



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

MEMORANDUM

To: Kurt Triplett, City Manager

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

Date: July 8, 2010

Subject: NE 69th Place Petition

RECOMMENDATION

It is recommended that Council not accept the request to allow NE 69th Place to be dedicated as public right-of-way.

BACKGROUND DISCUSSION

Introduction

Residents of NE 69th Place submitted a petition to Council on May 18, 2010 (Attachment A) stating the following:

1. The road is actually public not private based on common law dedication.
2. The residents of this road are interested in dedicating it to the City to be owned and maintained as a public road.

The first of these statements requires a legal interpretation, while the second is a policy consideration.

Legal Interpretation

NE 69th Place was constructed as part of the Bridle Tree No. 3 plat which was created in 1973 and was developed under King County roadway standards; the plat includes 8 properties (Attachment B, Attachment C). Six of the properties (11802, 11805, 11806, 11807, 11810, 11814 NE 69th Place) have driveways on NE 69th Place, and individual legal descriptions for each of these six properties include a 1/6 undivided interest in Tract "A" which encompasses NE 69th Place. The plat document notes that Tract "A" is a private road.

Review by City legal staff of the petition and background confirms that NE 69th Place is currently and has always been a private road. The NE 69th Place property owners' petition contends that the road is public by way of common law dedication. Common law dedication occurs when an owner(s) of property designates property for use by the public *and* it has been accepted for such use. Bunnell v. Blair, 132 Wn. App. 149, 154, 130 P.3d 423 (2006) (citing Richardson v. Cox, 108 Wash. App. 881, 890, 26 P.3d 970 (2001)). Both dedication and acceptance have to occur. The party asserting that the dedication exists has the burden of proving that all the essential elements are present. Richardson, 108 Wn. App. at 891 (citing Karb v. Bellingham, 61 Wn.2d 214, 218-19, 377 P.2d 984(1963)). The plat document clearly states that NE 69th Place is a private road that is owned by those served by it; there is no subsequent designation or past dedication converting this road to a public road.

In addition to the petition, the petitioners submitted documents that were downloaded from the King County property information web site that support their contention that road access is "Public" (Attachment D). The property detail information appears to be as a result of clerical error and has no legal basis; this error was pointed out to the King County Assessor's office who have already made the document modifications on the web-site. The plat document is the recorded legal description of conditions for the development.

Policy Considerations

The second issue raised in the petition is whether the City would accept dedication of this road as public. Dedication is typically done as a component of new development or redevelopment. Dedication of roads during the development process allow for the provision of public services typically enjoyed by residents: road maintenance, sweeping, traffic circulation, pedestrian access, utility servicing/maintenance, etc. As is the norm, a dedication would bring with it new facilities that would over time require maintenance and will eventually require overlay consistent with the remaining City street preservation schedule and criteria. Absent dedication at the time of development, there may be reasons such as traffic circulation, continuity of pedestrian ways, etc. that would warrant City approving a post development dedication. There have been no such dedications in institutional memory. However, as the City looks ahead to annexation of a significant roadway network in 2011, with the potential for this issue to be raised in the future, factors that were considered in making the staff recommendation include the following:

Would dedication lead to the potential for current or future improved travel circulation?

In the situation of NE 69th Place, the road is a cul-de-sac with no possible through connection opportunities. The area is fully developed with homes and no vacant surrounding land that may, through future development, allow for improved circulation. At the time of the original development, property to the west was vacant land and no requirement for a through street was required. It is true that standards and considerations may change over time, for example, under today's development standards, a maximum of four properties can be served off a private road such, and it would not be permitted to serve six. Despite this change in access standards, NE 69th Place provides even less connection potential today than was available when it was originally developed.

What is the age and condition of the pavement and other roadway elements?

The approximately 35 year old road is in need of asphalt repair and an overlay; the pavement condition index (PCI) for the road is estimated to be in the 50 range (fair). Because it is a private road, the actual PCI is not in the City's inventory – a cursory view has been conducted. In addition, the street maintenance staff has inspected the street and estimate that the costs to

repair the street prior to either an overlay or slurry seal would be approximately \$15,000; this would include patching and curb repair work. An additional \$23,000 is needed to overlay the road bringing the total cost to approximately \$38,000. Because the volume of the road is low, it is a candidate for a slurry seal which would be approximately \$2000 (as compared to the overlay). There is no existing sidewalk on this road.

What is the condition of the existing utilities?

Both water and sanitary sewer are provided by the public system, are within easements, and have had no issues. The storm drainage system has been inspected by surface water maintenance staff and is in good working condition; however, NE 69th Place has had past drainage issues. Two properties on this street have experienced flood damage from storm water flowing off of NE 69th Place, and claims for this flood damage were filed against the City. Neither of the claims was paid, but there is concern that if the street became a public right-of-way, the City's protection against possible future claims could be weakened. In order to prevent any future potential claims, it is recommended that the existing storm system in NE 69th Place be improved in order to handle storm volumes that are anticipated in current City design standards. This system could range in cost from \$5,000 to \$15,000 depending on the magnitude of the improvements.

Summary and Recommendation

There are three apparent options for consideration of the proposed dedication to the City:

1. Assume overall responsibility for NE 69th Place as a public road immediately by accepting the property owners post development dedication petition. Maintenance and repair would be programmed into future work plans.
2. Assume overall responsibility for NE 69th Place as a public road after the petitioners bring the road and utility system to current standards or by providing funds to allow City forces to incorporate the improvements into future work plans.
3. Do not accept responsibility of the private road and allow it to remain with the original plat.

In light of the current financial challenges the City is facing, specifically in the immediate needs facing the public roadway pavement network, and in consideration of the history of flooding events along this private road, Staff recommends not accepting the dedication of NE 69th Place.

Attachment A – NE 69th Place Petition
Attachment B – NE 69th Place Location Map
Attachment C – Plat of Bridle Tree No. 3
Attachment D – Property Detail (King County website)

cc: John Hopfauf, Street Division Manager
Bobbie Wallace, Sewer and Surface Water Maintenance Manager

To: The City of Kirkland, WASHINGTON
Hon. Mayor
City Manager's Office
Department of Public Works
123 Fifth Avenue Kirkland, Washington 98033

April 20, 2010

We, the undersigned owners of real property abutting NE 69th Place in Kirkland are hereby petitioning that the status of the said cul-de-sac be restored from Private Road in 2008 to Public Road that the City of Kirkland has served as from 1974 to 2008, which also comes under the definition of the Common Law Dedication of the State of Washington.

We also declare that we are willing to dedicate the rights of way and release of easements as needed.

PROPERTY OWNERS

SIGNATURES

Parcel Number 1088020010
Address 11814 NE 69TH PL
Zipcode 98033
Taxpayer MATTHEWS JACK D+SHARON D

Jack Matthews
Sharon Matthews

Parcel Number 1088020020
Address 11810 NE 69TH PL
Zipcode 98033
Taxpayer COX MELVIN A

Melvin A Cox
Jan M Cox

Parcel Number 1088020030
Address 11806 NE 69TH PL
Zipcode 98033
Taxpayer JALALI IRAJ+SAHBA

Iraj Jalali
Sahba Jalali

Parcel Number 1088020040
Address 11802 NE 69TH PL
Zipcode 98033
Taxpayer SUBAYKAN
DOGAN NUR+M FUSUN

Dogan Subaykan
M Nur Subaykan

Parcel Number 1088020050
Address 11805 NE 69TH PL
Zipcode 98033
Taxpayer MORRIS HUGH D+MARY

Hugh Morris 4/28/10
Mary Morris 4/28/10

Parcel Number 1088020060
Address 11807 NE 69TH PL
Zipcode 98033
Taxpayer HEIMDAHL ROGER H

Roger Heimdahl 4-28-10
Doreen Heimdahl 4-28-10

Parcel Number 1088020070
Address 6905 119TH AVE NE
Zipcode 98033
Taxpayer LAVINTHAL LOREN M

Loren Lavinthal 4-30-10
Alta Blakely 4-30-10

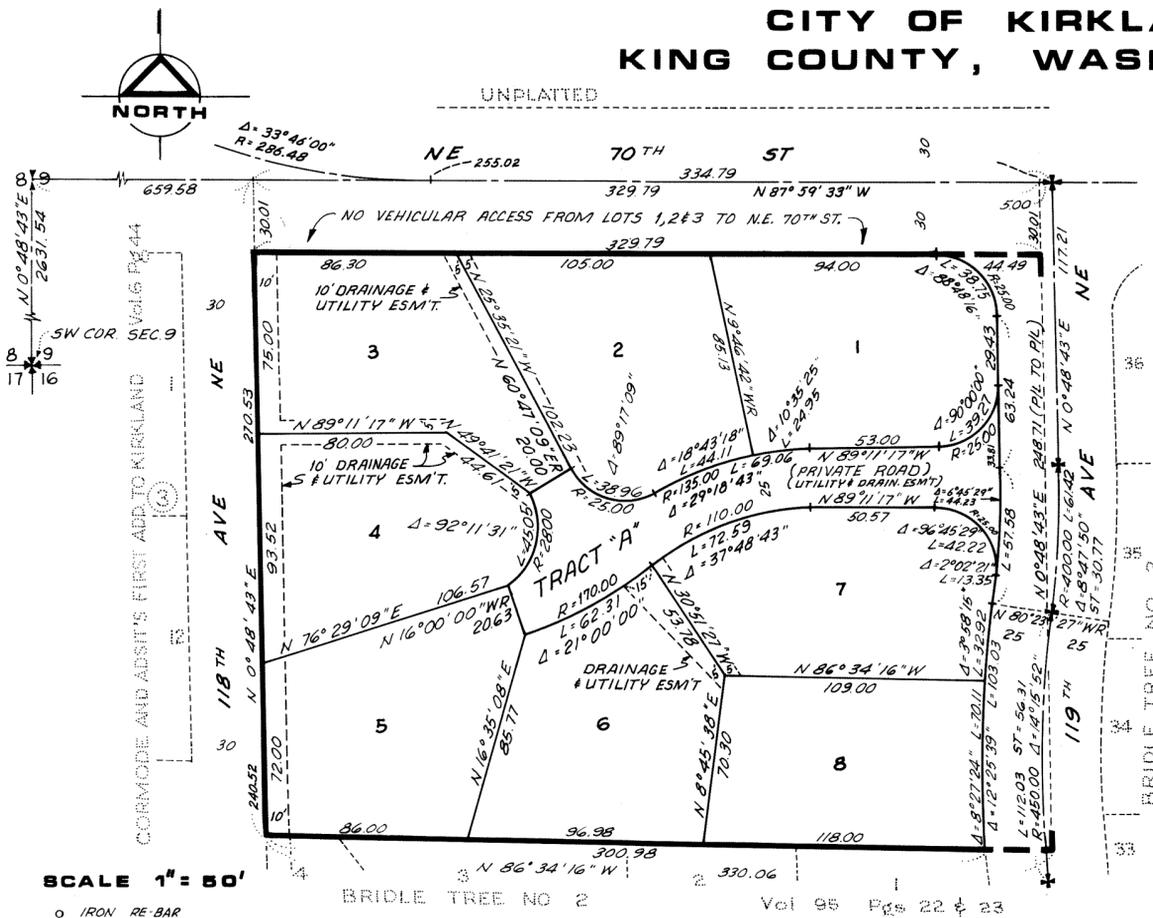
20

1/1

BRIDLE TREE NO. 3 SECTION 9, TWP. 25 N., R. 5 E., W.M.

96-23

CITY OF KIRKLAND KING COUNTY, WASHINGTON



DEDICATION

KNOW ALL MEN BY THESE PRESENTS that we, the undersigned, owners in fee simple of the land hereby platted, hereby declare this plat and dedicate to the use of the public forever all streets and avenues shown thereon and the use thereof for all public purposes not inconsistent with the use thereof for public highway purposes; also, the right to make all necessary slopes for cuts and fills upon the lots and blocks shown on this plat in the original reasonable grading of the streets and avenues shown hereon.

IN WITNESS WHEREOF we have set our hands and seals.

Nicholas Janssen, Robert E. Ferguson
Lawrence F. McEown, Charles Swartwood

ACKNOWLEDGMENT

STATE OF WASHINGTON) ss:
COUNTY OF KING)

This is to certify that on this 9 day of August, 1973, before me, the undersigned, a Notary Public, personally appeared NICHOLAS JANSSEN and ROBERT E. FERGUSON, VICE-PRES and WICK HOMES, INC., a Washington corporation, to me known to be the individuals who executed the within dedication and acknowledged to me that they signed and sealed the same as their voluntary act and deed for the uses and purposes therein mentioned and on oath stated that they were authorized to execute said instrument and that the seal affixed is the corporate seal of said corporation.

WITNESS my hand and official seal the day and year first above written.

Mary L. Webb
Notary Public in and for the State of Washington residing at Seattle.

STATE OF WASHINGTON) ss:
COUNTY OF KING)

This is to certify that on this 9th day of August, 1973, before me, the undersigned, a Notary Public, personally appeared LAURENCE McEOWN AND CHARLES SWARTWOOD, Asst. V.P. and VICE-PRES, respectively, of WICK HOMES, INC., a Washington corporation, to me known to be the individuals who executed the within dedication and acknowledged to me that they signed and sealed the same as their voluntary act and deed for the uses and purposes therein mentioned and on oath stated that they were authorized to execute said instrument WITNESS my hand and official seal the day and year first above written.

Mary L. Webb
Notary Public in and for the State of Washington residing at Seattle.

APPROVALS

Approved by the Houghton Community Council, this 11th day of Sept., 1973.
Kyle Stokes Secretary
Arthur H. Bruntson Chairman

Approved by the City of Kirkland Planning Commission this 13th day of Sept., 1973.
Planning Director: Arthur H. Bruntson Chairman: John J. Jones

Approved by the Kirkland City Council, this 1st day of October, 1973.
Clerk: Tom J. Aderson Mayor: Joseph A. Martineau
City of Kirkland

Examined and approved this 17 day of OCTOBER, 1973.
Department of Public Works
City of Kirkland Arthur E. Bruntson

Examined and approved this 26th day of October, 1973.
DEPARTMENT OF ASSESSMENTS
Deputy, King County Assessor: A. Martineau King County Assessor: HARLEY H. HOPPE

COMPTROLLERS CERTIFICATE

I hereby certify that there are no delinquent special assessments certified to this office for collection and that all special assessments certified to this office for collection on any of the property herein contained dedicated as streets, alleys or for other public use are paid in full.

This 17 day of OCTOBER, 1973.
Tom J. Aderson
Treasurer, City of Kirkland

I hereby certify that all property taxes are paid, that there are no delinquent special assessments certified to this office for collection and that all special assessments certified to this office for collection on any of the property herein contained, dedicated as streets, alleys or for other public use, are paid in full.

This 30 day of October, 1973.
OFFICE OF THE COMPTROLLER
Jack V. McKenzie King County Comptroller
Charles A. Wright Deputy King County Comptroller

DESCRIPTION

This plat of BRIDLE TREE No.3 is a replat of Block 2 in the plat of Cormode and Adsit's First Addition to Kirkland as recorded in Volume 6 of Plats, Page 44, records of King County, Washington; together with vacated streets adjoining thereto; all more particularly described as follows:

Commencing at the southwest corner of said plat at the southwest corner of Section 9, Township 25 North, Range 5 East W.M., in the City of Kirkland, King County, Washington; thence N 0°48'43"E, along the west line of said plat, 2631.54 feet to the northwest corner of said plat; thence S 87°59'33"E along the north line of said plat and the centerline of N.E. 70th Street (Lake Street) 659.58 feet to the centerline of 118th Avenue N.E. (Cormode Lake Street); thence S 0°48'43"W along said last mentioned centerline 30.01 feet to the POINT OF BEGINNING; thence continuing S 0°48'43"W 240.52 feet to the northwest corner of Lot 4 in the plat of BRIDLE TREE No.2 as recorded in Volume 95 of plats on pages 22 and 23 records of said county; thence along the boundary of said plat S 86°34'16"E 330.06 feet and N 0°48'43"E 248.71 feet to the southerly margin of 70th Street (Lake Street); thence N 87°59'33"W, along said southerly margin and the northerly boundary of said Block 2 and the westerly prolongation of said Block 2 a distance of 329.79 feet to the Point of Beginning.

RESTRICTIONS

No lot or portion of a lot in this plat shall be divided and sold or resold or ownership changed or transferred whereby the ownership of any portion of this plat shall be less than the area required for the use district in which located.

EASEMENT PROVISIONS

An easement is hereby reserved for and granted to PUGET SOUND POWER & LIGHT COMPANY and GENERAL TELEPHONE COMPANY OF THE NORTHWEST, INC., and their respective successors and assigns, under and upon the exterior 7 feet, parallel with and adjoining the street frontage of all lots in which to install, lay, construct, renew, operate and maintain underground conduits, cables and wires with necessary facilities and other equipment for the purpose of serving this subdivision and other property with electric and telephone service, together with the right to enter upon the lots at all times for the purposes herein stated. Also, each lot shall be subject to an easement 2.5 feet in width, parallel with and adjacent to all interior lot lines for purposes of utilities and drainage.

TRACT "A" is subject to easements for utilities and drainage.
No lines or wires for the transmission of electric current or for telephone use, CATV, fire or police signals, or for other purposes, shall be placed or permitted to be placed upon any lot outside the buildings thereon unless the same shall be underground or in conduit attached to the building.

LAND SURVEYOR'S CERTIFICATE

I hereby certify that this plat of BRIDLE TREE NO.3 is based upon an actual survey and subdivision of Section 9, Twp. 25 N., Range 5 E., W.M.; that the courses and distances are shown correctly thereon; that the monuments will be set and the lot and block corners staked correctly on the ground and that I have fully complied with the provisions of the platting regulations.



D. K. Roupe
D. K. Roupe, Pro. Land Surveyor
Certificate No. 9435

RECORDING CERTIFICATE 7311010329

Filed for record at the request of the CITY OF KIRKLAND this 1st day of NOV., 1973, at 49 minutes past 8:00 a.m. and recorded in volume 96 of Plats, page 23, records of King County, Washington.

DEPARTMENT OF RECORDS AND ELECTIONS
NORWARD J. BROOKS M & R.
Glenn R. Stephens S.U.P.T. OF RECORDS



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PARCEL DATA

Parcel	108802-0040	Jurisdiction	KIRKLAND
Name	SUBAYKAN DOGAN NUR+M FUSUN	Levy Code	1700
Site Address	11802 NE 69TH PL 98033	Propert Type	R
Residential Area	093-015 (NE Appraisal District)	Plat Block / Building Number	
		Plat Lot / Unit Number	4
		Quarter-Section-Township-Range	SW-9-25-6

Legal Description

BRIDLE TREE # 3 TGW UND 1/6TH INT IN TR A

LAND DATA

Highest & Best Use As If Vacant	SINGLE FAMILY	Percentage Unusable	0
Highest & Best Use As Improved	PRESENT USE	Unbuildable	NO
Present Use	Single Family(Res Use/Zone)	Restrictive Size Shape	NO
Base Land Value SqFt	0	Zoning	RS 8.5
Base Land Value	215,000	Water	WATER DISTRICT
% Base Land Value Impacted	100	Sewer/Septic	PUBLIC
Base Land Valued Date	12/12/2005	Road Access	PUBLIC
Base Land Value Tax Year	2007	Parking	
Land SqFt	7,700	Street Surface	PAVED
Acres	0.18		

Views

Rainier	
Territorial	
Olympics	
Cascades	
Seattle Skyline	
Puget Sound	
Lake Washington	
Lake Sammamish	
Lake/River/Creek	
Other View	

Waterfront

Waterfront Location	
Waterfront Footage	
Lot Depth Factor	
Waterfront Bank	
Tide/Shore	
Waterfront Restricted Access	
Waterfront Access Rights	NO
Poor Quality	
Proximity Influence	NO

Designations

Historic Site	
Current Use	
Nbr Bldg Sites	
Adjacent to Golf Fairway	NO
Adjacent to Greenbelt	NO
Other Designation	NO
Deed Restrictions	NO
Development Rights Purchased	NO
Easements	NO
Native Growth Protection Easement	NO
DNR Lease	NO

Nuisances

Topography	NO
Traffic Noise	
Airport Noise	
Power Lines	NO
Other Nuisances	NO

Problems

Water Problems	NO
Transportation Concurrency	NO
Other Problems	NO

Environmental

Environmental	NO
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BUILDING

Building Number	1
Year Built	1974



Click the camera to see more pictures.

Reference Links:

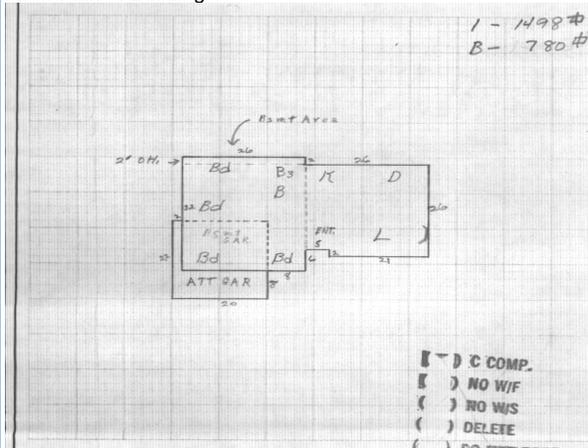
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- [Board of Appeals/Equalization](#)
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- [Scanned images of plats](#)

Year Renovated	0
Stories	1
Living Units	1
Grade	8 Good
Grade Variant	0
Condition	Average
Basement Grade	7 Average
1st Floor	1,500
1/2 Floor	0
2nd Floor	0
Upper Floor	0
Finished Basement	530
Total Living	2,030
Total Basement	780
Basement Garage	250
Unfinished 1/2	0
Unfinished Full	0
Attached Garage	190
Bedrooms	4
Full Baths	1
3/4 Baths	1
1/2 Baths	1
Heat Source	Gas
Heat System	Forced Air
Deck Area SqFt	0
Open Porch SqFt	0
Enclosed Porch SqFt	0
Brick/Stone	0
Fireplace Single Story	1
Fireplace Multi Story	0
Fireplace Free Standing	0
Fireplace Additional	0
AddnlCost	0
Obsolescence	0
Net Condition	0
Percentage Complete	0
Daylight Basement	YES
View Utilization	

Picture of Building 1



Floor Plan of Building 1



TAX ROLL HISTORY

Account	Valued Year	Tax Year	Omit Year	Levy Code	Appraised Land Value	Appraised Imps Value	Appraised Total Value	New Dollars	Taxable Land Value	Taxable Imps Value	Taxable Total Value	Tax Value Reason
108802004003	2010	2011		1700	\$241,000	\$138,000	\$379,000	\$0	\$241,000	\$138,000	\$379,000	
108802004003	2009	2010		1700	\$241,000	\$150,000	\$391,000	\$0	\$241,000	\$150,000	\$391,000	
108802004003	2008	2009		1700	\$284,000	\$192,000	\$476,000	\$0	\$284,000	\$192,000	\$476,000	
108802004003	2007	2008		1700	\$247,000	\$174,000	\$421,000	\$0	\$247,000	\$174,000	\$421,000	
108802004003	2006	2007		1700	\$215,000	\$156,000	\$371,000	\$0	\$215,000	\$156,000	\$371,000	
108802004003	2005	2006		1700	\$130,000	\$217,000	\$347,000	\$0	\$130,000	\$217,000	\$347,000	
108802004003	2004	2005		1700	\$128,000	\$187,000	\$315,000	\$0	\$128,000	\$187,000	\$315,000	
108802004003	2003	2004		1700	\$117,000	\$175,000	\$292,000	\$0	\$117,000	\$175,000	\$292,000	
108802004003	2002	2003		1700	\$117,000	\$175,000	\$292,000	\$0	\$117,000	\$175,000	\$292,000	
108802004003	2001	2002		1700	\$107,000	\$164,000	\$271,000	\$0	\$107,000	\$164,000	\$271,000	
108802004003	2000	2001		1700	\$99,000	\$152,000	\$251,000	\$0	\$99,000	\$152,000	\$251,000	
108802004003	1999	2000		1700	\$85,000	\$151,000	\$236,000	\$0	\$85,000	\$151,000	\$236,000	
108802004003	1998	1999		1700	\$85,000	\$114,000	\$199,000	\$0	\$85,000	\$114,000	\$199,000	
108802004003	1997	1998		1790	\$0	\$0	\$0	\$0	\$74,000	\$99,000	\$173,000	
108802004003	1996	1997		1790	\$0	\$0	\$0	\$0	\$61,000	\$99,200	\$160,200	
108802004003	1994	1995		1790	\$0	\$0	\$0	\$0	\$61,000	\$99,200	\$160,200	
108802004003	1992	1993		1790	\$0	\$0	\$0	\$0	\$62,000	\$98,200	\$160,200	
108802004003	1990	1991		1790	\$0	\$0	\$0	\$0	\$47,000	\$98,200	\$145,200	
108802004003	1988	1989		1790	\$0	\$0	\$0	\$0	\$27,000	\$63,100	\$90,100	
108802004003	1986	1987		1790	\$0	\$0	\$0	\$0	\$25,200	\$53,600	\$78,800	
108802004003	1984	1985		1790	\$0	\$0	\$0	\$0	\$27,300	\$54,500	\$81,800	
108802004003	1982	1983		1790	\$0	\$0	\$0	\$0	\$27,300	\$54,500	\$81,800	

SALES HISTORY

Excise Number	Recording Number	Sale Date	Sale Price	Seller Name	Buyer Name	Instrument	Sale Reason
941164	198705140030	5/8/1987	\$107,000.00	DESIMONE JOHN M+SUSAN J	SUBAYKAN DOGAN NUR+MUNIRE FUSU	Warranty Deed	None

REVIEW HISTORY

PERMIT HISTORY

HOME IMPROVEMENT EXEMPTION

NOTES

Note	Note Date
Baseland = land model	5/31/2006 3:16:00 PM

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