request for proposal (RFP) process is typically use to elicit consultant when a contract is greater than \$50,000. However, in this case, staff will contract directly with the consultant (iCarpool) that developed the RideshareOnline.com to develop additional functionalities that Kirkland will need to implement the TGT program. No other consultants can legally develop the functionalities that Kirkland needs and have those functionalities integrate with the RideshareOnline.com system because that system is not open source and is rightfully protected by iCarpool.

Public Works understands that the City usually requires that there be an open-bid selection process, such as an RFP, but in this case it is not possible because the software development needs to be integrated with the RideshareOnline.com system and the only consultant that has access to the architecture of that system is iCarpool. Using the RideshareOnline.com system is the most cost-effective and most integrated with the rest of the jurisdictions within the Puget Sound area.

I hope this memo provides you with a clear understanding of our reasons for directly contracting with iCarpool and that the reasons suffice all federal guidelines for using federal grant. If you have questions, please contact me at x3869.

Attachment B

From: Lakshmi Krishnamurthy [mailto:lakshmi@iCarpool.com]
Sent: Wednesday, June 23, 2010 3:39 PM
To: Barry Scott
Subject: RE: Single Source for RideshareOnline.com
Importance: High

Hi Barry,
My company, Interact Soft Inc. (dba iCarpool) is the developer of the RideshareOnline.com system. Our software is proprietary code and Interact Soft Inc. has the sole legal rights to offer it or make any enhancements.

Please let me know if you need any additional information.

Best regards,
Lakshmi K
Founder, iCarpool.com
O: 425-749-7316
E: lakshmi@iCarpool.com
W: <http://www.iCarpool.com>



**Winner of ITS Congestion Challenge at the
16th ITS World Congress, Stockholm, Sep 21-25, 2009**
<http://www.itsa.org/challenge/>

From: Barry Scott [mailto:BScott@ci.kirkland.wa.us]
Sent: Wednesday, June 23, 2010 3:10 PM
To: lakshmi@iCarpool.com
Subject: Single Source for RideshareOnline.com

Hi Lakshmi,

Per our earlier phone conversation, I am asking for written confirmation that Interact Soft, Inc. DBA iCarpool is the developer of the RideshareOnline.com system and, as such, is the only firm that can legally make enhancements to the RideshareOnline.com code.

Your assistance in this matter is appreciated!

Barry L. Scott, C.P.M.
Purchasing Agent
City of Kirkland

Ph: 425-587-3123
Fax: 425-587-3110

RESOLUTION R-4823

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND APPROVING A WAIVER OF COMPETITIVE BIDDING FOR CONTRACTING WITH INTERACT SOFT, INC., DBA ICARPOOL, TO DEVELOP A COMMUTE MANAGEMENT SYSTEM FOR THE CITY AND AUTHORIZING THE CITY MANAGER TO EXECUTE SAID CONTRACT.

WHEREAS, the City Purchasing Agent, at the request of the City's Transportation Engineer, has requested the approval of the City Council for single source procurement of services to develop a web-based commute management system and

WHEREAS, this purchase would be pursuant to Kirkland Municipal Code Section 3.85.210; and

WHEREAS, the City Council finds that the facts and circumstances presented support the conclusion that such a purchase is clearly and legitimately limited to a single source of supply;

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

Section 1. The City Council of the City of Kirkland hereby finds that the purchase of the services required to develop a web-based commute management system compatible with the regional RideshareOnline.com system meets the requirements of KMC 3.85.210 for purchase without competitive process and authorizes the City Manager to sign a contract with Interact Soft, Inc., DBA iCarpool, to develop a commute management system for the City.

Passed by majority vote of the Kirkland City Council in open meeting this 6th day of July, 2010.

Signed in authentication thereof this 6th day of July, 2010.

MAYOR

Attest:

City Clerk



CITY OF KIRKLAND

Planning and Community Development Department
123 Fifth Avenue, Kirkland, WA 98033 425.587-3225
www.ci.kirkland.wa.us

MEMORANDUM

To: Marilynne Beard, Assistant City Manager

From: Eric R. Shields, AICP, Planning Director
Susan Greene, Planner

Date: June 23, 2010

Subject: Waverly Way Right-of-Way Vacation - Set Hearing Date
File No. VAC10-00001

RECOMMENDATION:

City Council adopts a resolution establishing August 3, 2010 as the public hearing date for the Drivdahl proposed vacation of Waverly Way right-of-way.

BACKGROUND DISCUSSION:

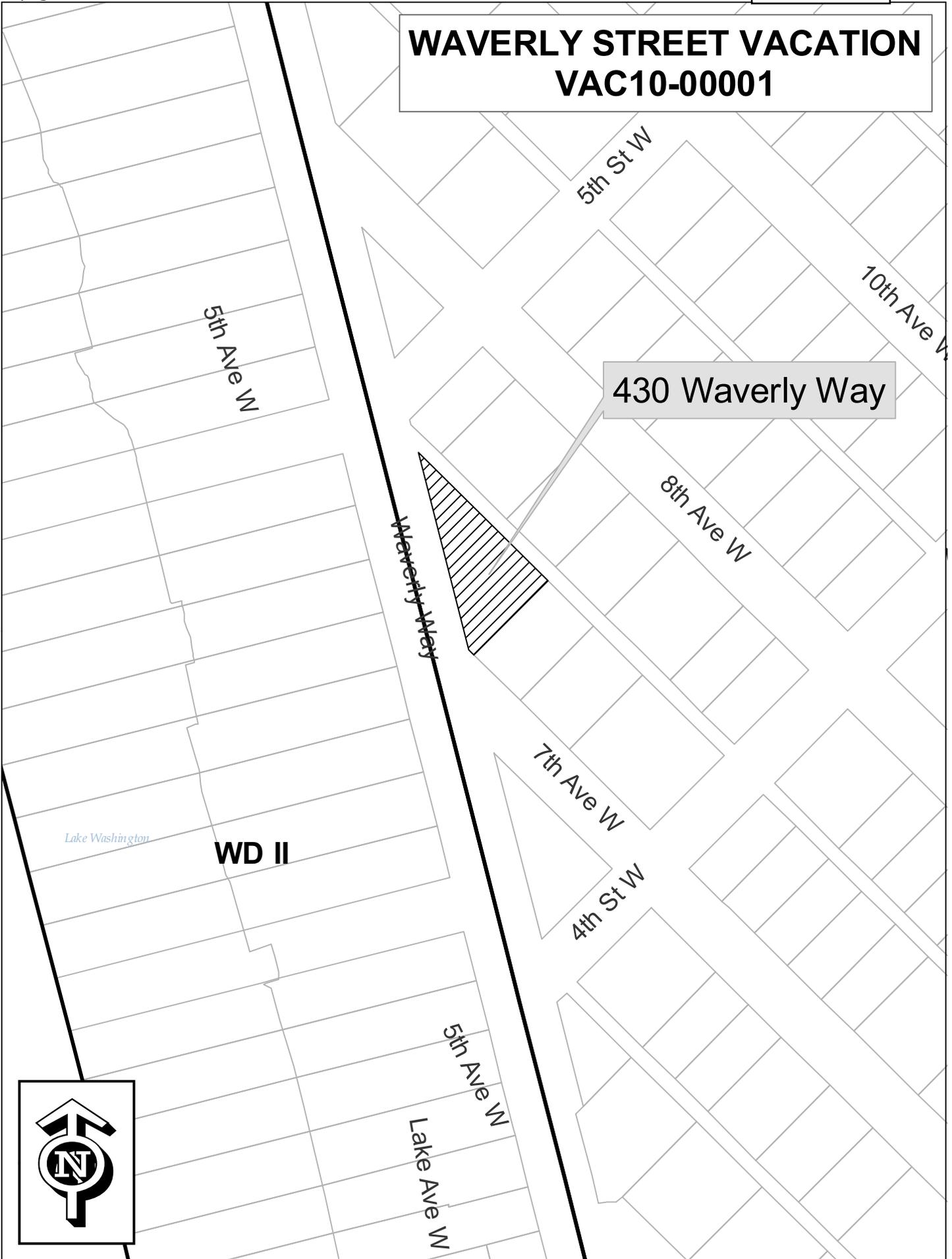
Establishment of a public hearing date by City Council resolution is required by KMC 19.16.060.

ATTACHMENTS:

Vicinity Map
Resolution to Set Hearing Date

cc: Eric Drivdahl, applicant

**WAVERLY STREET VACATION
VAC10-00001**



430 Waverly Way

Lake Washington

WD II



RESOLUTION R-4824

A RESOLUTION OF THE CITY OF KIRKLAND AND NOTICE OF HEARING FOR THE VACATION OF A PORTION OF WAVERLY WAY RIGHT-OF-WAY, (FILE NO. VAC10-00001).

WHEREAS, a petition has been filed with the City of Kirkland signed by the owners of real property representing more than two-thirds of the property abutting upon the hereinafter described portions of Waverly Way.

WHEREAS, it appears that the public interest of the City of Kirkland, Washington, would be served by holding a public hearing to consider the vacation of said portion of Waverly Way right-of-way.

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

Section 1. That a public hearing be held to consider whether the public interest and general welfare of the City of Kirkland will be served by the vacation of Waverly Way right-of-way, situated in Kirkland, King County, Washington, and described as set forth in Exhibit A.

BE IT FURTHER RESOLVED AND NOTICE OF HEARING:

Section 2. That said public hearing will be held before the Kirkland City Council in the Kirkland City Hall, 123 Fifth Avenue, on August 3, 2010 at 7:30 p.m. or as soon thereafter as possible.

PASSED by majority vote of the Kirkland City Council in open meeting on the _____ day of _____, 20__.

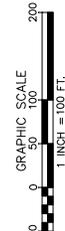
SIGNED IN AUTHENTICATION thereof on the _____ day of _____, 20__.

Mayor

Attest:

City Clerk

Exhibit A
VAC10-00001

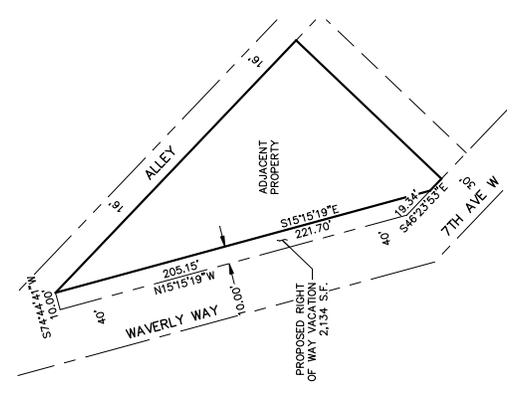


LEGAL DESCRIPTION OF ADJACENT PROPERTY
 LOTS 11 AND 12 AND NORTHWEST 30 FEET OF LOT 13, BLOCK 13, TOWN OF KIRKLAND, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 6 OF PLATS, PAGE 53, IN KING COUNTY, WASHINGTON.

PROPOSED RIGHT OF WAY VACATION
 THAT PORTION OF WAVERLY WAY MORE FULLY DESCRIBED AS FOLLOWS: BEGINNING AT THE MOST NORTHERLY CORNER OF LOT 11, BLOCK 13, TOWN OF KIRKLAND, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 6 OF PLATS, PAGE 53, IN KING COUNTY, WASHINGTON; THENCE SOUTH 15°15'19" EAST, PARALLEL WITH THE CENTERLINE OF WAVERLY WAY, A DISTANCE 205.15 FEET; THENCE ALONG THE PROLONGATION OF THE NORTHERLY BOUNDARY OF SAID LOT 11, A DISTANCE 19.34 FEET, TO A POINT WHICH IS 23.35 FEET MORE OR LESS FROM THE MOST WESTERLY CORNER OF LOT 13, BLOCK 13, OF SAID PLAT; THENCE SOUTH 15°15'19" EAST, TO THE WEST BOUNDARY OF SAID LOT 11, BLOCK 13, OF SAID PLAT, 221.70 FEET TO THE POINT OF BEGINNING.

CONTAINING 2,134 SQUARE FEET ±.

PROJECT INFORMATION
 ENGINEER/SURVEYOR: SITE SURVEY & MAPPING, INC. 4808 ALPINE GLOW PLACES NW ISSAQUAH, WA 98027 PHONE: 425.644.2076
 PROPERTY OWNER: RICHARD HOTELS 430 WAVERLY WAY KIRKLAND, WA 98033
 TAX PARCEL NUMBER: 388580-0720
 PROJECT ADDRESS: 425 WAVERLY WAY KIRKLAND, WA 98033
 PARCEL ACREAGE: 11,987 S.F. (0.274± ACRES) AS SURVEYED
 ZONING: RS7.2
 JURISDICTION: KIRKLAND



R.O.W. VACATION DETAIL
1"=50'



R.O.W. VACATION EXHIBIT
 RICHARD HOTELS
 422 WAVERLY WAY
 KIRKLAND, WA 98033

Site Survey & Mapping, Inc.
 www.sitesurveyandmapping.com 4808 Alpine Glow Place NW Issaquah WA 98027 Phone: 425.644.2076
 PROJECT#: 10-005 SHEET: 1 OF 1
 SW 1/4, NE 1/4, SEC 6, TWP 25N, RNG 5E, W.M.

**CITY OF KIRKLAND**

Public Works Department

123 Fifth Avenue, Kirkland, WA 98033 425.587-3225

www.ci.kirkland.wa.us

MEMORANDUM

To: Marilynne Beard, Interim City Manager

From: Rob Jammerman, Development and Environmental Services Engineering Manager
Ray Steiger, P.E., Interim Public Works Director

Date: July 6, 2010

Subject: STREET CUT FEE

RECOMMENDATION

City Council approves the attached ordinance amending the sections 19.12 and 5.74 of the Kirkland Municipal Code establishing a street cut fee for all new street cuts within the public right-of-way.

BACKGROUND DISCUSSION

On June 1, 2010, the proposed street cut fee ordinance was presented to the City Council (see attached June 1st staff report). After discussing the proposed street cut fee, the Council recommended that additional time be allowed and a second request for comments about the proposed fee be sent to the Kirkland Developers Partnership Forum and the Franchise Companies. Both groups were notified that additional time to comment on the proposed fee was being made available. We received one email from the Master Builders Association indicating that no comments had been received from their group. To date, no comments have been received from other groups or individuals on this matter.

During the additional comment period, Councilmember Sternoff asked if an enhanced crack sealing program could be pursued to reduce the impacts of street cuts on our Pavement Condition Index (PCI). Council will recall that crack sealing (applying liquid asphalt along pavement cracks to seal out water) is identified as one of the elements of the overall street preservation strategy (Attachment B). Public Works staff has discussed this issue and is pursuing the following:

1. Construction inspection staff will make sure that all street cuts (by utilities, franchises, private development, and CIP) are properly sealed along the edges when the asphalt patch is complete.
2. Prior to release of any street maintenance security (after the required two-year period), construction inspection staff will re-inspect the asphalt patches and require the street cuts to be re-sealed when necessary.
3. The Street Maintenance Division of Public Works will assess whether additional crack sealing efforts can be added within funding and resource limitations of their existing budget and workplan.
4. The Capital Improvement Project Division will analyze the feasibility of adding crack sealing to the annual Street Preservation Program, similar to that being done in other neighboring jurisdictions.

Attachments: June 1st, 2010 Street Cut Fee Staff Report
Street preservation strategies
Ordinance and Publication Summary.

**CITY OF KIRKLAND**

Public Works Department

123 Fifth Avenue, Kirkland, WA 98033 425.587-3225

www.ci.kirkland.wa.us

MEMORANDUM

To: Marilynne Beard, Interim City Manager

From: Ray Steiger, P.E., Interim Public Works Director
Rob Jammerman, Development and Environmental Services Engineering Manager

Date: June 1, 2010

Subject: Street Cut Fee

RECOMMENDATION:

City Council approves the attached Ordinance amending the sections 19.12 and 5.74 of the Kirkland Municipal Code establishing a Street Cut Fee for all new street cuts within the public right-of-way.

BACKGROUND DISCUSSION:

On February 14, 2009, Public Works Staff presented the 2008 State of the Streets report to the City Council outlining the funding deficiencies in our Street Preservation Program and recommending several options to provide additional funding to the program; one such fee was a Street Cut Fee. Ray Steiger, Interim Public Works Director presented a Street Preservation Strategy report to the City Council. After reviewing and discussing the report, Council recommended that Staff bring back more information regarding the Street Cut Fee and other funding sources; this follow up was presented to Council on February 16th, 2010 (Attachment A).

At their February 16th meeting, Council approved the elements outlined in the "yellow" column. Detailed information regarding the Street Cut Fee has now been developed, and an ordinance to adopt the fee is included with this memo. Components of the fee are as follows:

1. Utility street cuts (patches) are one of the major causes of Pavement Condition Index (PCI) decline. Simply put, an asphalt street that is not cut and patched will have a slower declining PCI than a street with that has been cut and patched; the faster the PCI declines, the sooner the street has to be overlaid.
2. Staff studied permit data from the last 10 years and estimated that between 700 and 1000 new asphalt patches occur in our public streets each year. The majority of these asphalt patches are either associated with franchise utility work such as gas, electric, phone cable, or fiber-optics, or with new development projects. The Public Works Department does have an asphalt overlay policy

Memorandum to Marilynne Beard, Interim City Manager

June 1, 2010

Page 2

for major utility work in the right-of-way and any patches that were overlaid were not counted in these study numbers; the patches are counted for this exercise only if they don't trigger an overlay.

3. Both the City of Bellevue and Bothell have had Street Cut Fees for many years. The City of Bellevue's Street Cut Fee is \$59 per 100 sq. ft. and is being reviewed for a fee increase. The City of Bothell's Street Cut Fee is \$14 per lineal foot of trench which equates to approximately \$140 per 100 sq. ft of patch (trench widths vary).
4. When developing the Street Cut Fee, staff found that the most equitable approach is to base the fee on the actual costs to provide an asphalt overlay over the subject street cut. In 2009, the City paid approximately \$4/square foot to overlay our streets. Because patch sizes vary and are subject to adjustment in the field, it is recommended that the Street Cut Fee be set at \$200 for every 50 sq. ft. of patch size (\$4 per sq. ft. overlay cost X 50 sq. ft. = \$200) The following table outlines the recommended fee schedule:

Street Cut Size ⁽¹⁾	Street Cut Fee ⁽²⁾
1 – 50 sq. ft.	\$200
51-100 sq. ft.	\$400
100 sq. ft or greater	\$400 plus \$400 each additional 100 sq. ft. of patch area

⁽¹⁾Multiple patches that are within the vicinity of each other will be measured collectively to determine the fee.

⁽²⁾Any permit applicant that is required to overlay the street as a condition of their project will not pay the Street Cut Fee for any street cuts in the overlay area.

With this fee adoption, it is estimated that between \$100,000 and \$150,000 will be generated annually for the Street Preservation Program.

5. There will be additional time required by the Public Works Development Engineers and Engineering Technicians to administer the new fee. To account for this new work, it is recommended that each Street Cut Fee have an additional \$25 administration fee added to it. The administration fee has been included in the attached fee ordinance.
6. On May 21st, a notice was sent to the Kirkland Developers Partnership Forum and all Utility Franchise Holders regarding the proposed Street Cut Fee and the presentation of the fee to Council at the June 1, 2010 Council meeting.

If the Council approves the recommended Street Cut Fee, staff recommends that further analysis be done to assess whether utility patches caused by our own utility work should also be assessed a Street Cut Fee and contribute to the Street Preservation Program accordingly. As an example, if the Surface Water Utility repaired a storm line failure and patched the street, the utility would be "charged" for the patch and funds would be transferred from the Surface Water Utility to the Street Preservation fund. Moving forward with this policy may result in a slight increase to the utility rates.

Memorandum to Marilynne Beard, Interim City Manager
June 1, 2010
Page 3

Other Fee Administration Change

One other Public Works fee administration change has been included with this Ordinance. The existing fee for Engineering Review and Inspection of major street and utility improvements is 10% of the value of the improvements. The existing code requires this fee to be paid at the time of permit issuance. If the permit is not picked up, the Public Works Department is not reimbursed for the time to review the permit.

The proposed amendment requires applicants to pay up to half of their Public Works Engineering Review and Inspection fee (up to 5% of the value of the improvements) *at the time of permit application*. In doing so, the Public Works Engineering review time will be covered even if a permit is not picked up after processing. This methodology is consistent with the process used by the Building Department which charges an intake fee to cover their review time before the permit is issued.

Attachment 1 - February 16, 2010 Street Preservation Strategies Report.

Attachment 2 - Ordinance to amend 5.74 of the KMC

Attachment 1

**CITY OF KIRKLAND****Department of Public Works****123 Fifth Avenue, Kirkland, WA 98033 425.587.3800**
www.ci.kirkland.wa.us**MEMORANDUM**

To: David Ramsay, City Manager

From: Ray Steiger, P.E., Interim Public Works Director
Andrea Mast, P.E., Project Engineer

Date: February 10, 2010

Subject: STREET PRESERVATION STRATEGIES

RECOMMENDATION:

It is recommended that the City Council review and discuss the proposed street preservation strategies.

BACKGROUND AND DISCUSSION:

This memo summarizes the work of the Transportation Commission, the Council Finance Committee, and Public Works Staff over the last year to develop a proposal to stabilize and/or increase the overall pavement quality in the City of Kirkland. Staff has included a number of options for consideration and is seeking additional comment, feedback, and direction from the Council.

Pavement Condition Index and Deferred Maintenance

In 2002, 2005, and 2009, Staff presented Council with reports that summarized the City's Pavement Management System (PMS), the roadway network pavement condition, and made recommendations for funding of the City's Annual Street Preservation Program based on a ten year projection of the street system condition. Using information presented in the reports, and after discussions with Staff, Council established budgets for the Annual Street Preservation Program in the Capital Improvement Program. Additionally, based on the 2005 report, Council approved the purchase of a commercial grade asphalt paving machine for use by City maintenance personnel to supplement the Annual Preservation Program.

In the 2009 report to Council, Staff indicated that the overall Pavement Condition Index (PCI) for the City's street network had declined to 65 and was trending downward; this compared to an overall PCI of 70 and 67 in the 2005 and 2002 reports respectively. As a point of reference, a newly paved roadway has a PCI of 100, and over time, the PCI decreases depending on environmental exposure, traffic volumes, and other factors (Figure A). The PCI of the overall City street network is a combination of *all* individual roadways (150 miles of City streets) and their respective PCI's; it is this overall PCI that is used to summarize the "health" of the network. This measure is utilized for objective comparisons over time, with other agencies, and in grant funding applications. Other factors also need to be considered when assessing the complete picture of street network health such as the type of road vs. the PCI (for example, maintaining higher PCI's on the arterials helps commerce and transit in addition to cars; neighborhood street speeds are lower and PCI for driver comfort is not as crucial), however the PCI is a good benchmark to use for comparisons.

Besides sufficient funding, optimizing the investment level for a street network over its lifetime requires two considerations: 1) determining the best treatment measure for given conditions (the PCI rating among those conditions), and 2) determining the correct time to apply the measure. To start with, Kirkland has identified a

number of acceptable treatment measures for pavement repair ranging in cost and applicability; they include: slurry seal, patching, overlay, and total reconstruction. An *unacceptable* treatment measure, tried in the mid 1990's, is called "chip seal", and this measure is not used in Kirkland; the materials used in chip seal were incompatible with the urban nature of Kirkland and community feedback took that measure off the list of options. Slurry seal on the other hand (also a low cost preventative maintenance measure) is used on certain roads with good PCI's (typically above 80), and it allows for the roadway's life to be extended a number of years at a low cost (Figure B). Slurry seal cannot be applied indefinitely, since over time the structure of the underlying asphalt will break down, but it can be applied on repeating cycles (say every 5 – 8 years) thereby saving the cost of the more expensive overlay treatment. As graphically shown in Figure B, a number of low costs slurry seals can be applied to keep the pavement in the "good" range rather than immediately overlaying at the early signs of degradation. On the other end of the cost spectrum is total reconstruction.

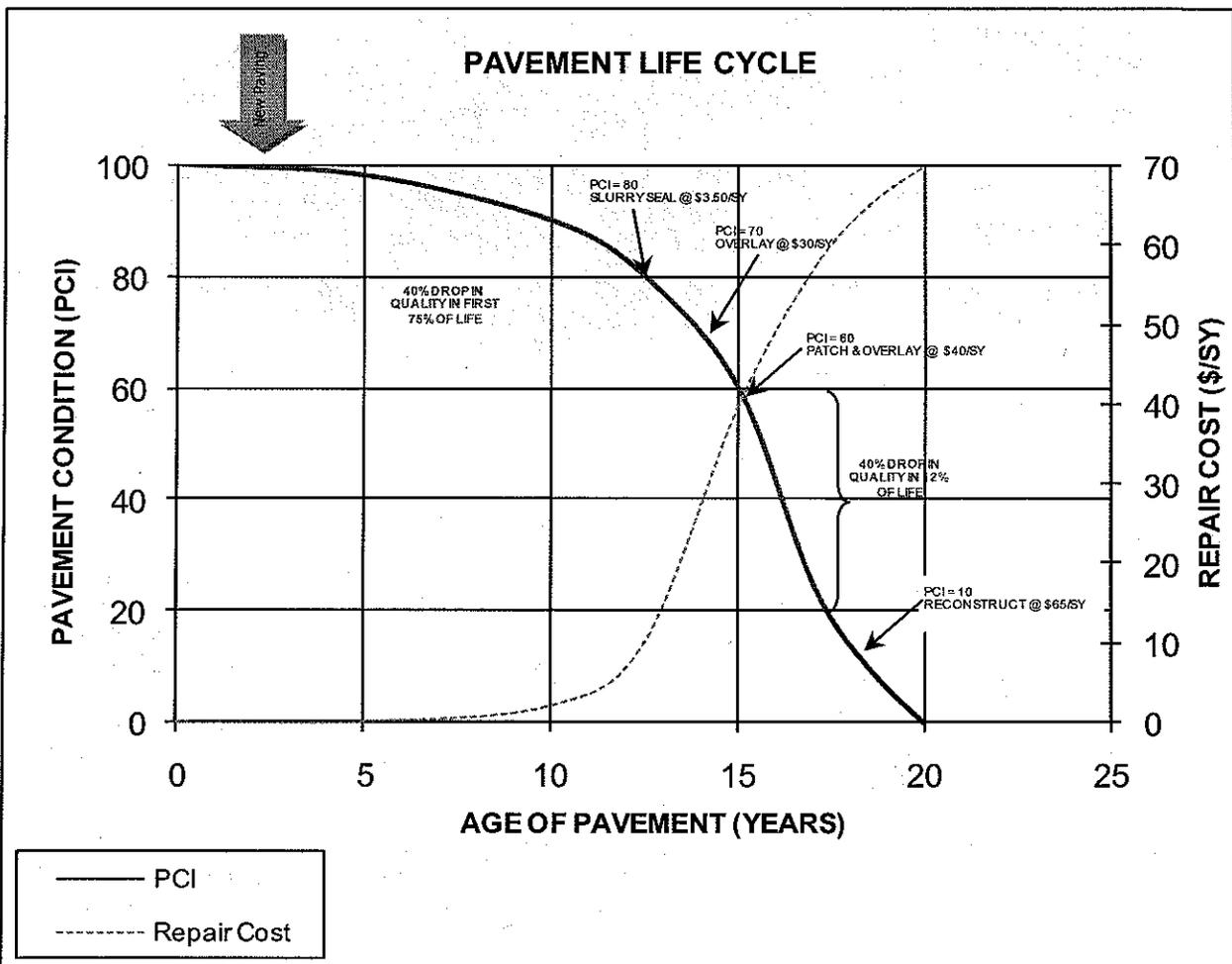


Figure A – Typical asphalt degradation curve over time

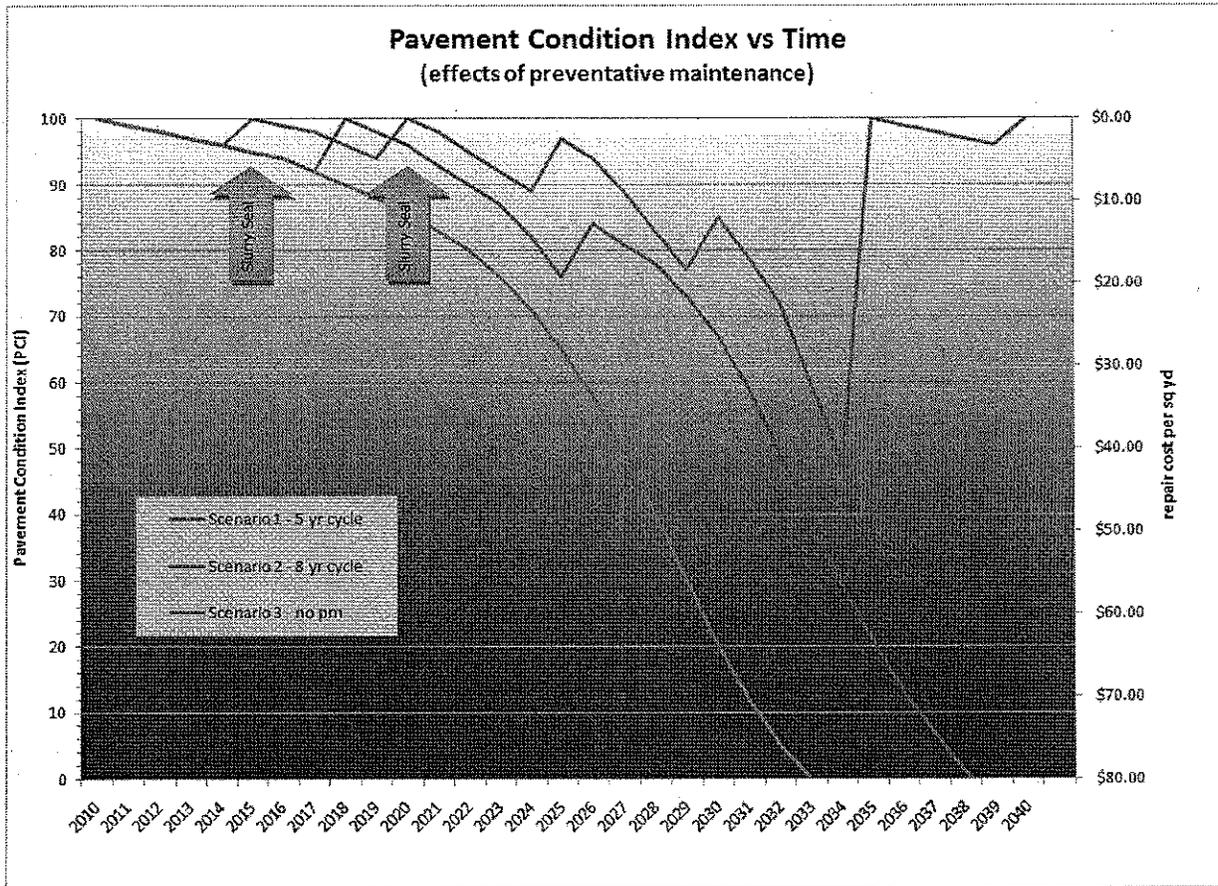


Figure B – lifecycle cost comparison of asphalt treatment measures

Reconstruction involves complete removal of the roadway section down to the native soil, and then the road is reconstructed with excellent materials using appropriate construction methods under good weather conditions; this is the most expensive measure and represents the largest impact to residents, commuters, and other users during the construction activities. This measure is typically used once a roadway has degraded below the 20 PCI range. The direct cost of reconstruction does not increase significantly as the road degrades further than this PCI range, but the indirect cost, tire damage, complaints, and general community dissatisfaction, will continue to go up. Most of the roadways under Kirkland’s current funding level and overall PCI fall within the more moderately priced overlay treatment measure.

Along with the PCI, a second attribute that can be looked at globally with the PMS is the deferred maintenance of the network – the estimated repair cost in current dollars to bring the whole system to a PCI of 85. A PCI of 85 for the entire network represents the optimum investment in the system. At this level, repair costs are minimized since the low cost treatment measures are applicable at that level. An overall PCI of 100 as a target would not consider the useful life of the pavement and is virtually impossible to attain for a large roadway system. A typical roadway will function completely well between the PCI 85 and 100 level without any maintenance. On the other hand, a PCI that slips into the “steeper” portion of the degradation curve, not only costs more to repair but degrades at an accelerated rate. Thus, industry wide a PCI at 85 is recognized to optimize investment over the life of a system; this sweet spot on the degradation curve balances expenditures and amount of useful life of the pavement. For comparison, Figure C shows a number of comparable agencies.

Questions	Mill Creek	Marysville	Kent	Olympia	Bellevue	Redmond	Bothell
Network PCI	NA	76	81	78	83 (OCI)	85 (estimated)	68 (OCI)

Year of Survey	2008	2008	2009	2007	2007	OCJ	2008
Annual Investment	\$400K in 2010 \$500K in 2013	\$800K in CIP + \$80K in-house annually \$0 spent 2009 & 2010 due to budget	\$5.4M annually \$0 spent 2008 & 2009 due to budget	\$2,225,000 annually	\$5.5M annually		\$1M annually \$630K annually
Centerline Miles	50	196		206	390		135 118
Lane Miles	104	411		500	942		332 264

Figure C – Puget Sound comparable agency Street System report

In 2005, the deferred maintenance of the City's street network was approximately \$9,000,000; in the 2009 report, replacement of the network would cost an estimated \$15,500,000 (2008 \$). The cost per ton of asphalt increased from approximately \$42 in 2005 to \$80 in 2008. If no repairs had been conducted on the system and if there were no degradation (i.e. a static system), a doubling of the cost of repair would have doubled the deferred maintenance – this however was not the case. Repairs were done and the system did degrade further. However, since the system deferred maintenance did not double, using this as one more measuring attribute suggests that the backlog was being somewhat mitigated with spending during that timeframe. However, significantly more remains to be done.

The annual street preservation program is one category of the City's transportation program. Other categories are building the capacity network to comply with concurrence under GMA, other maintenance programs, and building the non-capacity (or non-motorized) network. Approximately \$7.4 million of funding is annually available for the transportation system from a number of sources and for the 2009-2014 CIP were targeted as shown in Figure D.

Average Annual Transportation funding 2009 through 2014:		
Current revenue:	Gas Tax	\$ 544,000
	Sales Tax	\$ 270,000
	REET 1	\$ 567,000
	REET 2	\$ 1,701,000
	Impact fees	\$ 2,104,000
	Surface Water	\$ 950,000
	Subtotal	\$ 6,136,000
	REET 2 (grant match reserve)	\$ 480,000
	Grants (avg '93-'03)	\$ 792,500
Total annual funding		\$ 7,408,500

Target allocation per Category		\$ 7,408,500
	Concurrence (94% of "req'd")	\$ 3,860,000
	Sidewalk Maintenance	\$ 200,000
	Street Maintenance	\$ 2,000,000
	Striping Program	\$ 250,000
	Non-capacity (target)	\$ 1,098,500

Figure D – transportation funding components and allocation (per 2009 report)

In light of the 10-year projections of the street network under the 2009-2014 CIP budgeted amounts (a PCI=54 and a deferred maintenance of \$142 million) and after presentation of the 2009 report, the Council asked staff to review any and all possible innovations and funding sources to increase Kirkland's PCI. The alternatives were to examine both the revenue and expenditure side of the issue. In addition, we were asked to work with the Finance Committee and the Transportation Commission and return with a plan to enhance our overall street maintenance program.

Since the 2009 report

Staff has worked on this issue for the last several months. In addition, we presented draft proposals at three Transportation Commission meetings during 2009, and each time were provided with useful feedback and direction. In July, 2009 Staff updated the Finance Committee with information on the components and requirements of a Transportation Benefit District (TBD). At that time, the Finance Committee asked that Staff present the TBD option in context of the full array of funding options. Staff was asked to continue to work with the Transportation Commission on developing options.

The recommendations in this memo are a result of feedback from the Transportation Commission. There were several recommendations the Transportation Commission noted which are incorporated in this summary. It should be noted the Transportation Commission also reviewed our recommendations in light of the recently developed 'Transportation Conversation' document and with consideration of the recent Council Goal on 'Dependable Infrastructure.' In addition, Staff has attended pavement management workshops, researched practices in other cities, and evaluated our internal procedures and processes in order to develop this set of recommendations.

A detailed presentation of our recommendations is included as Figure E, and staff is prepared to review in detail each of the proposals. Below are two summaries of the information on the spreadsheet, and are most easily understood read alongside the information on Figure E.

Summary of the Current Situation and Proposed Strategy

1. The annual revenue required to attain and sustain a PCI of 70, Council's adopted LOS, 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.
2. Currently the city has \$2.7 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 \$300 from other various roadway restoration projects (i.e. grant projects).
3. The gap, therefore, is between \$2.3 M and \$4.3 M/yr.
4. We are assuming there will be no single source of revenue in the near future to close that gap.
5. Therefore, we have developed a four-tiered strategy for increasing funding levels. The details of each tier are included in the attached spreadsheet. The Tiers are:
 - a. Efficiencies
 - b. Regulatory and Policy Changes
 - c. Partnerships
 - d. New Revenue Sources
6. In addition, we have 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:
 - a. Base Program (existing 2009-2014 CIP)
 - b. Administrative Changes made with Council knowledge (recommended in the 2011-2016 CIP)
 - c. Changes requiring Council decisions and/or financial impacts to third parties
 - d. Changes requiring State Legislative Action or third party agreements
7. Staff is recommending we proceed with the administrative changes (Alternative B) and are currently developing a community outreach/involvement program for pursuing Alternative C (upon input from the Council Finance Committee). Primary among the strategies requiring Council action is community feedback regarding the Transportation Benefit District (explanation later in this memo). Input gained from the community feedback would also be applicable in the event legislation is passed for the Street Utility also.

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 legislative or 3rd Party agreements required	
Current Budget					
Overlay	\$ 1,800,000				CIP - Phase I
Preventative Maintenance (i.e. slurry seal)	\$ 200,000				CIP - Phase II
Operating Fund for Street Maint crews	\$ 400,000				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			\$ (51,667)		deprec., materials
2. Regulatory and Policy Changes					
a Post 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)				\$ 93,000	
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				
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				\$ 50,000	
e Gas Tax Increase - statewide				\$ 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		
c Solid Waste haulers fee - new contract discussion				\$ 200,000	(Bothell's #)
d Transportation Benefit District, 2011			\$ 750,000		\$20/vehicle/w
e Proposed Street Utility Legislation				\$ 4,000,000	\$5/month/SF
Total Annual Funding Level	\$ 2,827,600	\$ 3,067,600	\$ 4,055,600	\$ 5,490,600	

By end of 2020 @ 4% inflation	PCI	Arterials Non-arterial	2008 #			
			55	70	70	70
			55	70	70	70
			70	50	58	62
	Optimum one time investment	\$ million	15.5	54.8	48.9	43.8

By end of 2020 @ 5% inflation	PCI	Arterials Non-arterial	2008 #			
			55	68	70	70
			55	68	70	70
			70	47	54	60
	Optimum one time investment	\$ million	15.5	68.1	62.1	57.1

Notes:
 + Indicates that element is included in the Alternative
 - Indicates that element is not included in the Alternative
 - value is decreasing
 + value is increasing

Figure E – Street Maintenance Strategies and projected outcomes

Summary Discussion of Figure E

1. The current total annual investment for pavement maintenance and preservation, shown in **beige**, is \$2.8 Million. This alternative includes existing City funding and also considers existing third party funding such as TIB grants, WSDOT paving of City streets, and franchise paving.
2. By including the additional elements, identified as Administrative in the **green** column, the annual investment increases to \$3.0 Million. This requires City utilities (water, sewer, storm) to pay into the

- street preservation fund if roads are impacted by utility projects; past practice has allowed utilities to patch sufficiently well if roads were in good condition and paving contribution was "waived" if the road was in poor condition. This cost will be reflected in utility estimates in the CIP.
3. The third column includes areas requiring Council direction. This column, shown in **yellow**, includes the Transportation Benefit District (TBD) and purchase of a commercial grade asphalt milling machine. Staff is recommending Council consider implementing a TBD in 2011. Essentially, cities can create a Transportation Benefit District for all or part of their jurisdiction. The process is
 - a. Governing Body determines need, creates boundary, and establishes revenue source
 - b. Projects must be in state or regional plan, street maintenance projects are allowable
 - c. Four funding mechanisms are available; only one, a vehicle license fee of \$20 per vehicle or less, are available without public vote. This would generate between \$750-850 K annually in pre-annexation Kirkland. If post-annexation Kirkland is included, it would generate approximately \$1.3 M annually.
 - d. Six cities in Washington have implemented TBD's with a \$20 vehicle license fee
 - e. The Transportation Commission supported a TBD after careful debate, and included the following comments.
 - i. It is important to consider this in light of annexation, specifically, whether to include the annexation area or not.
 - ii. If the PCI in the annexation area is higher than existing Kirkland's, consider use of TBD for other projects like sidewalks, active transportation projects, or other efforts; and continue to use TBD in existing Kirkland for annual overlay
 - iii. If the Street Utility ever becomes a viable option, consider the TBD as a temporary measure for street maintenance purposes. If a Street Utility was approved and utilized, the City could sunset the TBD, or utilize it for specific beneficial transportation projects.
 - f. If Council provides direction to proceed, staff could return with a report on the schedule, issues, and process for a Kirkland Transportation Benefit District
 4. The fourth column in **red** includes items beyond the City to implement. Primary among these is the proposed Street Utility currently under discussion in the state legislature. Specifically, the proposed legislation eliminates the past legal barriers and replaces a flat per parcel fee with a fee directly tied to land use and estimated travel patterns and system usage. These are very preliminary numbers, but some estimates are that, for single-family homes, the monthly fees would range from \$2 to \$8. Small retail would be \$11.17, and large retail \$83.20. In addition, the way a Street Utility would operate; the cost of maintaining the entire street system (pavement, signals, markings) would be paid by the users. Therefore, if we estimated our annual need at \$7 M, the rates would be set to generate that amount. Consequently, the maintenance needs of the city would be fully funded. There is still much debate to come on this bill, but it does have the potential to resolve urban street maintenance needs. As the Transportation Commission suggested, the TBD, if implemented, could be redirected or eliminated with use of the Street Utility. This option is the only that fully funds our needs.
 5. Other recommendations of the Transportation Commission.
 - a. The Commission also suggested that sometime in the future, Kirkland staff develop a quantitative measure for the active transportation network. They believed that sidewalks, paths and trails and bike lanes could benefit from a measure similar to the PCI for pavement. They recognized this was potentially a difficult and time-consuming effort, but urged staff to consider a low-cost way to measure that network, particularly the sidewalk network.
 - b. The Commission reviewed the information for the Deferred Maintenance figures as presented in the staff recommendation. They urged us to find a more straightforward and understandable way to present that information. Specifically, they suggested we look at whether deferred maintenance is simply increasing or decreasing; rather than focus on the total dollar amount of the backlog or of deferred maintenance.

Summary Policy Issues

1. Does Council support staff implementation of the Administrative Changes in the Green column?
2. Does Council support implementation of the recommendations in the Yellow Column regarding third parties (excluding TBD)

3. Does Council support a TBD in Kirkland in 2011, and if so, what are the boundaries?
4. Council supports the Street Utility in the 2010 Legislative Agenda, consistent with Association of Washington Cities priorities

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	
by end of 2020 @ 4% inflation	PCI	Arterials	55 -	70 +	70 +	70 +
		Non-arterials	70 +	50 -	58 -	62
	Optimum one time investment	\$ million	15.5	54.8 -	48.9	43.8 -
by end of 2020 @ 6% Inflation	PCI	Arterials	55 -	68 +	70 +	70 +
		Non-arterials	70 +	47 -	54 -	60
	Optimum one time investment	\$ million	15.5	69.1 +	62.1 +	57.1 +
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			

<p>incomplete actions Penalty—Nonmaintenance of FOG systems Penalty—Inaccurate or incomplete report</p>	<p>\$1,000.00 total. \$100.00/day for 60 days max. \$500.00 + city maintenance costs. Second year: \$1,000.00 + city maintenance costs \$100.00 for first offense</p>
<p>Sewer—Billing Sewer service <u>call</u> (customer problem)</p>	<p>\$20.00</p>
<p>Right-of-Way Permit to work in ROW—Standard Permit to work in ROW—Basic <u>Street Cut Fee 1-50 sq. ft.</u> <u>Street Cut Fee 51-100 sq. ft.</u> <u>Street Cut fee 101 sq. ft. or larger</u> <u>Street Cut Administration Fee</u></p>	<p>\$372.00 \$106.00 <u>\$200.00</u> <u>\$400.00</u> <u>\$400 + 400 for each additional 100 sq. ft.</u> <u>\$25 per street cut</u></p>
<p>Storm Drainage (Surface Water) Surface water drainage plan check fees (see PW pre-approved plans and policies for description of review types): (a) Small—Type I review (b) Small—Type II review (c) Targeted review (d) Full review (e) Roof/driveway drain connection inspection (f) Surface water adjustment process (see PW pre-approved plans and policies for full description)</p>	<p>\$375.00 \$905.00 \$1,580.00 \$3,160.00 \$637.00 \$150.00 for up to 2 hours of process, and then \$75/hour thereafter</p>
<p>Miscellaneous Review and Inspection Fees When the public works department provides engineering review or inspections services, and a fee for such service is not published, the applicant shall pay the following rate for such services Impact fee—Independent fee review Right-of-way nonuser relinquishment review fee</p>	<p>\$75.00 per hour \$200.00, plus \$75.00 per hour of review \$375.00 for up to 5 hours' process, and \$75.00/hour thereafter</p>
<p>City trees Civil penalties for violations, per day</p>	<p>1st violation—\$200.00 2nd violation—</p>

	\$400.00
	3rd violation—\$600.00

(b) Whenever any construction work, public improvement or other activity is required or permitted to be performed upon any public right-of-way, or within or upon any property which, upon completion of said work or activity, is to be conveyed or dedicated as public right-of-way or public easement, the city shall not accept for maintenance or otherwise such work, improvement, facility or activity until there has been paid to the city by the person required or permitted to perform such work or activity an amount equal to ten percent of the estimated cost of construction of such work, improvement, facility or activity as and for reimbursement to the city for its cost of review and inspection of such work, improvement, facility or activity. In addition, prior to the release of any permit for construction of storm drainage collection and conveyance on private property the permit applicant shall pay a fee equal to ten percent of the estimated cost of construction of such work, improvement, facility or activity as and for reimbursement to the city for its cost of review and inspection of such work, improvement, facility or activity. Estimated cost of construction shall be determined by the director of the department of public works. Whenever such a review and inspection fee is required, the Public Works Department is authorized to collect up to one half of the fee at permit application with the remainder being due at permit issuance.

(c) This section shall not apply to:

(1) Work performed under public works construction contracts let by the city pursuant to Chapter 3.85 of this code; or

(2) So much of such work performed under a developer's extension agreement (Chapter 35.91 RCW facilities agreement) as is determined by the director of public works to be for the benefit of the Kirkland water or Kirkland sewer system rather than for the benefit of the property being concurrently subdivided, developed or improved by the signors to the developer extension agreement.

(d) 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, rounded to the nearest dollar, 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.

Section 2. Section 19.12.090 of the Kirkland Municipal Code is hereby amended to read as follows:

19.12.090 Permit fee required.

(a) The fee for a permit to disrupt a street surface, curb or sidewalk or place a utility in the right-of-way and the fee for a street cut that will not be overlaid by the applicant causing the street cut is set forth in Section 5.74.040.

(b) Also, a street security deposit shall be paid. The street security deposit shall be in an amount determined by the director of public works to be sufficient to pay for the cost to the city to restore the street surface, curb or sidewalk in event of failure. At least annually, the director shall prepare and maintain schedules for street security deposits, which reflect the current actual cost to the city as determined by the most recent Engineering News Record Construction Cost Index. Such schedules shall at all times be available to the general public.

(c) If the work is performed by jacking or boring under the street, the entire street security deposit shall be refunded.

(d) If the street surface is disturbed and properly repaired and restored, the portion of the street security deposit as is established for refund in the schedule provided for in subsection (b) of this section shall be refunded after ninety days from the date of repair.

(e) Inspections shall be requested by the contractor at least two hours prior to backfill, in order to receive a refund.

(f) No refund of a street security deposit shall be made until sufficient time has elapsed following the completion of the disruption work to assure the fact of "nonfailure" of the restoration.

Section 3. 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 other persons or circumstances is not affected.

Section 4. This ordinance shall be in force and effect five days from and 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 _____, 2010.

Signed in authentication thereof this ____ day of _____, 2010.

MAYOR

Attest:

City Clerk

Approved as to Form:

City Attorney

PUBLICATION SUMMARY
OF ORDINANCE NO. 4244

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO STREET CUT FEES AND AMENDING SECTIONS 5.74.040 AND 19.12.090 OF THE KIRKLAND MUNICIPAL CODE.

SECTION 1. Amends Kirkland Municipal Code ("KMC") Section 5.74.040 by adding a street cut fee to the fee schedule for permit and administrative fees charged by the public works department.

SECTION 2. Amends KMC Section 19.12.090 by adding a reference as to where the fee schedule for street cuts is located in the KMC.

SECTION 3. Provides a severability clause for the ordinance.

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 _____, 2010.

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

City Clerk



CITY OF KIRKLAND
Department of Finance & Administration
 123 Fifth Avenue, Kirkland, WA 98033 425.587.3100
 www.ci.kirkland.wa.us

MEMORANDUM

To: Kurt Triplett, City Manager

From: Barry Scott, Purchasing Agent

Date: June 23, 2010

Subject: REPORT ON PROCUREMENT ACTIVITIES FOR COUNCIL MEETING OF JULY 6, 2010

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 June 3, 2010, are as follows:

	Project	Process	Estimate/Price	Status
1.	Motorola Portable Radios (51) for Police Dept.	Cooperative Purchase	\$97,501.60	Purchase made using Western States Contracting Alliance contract for communications equipment.
2.	Heronfield Wetlands Bank Stabilization Project	Invitation for Bids	\$200,000-\$250,000	Advertised on 6/16 with bids due on 6/30.
3.	2010 Slurry Seal Project	Invitation for Bids	\$225,000-\$270,000	Advertised on 6/18 with bids due on 7/6.

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.ci.kirkland.wa.us

MEMORANDUM

To: Marilynne Beard, Interim City Manager

From: Eric Shields, Planning Director

Date: June 22, 2010

Subject: Interim Ordinance Eliminating the Review Process for Schools, Day Care Centers, Government Facilities and Community Facilities in the Annexation Area
File No. MIS10-00014

RECOMMENDATION

Conduct a public hearing and adopt the proposed interim ordinance.

BACKGROUND DISCUSSION

At the June 8, 2010 Council meeting, the City Council directed staff to prepare an interim ordinance eliminating the required Process IIA or IIB zoning review process for schools in the annexation area. By removing the review process, the Lake Washington School District will be able to process building plans for the replacement of Sandburg and Keller Elementary Schools through the City of Kirkland rather than through King County. Without the change in review process, the District will process permit applications through King County, since County regulations do not require a zoning review process. Additional information is available in the June 8 Council meeting packet (see attachment 1).

Discussions have already begun between City and School District staffs about how best to proceed with the building permit review process. We have agreed on a phased review process that will involve City review at several milestones in the design process. Permits will be ready to issue soon after the June 1, 2011 effective date of annexation.

cc: Forrest Miller, Lake Washington School District

**CITY OF KIRKLAND**123 Fifth Avenue, Kirkland, WA 98033 425.587.3000
www.ci.kirkland.wa.us**ATTACHMENT 1****MEMORANDUM**

To: Marilynne Beard, Interim City Manager
From: Eric Shields, Planning Director
Date: May 13, 2010
Subject: City Review of School District Building Permits

RECOMMENDATION

City Council provides direction to staff to prepare an interim ordinance and schedule a public hearing to allow the reconstruction of two new elementary schools in the annexation area to be processed through the City, rather than through King County.

BACKGROUND

The Lake Washington School District is preparing to rebuild three new elementary schools in the annexation area – Muir, Sandburg and Keller. The schedules for the projects involve beginning the permitting process and some initial grading and construction activity prior to annexation, with most of the construction continuing after annexation.

On March 31, 2010, Superintendent Kimball submitted a letter to City Manager David Ramsay and Deputy County Executive Fred Jarrett requesting that the District, City and County enter into an interlocal agreement to provide for the City to review building permit applications, issue permits and oversee construction for the schools based on the County building and zoning codes, with permitting to begin prior to annexation.

Since receipt of the letter, City staff has had numerous conversations about this proposal with District and County officials. While all parties have expressed general support of the idea, it now appears that legal and labor concerns on the part of the County are unlikely to be resolved in time to meet the District's schedule. In fact, permits for Muir will soon be or may have already been submitted to the County Department of Development and Environmental Services.

The District's original proposal sought to have the permits reviewed under County codes because of a difference in the review process required by County and City zoning for the annexation area. The County requires only a building permit, while City RSA zoning incorporates a Process IIA or IIB review (depending on the size of the site), as required in other City single family zoning districts. The School District would be unable to meet its desired construction schedule if an additional four to six months for processing the zoning permit were required.

In a recent conversation with Grace Yuan, legal counsel of the District, another approach was discussed in which the permit applications for Sandberg and Keller Elementary Schools could be reviewed by the City under City codes. The School District would submit applications to the City in advance of the effective date of annexation, but the City would not issue permits until after the City assumes legal

jurisdiction on June 1, 2011. The applications would be submitted far enough in advance for the City to complete the review and issue permits to allow construction of the schools to begin in the summer of 2011, as desired by the District. However, in order for the timing of this process to work, the City would have to remove the Process IIA/ IIB zoning permit requirements. As is the case under the existing County zoning, zoning compliance would then occur through the building permit process.

Earlier this year the City Council discussed the possibility of considering changes to other aspects of annexation zoning related to building heights and concluded that such changes would be premature, in part because the zoning was presented to voters as part of the annexation ballot proposition. The same concern could be made of changing the review process for schools. However, there are two significant differences.

- The proposed change affects review process only, not substantive zoning standards. The approved zoning designations would remain in effect as approved by the voters.
- If the District were to apply for permits with King County (as they could at any time prior to annexation), a zoning permit would not be required. Removal of the zoning permit requirement from the City's rules would not change the actual review process for the two schools in question if the applications were to be reviewed and administered by the County which requires only a building permit review. By amending the annexation zoning, the City would be allowing the District to proceed with the same review process it is now entitled to, but with City review of the applications and administration of the permits. If the City did not amend the zoning, the District would apply for permits under King County's rules and no zoning review process would take place.

Staff proposes that the zoning process change be done on an interim basis so that it would apply only within the annexation transition period. In addition to the "School or Day-Care Center" use, we propose that the ordinance also apply to the "Government Facility/ Community Facility" use so that it covers the proposed new fire station on Finn Hill. An interim ordinance would allow the Council to proceed expeditiously and provide certainty in the review process for the Fire District. We have discussed this idea with the City Attorney and she indicated there are no legal obstacles. She noted that an interim ordinance requires a hearing before the City Council but adoption could be considered at the same meeting. The ordinance would have a maximum duration of six months and could be renewed for subsequent six month periods if desired.

By having City staff review applications and administer permits for the Sandburg and Keller Elementary School reconstruction projects, a more seamless transition between County and City jurisdiction would occur for the benefit of both the City and District. The City could be assured that the addition to our community of these important institutions would be up to City standards. The City would also benefit from significant building permit fee revenues, estimated at approximately \$300,000. Staff recommends that the City Council direct staff to prepare an interim ordinance eliminating the requirement for a zoning permit for the "School or Day-Care Center" and "Government Facility/ Community Facility" uses within the RSA zone.

ORDINANCE NO. 4249

AN INTERIM ORDINANCE OF THE CITY OF KIRKLAND RELATING TO LAND USE AND ZONING, PROVIDING INTERIM OFFICIAL CONTROLS REGARDING THE ZONING REVIEW PROCESS FOR "SCHOOL OR DAY-CARE CENTER" AND "GOVERNMENT FACILITY/COMMUNITY FACILITY" USES IN THE RSA ZONE.

WHEREAS, the City of Kirkland ("City") is in the process of annexing portions of the Finn Hill, Kingsgate and North Juanita neighborhoods, the legal description of which is set forth in City of Kirkland Ordinance No. 4229 ("Annexation Area"); and

WHEREAS, the effective date of annexation of the Annexation Area is June 1, 2011; and

WHEREAS, the City has determined that it is appropriate and desirable to modify the zoning review process in the RSA Zone to exempt "School or Day-Care Center" and "Government Facility/Community Facility" uses from Process IIA and Process IIB review;

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

Section 1. Between the effective date of this Ordinance and June 1, 2011, the requirement of zoning review for "School or Day-Care Center" and "Government Facility/Community Facility" uses in the RSA Zone is hereby eliminated. Kirkland Zoning Code Sections 18.10.030 special regulation 2 and 18.10.080 special regulation 1 shall not apply to projects for which complete building permit applications are filed with the City between the effective date of this Ordinance and June 1, 2011.

Section 2. No vested rights shall accrue with respect to any building or grading permit filed with the City for "School or Day-Care Center" or "Government Facility/Community Facility" in the RSA Zone until June 1, 2011.

Section 3. Findings of Fact.

- A. The recitals set forth above are hereby adopted as findings of fact.
- B. The Annexation Area is currently governed by King County. Under current King County regulations, no zoning review process is required for schools or government/community facilities.
- C. Eliminating the City's Process IIA and Process IIB zoning review for "School or Day Care Center" or "Government/Community Facility" uses in the RSA Zone will

result in a review process similar to what currently exists under King County regulations.

- D. By having City staff review applications and administer permits for school and government facility projects, a more seamless transition between King County and City jurisdiction will occur when the annexation of the Annexation Area takes effect.

Section 4. The interim regulations adopted 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. The Council may adopt extensions of this Ordinance after any required public hearing pursuant to RCW 35A.63.220 and RCW 36.70A.390.

Section 5. Severability. Should any provision of this Ordinance or its application to any person or circumstance be 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. 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 ____ day of _____, 2010.

Signed in authentication thereof this ____ day of _____, 2010.

MAYOR

Attest:

City Clerk

Approved as to Form:

City Attorney



CITY OF KIRKLAND
City Manager's Office
123 Fifth Avenue, Kirkland, WA 98033 425.587.3001
www.ci.kirkland.wa.us

MEMORANDUM

To: Kirkland City Council

From: Marilynne Beard, Assistant City Manager

Date: June 25, 2010

Subject: CITY COUNCIL MEETINGS WITH BOARDS AND COMMISSIONS

RECOMMENDATION:

City Council provides direction regarding the schedule and format for joint meetings with boards and commissions.

BACKGROUND DISCUSSION:

The City of Kirkland currently has thirteen advisory boards and commissions (see attachment A). Joint meetings are held during a study session with nine of the thirteen boards. The primary purpose is generally to discuss accomplishments and work plans. Occasionally, the meeting will focus on obtaining policy direction from the Council on specific issues. The recent meetings with the Park Board and Parking Advisory Board are examples of meetings that addressed policy issues (off leash dog areas and downtown parking capacity). In addition to the joint meetings, the City Council hosts an annual All City Boards and Commissions Appreciation Event where current and outgoing members are recognized for their service to the City of Kirkland.

There are 24 annual study sessions on the Council calendar, although two (the second meetings in August and December) are typically canceled. Of the twenty two remaining study sessions, at least three relate to the budget. Study sessions are generally one hour in length and provide an opportunity for Council to discuss complex policy issues in greater depth prior to taking legislative action at a regular meeting. Study sessions are scheduled far in advance with special study sessions scheduled for topics that need longer than one hour. Joint meetings with boards and commissions are occasionally "bumped" to a later date to allow for timely review of policy matters. See Attachment B for list of 2009 and 2010 study session topics.

The City Council has expressed an interest in discussing alternative ways to interact with boards and commissions so that more study sessions could be used for policy issue discussions. Following are options that can be used in combination or alone.

1. **Status Quo** – This would maintain the current practice of annual joint meetings with boards and commissions. The purpose would continue to be review of accomplishments and work plans and/or focus on specific policies needing Council direction.
2. **Policy Issues Only** – Joint meetings would only be held if Council direction is needed on one or more policy issues or when the work plan itself constitutes a policy issue (i.e. advisory group is seeking Council prioritization of work plan items).
3. **Annual Board and Commission Breakfast** – This would be a new event with the City Council and the chairs of each of the boards and commissions. Chair persons would provide a three to five minute summary of their group's accomplishments and work plan highlights for the coming year. This format would allow boards and commissions to gain an understanding of the work of other advisory bodies and note where overlap or synergies could occur.
4. **Work Plan Presentations at Regular Meetings** – Rather than using a study session for review of work plans, the same type of report can be included as part of the regular agenda Council packet and the City Council could ask questions or provide guidance during the regular agenda (possibly under Special Presentations so as to be early in the meeting).
5. **"Double Up" at Study Sessions** – The City Council would meet with two boards/commissions during the one-hour study session, allowing thirty minutes each (a format used at the June joint meetings with the Transportation Commission and Parking Advisory Board. Assuming the same nine boards and commissions would meet with the Council, this option would utilize five of the nineteen available study sessions, leaving fourteen for Council topics. The downside of this option is that thirty minutes may seem rushed or inadequate when there are policy issues to discuss (such as those presented by the Parking Advisory Board).
6. **Council Liaisons** – The City Council could appoint a Council liaison to each board and commission. The Council member would attend periodic board and commission meetings and report back to the full Council and/or suggest a joint meeting when a particular policy issue needs Council direction. Unlike the Lodging Tax Advisory Committee where the appointed Council member is also the chair, the Council liaison would be an ad hoc member.
7. **Special Study Sessions** – Schedule two or three special study sessions per year to hold a series of joint meetings with each of the boards and commissions. A two-hour session could address up to four advisory groups which could be grouped together based on similarities of missions or program areas. The table on the following page provides one option for grouping boards and commissions.

Parks/Community Services	Public Works	Planning	Other
<ul style="list-style-type: none"> • Parks Board • Human Services Advisory Committee • Senior Council • Youth Council 	<ul style="list-style-type: none"> • Transportation Commission • Parking Advisory Board 	<ul style="list-style-type: none"> • Planning Commission • Design Review Board • Houghton Community Council* 	<ul style="list-style-type: none"> • Cultural Council • Lodging Tax Advisory Committee*

*Joint meetings held in past or possible

Feedback via staff that supports the various boards and commissions indicates that the members of the advisory boards appreciate interacting with the City Council and obtaining policy direction so that their time is used to constructively pursue Council priorities.

Summary and Direction Needed

As noted earlier in this memo, any or all of these options can be used and some may be more appropriate for some boards and commissions than others. Variations of these options could also be used. Direction is needed by Council regarding which of these options should be pursued further and whether boards and commissions should be consulted regarding their preferences.

ATTACHMENT A

Following is a summary of the existing boards and commissions, their purpose and membership requirements.

Board/Commission	Purpose	Meetings with Council
Cultural Council	To promote strategic planning and development for arts, culture and heritage in the community.	Annual joint meeting to review accomplishments and work plan.
Design Review Board	Review and make decisions upon proposed development projects for compliance with City of Kirkland design regulations and guidelines in the downtown and Juanita business districts.	Annual joint meeting to review accomplishments and work plan.
Disability Board	Performs all functions, exercises all powers and makes all determinations as specified in RCW 41.26.	City Council representative appointed to Board; no joint meeting with Council.
Human Services Advisory Committee	Advise the City Council on all matters concerning human services and develop recommendations on priorities, planning, funding and the delivery of human services.	Annual joint meeting to review accomplishments and work plan.
Kirkland Senior Council	Participate in the advocacy, education and creation or programs that meet their needs.	Annual joint meeting to review accomplishments and work plan.
Kirkland Youth Council	Provide a vital link between the youth of Kirkland, the greater community and the government.	Annual joint meeting to review accomplishments and work plan.
Library Board	Serve as an advisory body to the Kirkland City Council and the Kirkland City Manager and to serve as liaison to the King County rural library district.	Typically no joint meeting with City Council.
Lodging Tax Advisory Committee	Performs the functions of a lodging tax advisory committee under RCW 67.28.187 and KMC 5.19.	City Council representative appointed to Board; no joint meeting with Council.
Park Board	Advise the City Council on matters relating to parks, recreation and community services.	Annual joint meeting to review accomplishments and work plan.
Parking Advisory Board	Advise the City Council	Annual joint meeting to

	regarding those parking issues in or adjacent to the downtown or as referred to them by the City Council.	review accomplishments and work plan.
Planning Commission	Advise the City Council on matters relating to city planning documents and to specific texts of land use regulations.	Annual joint meeting to review accomplishments and work plan.
Salary Commission	Review the salaries paid by the city to the mayor and city council.	No joint meeting with City Council.
Transportation Commission	Advise the City Council regarding planning and development of those transportation issues referred to them by the Council.	Annual joint meeting to review accomplishments and work plan.

ATTACHMENT B**2009 Study Sessions**

Date	Topic	Regular or Special
January 6	Council Policies and Procedures	Regular
January 20	Active Transportation Plan Update	Regular
February 3	Proposed Voted Utility Tax Increase	Regular
February 17	Budget Update/Budget Reporting Process	Regular
March 3	2009 Potential Annexation Update	Regular
March 17	Joint Meeting with Planning Commission and Planning Work Program	Regular
April 6	Potential Annexation	Special
April 7	Potential Annexation	Regular
April 21	Joint Meeting with Park Board	Regular
May 5	City Council Goals	Regular
May 19	Joint Meeting with Youth Council City Council Goals	Regular
June 2	2009-2010 Budget Update	Regular
June 16	Proposed Annexation	Regular
July 1	Service Matrix Review	Special
July 7	2009-2010 Mid-Year Budget Review	Regular
July 21	City Council Goals	Regular
August 4	Utility Tax/Budget Follow-up	Regular
August 18	Canceled	Regular
September 1	No Study Session	Regular
September 15	Council Goals and Performance Measures	Regular
Study Session	No Study Session	Regular
October 20	Joint Meeting with Senior Council	Regular
October 22	Shoreline Master Program	Special
November 2	Shoreline Master Program	Regular
November 17	2009-2010 Mid-Biennial Budget Review	Regular
November 23	Shoreline Master Program	Special
December 1	2009-2010 Mid-Biennial Budget Update	Regular
December 15	No Study Session	Regular

ATTACHMENT B**2010 Study Sessions**

Date	Topic	Regular or Special
January 5	Information Technology	Regular
January 19	Annexation Update	Regular
January 27	City Manager Recruitment	Special
February 2	Joint Meeting with Planning Commission	Regular
February 16	Joint Meeting with Houghton Community Council	Regular
March 2	Annexation Update	Regular
March 16	City Council Brainstorming	Regular
April 6	Joint Meeting with Park Board	Special
April 20	Animal Care and Control	Regular
May 4	No Study Session (CM Finalist Selection)	Regular
May 18	Joint Meeting with Kirkland Youth Council 2011-2016 Capital Improvement Program	Regular
June 1	City Hall/Facilities Planning	Regular
June 15	Joint Meeting with Transportation Commission Joint Meeting with Parking Advisory Board	Regular
	Scheduled	
July 1	Annexation Update	Regular
July 20	Annexation Service Packages	Regular
August 3	WCIA Presentation	Regular
August 4	Core Services Exercise	Special
August 17	Canceled	
September 1	Joint Meeting with Human Services Advisory Committee	Regular
September 21	Park Place and Vicinity Plan and Code Amendments	Regular
October 5	Joint Meeting with Senior Council	Regular
October 19	Available	Regular
October 28	2011-2012 Budget	Special
November 2	2011-2012 Budget	Regular
November 8	2011-2012 Budget	Special
November 16	Information Technology	Regular
December 7	Central Houghton and Lakeview Neighborhood Plans	Regular
December 21	Available	Regular



CITY OF KIRKLAND
Department of Public Works
123 Fifth Avenue, Kirkland, WA 98033 425.587.3800
www.ci.kirkland.wa.us

MEMORANDUM

To: Marilynne Beard, Interim City Manager

From: Tami White, Parking Coordinator
Ray Steiger, P.E. Interim Public Works Director

Date: June 24, 2010

Subject: Event parking at the Municipal Parking Garage on July 18th, 2010

RECOMMENDATION:

It is recommended that City Council allow pay parking in the Peter Kirk Municipal Parking Garage (the Garage) on Sunday, July 18, 2010, the date of the Classic Car Show and the last day of Kirkland Uncorked.

BACKGROUND DISCUSSION:

At the Parking Advisory Board's (PAB) study session with Council on June 15th, Council asked the PAB to provide more specifics on a proposal for pricing event parking on July 18th at the Garage. This proposal is consistent with the February 16, 2010, Council direction to the PAB to continue to look at implementation of variable pricing for parking as a part of the overall parking strategy in the Downtown.

In order to accommodate the display of numerous show cars, the Lake and Central and Main and Park Lane (the former Antique Mall site) parking lots will be used by the Classic Car event and will not be available to the general public for parking. At the same time, the Lakeshore Plaza lot will be used for the Kirkland Uncorked event. In addition, the 3rd Street entrance/exit of the Garage will be closed due to ongoing transit center construction.

The main purpose of pricing event parking for this specific day is to help mitigate traffic flow and congestion inside the garage that will occur due to the parking demand for the various events and the extremely limited ingress and egress. Parking management will help as the garage becomes full and availability inside the garage can be communicated without needing to unnecessarily enter the facility. Additionally, this pilot will serve as an excellent Kirkland specific test for the effectiveness of pay parking during other events.

Event parking will cost \$5 regardless of the length of stay. All vehicles displaying a Park Smart permit will be allowed to park in the Garage at no charge, but spaces will be filled on a first come first served basis. If the garage becomes full, all drivers will be instructed to park elsewhere; attendants will have copies of the downtown parking map available to distribute. The Classic Car show runs from 9:00 AM – 4:00 PM, and Kirkland Uncorked runs from 11:00 AM – 6:00 PM. Fees will be collected from 8:30 AM – 5:30 PM. When the car show is over, free parking in the lots used for the show will become available.

As a part of this pilot, a professional parking operator will be hired to manage the parking during the event. The operator will be responsible for all signing and operation of pay parking during the event. Their responsibilities exclude issuing parking enforcement citations. Attendants will collect parking fees as vehicles enter the garage and direct traffic inside and outside the facility, and the operator will receive a flat fee for providing their services.

One preliminary quote of \$650 has been received for the operations. Staff is estimating approximately 300 stalls will be available for parking, but do not have data on turnover rates at these events. If each stall was parked twice during the event, revenue would be \$3000 (300 stalls x 2 vehicles per stall x \$5 per vehicle). Revenue received above the operators fees will be placed in the off-street parking fund. In the unlikely event that revenue received is less than the cost of the parking operator's services, payment would be from the existing Public Works budget.

**CITY OF KIRKLAND**

City Manager's Office

123 Fifth Avenue, Kirkland, WA 98033 425.587.3001
www.ci.kirkland.wa.us**MEMORANDUM**

To: Marilynne Beard, Interim City Manager

From: Ellen Miller Wolfe, Economic Development Manager

Date: June 24, 2010

Subject: City Interests in a Development Agreement for Parkplace

RECOMMENDATION:

City Council provides input on areas of interest it would like staff to consider in the continuing discussions with Touchstone Corporation regarding a development agreement for Parkplace.

BACKGROUND DISCUSSION:

At the request of Touchstone Corporation, the City Council took up the issue of a development agreement for the redevelopment of Parkplace at its May 18, 2010 meeting. At the meeting the Council authorized staff to enter into discussions with Touchstone Corporation and its consultants regarding an agreement. The Council also indicated that it would like to be briefed about the discussions as the process moves forward. This is the first briefing, meant to provide direction to City staff on Council parameters and areas of interest.

Touchstone has provided its areas of interest in the development agreement in the attached outline dated June 23, 2010. In it, Touchstone describes their three main areas of interest - land use entitlements, financial contributions to and from the City, and Technical Implementation of the Project.

City staff recommends that in considering its areas of interest, the Council first think more broadly about its policy and financial goals for when it is considering a development agreement that includes a commitment of future tax revenues from a particular development toward public investments that support that development. This set of parameters will help to guide staff and Council in evaluating future development agreement requests, and will provide future applicants with a measure of certainty about how projects will be evaluated.

Second, please find below some recommendations on areas of interest to guide continuing discussions with Touchstone Corporation:

1. That the agreement be introduced only after completion of design review and City Council approval of zoning.
2. That improvements funded with public monies satisfy the public benefit definition.
3. That project phasing be set out in the agreement, so timing of implementation of publically-funded elements can be best approximated.
4. That staffing needs (land use reviews, building permits, etc) be determined and the cost of any overtime or additional staffing be incorporated in the agreement.

5. That the agreement include a schedule that allows adequate time for project implementation but also enables the City to have flexibility (to amend financial contribution or withdraw from agreement) in the event that the project does not start on time or does not proceed in accordance with the phasing schedule agreed upon.
6. That any changes to project design be filtered through a financial analysis as well as design review*; the former to determine that the changes requested do not adversely affect the anticipated revenue stream, and the latter to insure the integrity of the approved design.
7. That Finance staff have ample opportunity to analyze and respond to revenue forecasts:
 - a. That revenue forecasts take into account anticipated project phasing
 - b. That revenue forecasts distinguish between the construction of different types of commercial space and the taxes associated with them
 - c. That revenue forecasts incorporate time allowance for actual leasing of space
 - d. Other considerations to guarantee accurate projection of revenues
8. That demolition proceed only after assurances are in place that new construction will soon follow.

Staff suggests that work on the development agreement go forward in conjunction with the Supplemental EIS finalization, Design Review Board review, and zoning completion. (A schedule of Planning benchmarks for the Parkplace project is below). The anticipated development agreement discussion schedule will follow these processes with at least one check-in with Council planned for September, and a draft proposal for Council consideration ready in late October/November.

*The triggers for requiring new design review will be established in the DRB approval.

Planning Schedule:

Planning Commission Public Hearing – June 24, 2010
End of 30-day comment period for DEIS – June 28, 2010
Planning Commission Study Session – July 22, 2010
Second Compliance Status Report due to GMHB – August 5, 2010
Final SEIS issue date – August 20, 2010
Planning Commission Study Session & Action – August 26, 2010
City Council Study Session – September 21, 2010
City Council Action – October 5, 2010
Compliance Due to GMHB - October 5, 2010
Compliance Report and Index to the Record Due - October 18, 2010
Any Objections to a Finding of Compliance Due - October 25, 2010

Kirkland Park Place
Development Agreement Outline 23 June 2010

1. Land Use Entitlements

- a. Vesting discussion of all land use regulations, comprehensive plan, environmental impact statement, zoning code, various building permits, traffic concurrency, project design, etc.
- b. Expedited permit review process; who will do it and what is the fee schedule
- c. Establish streamlined process for minor changes to the project that will be handled administratively; minor needing to be defined
- d. Impact fees vested with short plat; confirm rate schedule for use in fiscal impact report
- e. Monetize City bond requirements for maintenance and vest those amounts
- f. How do City zoning requirements work with and accommodate phasing of the project construction over the 10 year vesting period

2. Financial Benefit/Contribution to and from the City

- a. Fiscal Impact Report to identify amount City would contribute to the project
- b. Sources of funds for the contributions, bonding, grants etc.
- c. Identification of elements of the project that produce a “public benefit” that the contribution could pay for
- d. Clear responsibility for traffic and ROW improvements between Touchstone and City
- e. Discussion of project milestones that facilitate overall development
- f. The public benefit of shared parking requirements for the City; the values, quantities, hours etc.

3. Technical Implementation of the Project

- a. Easements or dedications needed from the City or to the City that may be necessary for street improvements, construction, utilities etc.
- b. Cooperation from the City for storm water treatment, retention, utilities, etc.
- c. Review inspection processes for the development; by City or outside service
- d. Facilitation and or support from the City, if needed, with utility districts etc.
- e. Pedestrian connectivity between the City park and the project, other areas of pedestrian connectivity that may be adjacent to the property



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MEMORANDUM

To: Marilynne Beard, Interim City Manager

From: Judge Michael Lambo
Aimee Vance, Court Administrator

Date: June 2, 2010

Subject: MUNICIPAL COURT STAFFING

RECOMMENDATION

City Council authorizes additional staffing in 2010 for the Municipal Court based on additional workload and funded by projected revenue above budget.

BACKGROUND

Caseload Growth

The overall case filings for Kirkland Municipal Court have increased 15.33% since 2005. The criminal caseload has increased 58.89% and the infraction caseload (including parking) has increased 11.77%. The case filings for the first 5 months of 2010 show an increase of 19% from 2009 and the criminal filings are holding steady for the same period in 2010 compared to 2009. The only increase in Judicial Support Associate (JSA) staff in the last 5 years was increasing an hourly position (16 hrs/week) to a .5 FTE (20 hrs/week) JSA I in 2007. This position is located in the probation department. There are currently 8.24 JSA staff members.

In 2010 the Court added an additional hour per week of judicial time to accommodate the increase in infraction hearing requests. In addition to the increase in cases filed there has also been a greater increase in requests for mitigation and contested hearings. In other words, more people who might have in the past just paid the citation are now requesting a hearing in hopes of a fine reduction.

Another impact to court staff due to the increased case filings is the telephone call volume and US post office mail processing. Court staff answers an average of 100 calls per day and over 2,000 calls per month. They process over 75 payments by mail each day in addition to opening and distributing correspondence.

The following tables summarize the increases in caseloads experienced over the past five years.

	Criminal Total	Infraction Total	Parking Total	TOTAL CASELOAD
2005	1,985	9,799	14,476	26,260
2006	2,530	8,248	14,319	25,097
2007	2,602	8,916	13,317	24,835
2008	2,723	9,691	15,458	27,872
2009	3,154	10,652	16,479	30,285

	Criminal caseload growth	Infraction caseload growth	Parking caseload growth	TOTAL caseload growth	Cases per FTE
2005					3187
2006	27.46%	-15.83%	-1.08%	-4.43%	3046
2007	2.85%	8.10%	-7.00%	-1.04%	3014
2008	4.65%	8.69%	16.08%	12.23%	3383
2009	15.83%	9.92%	6.60%	8.66%	3675
Growth between 2005-2009	58.89%	8.70%	13.84%	15.33%	

In 2008, the Administrative Office of the Courts (AOC) did a court clerk ratio to total case filings. They recommended that courts with over 12,000 filings per year should have approximately 1 FTE for every 2,080 cases filed. Currently Kirkland Municipal Court has 3,675 cases per FTE. The additional 1.26 FTE would bring our current case per FTE to 3,188.

Revenue Growth

The increase in case filings has also led to an increase in Court revenue. In 2009, revenue for adult probation charges and fines and forfeits ended the year above budget by over \$193,000. 2010 revenue is on track for similar performance. Adult probation revenue will likely be about \$100,000 over budget and fines and forfeits about \$100,000. The increase in revenue is a direct reflection of the increased workload. The following tables summarize changes in actual and projected revenue for the Court.

Fines & Forfeits	2009 Budget	2009 Actual	2009 Difference	2010 Budget	2010 Projected	2010 Projected Difference
Infraction Fines	\$ 573,000	\$ 672,817	\$ 99,816	\$ 573,000	\$ 708,500	\$ 135,500
Parking Fines	\$ 411,948	\$ 402,018	\$ (9,930)	\$ 550,000	\$ 475,000	\$ (75,000)
Criminal Fines	\$ 376,000	\$ 388,540	\$ 12,540	\$ 376,000	\$ 415,000	\$ 39,000
TOTAL	\$ 1,360,948	\$ 1,463,374	\$ 102,426	\$ 1,499,000	\$ 1,598,500	\$ 99,500

Fees	2009 Budget	2009 Actual	2009 Difference	2010 Budget	2010 Projected	2010 Projected Difference
Probation	\$ 525,000	\$ 611,000	\$ 86,000	\$ 525,000	\$ 615,500	\$ 90,500
Miscellaneous	\$ 31,250	\$ 36,778	\$ 5,530	\$ 31,250	\$ 47,500	\$ 16,250
TOTAL	\$ 556,250	\$ 647,780	\$ 91,530	\$ 556,250	\$ 663,000	\$ 106,750

In order to meet the growing caseload volume and workload, the Municipal Court is requesting authorization to hire additional staff to address 2010 workload issues. An additional judicial support position and an increase to an existing judicial support position are being requested to provide assistance in probation and in Court customer and courtroom support. A current part-time position would be increased from 0.74 FTE to 1.0 FTE. The incumbent in this position is retiring, so changing this position to full-time will not only provide workload relief, but also improve the ability to attract qualified candidates. This increase is requested as an ongoing increase.

A second temporary increase of 1.0 FTE for the balance of 2010 is also requested to provide relief for the increase in phone and mail volume as well as handling courtroom coverage. A service package will be submitted with the 2011-2012 Budget to convert this to a regular position.

The incremental increase in cost for 2010 is \$28,000 for the probation portion and \$14,000 for the increase to the existing FTE. These costs would be covered by the expected additional revenue. The additional 1.26 FTE's is a staff increase of 15%, an equal percentage to our case filing increase since 2005.

Municipal Court caseload trends and staffing requests were discussed with the Public Safety Committee at their June 17 meeting. The Committee recommended that the request be forwarded to the City Council for consideration.

FISCAL NOTE

CITY OF KIRKLAND

Source of Request							
Judge Michael Lambo and Aimee Vance, Court Administrator							
Description of Request							
Request for funding for additional Court staffing from anticipated additional Court-related revenue in 2010 to address workload issues, including probation and Court customer/courtroom support. This includes an ongoing increase to 1.0 for the currently budgeted 0.74 FTE Judicial Support Associate and a temporary additional 1.0 FTE Judicial Support Associate. The incremental increase in cost for 2010 is \$28,000 for the temporary position and \$14,000 for the increase to the existing FTE. The temporary 1.0 position will be requested as an ongoing position during the 2011-12 budget process.							
Legality/City Policy Basis							
State statute requires that probation revenue be used for probation services.							
Fiscal Impact							
Use of \$42,000 from anticipated additional probation and fines and forfeits revenue in 2010. The estimated revenues will be able to fully fund this request.							
Recommended Funding Source(s)							
Reserve	Description	2010 Est End Balance	Prior Auth. 2009-10 Uses	Prior Auth. 2009-10 Additions	Amount This Request	Revised 2010 End Balance	2010 Target
Revenue/Exp Savings	The anticipated additional Court revenue in 2010 will fully support the additional staffing request.						
Other Source							
Other Information							
The Public Safety Committee reviewed the Courts' request for an increase in probation staffing at their June 17th meeting and recommended that the request go to Council as soon as possible. A formal budget adjustment will be presented to Council with the year-end budget adjustments in December. Approval of this request now will allow the positions to be filled as soon as possible.							
Prepared By	Neil Kruse, Senior Financial Analyst				Date	June 23, 2010	



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**DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT
MEMORANDUM**

To: Marilynne Beard, Interim City Manager

From: Jon Regala, Senior Planner
Eric Shields, AICP, Planning Director

Date: June 24, 2010

Subject: HOLY SPIRIT LUTHERAN CHURCH
ELECTRONIC READERBOARD SIGN REQUEST

RECOMMENDATION

Staff recommends that the City Council review Holy Spirit Lutheran Church's letter as well as the background section below and provide staff direction on how to proceed with the Church's request for an electronic readerboard sign. The Council may choose from the following options:

- Bundle the request with the Phase II Kirkland Zoning Code (KZC) amendments to be reviewed later this year. In this case we would recommend not just focusing on churches, but considering a broader range of uses that may be allowed an electronic readerboard sign; or
- Defer the request until the City takes a more comprehensive look at KZC Chapter 100 – Signs; or
- Do not consider changes to electronic readerboard sign regulations at this time.

BACKGROUND

A. Existing Regulations

The KZC currently does not generally allow for electronic readerboard signs. Electronic readerboard signs are considered a prohibited device under KZC Section 100.85(1)(b) which prohibits "strings of flights, flashing lights, colored lights, advertising search lights, and flares". Changing message centers however are allowed since they are exempt as a prohibited device under KZC Section 100.85(2)(e). Changing message centers are defined in KZC Section 5.115 as being "an electronically controlled public service time and temperature sign where copy changes are shown on the same lamp bank". In other words the code allows for electronic readerboard signs which display *only* time and temperature information.

Since the KZC does not allow for electronic readerboard signs, Holy Spirit Lutheran Church submitted a letter to the City dated June 2, 2010 requesting a zoning code change that

would allow electronic readerboards for their and other church uses under certain circumstances (see Attachment 1). The Church is proposing that electronic readerboard signs be allowed for churches if they are not located in single-family neighborhoods and have frontage on a primary arterial. Currently, churches are allowed the following:

- Wall-mounted, marquee and pedestal signs
- One sign per right-of-way providing direct vehicular access
- 20 square feet per sign face

On April 21, 2009, the City Council adopted Ordinance 4193 which approved electronic readerboard signs at Lake Washington and Juanita high schools and at fire stations in the RM (Residential Multi-Family) and P (Park) zones, subject to the following standards:

- a. It is a pedestal sign (maximum height of 5') having a maximum of 40 square feet of sign area per sign face;*
- b. The electronic readerboard is no more than 50 percent of the sign area;*
- c. Moving graphics and text or video are not part of the sign;*
- d. The electronic readerboard does not change text and/or images at a rate less than one every seven seconds and shall be readily legible given the text size and the speed limit of the adjacent right-of-way;*
- e. The electronic readerboard displays messages regarding public service announcements or school events only;*
- f. The intensity of the display shall not produce glare that extends to adjacent properties and the signs shall be equipped with a device which automatically dims the intensity of the lights during hours of darkness;*
- g. The electronic readerboard is turned off between 10:00 p.m. and 6:00 a.m.;*
- h. It is located to have the least impact on surrounding residential properties.*

If it is determined that the electronic readerboard constitutes a traffic hazard for any reason, the Planning Director may impose additional conditions.

B. Issues in Applying Regulations to Churches

The regulations above were drafted to address issues of traffic safety, potential distractions, sign size, neighborhood compatibility, and impacts to nearby residents. They would appear to provide a reasonable template that could be used if the Council wished to allow churches to install electronic readerboard signs. However, one question that would need to be addressed is whether the restriction limiting sign content to only public service announcements would continue to apply to churches and, if so, what church related messages would qualify as public service announcements? Since signs are a form of communications, the City's authority to regulate sign content may be limited by the free speech provisions of the state and federal constitutions.

In addition, if churches are allowed to display electronic readerboard signs, it would be appropriate to consider whether other uses should also be allowed to display them (e.g. elementary schools, junior high schools, government/community facilities, commercial, and retail uses). The reasons for potentially allowing an electronic readerboard sign for a broader range of uses would be fundamentally the same as what the church has reasoned

in their letter. The policy question would then be "Is this sign type appropriate given the potential number of these signs that could be installed throughout the City and the resulting aesthetic?"

C. Approval through a Master Sign Plan

A Master Sign Plan is the mechanism in which deviations from the sign code may be approved. Therefore, an electronic readerboard sign which displays more than time or temperature information may be allowed if approved through the Master Sign Plan review process. The difficulty in approving an electronic readerboard sign through a Master Sign Plan is showing that the proposed sign is in character and orientation with planned and existing uses in the area of the subject property. In reviewing a Master Sign Plan, the criteria in Interpretation 94-1 will also be used (see Attachment 2).

Throughout the years, staff has had multiple requests from commercial property owners and/or tenants requesting this type of sign to be used for their own 'advertising' as well as providing the additional benefit of displaying public service announcements. Typically, these requestors are given the option to apply for a Master Sign Plan. Based on the criteria in the Zoning Code, some requests have been denied while some have been approved.

D. Options

The City Council may decide that a code amendment is not appropriate at this time and that approval of electronic readerboard signs should continue to be allowed only through a Master Sign Plan approval. In this case, the next step for the Church would be to apply for a pre-submittal meeting with staff to determine the likelihood of approval.

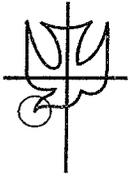
Another option is to combine this request with the Phase II Miscellaneous KZC Amendments project to be reviewed later this summer. If this option is selected, it would be helpful for the Council to provide some guidance as to whether the scope of the review should be expanded and to help identify issues to be addressed.

Through the years, staff has identified a number of changes to KZC Chapter 100 – *Signs* in order to make the regulations more clear and simple. A third option could be to add the Church's request to the list of potential changes to be studied in the future. This would result in a more comprehensive review of the sign chapter and allow the City to look at how electronic readerboard signs can be applied to a wider range of uses in the context of other sign code changes.

ATTACHMENTS

1. Holy Spirit Lutheran Church Letter dated June 2, 2010
2. Interpretation 94-1

cc: Reverend Michael Anderson
Holy Spirit Lutheran Church
10021 NE 124th Street
Kirkland, WA 98034



HOLY SPIRIT LUTHERAN CHURCH

June 2, 2010

Kirkland City Council
123 5th Avenue
Kirkland WA 98033

RECEIVED

JUN 09 2010

CITY OF KIRKLAND
CITY MANAGER'S OFFICE

Dear Mayor and Council members,

In June 2008, the Lake Washington School District requested a modification of the city Zoning and Signage ordinance to allow Juanita High School to acquire an electronic reader board. That request was granted. At this time Holy Spirit Lutheran Church would like to make a similar request.

At present, churches are allowed to have reader boards that are manually maintained. In this electronic age, it seem reasonable to allow electronic reader boards for institutions such as schools, fire stations, and, churches that conform to reasonable limits on size, impact and location.

As for fire stations and schools, an electronic reader board would allow churches to enhance communication and partner with the city during emergencies to convey information about such things as location of shelters, advice, or other pertinent information that might be essential to disseminate during a storm, earthquake or other emergency. This would be a public benefit for the whole community. One condition of installing such a sign might be to make it contingent on the church agreeing in a Memorandum of Understanding to host such information during emergencies.

Allowing such signs for churches located in the midst of other than single family neighborhoods and on major arterials makes particular sense as the impact would be minimal.

With this letter we are indicating our support for allowing us to begin the process of being able to acquire and install an electronic reader board. We would be happy to meet and speak further with you about this topic at the appropriate time and place.

Sincerely,

Rev. Michael Anderson *Rev. Katy M. Sasche* *Mary Alyce Burleigh*

Michael Anderson
Pastor

Katy McCallum-Sasche
Associate Pastor

Mary-Alyce Burleigh
Council President

10021 NE 124th Street ❖ Kirkland, WA 98034

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CITY OF KIRKLAND

123 FIFTH AVENUE KIRKLAND, WASHINGTON 98033-6189 (425) 828-1257

**DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT
MEMORANDUM**

To: Interpretation File 94-1
From: Eric Shields
Date: January 10, 1994
Subject: CHANGING MESSAGE CENTER AND SIMILAR SIGNS, KZC 5.115
AND 100.85

ISSUE

Under what conditions are changing message center and similar signs allowed in the City?

INTERPRETATION

Changing message center signs which display public service time and temperature messages may be installed upon receipt of an approved sign permit. Similar signs which display messages of a public service or commercial nature may be installed only if specifically approved through a Comprehensive Design Plan.

In addition to the standard criteria for a Comprehensive Design Plan, the Planning Department will scrutinize proposed sign size and location, message interval, and any other aspect of the sign which could influence traffic safety.

ANALYSIS

In January, 1993 the Zoning Code definition of a *Changing Message Center* was amended to delete reference to messages of a public service or commercial nature. KZC 5.115 now reads: "An electronically controlled public service time and temperature sign where copy changes are shown on the same lamp bank." This type of sign may be installed upon receipt of an approved sign permit.

A sign that has electronically controlled copy changes of a public service or commercial nature shown on the same lamp bank is no longer allowed. This type of sign is considered a prohibited device according to KZC 100.85(1)(b). This section, which refers to "Strings of lights, flashing lights, colored lights, advertising search lights, and flares," would describe such a sign. Note that changing message center signs as defined in KZC 5.115 are specifically excepted from the requirements of the prohibited devices section by KZC 100.85(2)(e).

According to KZC 100.80(1), an applicant may apply for a Comprehensive Design Plan to "... allow deviations from the requirements of this Chapter consistent with the criteria listed in Paragraph 4..." Therefore, one could apply for a Comprehensive Design Plan to allow a prohibited device, such

Interpretation 94-1
January 10, 1994
Page 2

as one that has electronically controlled copy changes of a public service or commercial nature shown on the same lamp bank.

Experience has shown that these signs can be visually overpowering, distracting and a traffic safety problem. Therefore, when reviewing a Comprehensive Design Plan application for such a sign, the Planning Department will scrutinize sign location and size, message interval, and any other aspect of the sign which would distract drivers pursuant to the decisional criteria in KZC 145.45(2), i.e. consistency with the public health, safety and welfare. The Comprehensive Design Plan criteria listed in KZC 100.80(4) will also be evaluated.

This interpretation repeals Interpretation 91-4.



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**DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT
MEMORANDUM**

To: Marilynne Beard, Interim City Manager

From: Jon Regala, Senior Planner
Joan Lieberman-Brill, AICP, Senior Planner
Paul Stewart, AICP, Deputy Director
Eric Shields, AICP, Planning Director

Date: June 24, 2010

Subject: MISCELLANEOUS ZONING CODE AMENDMENTS PHASE I
FILE ZON10-00002

RECOMMENDATION

Staff recommends that the City Council adopt the attached Ordinance amending the Kirkland Zoning Code (KZC) as recommended by the Planning Commission in regard to the Miscellaneous Zoning Code Amendments - Phase I project.

In addition, one of the proposed amendments considered by the Planning Commission was recommended for further study as part of Phase II of the code amendment process. That amendment would involve eliminating the City Council from hearing appeals of Process IIA decisions. On that matter, we request that the Council provide further direction. Three options are available:

- Concur with the Planning Commission's recommendation for further study in Phase II;
- Remove this proposal from further consideration;
- Adopt the proposal as part of the Phase I amendments. The Council may do this by amending the proposed ordinance to include the Code amendment shown in Exhibit 3.

BACKGROUND

Planning staff periodically forwards miscellaneous KZC amendments to the Planning Commission for consideration. The amendments are selected from an on-going list of issues, code interpretations, requests from the public, requests from City Council, and needs identified by staff. This year, the code amendments will be reviewed in two phases. Phase I amendments will be considered and acted upon first. Phase I bundles together amendments located outside Houghton Community Council's (HCC) jurisdiction. Since the Phase I amendments are not applicable within the HCC jurisdiction, they require only the review of the Planning Commission and City Council.

The following is the list of proposed code amendments being reviewed with Phase I:

1. KZC 53.59.010(2) RH 5C Zoning District – Eliminate outdated references to KZC 95.25 and 95.45 and replace with the actual landscape buffer standard and easement dedication language.
2. Codify Interpretation 09-3 (equestrian regulations) – make KZC 115.20 Special Regulation 6 applicable to lots northeast of Bridle Trails Park (in the Bridle View Annexation).
3. Codify Interpretation 09-3 (equestrian regulations) - make KZC 17.10.010 Special Regulation 5 applicable to lots northeast of Bridle Trails Park (in the Bridle View Annexation).
4. Add references to KZC Section 50.62 - Building Height Provisions in the CBD
5. KZC 105.103.2 - Remove the Design Review Board (DRB) as the decision maker of modifications to KZC Chapter 105 and replace the DRB with the Planning Official. This includes decisions to reduce the number of required parking stalls.
6. KZC 142.40 - Change Design Response Conference (DRC) appeal hearing from City Council to Hearing Examiner.
7. KZC 150.65 - .80 – Eliminate the City Council from hearing and deciding Process IIA appeals.

The Planning Commission held a study session on May 13, 2010 and a public hearing on May 27, 2010 on the proposed Phase I amendments. The meeting packets are available online and provide detailed information on each of the proposed changes:

May 13th Study Session:

<http://www.ci.kirkland.wa.us/Assets/Planning/Planning+PDFs/2010+KZC+Amendments+Phase+1.pdf>

May 27th Public Hearing:

<http://www.ci.kirkland.wa.us/Assets/Planning/Planning+PDFs/2010+KZC+Amendments+PC+05272010.pdf>

Phase II contains a more comprehensive list of code amendments, which are within the jurisdiction of the HCC. The final list and associated background information will be presented to the Planning Commission and Houghton Community Council at a joint study session on August 12, 2010. The public hearing for the Phase II amendments is tentatively scheduled for December 2010.

PLANNING COMMISSION RECOMMENDATION

At its public hearing, the Planning Commission recommended that Kirkland Zoning Code be revised to incorporate the changes proposed by staff as Phase I Miscellaneous Zoning Code Amendments. The Planning Commission's recommendation memo is included as Exhibit 1.

The proposed change to the DRB appeal process was at the request of a majority of the City Council members. The Council expressed concern that the DRB appeal process did not fit their legislative role. The City Council therefore asked staff to look at changing the open record Design Review appeal process to be heard by the Hearing Examiner instead of the City Council.

In making their recommendation to have DRB appeals heard by the Hearing Examiner, the Planning Commission considered a report by Municipal Research and Services Center Municipal Research and Services Center (MRSC). The MRSC report can be found in Exhibit 2.

At the public hearing, staff also asked the Planning Commission for direction on whether to remove the City Council as the decision maker for Process IIA permit appeals for the same reasons as removing the Council from hearing DRB appeals. In doing so, appeals of a Process IIA permit would go directly to Superior Court. A Process IIA zoning permit requires a public hearing with the decision made by a hearing examiner.

Process IIA permits within the City of Kirkland are mostly conditional use permits and include some variances (regarding height and commercial zones). Additional background information can be found in the [May 27th public hearing staff memo - Section III.B.3](#). After deliberation, the Planning Commission concluded that this topic was worth further study and recommended that it be reviewed in further detail with the Phase II amendments later this summer. Exhibit 3 contains the KZC changes needed should the City Council decide to act now and remove themselves from hearing and deciding on Process IIA appeals.

In making its recommendations the Planning Commission considered public comment and the criteria found in KZC Section 135.25. One person spoke at the public hearing against the proposal to remove the DRB as the decision maker for modifications to the number of required parking stalls. The Planning Commission considered this concern but concluded that having the DRB decide on this and other items in KZC Chapter 105 was an error and that the DRB should only decide on modifications to the required pedestrian access standards as was originally intended.

After the public hearing, several letters and/or emails were received by staff in regard to the topic described above and also on the topic of changing the Design Response Conference (DRC) appeal hearing from the City Council to the Hearing Examiner. The letters regarding the parking modification issue was forwarded to the DRB for consideration at its July 28th meeting.

All of the public comment letters/emails can be found in Exhibit 4.

CRITERIA FOR AMENDING ZONING CODE TEXT

KZC 135.25 establishes the criteria by which changes to the Zoning Code text must be evaluated. These criteria and the relationship of the proposal to them are as follows:

1. *The proposed amendment is consistent with the applicable provisions of the Comprehensive Plan*

The proposed amendments are consistent with the Comprehensive Plan. The proposed amendments are needed to clarify existing regulations and to fix unintended changes with previous amendments to the KZC. The proposed changes do not fundamentally change the City's policy.

2. *The proposed amendment bears a substantial relation to public health, safety, or welfare*

The proposed amendments bear a substantial relation to public health, safety, and welfare. The amendments further clarify existing regulations which are based on the goals and policies of the Comprehensive Plan.

3. *The proposed amendment is in the best interest of the residents of Kirkland*

The proposed amendments are in the best interest to the residents of Kirkland. The amendments seek to clarify the existing regulations and review processes which were previously created based on balancing the needs of various stakeholder groups and the policies of the Comprehensive Plan. The result of the changes should create more certainty and predictability in regulations and process for both the residential and development community.

ENVIRONMENTAL REVIEW

A Draft and Final Environmental Impact Statement (EIS) on the City's Comprehensive Plan 10-year Update was published in 2004. The EIS addressed the 2004 Comprehensive Plan, Zoning Code and Zoning Map updates required by the Washington State Growth Management Act (GMA). An EIS Addendum was issued on May 20, 2010 for the Miscellaneous Zoning Code Amendments – Phase I (see Exhibit 5). According to SEPA rules, an EIS addendum provides additional analysis and/or information about a proposal or alternatives where their significant environmental impacts have been disclosed and identified in a previous environmental document. An addendum is appropriate when the impacts of the new proposal are the same general types as those identified in the prior document, and when the new analysis does not substantially change the analysis of significant impacts and alternatives in the prior environmental document. The EIS Addendum fulfills the environmental requirements for the proposed changes.

EXHIBITS

1. Planning Commission Recommendation Transmittal Memo
2. MRSC Report – Use of Hearing Examiners by Cities and Counties in Washington May 1999
3. Proposed Changes to KZC Chapter 150
4. Public Comment Letters/Emails
5. EIS Addendum issued May 20, 2010

Ordinance Amending Various KZC Sections
Publication Summary Ordinance

CC: Planning Commission
Kirkland Chamber of Commerce
File: ZON10-00002



CITY OF KIRKLAND
Planning and Community Development Department
 123 Fifth Avenue, Kirkland, WA 98033 425.587-3225
 www.ci.kirkland.wa.us

PLANNING COMMISSION MEMORANDUM

To: City Council

From: Planning Commission
C. Ray Allshouse, Chair

Date: June 15, 2010

Subject: MISCELLANEOUS ZONING CODE AMENDMENTS (PHASE I) - FILE ZON10-00002
PLANNING COMMISSION RECOMMENDATION

INTRODUCTION

The Planning Commission is pleased to submit our recommendation of approval of the proposed Phase I Miscellaneous Zoning Code Amendments to the City Council. The recommendations provided in this memorandum are a result of review and deliberations at a study session and public hearing held in May 2010.

RECOMMENDATION ON MISCELLANEOUS ZONING CODE AMENDMENTS

This year, the City is reviewing the Miscellaneous Code Amendments in two phases. Phase I amendments are more simple, quicker to process, and are not subject to the Houghton Community Council's jurisdiction. Phase II contains a more comprehensive list of code amendments, which are within the jurisdiction of the Community Council. The Planning Commission will be reviewing the Phase II amendments later this summer.

The Planning Commission recommends approval of the proposed Phase I Zoning Code changes. In making our recommendations, the Planning Commission considered the criteria found in KZC Section 135.25. Background information summarizing the key discussion topics and the rationale for our recommendations are described below.

A. No Policy Changes

1. *KZC 53.59.010(2) RH 5C Zoning District – Eliminate outdated references to KZC 95.25 and 95.45 and replace with the actual landscape buffer standard and easement dedication language.*

The RH 5C zoning chart currently contains inaccurate references to landscape buffer requirements in KZC Chapter 95 as a result of changes made to the chapter in 2006. The inaccurate reference can be found in special regulation #2 for the RH 5C use zone listing: *Accessory parking for commercial use located in RH 5A fronting on NE 85th*

Street. This code sections pertains to the Honda parking lot which has already been planted to the required landscape buffers.

The Planning Commission recommends adding the previously referenced code language to RH 5C special regulation #2 in order to be consistent with the intent of the code section prior to the 2006 amendments.

2. *Codify Interpretation 09-3 – make KZC 115.20 Special Regulation 6 applicable to lots northeast of Bridle Trails Park (in the Bridle View Annexation)*

The Bridle View Annexation became effective on October 2, 2009. Interpretation 09-3 determined that because the intent of the annexation is to protect and preserve the equestrian character of Bridle View the same as properties immediately north of the Bridle Trails State Park and since the zoning in the two areas is the same, the City will apply the existing KZC regulations to the Bridle View annexation, which is located *northeast* of the Bridle Trails State Park.

The Planning Commission therefore recommends codifying the interpretation to explicitly include the newly annexed Bridle View equestrian subdivision by expanding its application to include the area **northeast** of the Park.

3. *Codify Interpretation 09-3 – make KZC 17.10.010 Special Regulation 5 applicable to lots northeast of Bridle Trails Park (in the Bridle View Annexation)*

Similar to the previous proposed amendment, the Planning Commission recommends including the area **northeast** of Bridle Trails Park to be regulated by KZC 17.10.010 Special Regulation 5, to implement the intent of the Bridle View annexation.

4. *Add references KZC Section 50.62 - Building Height Provisions in the CBD*

Kirkland's downtown is made up of 8 zoning districts, CBD 1 through 8 with the development regulations listed in use zone charts KZC Sections 50.05 through 50.52. However, additional height provisions for all CBD zones are located in a separate section *after* the CBD use zone charts (KZC Section 50.62). These height provisions provide additional detail on measuring building height, ground floor story height requirements, and exceptions to the height regulations.

While this section applies to all of the CBD zones, not all CBD use zone charts reference this section. As an aid to users of the Zoning Code, the Planning Commission recommends that a reference to KZC Section 50.62 be added to the general regulations of the appropriate CBD use zone charts. This revision will make the Code easier to navigate.

B. Process Related Changes

1. *KZC 105.103.2 - Remove the Design Review Board (DRB) as the decision maker of modifications to KZC Chapter 105 and replace the DRB with the Planning Official.*

KZC Section 105.103 contains the review process and criteria required to modify regulations in KZC Chapter 105 – *Parking Areas, Vehicle and Pedestrian Access, and Related Improvements*. If the proposed development requires approval through Design Review, Process I (Planning Director), IIA (Hearing Examiner), or IIB (City Council),

then a modification to the parking and related standards is required to be reviewed as part of that process, otherwise, the Planning Official makes the final decision.

The Planning Commission recommends that the DRB only be involved with modifications regarding KZC 105.18 – *Pedestrian Access*, since modifications to other code sections in KZC Chapter 105 were not intended to be a part of the DRB's purview when they were added as part of the June 2007 code amendments. This change will result in the Planning Official deciding on modifications to reduce the number of required parking stalls instead of the DRB.

2. *KZC 142.40 - Change Design Response Conference (DRC) appeal hearing from City Council to Hearing Examiner*

KZC 142.40 requires that an appeal of a DRB decision be heard at an open public record hearing conducted by the City Council. The Planning Commission recommends that the appeal hearing body be changed from the City Council to the Hearing Examiner citing that using a Hearing Examiner will result in the following:

- More professional and timely decisions insuring fairness and consistency
- Separation of policy-making or advisory functions from quasi-judicial functions
- Improved compliance with legal requirements, including due process, appearance of fairness, and record preparation
- Removal of quasi-judicial decision-making from the political arena

3. *KZC Chapter 150 – Change Process IIA appeal hearing from City Council to Hearing Examiner*

On a related matter, the City Council is also the hearing body for appeals of Process IIA zoning permits. This type of zoning permit requires a public hearing and decision by a hearing examiner. Process IIA permits within the City of Kirkland can be classified as conditional use permits and include some variances (regarding height and commercial zones). The Planning Commission discussed whether to eliminate the City Council from hearing appeals of Process IIA decisions, but recommended that this topic be studied further during Phase II of the Miscellaneous Zoning Code Amendment project, to occur later this year. It was felt that more information was needed before making a recommendation on this topic.

PUBLIC INPUT

At the May 27, 2010 public hearing, staff presented the proposed code revisions. Following staff's presentation, the Planning Commission took public testimony. One person spoke against changing the decision maker for parking reductions from the DRB to the Planning Official. The Planning Commission considered the comments but concluded that the DRB should only decide on projects based on the adopted design guidelines for the various design districts.

Use of Hearing Examiners by Cities and Counties in Washington

What is a Hearing Examiner and Hearing Examiner System?

Local governments in Washington State have the option of hiring or contracting with a hearing examiner to conduct required quasi-judicial hearings, usually in place of local bodies such as the planning commission, the board of adjustment, the board of county commissioners, or the city council. A hearing examiner is an appointive officer who acts in a manner similar to a judge and typically is an attorney. The basic purpose of having a hearing examiner conduct these hearings is to have a professionally-trained individual make objective quasi-judicial decisions that are supported by an adequate record and that are free from political influences. Using a hearing examiner system allows local legislative and advisory bodies that might otherwise conduct these hearings to better concentrate on policy-making, and it can reduce local government liability exposure.

A board of county commissioners or a city council has considerable discretion in drafting an ordinance creating a local hearing examiner system. The position of hearing examiner, the type of issues the hearing examiner is authorized to consider and decide, the effect of the hearing examiner's decision, and whether an appeal of any final decision is provided should all be determined by the local legislative body and set out in the enabling ordinance. A hearing examiner's decision, as defined by the local legislative body, can have the effect of either a recommendation to or a decision appealable to the ultimate decision-maker (typically the board of county commissioners or the city council), or it can be a final decision (appealable to superior court).

Counties and cities use hearing examiners, often in place of planning commissions, primarily for hearing and deciding land development project applications and/or administrative appeals of land use decisions. Hearing examiners are particularly useful where the rights of individual property owners and the concerns of citizens require formal hearing procedures and preparation of an official record. State land use planning and growth management laws provide cities and counties with specific

authority to establish a hearing examiner system to conduct hearings and make recommendations or decide a variety of land use issues. Hearing examiners may also conduct hearings and make recommendations or decisions on other local matters.

This focus paper describes the use of a hearing examiner, the pros and cons of such systems, and options available to Washington counties and cities. References are provided for further information available from the MRSC library and through our Web site.

Establishing a Hearing Examiner System

The office or position of hearing examiner must be established by ordinance. That ordinance should identify what matters the examiner is empowered to hear and what will be the effect of the examiner's decision on those matters. A common approach in such an ordinance is to establish the framework for the hearing examiner system, while leaving it to the examiner to adopt specific, detailed rules for the conduct of hearings. Hearing examiner ordinances typically address: the appointment and term of the hearing examiner; qualifications of the examiner; conflicts of interest and freedom from improper influence; powers and duties, including matters heard; hearing requirements; effect of decisions; reconsideration of decisions, if allowed; and appeals. MRSC has many examples of hearing examiner ordinances and has a compilation of articles and ordinances relating to the hearing examiner system in this state. See <http://www.mrsc.org/library/compil/cphearex.htm>.

Use of the Hearing Examiner System for Land Use, Environmental, and Related Decisions

Most commonly, hearing examiners are used to hear and decide land use project permit applications where a hearing is required, such as in the case of applications for subdivisions, shoreline permits, conditional use permits, rezones, and variances. The recent trend in state law, particularly in conjunction with regulatory reform, has been to allow local governments to give more authority to the hearing examiner to make final decisions on quasi-judicial project permit applications. For example, RCW 58.17.330, as amended by 1995 regulatory reform legislation, provides that the local legislative body can specify that the legal effect of a hearing examiner's decision on a preliminary plat approval is that of "a final decision of the legislative body."

The hearing examiner's role in the project permit process can include:

- open record hearings on project permit applications;

- appeals of administrative SEPA determinations, which in most cases are combined with the open record hearing on the application;
- closed record appeals of administrative decisions made by the local planning staff, including appeals of SEPA determinations where an administrative appeal is provided;
- land use code interpretations to satisfy the statutory requirement that cities and counties planning under the Growth Management Act adopt procedures for such “administrative interpretations” (RCW 36.70B.110(11));
- land use code enforcement proceedings.

Other Issues Assigned to Hearing Examiners

The local legislative body may, by ordinance, authorize a hearing examiner to hear other types of contested matters, in addition to land use permit applications and code enforcement. Examples of other types of decisions and/or administrative appeals that could be handled by a local hearing examiner include:

- discrimination complaints under local personnel policies;
- employment decisions and personnel grievances;
- ethics complaints by citizens or employees;
- local improvement districts – formation hearing and/or assessment roll determinations;
- public nuisance complaints;
- civil infractions;
- property forfeiture hearings under the Uniform Controlled Substances Act (RCW 69.50.505(e));
- tax and licensing decisions and appeals;
- whistleblower retaliation claims.

Pros and Cons of Using Hearing Examiners

Pros

- More professional and timely decisions insuring fairness and consistency.

A professional hearing examiner prepares for and conducts hearings in a manner insuring procedural fairness. Hearings are less emotional and more expeditious. Hearing examiners develop a high level of expertise and specialization, saving time in making decisions and improving their quality and consistency.

- Time-saving for legislative body, freeing legislators to focus on legislative policy and other priority issues.

Conducting public hearings and making quasi-judicial decisions is time-consuming. Local legislators can free themselves from many of their hearing duties by delegating them to a hearing examiner. The local legislative body can still choose to make final decisions or to hear appeals of the examiner's decisions, and those appeals will be facilitated by a thorough and organized record. The use of hearing examiners is especially time-saving for routine decisions and for complex land use decisions requiring formal hearings, citizen participation, and subject matter expertise.

- Separation of policy-making or advisory functions from quasi-judicial functions.

Use of hearing examiners for quasi-judicial hearings separates legislative and administrative functions from quasi-judicial functions. This can improve decision-making by clarifying roles and avoiding conflicts. For jurisdictions with planning commissions, use of a hearing examiner system allows the planning commission to function as an advisory body. The legislative body can focus on policy-making while the planning department concentrates on administration. For counties with three-member boards of commissioners, use of a hearing examiner to conduct quasi-judicial proceedings can greatly assist commissioners who already responsible for a number of legislative and administrative functions.

- Improved compliance with legal requirements, including due process, appearance of fairness, and record preparation.

Hearing examiners have special expertise in managing legal procedural requirements and avoiding appearance of fairness and conflict of interest

issues. The hearing examiner assures procedural fairness, especially in cases where one side is represented by an attorney while the other side is not. Participants are often more satisfied with the proceedings, regardless of the outcome. A properly conducted hearing also results in a complete and well organized written record.

- Reduced liability relating to land use decisions and/or procedural challenges to decisions.

Using a hearing examiner system has been shown to reduce land use liability exposure. Improved hearing procedures, better records, and more consistent and documented decisions are typical of professional hearing examiners. At least one local government insurance authority has officially endorsed the use of hearing examiners for land use decisions based on a survey providing evidence of a lower risk profile for jurisdictions using a hearing examiner system for land use proceedings.

- Improved land development review integration under chapter 36.70B RCW (ESSB 1724).

A number of jurisdictions have adopted hearing examiner systems since the 1995 regulatory reform legislation mandating integration and consolidation of environmental and land use regulatory review for development projects. Use of a specialized land use hearing examiner is an effective method of consolidating and coordinating multiple review processes. For jurisdictions with a mandatory board of adjustment, adoption of a hearing examiner system eliminates the requirement for a board of adjustment.

- Opportunity for feedback to improve plans and regulations from professional hearing officer familiar with comprehensive plans and development regulations.

A professional hearing examiner has familiarity with the local comprehensive plan and development regulations and possibly those of other jurisdictions. Areas where plans, regulations, and policies are weak or inconsistent can be identified and referred to the planning staff, planning commission, or legislative body, providing feedback for continuous improvement.

- Removal of quasi-judicial decision-making from the political arena.

It may be difficult for elected local government officials to entirely eliminate political considerations from their quasi-judicial decision-making. Professional hearing examiners should be immune from political pressures.

Cons

- Cost to county or city for hiring a hearing examiner and staff.

There are costs in hiring hearing examiners and, if necessary, support staff. Counties and cities should consider whether savings in council and commission time, improvements in decision-making, and reduced liability justify the costs. Alternatives such as use of personal service contracts for hearing examiners can reduce costs.

- Increased cost to the parties due to more formal decision-making procedures.

Hearing examiners can increase the formality of the hearing process, although many of the procedural requirements and formalities are already required under state law. This formality can provide the advantage of increased appearance of fairness and impartiality in decision-making.

- Lack of accountability to voters for appointed hearing examiner making decisions or hearing administrative appeals.

Some people maintain that important decisions should be made by elected officials who are accountable to the voters. However, these concerns can be addressed by making the hearing examiner's decision a recommendation to the council or commissioners or by providing for an administrative appeal to the legislative body.

Options for Efficient and Effective Use of Hearing Examiners for Smaller Counties and Cities

Smaller local governments may be reluctant to establish a hearing examiner system because of cost considerations and concerns about whether there will be enough occasions to justify using a hearing examiner. Here are some ideas about addressing these concerns:

- Contract for hearing examiner services. Counties and cities may establish a contractual relationship with a hearing examiner in which the examiner is compensated, on an hourly or other basis, only as needed.
- Share use of a hearing examiner with other jurisdictions. Some local governments in the state have entered into interlocal agreements to contractually share the services of a hearing examiner.
- Increase the number of matters heard by hearing examiner. Doing this could reduce costs relating to use of staff that would otherwise be occupied with those matters.
- Fund the hearing examiner system from permit review fees. Local governments can add and/or increase permit fees and appeal fees to help cover the cost of maintaining a hearing examiner system.

Qualifications of Hearing Examiners

There are no state statutes that establish the minimum qualifications of hearing examiners. As noted above, hearing examiners are often attorneys; however, a law degree is not required. A background in the area in which the examiner will perform would obviously be helpful. Since hearing examiners operate mostly in the land use arena, some local governments use examiners with a planning, rather than legal, background. Keep in mind that the land use decision-making process requires a thorough knowledge of legal procedures, and relevant statutes, local ordinances, and case law. In the ordinance establishing the office of hearing examiner, it is a good idea to identify the minimum qualifications that the legislative body deems necessary for a hearing examiner.

Support, Resources, and Training for Hearing Examiners

- Washington Association of Professional Hearing Examiners; Jim Driscoll, President; 101 Yesler, Suite 607; Seattle, WA 98104; (206) 628-0039. This organization provides periodic training conferences and maintains a list of hearing examiners in the state.

MRSC Library Resources

The following MRSC Library resources provide more detailed information concerning use of hearing examiners and the land use hearing examiner system, including sample ordinances and rules of procedure:

- “Hearing Examiner System in Washington State: A Compilation of Articles and Ordinances,” MRSC, July 1997.
- “A Citizen Guide to the Office of Hearing Examiner,” City of Seattle, revised 1994.
- “The Hearing Examiner in Washington State: A Reference Manual for Local Government,” Washington State Planning and Community Affairs Agency (no longer in existence), June 1980.
- A Short Course on Local Planning, Planning Association of Washington and the Washington Department of Community, Trade and Economic Development, Version 3.2, March 1997.
- “You Be the Judge: A Handbook for the Land Use Decision Maker,” by Jim Driscoll and Ted Hunter, prepared for the Association of Washington Cities (1993).
- Other MRSC Library resources, including sample ordinances establishing the office of hearing examiner, hearing examiner rules of practice and procedure, hearing examiner job descriptions, hearing examiner contracts, and citizens’ guides to the hearing examiner process.

REMOVING CITY COUNCIL AS APPEAL HEARING BODY FOR PROCESS IIA ZONING PERMITS

150.65 Hearing Examiner's Decision

1. General – After considering all of the information, testimony and comments submitted on the matter, the Hearing Examiner shall issue a written decision either:
 - a. Granting the application; or
 - b. Modifying and granting the application; or
 - c. Denying the application.
2. Time Limits – The Hearing Examiner shall issue his/her decision within eight calendar days of the date of the open record hearing, as stated in the notice provided under KZC 150.30, except as follows:
 - a. If the Hearing Examiner and the applicant agree in writing on an extension of the time limit for the Hearing Examiner to issue his/her decision, the Hearing Examiner has the additional agreed-upon time to issue his/her decision.
 - b. If the proposed development activity presents a special circumstance, as defined below, the Hearing Examiner shall issue his/her decision within 21 calendar days of the date of the open record hearing as stated in the notice provided under KZC 150.30. For the purposes of this section, a permit for a proposed development activity presents a special circumstance under RCW 36.70B.140 when, because of the unusually large size of the subject property, the unusual complexity of what the applicant is proposing, the unusually large number of discretionary permits or approvals that are required and/or other unusual characteristics stated on the record by the Hearing Examiner, the proposed development activity requires more in-depth review and/or analysis than could reasonably be conducted under the time frame that would otherwise apply.
3. Decisional Criteria – The Hearing Examiner shall use the criteria listed in the provision of this code describing the requested decision in deciding upon the application. In addition, the Hearing Examiner may approve the application only if:
 - a. It is consistent with all applicable development regulations and, to the extent there is no applicable development regulation, the Comprehensive Plan; and
 - b. It is consistent with the public health, safety and welfare.
4. Conditions and Restrictions – The Hearing Examiner shall include in the written decision any conditions and restrictions that he/she determines are necessary to eliminate or minimize any undesirable effects of granting the application. Any conditions and restrictions that are imposed become part of the decision.
5. Contents – The Hearing Examiner shall include the following in his/her written decision:
 - a. A statement granting, modifying and granting, or denying the application.
 - b. Any conditions and restrictions that are imposed.

- c. A statement of facts presented to him/her that support the decision, including any conditions and restrictions that are imposed.
 - d. A statement of the Hearing Examiner's conclusions based on those facts.
 - e. A statement of the criteria used by the Hearing Examiner in making the decision.
 - f. A summary of the rights, as established in this chapter, of the applicant and others to appeal the decision of the Hearing Examiner.
6. Notice of Decision – Within four business days after the Hearing Examiner's written decision is issued, the Planning Official shall distribute the decision, or a summary thereof, along with a summary of any threshold determination under SEPA and the procedures for appealing the decision under this chapter, to the following parties:
- a. The applicant.
 - b. Each person who submitted written or oral testimony to the Hearing Examiner on the application. The Planning Official is not required to distribute a notice of decision to a party who signed a petition, unless such party also submitted independent written comments or information.
 - c. Each person who has requested notice of the decision.

The decision shall be posted on the City's website.

7. The Hearing Examiner retains jurisdiction to correct errors in and/or to clarify the decision within 14 calendar days following the date of the distribution of the Hearing Examiner's decision until the appeal period under KZC 150.80 has expired.

150.70 Effect of the Decision

The applicant may not engage in any activity based on the decision granting the application until 21 days following the final decision of the City the time to appeal has expired. If the decision is appealed, the applicant may not engage in any activity based on the decision granting the application until the City issues a final decision on the matter. If the decision of the Hearing Examiner is not appealed, that decision is the final decision of the City.

150.80 Appeals

- ~~1. Who May Appeal – The decision of the Hearing Examiner may be appealed by:~~
- ~~a. The applicant; and~~
 - ~~b. Any person who submitted written or oral testimony or comments to the Hearing Examiner on the application. A party who signed a petition may not appeal unless such party also submitted independent written comments or information.~~
- ~~2. Time To Appeal/How To Appeal – The appeal, in the form of a letter of appeal, must be delivered to the Planning Department within 14 calendar days following the date of distribution of the Hearing Examiner's decision; provided, that the appeal letter must be delivered to the Planning Department within 21 calendar days of the date of distribution of the Hearing Examiner's decision if state or local rules adopted pursuant to SEPA allow for public comment on a declaration of nonsignificance issued on the proposed development activity; and provided further, that if the fourteenth or twenty-first day, as~~

~~applicable, of the appeal period falls on a Saturday, Sunday, or legal holiday, the appeal period shall be extended through the next day on which the City is open for business. It must contain:~~

- ~~a. A clear reference to the matter being appealed; and~~
- ~~b. A statement of the specific factual findings and conclusions of the Hearing Examiner disputed by the person filing the appeal.~~
- ~~3. Fee — The person filing the appeal shall include with the letter of appeal the fee established by ordinance.~~
- ~~4. Jurisdiction — Appeals from the decision of the Hearing Examiner will be considered and decided upon by the City Council.~~

~~150.85 Notice of Consideration of the Appeal~~

- ~~1. Contents — The Planning Official shall prepare a notice of the appeal containing the following:
 - ~~a. The file number and a brief verbal description of the matter being appealed.~~
 - ~~b. A statement of the scope of the appeal including a summary of the specific factual findings and conclusions disputed in the letter of appeal.~~
 - ~~c. The time and place of the consideration of the appeal by the City Council.~~
 - ~~d. A statement of who may participate in the appeal.~~
 - ~~e. A statement of how to participate in the appeal.~~~~
- ~~2. Distribution — At least 14 calendar days before the City Council's consideration of the appeal, the Planning Official shall distribute this notice, or a summary thereof, to each person entitled to appeal the decision under KZC 150.80(1).~~

~~150.90 Participation in the Appeal~~

~~Only those persons entitled to appeal the decision under KZC 150.80(1) who file an appeal under KZC 150.80(2) may participate in the appeal; provided, that the applicant may submit a written response to an appeal filed by an appellant, regardless of whether the applicant filed an appeal. These persons may participate in either or both of the following ways:~~

- ~~1. By submitting written arguments to the City Council prior to the commencement of the City Council's consideration of the appeal.~~
- ~~2. By appearing in person, or through a representative, at the City Council's consideration of the appeal and providing oral or written arguments directly to the City Council. The City Council shall allow each side (proponents and opponents) to speak for a maximum of 10 minutes each.~~

~~150.95 Nature of the Appeal and Scope of the Appeal~~

~~The appeal will be a closed record appeal. The scope of the appeal is limited to the specific factual findings and conclusions disputed in the letter of appeal, and City Council may only consider arguments on these factual findings and conclusions. The appeal will be~~

~~considered only on the record developed in the hearing before the Hearing Examiner. No new evidence may be presented.~~

~~150.100 Staff Report on the Appeal~~

- ~~1. Contents — The Planning Official shall prepare a staff report on the appeal containing the following:
 - ~~a. The staff report prepared for the public hearing before the Hearing Examiner.~~
 - ~~b. The written decision of the Hearing Examiner.~~
 - ~~c. All written testimony and comments submitted to the Hearing Examiner.~~
 - ~~d. A summary of the testimony, comments and discussion at the hearing of the Hearing Examiner and a statement of the availability of the electronic sound recording of the hearing.~~
 - ~~e. The letter of appeal.~~
 - ~~f. All written arguments received by the Planning Department from persons entitled to participate in the appeal and within the scope of the appeal.~~
 - ~~g. An analysis of the specific factual findings and conclusions disputed in the letter of appeal.~~~~
- ~~2. Distribution — The Planning Official shall distribute the staff report as follows:
 - ~~a. Prior to the City Council's consideration of the appeal, the staff report will be distributed to each member of the City Council.~~
 - ~~b. At least seven calendar days before the City Council's consideration of the appeal, the staff report will be distributed to:
 - ~~1) The applicant;~~
 - ~~2) The person who filed the appeal; and~~
 - ~~3) Any person who received the Hearing Examiner's decision.~~~~~~

~~150.105 City Council Consideration of the Appeal~~

- ~~1. General — City Council shall hold a closed record appeal procedure on the appeal.~~
- ~~2. Consideration Declared Open — The consideration of the appeal by the City Council is open to the public.~~

~~150.110 Electronic Sound Recordings~~

~~City Council shall make a complete electronic sound recording of each consideration of an appeal.~~

~~150.115 Burden of Proof~~

~~The person filing the appeal has the responsibility of convincing the City Council that the Hearing Examiner made an incorrect decision because of erroneous findings of fact or conclusions.~~

~~150.120 Continuation of the Consideration of the Appeal~~

~~City Council may continue their consideration if, for any reason, they are unable to receive all of the comments on the appeal or if City Council determines that they need more information within the scope of the appeal. If, during their consideration, the time and place of the next consideration of the matter is announced, no further notice of that consideration need be given.~~

~~150.125 Decision on the Appeal~~

~~Within 60 calendar days of the date the letter of appeal was filed under KZC 150.80 and after considering all arguments within the scope of the appeal submitted by persons entitled to participate in the appeal, the City Council shall, by motion approved by a majority of its total membership, take one of the following actions:~~

- ~~1. If City Council determines that disputed findings of fact and conclusions of the Hearing Examiner are the correct findings of fact and conclusions, the Council shall affirm the decision.~~
- ~~2. If City Council determines that the disputed findings of fact and conclusions of the Hearing Examiner are not correct and that correct findings of fact and conclusions do not support the decision of the Hearing Examiner, the Council shall modify or reverse the decision.~~
- ~~3. In all other cases, the Council shall direct the Hearing Examiner to hold a rehearing on the matter. The motion may limit the scope of the matters to be considered at this rehearing. The provisions of KZC 150.25 through 150.70 apply to a rehearing under this subsection. In the event the City Council orders a rehearing on the matter, this shall constitute a special circumstance under RCW 36.70B.140. The Hearing Examiner shall hold the rehearing within 28 calendar days of the date the City Council orders the rehearing, and the time limits and other pertinent requirements of this chapter shall apply to the rehearing.~~
- ~~4. Notice of Decision~~
 - ~~a. General — Following the final decision of the City Council, the Planning Official shall prepare a notice of the City's final decision on the application.~~
 - ~~b. Distribution — Within four business days after the City Council's decision is made, the Planning Official shall distribute the decision, or summary thereof, along with a summary of any threshold determination under SEPA, to the following persons:~~
 - ~~1) The applicant.~~
 - ~~2) The person who filed the appeal.~~
 - ~~3) Each person who submitted written or oral comments to the City Council.~~
 - ~~4) Each person who has requested notices of the decision.~~

~~The decision shall be posted on the City's website.~~

~~5. Effect – The decision of City Council is the final decision of the City.~~

150.130-80 Judicial Review

The action of the City in granting or denying an application under this chapter may be reviewed pursuant to the standards set forth in RCW 36.70C.130 in the King County Superior Court. The land use petition must be filed within 21 calendar days of the issuance of the final land use decision by the City. For more information on the judicial review process for land use decision, see Chapter 36.70C RCW.

150.135-90 Lapse of Approval

The applicant must begin construction or submit to the City a complete building permit application for the development activity, use of land or other actions approved under this chapter within four years after the final approval of the City of Kirkland on the matter, or the decision becomes void; provided, however, that in the event judicial review is initiated per KZC ~~150.130~~150.80, the running of the four years is tolled for any period of time during which a court order in said judicial review proceeding prohibits the required development activity, use of land, or other actions. The applicant must substantially complete construction for the development activity, use of land, or other actions approved under this chapter and complete the applicable conditions listed on the notice of decision within six years after the final approval on the matter, or the decision becomes void. For development activity, use of land, or other actions with phased construction, lapse of approval may be extended when approved under this chapter and made a condition of the notice of decision.

150.140-100 Bonds

The Hearing Examiner and City Council may require a bond under Chapter 175 KZC to insure compliance with any aspect of a permit or approval.

150.145-110 Complete Compliance Required

1. General – Except as specified in subsection (2) of this section, the applicant must comply with all aspects, including conditions and restrictions, of an approval granted under this chapter in order to do everything authorized by that approval.

2. Exception – Subsequent Modification

If a specific use or site plan is approved through this process, or any quasijudicial process under previous zoning codes, the applicant is not required to apply for and obtain approval through this process for a subsequent change in use or site plan unless:

- a. There is a change in use and this code establishes different or more rigorous standards for the new use than for the existing use; or
- b. The Planning Director determines that there will be substantial changes in the impacts on the neighborhood or the City as a result of the change.

150.150-120 Time Limits

Any time limit, pursuant to Chapter 36.70B RCW, upon the City's processing and decision upon applications under this chapter may, except as specifically otherwise stated in this chapter, be modified by a written agreement between the applicant and Planning Director. In the event a permit constitutes or presents a special circumstance under the provisions of this

chapter, the time limits for the City to make a final decision and issue its notice of decision under Chapter 36.70B RCW are extended by the number of days that the final decision of the City was delayed as a result of that special circumstance.

Reference change in KZC Chapter 90 shown below is required if the above changes to KZC Chapter 150 are adopted.

KZC 90.140.8.c - The lapse of approval period provided in this section is shorter than the lapse of approval period in KZC 150.~~135-90~~ generally applicable to Process IIA approvals and this shorter period shall control for reasonable use exception approvals.

**DAVIDSON, CZEISLER &
KILPATRIC, P.S.**

LAWYERS

520 KIRKLAND WAY, SUITE 400
KIRKLAND, WASHINGTON 98033

(425) 822-2228

FAX (425) 827-8725

Mailing Address: PO Box 817
Kirkland, WA 98083-0817

Kenneth H. Davidson
Robert T. Czeisler
Dan W. Kilpatric
Mary S. W. Sakaguchi
Randall J. Cornwall

June 16, 2010

VIA US MAIL

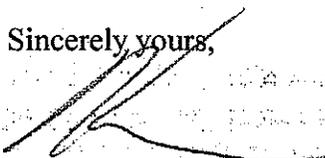
Joan McBride
Mayor
Kirkland City Council
Kirkland City Hall
123 - 5th Avenue
Kirkland, WA 98033

Re: Appeals from DRB Decisions

Dear Joan:

I learned that a proposal may be before the City Council to change the appeal from a decision of the Design Review Board from a review by the City Council to review by a hearing examiner. As one who has appeared both before hearing examiners and city councils, I would strongly recommend against that change. Hearing examiners are contract attorneys who are from outside the community and are better suited for technical interpretations of the requirements of variances and plating requirements. They lack the understanding of the history and context of design guidelines the Council has delegated to the Design Review Board. I believe that the City Council is better suited to interpret design guidelines and avoid unintended consequences. As inconvenient as it may be for the City Council to take up an appeal of a decision by the Design Review Board, on occasion, I submit that the public is better served by having the City Council interpret its design guidelines and the Comprehensive Plan, rather than an out of town attorney. I urge you not to depart from the current practices.

Sincerely yours,


Kenneth H. Davidson

KHD:aal

KHD/1748.14/CITY COUNCIL.LET.06.16.10.doc

RECEIVED

JUN 18 2010

CITY OF KIRKLAND
CITY MANAGER'S OFFICE

Jon Regala

From: Andrew G. Chavez [agchavez32@gmail.com]
Sent: Wednesday, June 16, 2010 8:23 PM
To: Eric Shields; Jeremy McMahan; Jon Regala
Subject: Please Keep parking modification process open and transparent to the public and part of DRB

To: City of Kirkland Design Review Board along with Planning Department members Eric Shields, Jeremy McMahan and Jon Regala

Subject: Request to Keep Parking Modification Process Open and Transparent to the Public and Keep within the DRB

From: Andrew G. Chavez

Date: June 16, 2010

I am respectfully requesting that the Design Review Board (DRB) add an item to its agenda for the June 28, 2010 meeting. The timing of this discussion is important because it is an item which impacts the DRB and which is scheduled for discussion and potential action by the City Council at its first meeting in July 2010.

The City is considering a set of amendments to the Zoning Code. Among those amendments is a provision which would remove the DRB from the parking modification approval process. Instead, parking modifications (on projects which otherwise require DRB process and approval) would be done by the Planning Official.

My request is to ask that the City keep the parking modification process open and transparent to all of us who care and keep this with the DRB.

Thanks for your support in this regard.

Andrew G. Chavez

IMPORTANT: This email, and any attachments, are Proprietary and may contain information that is privileged or confidential or both. If you are not the intended recipient, please delete this message and any attachments and notify me immediately by return email. Thank You.

Jon Regala

From: Margaret Carnegie [carnegiema@verizon.net]
Sent: Friday, June 18, 2010 11:08 AM
To: Jon Regala
Subject: Parking Modification Process

Follow Up Flag: Follow up
Flag Status: Flagged

Mr. Regala, I'm writing this to request that the parking modification process remain with the Design Review Board. I believe the process needs to be open to the public and transparent and the best way to accomplish that is to keep it with the DRB for processing. Thank you for your attention to this issue.

Margaret Carnegie
11259 126th Ave. N.E.
Kirkland, WA 98033

To: City of Kirkland Design Review Board along with Planning Department members Eric Shields, Jeremy McMahan and Jon Regala

Subject: Request for agenda item for your upcoming June 28, 2010 meeting

From: Bea Nahon

Date: June 16, 2010

I am respectfully requesting that the Design Review Board (DRB) add an item to its agenda for the June 28 meeting. I think that this item can be addressed in a short period of time and it should not add significantly either to the length of the meeting nor to the preparation time. The timing of this discussion is important because it is an item which impacts the DRB and which is scheduled for discussion and potential action by the City Council at its first meeting in July 2010.

The City is considering a set of amendments to the Zoning Code. Among those amendments is a provision which would remove the DRB from the parking modification approval process. Instead, parking modifications (on projects which otherwise require DRB process and approval) would be done by the Planning Official.

By way of background, up until mid-2007 parking modifications were addressed by the Planning Official. In 2007, the relevant section of the Zoning Code was amended with the intent of modifying the code to require that the DRB consider modifications to pedestrian pathways. Due to the way in which that amendment was drafted, parking modifications for DRB projects were also brought under the scope of DRB. In other words, it was a mistake.

However, as can happen with many mistakes in life, from what I have observed this mistake has brought more benefits than detriments.

The current proposed amendment, which would change the parking modification process to what it was pre-2007, is part of a larger list of proposed changes to the Zoning Code. The Planning Commission met on May 27 to consider the entire set of proposed changes. At that meeting, the Planning Commission voted on the entire list of proposed changes in one collective vote (i.e. the vote was on the proposed changes as a whole and not an item by item vote) and the Planning Commission voted in the majority to recommend approval of the changes to the City Council.

However, during that Planning Commission meeting, I was struck by a comment by one of the Commissioners who noted that this particular change (to take parking modifications away from the DRB and return it to the Planning Official) should be approved because the DRB did not want to address parking modifications as part of their role. It was that comment which made me realize that we have not heard an open discussion by the group of people who are best qualified to consider the pros and cons of this particular item – namely you, the members of the DRB.

There are some items in our Zoning Code which come under the purview of the planning official if a variance is requested. However, those are all comparatively minor items such sign modifications or minor expansions – the latter having specific provisions in the code to protect neighboring properties. By comparison, there is no provision in the Zoning Code to protect neighboring properties from the potential negative impacts of a parking modification granted to an adjacent new development. Of the variances that can be approved outside of the public process, none has the public interest or impact that parking does.

And so, I am asking the DRB to openly discuss and deliberate this question. ***If you are reviewing a project and if a parking modification request is part of the applicant's proposal, should that be included as part of the DRB's scope? Do you object to its inclusion? And most important, how are the City and citizens of Kirkland best served?***

I hope that you will discuss this on June 28 and that your discussion will consider the following:

Is this matter within the scope of DRB capabilities and experience?

- While each of you have different backgrounds, many of you work on projects which are subject to parking requirements according to local codes. As part of your day-to-day role as architects and design professionals, you design space for parking, circulation, including the necessary provisions for the number of required spaces as well as the various types (e.g. special needs, compact, etc.). You are the ideal professionals to consider the proposed design and potentially suggest ways to increase the number of spaces to achieve code (or close the gap between code and proposal) within the context of the proposal as a whole.
- With your knowledge and experience, you can thoughtfully consider the input of the applicant and their architect, together with that of the Planning Official, Public Works and the public. If this process is reverted to the Planning Official, then you have limited or no ability to suggest design changes (re: parking) that would be helpful to the project in this regard and the public is excluded entirely. The DRB process is the only public opportunity to have all of those perspectives considered as part of the overall project approval.

How are the citizens of Kirkland, especially those who are in the immediate vicinity, best served?

- Now that parking modifications are part of the DRB role, the public can see the proposed parking provisions as part of the online DRB packet along with the comparison of the proposal to the Zoning Code. If this process is reverted to the Planning Official, the public has no way to even know that a modification is under consideration or approved – and therefore, the public has no way to provide any input, suggestions, concerns, etc. This is especially a matter of concern for neighboring properties which are the most directly impacted by spillover parking – and who, if this reverts back to the old process - won't even know about the parking reductions until after it has already been approved.
- We are all best served by increased transparency and open process in government functions and this is no exception. Every item that goes "behind closed doors" leads to skepticism and distrust of the City and/or its staff. By having these matters considered in open air and by allowing the public to hear qualified professionals such as you discuss these matters, it adds credibility to the process.

Does this cause an unreasonable burden for the DRB to include this in their role?

- I do not believe this causes an unreasonable burden. Consider that the calculations of how many spaces are going to be provided, along with the circulation and layout, has to be provided by the applicant in any circumstance. Similarly, the planning staff and Public Works have to do the calculations and comparison to the Zoning Code – again, in any circumstance. While this may add some additional time to the presentation, discussion and to the DRB materials, the burden is small and the benefits of access to information and transparency for public interest are large.

Is it preferable to have some other body or official address parking modifications?

- The DRB is the only authoritative body that can address this in open air. The Parking Advisory Board is a non-authoritative body and moreover, would require a separate set of meetings (i.e. separate from the DRB process) if somehow this could be assigned to them, which complicates matters for the applicant and the public (also note that the PAB meets during working hours which precludes attendance for many citizens).
- Assigning this back to the Planning Official takes the public out of the process, which is not preferable. Our current Planning Officials are capable and knowledgeable about the Zoning Code and are aware of the overall parking supply and the impacts of spillover parking. However, these are not the last people who will ever hold these positions and our Zoning Code should be drafted in a way that contemplates current and future issues without regard to the confidence that we have in the personnel who are currently in place. Further, I believe that the capabilities and recommendations of our staff, combined with public input and DRB review, conducted in open air, significantly enhances the process and respect for the outcome.

Other benefits or detriments?

- If parking modifications are considered by the DRB in open air as part of public process, this is a significant deterrent to fraud. Parking is expensive – either to provide the actual spaces and/or to pay into the City's in-lieu fund. An unscrupulous developer could find it financially advantageous to persuade or otherwise motivate a planning official to agree to a parking modification. I don't believe this has ever happened here and moreover, I am confident that our staff would not only reject such an offer, they would promptly notify authorities in the event such an offer was made. But the harsh reality is that these sorts of events take place in cities and a "behind closed doors" process is fuel for the fire. As noted above, our current planning officials are not the last people who will ever hold these positions. Or said in a more positive way, by having the parking modification process take place in open air as part of regular public process, it adds to the system of internal controls as a safeguard, and the likelihood of this type of fraud is significantly reduced.
- Our current Zoning Code requirements for parking are the cause of debate. There is a likelihood that a change in the requirements could occur which ideally will resolve many if not all of these debates. However, whether we are operating under the current Zoning Code or one that is modified in the future, the Zoning Code in place is that which we are required to adhere to. In fact, the open public discussion of why a variance is or is not appropriate for a particular proposal may well help the process of updating the Zoning Code by raising and discussing issues in open air.

Thank you for your consideration of this important and time-sensitive matter and I look forward to your discussion. I hope that you will determine that the value of transparency in process far outweighs any possible arguments for reverting this significant public-interest process away from the DRB.

Respectfully submitted,

Bea Nahon
PO Box 3209
Kirkland WA 98083-3209



FACT SHEET

Action Sponsor and Lead Agency

City of Kirkland Department of
Planning and Community
Development

Proposed Action

Legislative adoption of Miscellaneous
Amendments to the Kirkland Zoning
Code pursuant to Chapter 160 KZC
(Process IV).

Responsible Official

A handwritten signature in black ink, appearing to read "E.R. Shields", is written over a horizontal line.

Eric R. Shields, AICP
Planning Director

Contact Person

Jon Regala, Senior Planner
City of Kirkland (425) 587-3255.

Required Approvals

Adoption by Kirkland City Council

Location of Background Data

File ZON10-00002
City of Kirkland
Department of Planning and
Community Development
123 Fifth Avenue
Kirkland, WA 98033

Date of Issuance

May 20, 2010



City of Kirkland

Process IV – Miscellaneous Zoning Code Amendments EIS Addendum dated May 20, 2010 File No. ZON10-00002

I. Background

The City of Kirkland proposes to amend several provisions of the Kirkland Zoning Code. The amendments are selected from an on-going list of issues, code interpretations, requests from the public, requests from City Council, and needs identified by staff. The amendments will be reviewed using the Chapter 160 KZC, Process IV with adoption by the City Council. Section V below contains additional information regarding the proposed changes.

This Environmental Impact Statement (EIS) Addendum is intended to fulfill the environmental requirements pursuant to the State Environmental Policy Act (SEPA) for the proposed Zoning Code amendments.

II. EIS Addendum

According to the SEPA Rules, an EIS addendum provides additional analysis and/or information about a proposal or alternatives where their significant environmental impacts have been disclosed and identified in a previous environmental document (WAC 197-11-600(2)). An addendum is appropriate when the impacts of the new proposal are the same general types as those identified in the prior document, and when the new analysis does not substantially change the analysis of significant impacts and alternatives in the prior environmental document (WAC 197-11-600(4)(c), -625 and -706).

The City published the *City of Kirkland 2004 Draft and Final Comprehensive Plan 10-year Update*. This EIS addressed the 2004 Comprehensive Plan, Zoning Code and Zoning Map updates required by the Washington State Growth Management Act (GMA). Elements of the environment addressed in this EIS include population and employment growth, earth resources, air quality, water resources, plants and animals, energy, environmental health (noise, hazardous materials), land use, socioeconomics, aesthetics, parks/recreation, transportation, and public services/utilities.

This addendum to the *City of Kirkland 2004 Draft and Final Comprehensive Plan 10-year Update* is being issued pursuant to WAC 197-11-625 to meet the City's SEPA responsibilities. The EIS evaluated plan alternatives and impacts that encompass the same general policy direction, land use pattern, and environmental impacts that are expected to be associated with the proposed amendments to Kirkland Zoning Code as

discussed herein. While the specific location, precise magnitude, or timing of some impacts may vary from those estimated in the *City of Kirkland 2004 Draft and Final Comprehensive Plan 10-year Update*, they are still within the range of what was evaluated and disclosed there. No new significant impacts have been identified.

III. Non-Project Action

Decisions on the adoption or amendment of zoning ordinances are referred to in the SEPA rules as "non-project actions" (WAC 197-11-704(2)(b)). The purpose of an EIS in analyzing a non-project action is to help the public and decision-makers identify and evaluate the environmental effects of alternative policies, implementation approaches, and similar choices related to future growth. While plans and regulations do not directly result in alteration of the physical environment, they do provide a framework within which future growth and development – and resulting environmental impacts – will occur. Both the adoption of the Comprehensive Plan evaluated in the *City of Kirkland 2004 Draft and Final Comprehensive Plan 10-year Update* and eventual action on the amendments to the Kirkland Zoning Code are "non-project actions".

IV. Environmental Analysis

The *City of Kirkland 2004 Draft and Final Comprehensive Plan 10-year Update* evaluated the environmental impacts associated with adoption of proposed policies and land use designations. The plan's policies are intended to accomplish responsibilities mandated by the Washington State Growth Management Act (GMA), and to mitigate the impacts of future growth. In general, environmental impacts associated with the proposed Zoning Code amendment are similar in magnitude to the potential impacts disclosed in the *City of Kirkland 2004 Draft and Final Comprehensive Plan 10-year Update*. As this proposal is consistent with the policies and designations of the Comprehensive Plan and the environmental impacts disclosed in the *City of Kirkland 2004 Draft and Final Comprehensive Plan 10-year Update*, no additional or new significant impacts beyond those identified in the EIS for the Comprehensive Plan are anticipated.

V. Description of the Proposal

The proposal would modify, add, and/or delete several provisions of the Kirkland Zoning Code. The following is a summary of the proposed changes:

1. KZC 53.59.010(2) RH 5C Zoning District – Eliminate outdated references to KZC 95.25 and 95.45 and replace with the actual landscape buffer standard and easement dedication language.
2. Codify Interpretation 09-3 – make KZC 115.20 Special Regulation 6 applicable to lots northeast of Bridle Trails Park (in the Bridle View Annexation)
3. Codify Interpretation 09-3 – make KZC 17.10.010 Special Regulation 5 applicable to lots northeast of Bridle Trails Park (in the Bridle View Annexation)
4. Add references to KZC Section 50.62 - Building Height Provisions in the CBD

5. KZC 105.103.2 - Remove the Design Review Board (DRB) as the decision maker of modifications to KZC Chapter 105 and replace the DRB with the Planning Official.
6. KZC 142.40 - Change Design Response Conference (DRC) appeal hearing from City Council to Hearing Examiner
7. KZC Chapter 150 - Change Process IIA appeal hearing from City Council to Hearing Examiner

The Planning Commission public hearing staff report has been included as Exhibit A to this memo and provides additional background on the proposed code amendments. As a result of the upcoming public hearing, it is possible that some of the proposed amendments will not be adopted and others may change due to public input.

VI. Public Involvement

The Planning Commission will hold a hold public hearing on May 27, 2010. Public notice of the hearing is being provided in accordance with State law. The City Council will take final action on the proposal in July 2010. All dates are subject to change.

VII. Conclusion

This EIS Addendum fulfills the environmental review requirements for the proposed amendments to Kirkland Zoning Code. The impacts of the proposal are within the range of impacts disclosed and evaluated in the *City of Kirkland 2004 Draft and Final Comprehensive Plan 10-year Update*; no new significant impacts have been identified. Therefore, issuance of this EIS Addendum is the appropriate course of action.

Exhibit A: Planning Commission public hearing staff memo dated May 20, 2010

ORDINANCE NO. 4250

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO ZONING AND LAND USE, AMENDING PORTIONS OF THE FOLLOWING CHAPTERS OF ORDINANCE 3719 AS AMENDED, THE KIRKLAND ZONING ORDINANCE; CHAPTER 17 – RSX ZONES; CHAPTER 50 – CBD ZONES; CHAPTER 53 – RH 5C ZONES; CHAPTER 105 – PARKING AREAS, VEHICLE AND PEDESTRIAN ACCESS, AND RELATED IMPROVEMENTS; CHAPTER 115 MISCELLANEOUS STANDARDS; AND CHAPTER 142 – DESIGN REVIEW; AND APPROVING A SUMMARY ORDINANCE FOR PUBLICATION, FILE NO. ZON10-00002.

WHEREAS, the City Council has received recommendation from the Kirkland Planning Commission to amend certain sections of the text of the Kirkland Zoning Code, Ordinance 3719 as amended, all as set forth in reports and recommendations of the Planning Commission dated June 24, 2010, and bearing Kirkland Department of Planning and Community Development File No. ZON10-00002; and

WHEREAS, prior to making said recommendations, the Kirkland Planning Commission, following notice thereof as required by RCW 35A.63.070, on May 27, 2010, held a public hearing, on the amendment proposals 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 through 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 reports and recommendations of the Planning Commission; and.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Kirkland 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. Except as provided in Section 2, this ordinance shall be in full force and effect five days 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 _____, 2010.

SIGNED IN AUTHENTICATION thereof this _____ day of _____, 2010.

Mayor

Attest:

City Clerk

Approved as to Form:

City Attorney

USE ZONE CHART

DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS

Section 17.10	USE ↓ 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						
.010	Detached Dwelling Unit	None	As established on the Zoning Map. See Spec. Reg. 1.	20' See Spec. Reg. 6.	5' each side. See Spec. Reg. 3.	10'	50% See Spec. Reg. 5.	30' above average building elevation.	E	A	2.0 per dwelling unit.	<p>1. Minimum lot size per dwelling unit is as follows:</p> <ul style="list-style-type: none"> a. In RSX 35 zones, the minimum lot size is 35,000 square feet. b. In RSX 8.5 zones, the minimum lot size is 8,500 square feet. c. In RSX 7.2 zones, the minimum lot size is 7,200 square feet. d. In RSX 5.0 zones, the minimum lot size is 5,000 square feet. <p>In RSX 35, 8.5, 7.2 and 5.0 zones, not more than one dwelling unit may be on each lot, regardless of the size of the lot.</p> <p>2. Floor Area Ratio (F.A.R.) allowed for the subject property is as follows:</p> <ul style="list-style-type: none"> a. In RSX 35 zones, F.A.R. is 20 percent of lot size. b. In RSX 12.5 zones, F.A.R. is 35 percent of lot size. c. In RSX 8.5 zones, F.A.R. is 50 percent of lot size. d. In RSX 7.2 zones, F.A.R. is 50 percent of lot size. e. In RSX 5.0 zones, F.A.R. is 50 percent of lot size; provided, that F.A.R. may be increased up to 60 percent of lot size for the first 5,000 square feet of lot area if the following criteria are met: <ul style="list-style-type: none"> i. The primary roof form of all structures on the site is peaked, with a minimum pitch of four feet vertical: 12 feet horizontal; and ii. A setback of at least 7.5 feet is provided along each side yard. <p>See KZC 115.42, Floor Area Ratio (F.A.R.) Calculation for Detached Dwelling Units in Low Density Residential Zones, for additional information.</p> <p>3. On corner lots, only one front yard must be a minimum of 20 feet. All other front yards shall be regulated as a side yard (minimum five-foot yard). The applicant may select which front yard shall meet the 20-foot requirement.</p> <p>4. Chapter 115 KZC contains regulations regarding home occupations and other accessory uses, facilities and activities associated with this use.</p> <p>5. Residential lots in RSX zones within the Bridle Trails neighborhood north of Bridle Trails State Park must contain a minimum area of 10,000 permeable square feet, which shall comply with Special Regulation 6 for large domestic animals in KZC 115.20(4) (chart).</p> <p>6. Garages shall comply with the requirements of KZC 115.43, including required front yard. These requirements are not effective within the disapproval jurisdiction of the Houghton Community Council.</p>

and northeast

50.14 User Guide.

See also KZC 50.62 for additional building height provisions.

The charts in KZC 50.17 contain the basic zoning regulations that apply in the CBD 2 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 50.15

Zone
CBD-2

Section 50.15 – GENERAL REGULATIONS

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

1. Refer to Chapter 1 KZC to determine what other provisions of this code may apply to the subject property.
2. See KZC 50.20 for regulations regarding bulkheads and land surface modification.
3. Along Lake Street South, north of Kirkland Avenue, buildings exceeding one story above Lake Street South shall demonstrate compliance with the Design Regulations of Chapter 92 KZC and all provisions of the Downtown Plan. Through Design Review (D.R.) the City shall find that any allowance for additional height is clearly outweighed by identified public benefits such as through-block public pedestrian access or through-block view corridors (does not apply to Public Access Pier or Boardwalk and Moorage Facility for One or Two Boats uses).
4. In no case shall the height exceptions identified in KZC 50.62 and 115.60(2)(d) result in a structure which exceeds 28 feet above the abutting right-of-way (does not apply to Public Access Pier or Boardwalk, Moorage Facility for One or Two Boats uses and General Moorage Facility Uses).
5. South of Second Avenue South, maximum height of structure is 41 feet above Lake Street South as measured at the midpoint of the frontage of the subject property on Lake Street South. Buildings exceeding two stories shall demonstrate compliance with the design regulations of Chapter 92 KZC and all provisions of the Downtown Plan (does not apply to Public Access Pier or Boardwalk and Moorage Facility for One or Two Boats uses).
6. For purposes of measuring building height, if the subject property abuts more than one right-of-way, the applicant may choose which right-of-way shall be used to measure the allowed height of structure (does not apply to Public Access Pier or Boardwalk, Moorage Facility for One or Two Boats, and General Moorage Facility uses).
7. May not use land waterward of the high waterline to determine lot size or to calculate allowable density.
8. Development in this zone may also be regulated under the City's Shoreline Master Program; consult that document.

50.24 User Guide.

The charts in KZC [50.27](#) contain the basic zoning regulations that apply in the CBD 3 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 50.25

**Section 50.25 – GENERAL REGULATIONS**

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

1. Refer to Chapter [1](#) KZC to determine what other provisions of this code may apply to the subject property.
2. No portion of a structure within 100 feet of the southerly boundary of 2nd Avenue South abutting Planned Area 6C may exceed 25 feet above average building elevation (does not apply to Detached Dwelling Unit uses).
3. Site and building design must include installation of pedestrian linkages consistent with the major pedestrian routes in the Downtown Plan chapter of the Comprehensive Plan (does not apply to Detached Dwelling Unit uses).

4. See KZC 50.62 for additional building height provisions.

50.29 User Guide.

The charts in KZC 50.32 contain the basic zoning regulations that apply in the CBD 4 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 50.30

**Section 50.30 – GENERAL REGULATIONS**

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

1. Refer to Chapter 1 KZC to determine what other provisions of this code may apply to the subject property.
2. Structures east of Second Street South shall be set back 10 feet from Second Avenue South (does not apply to Detached Dwelling Unit and Public Park uses).
3. Ground floor porches and similar entry features may encroach into the required front yard, provided the total horizontal dimensions of such elements may not exceed 25 percent of the length of the facade of the structure (does not apply to Public Park uses).
4. Maximum height of structure is 55.4 feet above average building elevation west of Second Street South, including any adjacent structure in CBD-1 west of 2nd Street South developed with a structure in this zone.
5. No portion of a structure within 100 feet of the southerly boundary of Second Avenue South abutting Planned Area 6C shall exceed 35 feet. No portion of a structure within 40 feet of First Avenue South shall exceed 41 feet (does not apply to Detached Dwelling Unit uses).
7. ~~6.~~ Development shall not isolate any existing detached dwelling unit in this zone (does not apply to Detached Dwelling Unit and Public Park uses).

6. See KZC 50.62 for additional building height provisions.

50.33 User Guide.

The charts in KZC [50.35](#) contain the basic zoning regulations that apply in the CBD 5 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 50.34

Zone
CBD-5**Section 50.34 – GENERAL REGULATIONS**

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

1. Refer to Chapter [1](#) KZC to determine what other provisions of this code may apply to the subject property.
2. No portion of a structure above the elevation of Kirkland Way as measured at the midpoint of the frontage of the subject property on Kirkland Way may exceed the following:
 - a. Within 20 feet of Kirkland Way, 2 stories;
 - b. Within 40 feet of Kirkland Way, 4 stories;
 - c. Within 50 feet of Kirkland Way, 5 stories.
3. Buildings exceeding two stories above average building elevation shall demonstrate compliance with the design regulations of Chapter [92](#) KZC and the provisions of the Downtown Plan Chapter of the Comprehensive Plan. The City will use Design Review (D.R.) to determine compliance.
4. The minimum required yard abutting Peter Kirk Park is 10 feet. The required front yard is 0 feet for those portions of buildings with continuous retail or restaurant uses at street level. Kirkland Way shall be considered a pedestrian-oriented street if the front yard is less than 20 feet.
5. No portion of a structure within 100 feet of Peter Kirk Park shall exceed three stories above average building elevation.
6. Ground floor porches and similar entry features may encroach into the required front yard, provided the total horizontal dimensions of such elements may not exceed 25 percent of the length of the facade of the structure (does not apply to Public Park uses).
7. The entire zone must be physically integrated both in site and building design. Also, site design must include installation of pedestrian linkages consistent with the major pedestrian routes in the Downtown Plan chapter of the Comprehensive Plan, between public sidewalks and building entrances, and between walkways on the subject property and existing or planned walkways on abutting properties (does not apply to Public Utility, Government Facility or Community Facility and Public Park uses).

See also KZC 50.62 for additional building height provisions.

50.36 User Guide.

The charts in KZC [50.38](#) contain the basic zoning regulations that apply in the CBD 5A 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 50.37



Section 50.37 – GENERAL REGULATIONS
The following regulations apply to all uses in this zone unless otherwise noted:

1. Refer to Chapter [1](#) KZC to determine what other provisions of this code may apply to the subject property.

2. See KZC 50.62 for additional building height provisions.

50.39 User Guide.

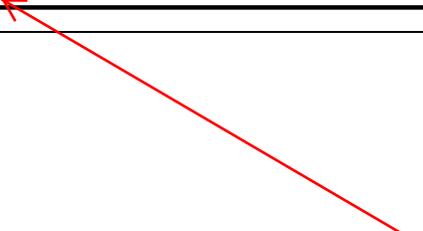
The charts in KZC [50.42](#) contain the basic zoning regulations that apply in the CBD 6 zones of the City. Use these charts by reading down the left hand column entitled Use. Once you locate the use in which you are interested, read across to find the regulations that apply to that use.

Section 50.40

**Section 50.40 – GENERAL REGULATIONS**

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

1. Refer to Chapter [1](#) KZC to determine what other provisions of this code may apply to the subject property.
2. The entire zone must be physically integrated both in site and building design. In addition, the design and development of the subject property must provide pedestrian linkage through this zone and between Central Way and areas to the north of this zone, consistent with the major pedestrian routes in the Downtown Plan chapter of the Comprehensive Plan.
3. The City may require that areas of the northeastern and southeastern portions of the subject property be developed with pedestrian scale amenities and landscaping to enhance the entryway into the Central Business District.



4. See KZC 50.62 for additional building height provisions.

50.44 User Guide.

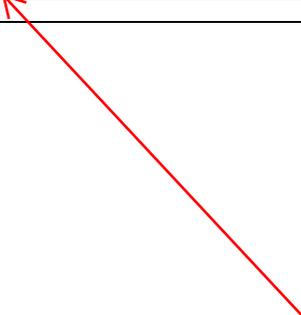
The charts in KZC [50.47](#) contain the basic zoning regulations that apply in the CBD 7 zones of the City. Use these charts by reading down the left hand column entitled Use. Once you locate the use in which you are interested, read across to find the regulations that apply to that use.

Section 50.45

**Section 50.45 – GENERAL REGULATIONS**

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

1. Refer to Chapter [1](#) KZC to determine what other provisions of this code may apply to the subject property.
2. Site design must include installation of pedestrian linkages between public sidewalks and building entrances and between walkways on the subject property and existing or planned walkways on abutting properties consistent with the major pedestrian routes in the Downtown Plan chapter of the Comprehensive Plan (does not apply to Public Utility, Government Facility or Community Facility and Public Park uses).
3. No setback is required adjacent to Third Street (does not apply to Vehicle Service Station and Public Park uses).



4. See KZC [50.62](#) for additional building height provisions.

50.49 User Guide.

The charts in KZC [50.52](#) contain the basic zoning regulations that apply in the CBD 8 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 50.50



Zone
CBD-8

Section 50.50 – GENERAL REGULATIONS

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

1. Refer to Chapter [1](#) KZC to determine what other provisions of this code may apply to the subject property.
2. The maximum height of a facade along Central Way is three stories above the elevation of Central Way as measured above the midpoint of the frontage of the subject property on Central Way.
3. A minimum 20-foot front yard setback is required adjacent to:
 - a. Fourth Avenue between 2nd Street and 3rd Street;
 - b. Third Street between 3rd Avenue and 4th Avenue;
 - c. Market Street.
4. The minimum required side and/or rear yard abutting the PR 3.6 and PLA 7A zones is five feet.
5. No portion of a structure shall exceed the height established by a 3:1 angle starting at a point 41 feet above the elevation of Central Way as measured at the projected midpoint of the subject property on Central Way and continuing to a point which intersects the established 30-foot height limit above 3rd Avenue or 4th Avenue.
6. For properties on the west side of 1st Street, the 30-foot height limit shall be measured above the midpoint of the intersection of 1st Street and 3rd Avenue. For properties with frontage on Market Street, the 30-foot height limit shall be measured above the midpoint of the subject property bordering the PR zone to the north. For properties fronting on 3rd Avenue between 2nd Place and 3rd Street, the 30-foot height limit shall be measured above the projected midpoint on 4th Avenue (does not apply to Public Park uses).
7. Site design must include installation of pedestrian linkages between public sidewalks and building entrances and between walkways on the subject property and existing or planned walkways on abutting properties consistent with the major pedestrian routes in the Downtown Plan chapter of the Comprehensive Plan (does not apply to Public Utility, Government Facility or Community Facility and Public Park uses).
8. The site must be designed so that vehicles coming from and going to the site will be directed away from residential neighborhoods to the north of this zone (does not apply to Stacked or Attached Dwelling Units or Assisted Living Facilities uses).

See also KZC [50.62](#) for additional building height provisions.



USE ZONE CHART

DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS

Section 53.59	USE 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						
.010	Accessory parking for commercial use located in RH 5A fronting on NE 85th Street	None	None	20'	15'	10'	80%	If adjoining a low density zone other than RSX, then 25' above average building elevation. Otherwise, 35' above average building elevation. See Spec. Reg. 1.	See Spec. Reg. 2. E See Spec. Reg. 9.	See KZC 105.25.	1. No new above-grade structures are permitted. 2. If landscape buffer KZC 95.25(1)(b) is chosen, the required fence shall be allowed to meander through the buffer or otherwise be placed so as to minimize impacts on adjoining property. The landscape buffer shall be contained in an easement pursuant to KZC 95.45, and the easement language should prohibit relocation, alteration, or relinquishment of the easement without a majority affirming vote of the City Council. Prior to issuance of construction permits, the applicant shall submit to the Planning Official for approval, a plan indicating compliance with the following standards: <u>e</u> . Trees within the north and east buffers shall be 10 to 12 feet in height at the time of planting; and <u>f</u> . The planting strip between the parking area and 124th Avenue NE shall be at least 10 feet wide; and <u>g</u> . The east property line landscape buffer shall include raised topography, either in the form of fill or a berm at least three feet in height, but taller if feasible, if the raised topography: (1) Is approved in writing by Seattle City Light; and (2) Does not worsen existing drainage conditions; and (3) Does not, in and of itself, result in the loss of on-site significant trees; and <u>h</u> . Landscape islands shall be provided in the parking lot interior and designed and oriented to help shield surrounding properties from light and glare; and <u>i</u> . The large conifer tree adjacent to the north property line shall be retained. 3. Along 124th Avenue NE, no new driveways are permitted. Widening or relocation of the existing driveway located on subject property in RH 5A may occur if such widening or relocation is consistent with City-adopted engineering standards. 4. Changes to the existing site topography shall be minimized. 5. Prior to issuance of construction permits, the applicant shall submit to the Public Works Official for approval a plan demonstrating through appropriate civil engineering drawings and data that the project will comply with City-adopted standards for storm water runoff control and treatment. Storm water control should at a minimum accomplish the following: a. Collect all new storm water runoff from newly introduced impervious surfaces in on-site catch basins; b. Detain collected storm water runoff on-site;	

a. Either a 25-foot or 15-foot wide landscape buffer planted along the boundary next to residential properties. If a 15-foot wide buffer is chosen, a six-foot high solid fence is required and shall be allowed to meander through the buffer or otherwise be placed so as to minimize impacts on adjoining property.
 b. The landscape buffer shall be planted with two rows of trees spaced eight feet on-center along the entire length of the buffer.
 c. Shrubs, 18 inches high, shall be planted to attain a coverage of at least 60 percent of the buffer area within two years.
 d. The landscape buffer shall be contained within an easement and the easement language shall prohibit relocation, alteration, or relinquishment of the easement without a majority affirming vote of the City Council.

REGULATIONS CONTINUED ON NEXT PAGE

REMOVING DRB AS DECISION MAKER FOR CERTAIN KZC CHAPTER 105 PROVISIONS

105.103 Modifications

1. General – The provisions of this section establish under what circumstances the requirements of this chapter may be modified.
2. Authority To Grant and Duration
 - a. If the proposed development of the subject property requires approval through ~~Design Review~~, Process I, IIA, IIB, or III, described in Chapters ~~142, 145~~, 150, 152 and 155 KZC, respectively, a request for a modification will be considered as part of that process under the provisions of this section. The City must find that the applicant meets the criteria listed below in subsection (3) of this section. If granted under ~~Design Review~~, Process I, IIA, IIB or III, the modification is binding on the City for all development permits issued for that development under the Building Code within five years of the granting of the modification.
 - b. For projects requiring Design Review described in Chapter 142, a request to modify the requirements in KZC 105.18 – Pedestrian Access will be considered as part of the Design Review process. The Design Review Board must find that the applicant meets the criteria listed below in subsection (3)(b) of this section.
 - ~~bc.~~ If subsection (2)(a) and/or (2)(b) of this section does not apply, the Planning Official may grant a modification in writing under the provisions of this section.

KZC Section
115.20 Special
Regulation 6

and northeast

placed closer than a point equidistant to any adjacent residential structure.

5. For residential lots containing one or more horses other than those regulated below in Special Regulation 6, each lot must contain an area of at least 14,500 sq. ft. capable of being used as a horse paddock area and configured in a contiguous and usable manner to accommodate the feed storage and manure pile for two horses. This area must be exclusive of any structures, including storage sheds, barns, residential units and carports. Direct access to this area must be available for trucks to deliver feed and pick up manure from an alley, easement, or an adjacent right-of-way across a side yard of the lot.

6. For residential lots in RS 35 and RSX 35 Zones within the Bridle Trails neighborhood north of Bridle Trails State Park or residential lots in PLA 16 which are not part of a recorded master plan, the required review process shall be "None," and the maximum number of adult animals and minimum lot size and setback regulations shall not apply.

REMOVING CITY COUNCIL AS DRB APPEAL HEARING BODY AND REPLACING WITH HEARING EXAMINER

142.40 Appeals of Design Review Board Decisions

1. Jurisdiction – Appeals of the decision of the Design Review Board will be heard as follows:
 - a. If a related development permit requires an open record public hearing, then the appeal shall be heard at that hearing and decided upon by the hearing body or officer or officer hearing the related development permit.
 - b. If there are no other open record hearings required for related development permits, then the decision of the Design Review Board shall be heard according to the Process I appeal and judicial review procedures and provisions in KZC Chapter 145.at an open record hearing by the City Council.

Only those issues under the authority of the Design Review Board as established by KZC 142.35(3) and (4) are subject to appeal.

PUBLICATION SUMMARY
OF ORDINANCE NO. 4250

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO ZONING AND LAND USE, AMENDING PORTIONS OF THE FOLLOWING CHAPTERS OF ORDINANCE 3719 AS AMENDED, THE KIRKLAND ZONING ORDINANCE; CHAPTER 17 – RSX ZONES; CHAPTER 50 – CBD ZONES; CHAPTER 53 – RH 5C ZONES; CHAPTER 105 – PARKING AREAS, VEHICLE AND PEDESTRIAN ACCESS, AND RELATED IMPROVEMENTS; CHAPTER 115 MISCELLANEOUS STANDARDS; AND CHAPTER 142 – DESIGN REVIEW; AND APPROVING A SUMMARY ORDINANCE FOR PUBLICATION, FILE NO. ZON10-00002.

SECTION 1. Provides that Kirkland Zoning Code is amended in various respects, and that the amendments are attached to the Ordinance as Attachment A.

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. Provides that the City Clerk shall send a certified copy of the Ordinance 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 _____, 2010.

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

City Clerk